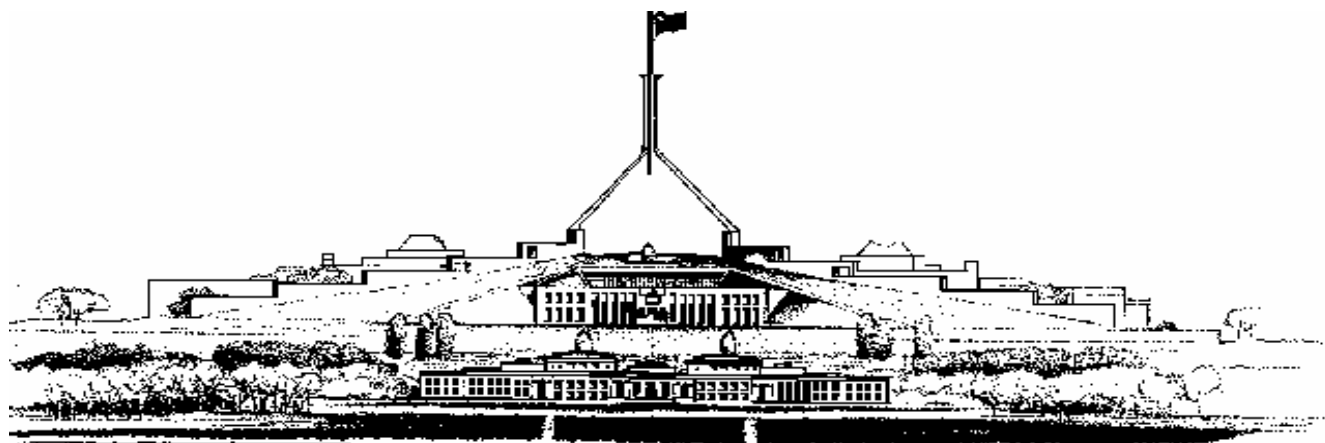




COMMONWEALTH OF AUSTRALIA

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No. 9, 2003

WEDNESDAY, 20 AUGUST 2003

FORTIETH PARLIAMENT
FIRST SESSION—SIXTH PERIOD

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SITTING DAYS—2003

Month	Date
February	4, 5, 6
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May	13, 14, 15
June	16, 17, 18, 19, 23, 24, 25, 26
August	11, 12, 13, 14, 18, 19, 20, 21
September	8, 9, 10, 11, 15, 16, 17, 18
October	7, 8, 9, 13, 14, 15, 16, 27, 28, 29, 30
November	3, 4, 24, 25, 26, 27
December	1, 2, 3, 4

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Wednesday, 20 August 2003

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

BUSINESS

Rearrangement

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

That consideration of government business order of the day No. 1 (Environment and Heritage Legislation Amendment Bill (No. 1) 2002 and 2 related bills) be postponed till a later hour.

Question agreed to.

HIGHER EDUCATION LEGISLATION AMENDMENT BILL 2003

Second Reading

Debate resumed from 13 August, on motion by **Senator Alston**:

That this bill be now read a second time.

Senator CROSSIN (Northern Territory) (9.31 a.m.)—The **Higher Education Legislation Amendment Bill 2003** amends what was the original Higher Education Funding Act 1988. Its amendments seek to set a new maximum aggregate funding level to reflect HECS liabilities and other technical adjustments. It also aims to reflect indexation increases and other adjustments, including grants for equality of opportunity and research and it includes funding for the rebuilding of Mount Stromlo. This bill also amends the Australian Research Council Act 2001.

While the Labor Party supports the provisions for indexation, we strongly believe they remain grossly inadequate and in no way make up for the massive funding cuts made by this government since 1996. Cuts to higher education made by this government have led to bigger class sizes, overcrowded

lecture theatres, more students per lecturer and therefore less individual support for students in higher education. Cuts have led to declining staff conditions, a decline in staff morale and mounting threats to standards. While we support provisions for indexation because they give at least some additional funds to cash-strapped universities, we call on this government to put in place a proper process of indexation, such as the one we have announced recently in our policy, so that university grants keep up with real costs. We also support the provision in this bill of just over \$7 million towards the rebuilding of Mount Stromlo, a major facility in Australian and world science. This bill also provides for a number of changes to the ARC, the Australian Research Council board, most of which we can support, but we do not support the amount of discretion now given to the minister over funding of ARC programs.

To return to one of the claimed aims of this bill—to provide grants for equality of opportunity—one has to ask: equality for whom? How does this bill or the proposed higher education reform package in general do anything for Indigenous students, if we are talking about equality of opportunity? Indigenous students face disadvantage from the start, as was pointed out by Mr Snowden, my Northern Territory colleague in the other place. He said:

... the sad fact is that the bulk of the community in my electorate—

in the Northern Territory—

will have no chance of ever going to university, because they lack the most basic of educational needs—that is, access to a school.

I think Mr Snowden was probably referring to secondary schooling in particular. What equality is there for them? This government has poured bucket loads of money into private education at the expense of these people who do not have access to schooling beyond

primary school in most communities in the Northern Territory.

Those few Indigenous students who do make it to higher education still face problems. They have heavy financial commitments—often to extended families. How can they pay any fees up front or by any other method? They often have social and cultural commitments and obligations which, unlike non-Indigenous people, they cannot avoid or get out of. Such commitments and obligations may be of a financial nature, or require extended time away from study institutions. The five-year limit imposed by the Minister for Education, Science and Training, Brendan Nelson, in his higher education reform package will work most significantly against these people.

A recent report by Phillips Curran and KPA Consulting concluded that most universities are likely to raise their fees under the new reform package of this government. While a marginal increase may not have a major impact, we are now in a situation where many students are feeling the financial strain and we could well find a new level of price sensitivity that will deter students from study. Clearly, this would impact on Indigenous students amongst the first of any groups. The Courier Mail of 21 May this year had this to say:

A 250 per cent increase in Indigenous TAFE enrolments in Southern Queensland has highlighted a dramatic shift.

The article went on to say:

Aboriginal students are swamping TAFE systems while walking out of university campuses.

The National Union of Students women's budget briefing paper said:

Indigenous women in higher education have had to overcome significant barriers to be there. Increasingly HECS charges will impact most severely on Indigenous women. The average income of Aboriginal and Torres Strait Islander

people is only about \$14,000 a year—30 per cent below the rest of the population. This sort of income inequality impacts on the ability of Indigenous students and their families to pay fees ...

Many Indigenous women study externally, due to family and community commitments. Regional universities will receive no additional funding for external students, and this again will be a serious problem. The NUS women's paper further points out that in 1998 the government changed Abstudy to align it with mainstream income support. Fewer students received payments, and these changes were made against all advice given to this government. And, sure enough, there is a direct correlation between these changes and Indigenous enrolments in higher education falling from 8,367 in 1999 to 7,342 in 2002, a fall of 18 per cent. No doubt in any analysis done these days as to what happened at the end of 1998, there is a clear correlation between the changes to Abstudy made by this government and the fall in the number of Indigenous students accessing higher education. In an article in the Age on 28 May this year, the National Indigenous Postgraduate Association said:

Indigenous Education is in desperate, dire straits in terms of Indigenous Support Funding which has not increased since 1996.

I stood in the Senate just last week and spoke on the higher education triennium report 2004-06 and made comments about the Indigenous support funding scheme. I made reference to the fact that, I think, only nine institutions were going to receive additional funding under that scheme in the coming year and to the fact the Indigenous support funding scheme is directly linked to the number of Indigenous students actually attending universities. You have a situation where a government has changed the social security support payments that Indigenous people used to get—that is, Abstudy and calculation of the home away from base allow-

ance—leading to a direct 18 per cent decline in the number of Indigenous students who enrolled in and went on to higher education. On top of that you have a support funding system that is directly linked to the number of Indigenous students in higher education. It is no wonder that that funding does not increase when it is directly related to the number of students and the number of students in that particular equity has decreased by 18 per cent.

What I think is needed is a \$10.4 million funding boost to Indigenous support funds. It would be one of the only redeeming features of a budget that would otherwise be detrimental to postgraduate students in this coming year. I have stood in this chamber for a number of years now and called on this government to examine the Indigenous support funding scheme, to reassess the way in which it is applied and to make changes to that scheme. Not only is that scheme designed to support Indigenous students once they get into higher education but also so that universities can use that money to attract more Indigenous students into higher education. But it has to stop being a system that is purely linked to the number of Indigenous students in higher education when those numbers are falling nationally by as much as 18 per cent. It has to be a proactive funding regime and it has to stop being linked to the actual number of students and bodies in higher education. Until universities are actually given a decent amount of money that is not tied to bodies, not tied to students, but is actually a commitment to increasing the number of Indigenous people in higher education over and above any other funding support—until that funding system is changed, reassessed and reallocated to universities—we will see a further decline in the number of students in that equity group going to university.

The introduction of interest rates on postgraduate loans, the increase in the number of up-front fee payments and the five-year time limit in which a person now needs to undertake their undergraduate degree all undermine any incentives you could possibly want to lay down before Indigenous people to encourage them to get into higher education.

In the same article in the *Age* of 28 May 2003, the NIPA said:

The majority of ATSI students are not flush with finances—

in fact, quite the reverse—

and will be hardest hit by a package that further transforms higher education into a sector that is about capacity to pay.

The Council of Australian Postgraduate Associations, back as far as 1997, saw the need for additional targeted funding to devise strategies to encourage and support Indigenous students to undertake and complete postgraduate studies. That was a recommendation from the CAPA response to the final report of the research project into barriers which Indigenous students must overcome in undertaking postgraduate studies released in November 1997.

When this government gives any incentives, they are countered by other government proposals. The extra \$10.4 million provided to boost the Indigenous support funds this year is only available to institutions which have adopted an Indigenous advisory committee and an Indigenous employment strategy and which show evidence of increased Indigenous participation. I think this government does not quite get it: in order to get a university job—that is, people who could be assisted by having any Indigenous employment strategy, and I am assuming what we are hoping to target here are Indigenous people who actually end up lecturing and providing education and tuition in universities rather than just being administrative

officers—you need to get a degree. To get a degree, you need to have gone to a good secondary school and you need to have the finances to afford higher education study. So how do Indigenous people get on this wagon? It will be interesting to look at the figures to find out just how many do get on it—and, in fact, how this government envisages that Indigenous people will get on this wagon.

An Indigenous higher education advisory council is to be set up to advise the Minister and his department. Will they really listen to this council? Will they act on its recommendations and advice? If they do not like what they are told, will they hide it and wipe it out as they did in their most recent report on higher education? Will it simply be a committee that looks good in name and on paper, or will it really move and shake and change things for Indigenous people trying to access higher education? Will it suffer the same ongoing criticisms and attacks by this government as ATSIIC?

The Howard government reforms propose to award only five national scholarships each year to Indigenous postgraduate students. Selection of students who will get those awards will be based on advice from the Higher Education Advisory Council when it is set up. At present, Indigenous academic and general staff in higher education comprise only 0.7 per cent of all staff, bearing in mind that 2.2 per cent of our total population is Indigenous. Five scholarships across the whole of this country will do very little, if anything, to reverse the disproportionate underrepresentation of Indigenous staff in higher education.

It is no wonder that Indigenous students made up only 1.2 per cent of commencing students in 2001, despite the government benchmark for Indigenous participation of 2.5 per cent. They did not reach it. They con-

tinue to have an Indigenous support funding scheme that does not recognise the need to change the way in which it targets funds and the basis on which those funds are granted. These levels will never increase. Awarding only five scholarships per year around this country to Indigenous postgraduate students will never be enough. These levels of participation in higher education will continue and will not get better until there are real changes to a system which now suits only non-Indigenous, middle class Australians.

Senator STOTT DESPOJA (South Australia) (9.47 a.m.)—The **Higher Education Legislation Amendment Bill 2003** is largely an administrative bill, and the Australian Democrats will be supporting that legislation. However, it is part of the government's higher education agenda, one with which we have a number of concerns. Most recently, the agenda has been spelt out as part of the universities Backing Australia's Future policy, which, as most people would know, includes further fee increases, greater debt for students, interest-bearing loans, attacks on staff and student organisations, blackmail of universities to implement industrial changes and a raft of other proposals.

Schedule 1 of the bill before us adjusts appropriation for the Higher Education Funding Act 1988 to take account of advances for the RMIT and the University of New England and actual HECS liabilities for 2002-03. It also increases maximum funding amounts for superannuation indexation, teaching hospitals and international marketing. This increase in the maximum funding for international marketing was of course announced in the budget.

Schedule 1 also appropriates \$7.3 million towards the replacement of the Mount Stromlo Observatory, which, as honourable senators would know, was devastated in the Canberra bushfires in January. While that

\$7.3 million is welcome for the rebuilding of Mount Stromlo, it is less than half the amount that the ANU requested and does not come close to the estimated \$40 million or \$50 million that it will potentially cost to completely replace the observatory. I ask the government: how does it hope to rebuild that observatory with the \$7.3 million? Will this necessarily result in cost cutting that will reduce the effectiveness of the new facility? I hope not and I am sure the government would hope not as well. At least the government has committed some funding towards the rebuilding of Mount Stromlo. In an age of increasing instrumentalisation of research for short-term economic returns, it is well to acknowledge and defend research in areas where knowledge and understanding has its own intrinsic value. On the topic of science, I have requested the permission of government ministers and Labor shadow ministers, and now Greens senators, to table a document listing the winners of this year's Eureka Science Awards. I now seek leave to table that document.

Leave granted.

Senator STOTT DESPOJA—The 2003 Australian Museum Eureka prizes are incredibly important. They intend to raise the profile of science in the community by acknowledging and rewarding outstanding achievements in the Australian science community and in the promotion of science as well. Since their formation in 1990, the Eureka prizes have grown into Australia's pre-eminent and most comprehensive national science awards, so it is nice to acknowledge them today.

In this bill, schedule 2 amends the Australian Research Council Act 2001 to update members of the ARC board and to broaden the ARC board members' disclosure of interest requirements. It also changes the funding basis of the ARC from calendar to financial

years, with an interim arrangement within the first six months of next year, and provides the minister with greater flexibility in allocating the funding split among the ARC's research programs. This will allow the minister greater autonomy in directing the ARC on the funding split between basic and applied research. I know that concerns have been raised in this place about the level of ministerial discretion, and I welcome the government's amendment, prompted by the opposition, in relation to this particular issue.

I note the increased funding for international marketing of universities that is contained in this bill at item 6. But, again, I put on record the Democrats outrage at the support of the government and the opposition for the visa fee increases for international students. When that issue came to the Senate a number of months ago—and I will not reflect on a vote of the Senate, Madam Acting Deputy President—the outcome of the decision made very clear that both the major parties see international students as a revenue-raising measure.

The visa fee increases—announced, of course, in this year's budget as part of this international education package—will see visa application fees increase from \$315 to \$400. The entire international education package is fundamentally a net revenue-raising exercise primarily funded by increased student fees and charges. They represent \$69.9 million of the \$113 million package. According to the government's own budget figures, the 2006-07 revenues from the international package will be \$32.4 million but expenditures will be only \$22.5 million. So it is quite evident that it is a revenue-raising measure.

It is inequitable that international students foot the bill for those measures that are provided by the Commonwealth—and provided in such a way that adds not only to our eco-

conomic and education potential but also to our society and culture. We all recognise, I hope, that education is not a mere commodity; it is clearly an investment in our potential, and a well-resourced public education system is essential for a just, sustainable and prosperous future for all Australians. That is why the Australian Democrats have staunchly opposed the imposition of financial barriers to education at all levels, and that includes barriers like HECS, postgraduate fees, differential HECS and, of course, up-front fees for undergraduate places—something that is set to increase under the proposed reform package of the minister.

The government's record on higher education since 1996—and do not worry, I am quite happy to get stuck into the Labor Party before that—has been abysmal. Public investment in our universities has been slashed by at least 15 per cent in real terms, and we know the result—it is quite evident. We saw it in the Democrat-initiated Senate inquiry into universities a couple of years ago; we see it in the submissions that are coming into the new inquiry; and we have seen worsening staff-student ratios, reduced services, deteriorating infrastructure, stressed and overworked staff, cutbacks to library hours and purchase of books and journals. The list goes on. It has been a real decline in the quality of the education experience, yet the government has the temerity to blindly assert that there is no crisis in the higher education system.

At the heart of this government's approach is an insidious cost shifting to students, which now includes increases to HECS, spiralling debt—we have already got \$9 billion worth at the moment—and woefully inadequate income support measures, something that is not addressed in the package before us from this government nor is it adequately addressed by the Australian Labor Party in their proposals. Between 1996 and 2001 a

student's share of the cost of tuition has increased from 19.6 per cent to 34.5 per cent—that is a substantial increase and compares poorly with the rest of the world. The changes that have been proposed will make it worse. The government's record on equity in this sector is appalling. Students from low socioeconomic backgrounds, Indigenous students—to which Senator Crossin referred in her remarks—and those from rural and regional Australia remain as underrepresented now as they did a decade ago.

Fees, of course, are not the only barrier—something the Australian Democrats have long recognised. Data published recently by the Monash Centre for Population and Urban Research—Professor Birrell's work, which is extraordinary and consistently professional and admirable—shows that the percentage of students under the age of 19 years who are accessing student income support has crashed from 33 per cent in 1998 to 21 per cent in 2001. This data shows quite clearly the effect of the government's vicious means test when it comes to parental income. For a one-child family, the allowance diminishes by 25c in each dollar above the parental threshold of \$27,400, reducing to nothing at \$45,000. This has serious implications for working and middle-class families with an income above the threshold but less than \$50,000. For a one-child family on the average gross household income of \$39,500 per annum, youth allowance is a paltry \$44 per week if the student is living at home. This does not remotely begin to cover the costs of travel, books, photocopying and the other costs associated with undertaking studies. This means parental financial capacity is a significant factor for the vast bulk of students from low and middle socioeconomic families who are deciding whether or not they can study at a university.

The government's punitive approach to student income support is a pernicious form

of social engineering that creates and maintains serious barriers to participation in higher education for most Australians. In 2001, the Australian Vice-Chancellors Committee released quite an important report on student finances. It found that more than 70 per cent of Australia's students had to work more than two days a week just to survive and more than a third of those students are missing classes because of work commitments. Yet the only proposal that is being floated by the government to deal with student poverty is to financially penalise students who take longer to complete their studies. There is no analysis of the false economy of forcing students to interrupt their studies because of poverty. So it is classic 'blaming the victim' politics from a government that, one could argue, has perfected the technique.

At the heart of the government's agenda is a blind faith in markets. We have already seen what happens when fees are deregulated and markets dominate. Between 1997 and 1999 the government slashed 25,000 funded places for domestic postgraduate coursework students, and the consequences were actually quite predictable—comprehensive market failure. Between 1997 and 2000 the postgraduate student load actually declined by 12 per cent and there were alarming falls of more than 20 per cent, even 30 per cent, in fields of considerable public benefit but little personal gain, if you like; notably, science, education, nursing and agriculture.

So while I believe that equity arguments alone are sufficient to oppose fees, there are actually good, fundamental, market based reasons, if you like, for opposing deregulation and marketisation in this context. Quite simply, private funding from fee-paying students and industry does not replace the diminishing public funding. Private funding does not substantially support core activities of teaching, learning and basic research; it tends to go to other activities, including in-

ternational recruitment, commercial research and, as we have seen, offshore campuses.

The difference between public and private funding has a big impact on disciplines in sciences and humanities, including maths, physics, philosophy, languages and history. All of these areas are struggling because they do not—and will not, I suspect—generate significant private income. Yet it is precisely these disciplines that underpin critical thinking, breadth and creativity in graduates. So there is bitter irony in this. Such graduate attributes are not readily captured by markets, yet increasingly industry is identifying those precise characteristics and qualities that are fundamental to developing an innovative society. There is a deep-rooted contradiction between the educational outcomes generated by markets and the qualities needed to ensure a robust, innovative society. At some point the government has to address this, in its own interests as well as in the interests of business and industry.

The Democrats have been passionate advocates for the right of students and staff to collectively represent and advocate their interests in their institutions and within the broader community. We will continue to oppose any attempts by this government to introduce so-called 'voluntary student unionism' legislation and we will continue to defend the concept of student control of student affairs. We will also—and we have said this on record—continue to oppose any attempts to destroy pattern bargaining or require researchers to sign AWAs as a condition of receiving their research funding. That coercion is anathema to academic freedom, industrial democracy and institutional democracy. Given that one of the planks of the government's reform package is governance, I would have thought this flew in the face of those sentiments. Universities, staff and students must flourish as critic and conscience of the nation. Attacks on students and staff—

which we have seen—and their representative organisations are attacks on this vital role. They are attacks on democracy.

The Democrats have specific concerns about Backing Australia's Future—or 'hacking Australia's future', which we think is a more apt description of aspects of the package. The Democrats have vigorously opposed fees for education and so we certainly will not accept the changes proposed in the package. There is no doubt that the current financing and policy arrangements are not working. They are increasing the barriers to education and undermining the autonomy of universities. Worsening those bad aspects is not the way to fix the problems. The package does not consider the long-term economic effects of higher fees or debt, or the associated social and other consequences. Already evidence from research shows that current debt levels are having an impact on home ownership—even fertility rates. Also, what about the long-term inflationary aspects, as graduates with ever higher levels of debt try to push up salaries and charges—particularly if they are lawyers or vets?

The key proposals outlined in the reform package include universities being able to set their fees at up to 30 per cent above HECS. The cap on the fee-paying undergraduates in any course will rise to 50 per cent. Students will be limited to a five-year 'learning entitlement'—to which Senator Crossin referred—in a funded place. Students who exceed five years or the full-time equivalent must pay full fees—and I acknowledge there are hardship provisions associated with that. Universities will have a contract with the government to deliver specified numbers of courses and students. There will be a new loans scheme, the HELP scheme, including interest bearing loans for full fee-paying students. There will be a small number of equity scholarships. Universities are being told they must implement governance and industrial

relations changes as part of accessing additional funding per student place, something we think is akin to blackmail.

The HECS repayment threshold is to be lifted to \$30,000. While that is a welcome start, we would like to see it go a little higher. There will be an additional \$1.5 billion in public funding over four years, but that is only \$68 million in 2004. So a lot of that funding is inappropriately back-ended. Allowing universities the flexibility to charge up to 30 per cent above HECS could increase the cost of a science degree, for example, to \$21,411 and a four-year engineering degree to \$28,548. So these are not trifling figures. They compare very poorly with our OECD counterparts. Some full fee-paying courses, as has been put on the record, could cost students well over \$100,000.

The appallingly titled Higher Education Loans Program has a number of elements, but all of these changes are of concern. As if the changes in the HELP proposal are not enough, the government has an additional sting for students in the proposed new loans system. Students who have both a HECS-HELP debt and an interest bearing FEE-HELP debt will pay thousands of dollars extra. This will happen because the government insists that the HECS debt is to be paid in full before the interest bearing loan. This means that the FEE-HELP loan will accrue compound interest of CPI plus 3.5 per cent, without any repayments for 10 years or until the HECS debt is cleared—whichever comes earliest.

As an example, take a graduate with a \$15,000 undergraduate debt and a \$10,000 postgraduate debt and assume that CPI is 3.5 per cent and they have a steady income of around \$40,000. They have 10 years to pay off the HECS debt. The total debt will be paid off in the 20th year, with repayments of around \$38,900. However, if they paid the

interest bearing debt first, then they would pay off the total debt in the 18th year, with repayments of around \$34,300. That is, the government will be slugging this particular student an additional \$4½ thousand. So I look for some reassurance from the government on this point. Financial advisers tell us to pay off the expensive loan first—credit cards before mortgages. This system forces students or graduates to take the least favourable option. The government says students should pay more because they benefit in the long run from higher average incomes—which sounds to me like a very good reason for an equitable, progressive income tax system—but what of the appalling waste of potential? Fees, debts and ludicrously low levels of student income support mean that some people will never go to university.

Are fees, including HECS, a barrier? I believe the government has pretty much admitted that itself, for the first time, in Minister Nelson's review last year, Higher education at the crossroads. We know that participation rates of those designated equity groups—notably the Indigenous, those from low socioeconomic backgrounds, and regional and rural Australians—improved in the early 1990s up until 1996 but then fell back to around 1991 levels, or lower in some cases. What were the big changes in that period? They were the radical reforms of 1996—differential HECS, declining student income support levels, lower parental income tests and the gutting of Austudy. Yet high fees remain at the heart of this government's package—not equitable or sustainable access.

Simply relying on increased student fees and charges to fix the chronic underresourcing of Australian universities is not equitable. It is not sustainable. No amount of spin can change the fact that increased public investment in our institutions, our academics, our students, is essential. The long-term social

and economic benefits of additional investment far outweigh short-term budgetary concerns. We will be supporting the administrative aspects of the package of legislation before us today, but I think the government has a fight on its hands. (*Time expired*)

Senator Carr—Madam Acting Deputy President, I rise on a point of order and that is the management of this bill. This bill does contain some controversial matters. In fact, I suppose that anything in higher education is controversial at a time like this. You would normally expect that the good operations and management of this chamber would be predicated upon consultation with the opposition about a bill such as this. At 25 minutes past nine this morning I was rung and told that this bill was to be brought on and, furthermore, brought on immediately. I had about 10 people from the department of industry with me—

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Senator, the issues that you are raising are matters of government business and opposition business organisation. It is not a matter for the chair to resolve. The chair does not have any jurisdiction over the order of business.

Senator Carr—Madam Acting Deputy President, I rise on another point of order. I seek, through the chair, some clarification as to the appalling management that has been undertaken in this bill which is not facilitating the work of this chamber.

The ACTING DEPUTY PRESIDENT—Senator Carr, I repeat that you are asking me as Acting Deputy President to make a ruling on something that is beyond the jurisdiction of the chair. I suggest that you raise it with your leader and your leader in turn can raise it with the leader or your managers of opposition and government business.

Senator Carr—On the point of order—

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

Senator Carr—I rise on a separate point of order. Is it not within your capacity to seek from the government an explanation for the appalling management of this legislation?

The ACTING DEPUTY PRESIDENT—For the third time, it is not within the province of the chair to do so.

Senator NETTLE (New South Wales) (10.09 a.m.)—The **Higher Education Legislation Amendment Bill 2003** seeks to amend both the Higher Education Funding Act 1988, to implement indexation arrangements for university funding, and the Australian Research Council Act 2001. In my brief comments today I propose to focus on the first part of the bill relating to indexation as it goes to the heart of the problems that the Greens have with the government's approach to higher education.

This bill is portrayed by the government as a simple administrative measure to implement ongoing indexation for university funding under the Higher Education Funding Act and to roll out funding for the government's higher education package. But it is more than that. This bill represents the first legislative proof of the failure of this government to hear the message coming loud and clear from the universities, vice-chancellors, students, unions and the community that the higher education sector needs a substantial increase in funding to meet the growing needs and responsibilities of the coming years. This bill does not do that.

The indexation arrangements in this bill fail to address the fundamental demand from the Australian Vice-Chancellors Committee and others that core funding to universities must be indexed in such a way as to truly reflect the cost of providing higher education services. The current indexation arrangements, based on the higher education cost

adjustment factor, have consistently underresourced the sector by delivering funding increases in the order of just over two per cent whilst real costs continue at around four to five per cent. This means that universities are forced to fund wage increases, amongst other expenditures, from other revenue streams—in turn putting pressure on other projects—and, each triennium, to tighten the straight-jacket of underfunding that constricts the sector. This structural underfunding has cost universities in the region of at least \$400 million per triennium.

The Greens have welcomed the recommendation from the Australian Vice-Chancellors Committee to devise an indexation arrangement similar to that employed in the schools sector. The indexation arrangement, the average government school running costs, or AGSRC, is derived from total expenditure on government schools less capital expenditure on buildings and grounds, redundancy payments and Commonwealth specific purpose payments. In this way the AGSRC index reflects the actual costs of providing the service as they rise. This kind of index is transferable to the higher education sector; there are no serious impediments for doing so. The reason this has not been done is that the government, if they transferred such an indexation scheme, would have to invest more in the higher education sector in this country.

This brings me back to the real significance of this bill. The bill fails to address this funding straightjacket problem and, in doing so, sends a clear message to those concerned about the future of higher education. The message is that the changes announced in the budget—changes that will see student HECS fees rise by 30 per cent, which is a massive increase in full fee paying places, and commercial rates of interest payable on some student loans—are only the thin end of the wedge. The failure to appropriately index

core funding will mean that the same problems of scarcity will continue to face universities even after they have raised fees and brought in more full fee paying students. So where will cash strapped vice-chancellors turn to when the money runs out? The government has made clear what the procedure is: take it from students and from their families. This is the central methodology of the minister's plan for the future of higher education. Since it came to office, the government has bled the universities dry, stripping around \$5 billion from the sector over that time. Now, seven years on, the government has come to the universities with the proverbial 'offer you can't refuse' which, in a nutshell, comprises universities taking on the dirty work of raising student fees and cutting places in exchange for the government allowing them access to the soft funding option of hitting up students and selling degrees for cash.

This is the path that we are headed down. This bill, whilst delivering vital funds for the continuing operation of universities, is also the first step on that path. The destination is a deregulated market in the higher education sector, where private providers vie with public universities for scarce government funds; where universities are increasingly reliant on private funds, both from the student body and corporate interests, to deliver education services; and where the vision of a comprehensive, accessible and high-quality public education system servicing the education needs of a community is all but lost. Some may argue that this is in some sense inevitable, given the pressures in the federal budget, and that such a comprehensive vision is simply unaffordable.

Putting aside the strong evidence for an ideological motive to deregulate, the argument that we simply cannot afford such an investment is of course really an argument about priorities. But the government is not

interested in having an honest debate about these financial priorities, instead assuming that we are all as acquisitive and short-sighted as the economic rationalists in Treasury. But I wonder if voters were given the simple option of having the diesel fuel rebate or a free education system which one they would choose. I wonder if the choice were between the first home owners grant or a free university system which one they would select. Or indeed, had the Treasurer asked Australians whether they would rather have \$4 a week or a free university system, I wonder whether that \$4 a week would look all that worth it. These are the priority choices that the government has made. It does not say much for its commitment to equity and accessibility to higher education.

But, again, it is not really that the money is not there in the first place, because clearly it is. It is more to do with the ideological commitment to small government, privatisation and user pays that is driving the university funding decision making. The Greens reject this simplistic and mean dogma, instead choosing to recognise the importance of community capital and to invest accordingly. This view is reflected in the second reading amendment which I now move:

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

- (a) condemns the Government for:
 - (i) under-funding the university system in Australia for the past 7 years and as a result:
 - (A) leaving students and parents to pay one of the highest proportions of fees for their education in the Organisation for Economic Co-operation and Development,
 - (B) discouraging older and poorer students for seeking a place at university,
 - (C) allowing completion rates of Aboriginal students to suffer

- through lack of appropriate financial and structural support,
- (D) presiding over a haemorrhaging of talent from Australian universities to overseas research and teaching positions due to lack of opportunity and suitable remuneration at home, and
 - (E) undermining staff morale and effectiveness as a consequence of massively increased workloads, and reduced administrative support, and
- (ii) attacking the freedom of academics and general staff to be represented by their union; and
- (b) calls on the Government to:
- (i) repeal the \$4 a week average income tax cuts announced in the budget in order to reinvest that money in the public higher education system enabling the abolition of student fees, both upfront and the higher education contribution scheme, and
 - (ii) invest the currently promised \$1.4 billion, together with savings made from a restoration of fair company tax rates, in the sector to achieve:
 - (A) the financing of real indexation for core funding that reflects the actual cost of providing higher education services, thereby ensuring the sustainability of the sector into the future,
 - (B) increasing the core funding of universities by 20 per cent per equivalent full-time student unit to reflect the need for infrastructure and staffing investment to meet current and future demand, and

- (C) a guarantee that students accessing tertiary education receive adequate financial support from the Federal Government to cover their living costs so they can focus on their education".

The measures in the second reading amendment are about genuinely investing in higher education and are the sorts of measures that the public are looking for from government, measures that show faith in ourselves for the future and a willingness to back that belief for the good of everyone. The Greens have developed and continue to develop our vision for higher education, which stands as a clear alternative to the government's recipe for elitism. We suggest that the minister take note of these proposals because they have community backing from the 70 per cent of Australians who are happy to pay more tax if they can access better services in return.
(*Quorum formed*)

Senator CARR (Victoria) (10.22 a.m.)—This legislation has two main purposes: one is technical, with regard to various appropriation and indexation matters and the like; and the other relates to the Australian Research Council and changes to administrative matters. There are also some issues in the legislation with regard to Mount Stromlo. The provisions with regard to the Australian Research Council have not been drafted well. It is quite apparent that yet again the draftsmen were not able to capture the true meaning of what one can only presume the government intended. This is important because it will highlight the difficulties that are going to be faced with the completely revamped Higher Education Funding Act, which we have yet to see. We were promised in June that the revamped act would be there straight after the announcement but we are yet to see it. I am looking forward to the production of this new piece of legislation and I wonder

how many unintended consequences will be found within that. Upon reading this particular measure, we found—and I thank officers in my office who were able to point this out to me—that there were matters here that one can only presume were not intended: that is, to give the minister effectively untrammelled power in terms of the allocation of funding between programs within the Australian Research Council. The government has proposed an amendment, which we are in agreement with, and that sorts that matter out.

The context of these bills is far from routine, despite the so-called 'routine nature' of these matters. The government would like us to believe that it is business as usual within higher education when nothing could be further from the truth. This is a major shake-up within higher education. The initiatives the government is now seeking to impose upon the system through the various university measures announced in the last budget is probably the most radical set of proposals the Commonwealth has ever seen. The government has announced details of its plans with regard to higher education and these go further than just changes to student financing, which is an essential and very important element in itself; they go to a fundamental shift in the power relationship between the Commonwealth and the universities in this country. The government's plans in relation to higher education go to a situation where Commonwealth officials will, for the first time, have their capacity enhanced to get deep into the bowels of the university system in this country and to establish contract arrangements with universities with regard to teaching, research, research priorities, student movements, student programs and the administrative arrangements of the universities.

This is a very radical proposal which will see universities turned into ideological bat-

tlegrounds. They will be battlegrounds where this government will seek to impose its flat-earth view onto some of our most important cultural, social and economic institutions in this country. Through the Crossroads process a series of kites were flown and now, essentially, the proposals that were outlined in Dr Kemp's leaked cabinet submission back in 1999 have been revisited and dressed up—they have been reheated and served up to us yet again. We will see that despite the claims made in the past about the so-called rule-outs—things that were not going to happen—those things are now going to happen. We will see fees deregulated, despite the denials in the past that that was going to happen. Effectively, a form of vouchers is being introduced. Despite the claims that these entitlements are not really vouchers, that is essentially what they are.

We have substantial changes to the HECS system which make it even more inequitable than the changes that were introduced in 1996. We have a situation where there are new loan schemes. Despite the claims in the past that there would be no additional loan schemes we now have a situation where the claims made about real rates of interest are being repudiated. A new form of interest will see effective rates of interest increase dramatically over time. So all those so-called core guarantees have gone out the window like so many of the non-core promises that we saw from the government over the last couple of parliaments.

We have no reason to believe that the review process was genuinely open because we now know the amount of information that has been withheld from the Australian public with regard to the financial health of the system and the equity effects of the changes that were introduced in 1996. Essentially, we see a government that has its own arrangements in place—a predetermined agenda; a policy position imposed upon the education com-

munity and the Australian people—on the basis that it was supposed to be an open debate, when key facts were withheld. We now know that critical internal research undertaken by internationally recognised researchers was withheld. We saw the suppression of the various elements of the National report on higher education. They were only released after this parliament got onto the government and said it was not acceptable for it to hide this basic information.

A number of reports were suppressed, including the work undertaken by the team headed by Dr Tom Karmel. The research division was restructured as punishment because it had the temerity to tell the truth: to propose to this government that there was some empirical evidence that its previous changes were having adverse effects. That was empirical evidence that the government did not want to see and, more especially, did not want the Australian people to see. As a consequence of that, officers were shifted and various officers were asked to reapply for their jobs. Surprise, surprise: when they reapplied for their jobs other officers ended up in those jobs! Naturally enough they chose to go elsewhere. Why wouldn't you after being treated like that by this government?

We have a series of events occurring, and the way education has been handled in this country troubles me greatly. It concerns me enormously that we have a government that in effect is imposing a set of policies based on an ideological precept which will have profound negative impacts on various sections of our society. We have a policy that is actually making it more and more difficult for working-class people to get a fair go in this country. That is something that is reprehensible. We have the empirical evidence to suggest that that is in fact the case. The changes introduced by this government in 1996 and the various cuts that it introduced

to the education budget in 1996 had a direct effect on people who were less well off. What a surprise! What a surprise that some of the world's great educational researchers—and that is what we had in the department of education: people highly recommended around the world—said, 'You increase the price of things and it makes it more difficult for some people to be able to afford them.' What a stunning observation! This was too damaging for this government and those people had to be persecuted and some of them were forced out of the department.

The government just simply cannot be trusted on these issues. It will not allow very careful, considered, cautious advice based on empirical evidence to see the light of day. You will see it threaten the careers of people who have the temerity to come forward and say, 'Hang on a minute, the world is not as this government sees it.' We have had more inquiries under this government by the leak squad in the Federal Police than we have ever had in the history of the Commonwealth. We have an internal investigations unit at the moment scouring the offices of the education department trying to find out who had the temerity to let the truth be known.

We had a series of reports prepared to assist the debate and the policy development process. That is the traditional role of research within an education department. For the first time the claim was made that the studies undertaken by the research unit in the education department were methodologically flawed. That observation came out very late in the piece. It was never put to the officers concerned that the results were methodologically flawed until such time as the question of the suppression of these reports was raised in the parliament. It was raised in the parliament by me on 19 March. You had plenty of time to get your story straight. In July at the estimates the reports still were not ready.

They were with the minister, we were told. By 8 August, suddenly reports are appearing everywhere. But they are the doctored reports.

It is appropriate that we look at what is actually going on. I think this is a really shabby and incompetent attempt to cover up these matters. It is not just the fact that these report findings were damaging, it is the process of trying to suppress them that is damaging—more damaging than you could possibly understand. We have a series of doctors operating in the department. It is appropriate that we have Dr Shergold and Dr Nelson because they, of course, are experts now in doctoring—doctoring of research reports. We have seen a series of events in this government—the children overboard, the ethanol scandals, research into hepatitis—where there is a process of doctoring going on across the government. There is a pattern of deceit within this government, and heaven help any officer who has the temerity to do their job as a professional public servant should, to actually put views to government which are frank and fearless and which might contradict what the government is saying.

We know that two briefs were prepared for the minister. I asked a question here and I got told that the officers cannot remember giving them to the minister. I wonder whether they can remember ringing him up and telling him what was in those briefs. I wonder whether they can remember the informal processes of advising government of what the department had discovered. We will perhaps establish that over the next little while because all the officers whom we have come to know so well will undoubtedly come before various committees of this parliament and be obliged to tell us. What do they remember? I will not be surprised if there is an enormous amnesia attack throughout this department. Everyone will suddenly forget everything they have ever

done. Nonetheless, there are other documents and there are other ways of establishing what has actually gone in.

This bill we have before us seeks to change indexation arrangements for wages and various other matters that have to be met within the sector. This is a bill that I think is grossly inadequate in that regard. What the Labor Party has done, and Jenny Macklin has explained, is announce an alternative policy, which explains how you can get indexation arrangements put in place that actually protect the value of research grants, research undertakings and operating grants for universities. But the government continues to apply a starvation diet regime for universities in this system. This is on top of its funding cuts to the base grants some years ago.

Our universities are in financial crisis and the government has abrogated its responsibility to meet its obligations to invest public money at adequate levels to ensure that our basic research infrastructure is not undermined and corroded by forcing people to try to do more and more and more with less. That is what is happening at the moment in our system. We now see a situation where the balance of costs is shifting dramatically onto individuals. We now have the same levels of student contribution—individual payments to universities—as we had in 1939. That is how long you have to go back to find the equivalent amount of money being paid by individuals towards the running of our universities. We have a situation here where the balance of the burden is now shifted far too far to the individual, and the cost to our society and to our economy will be measured over the next generation. It is a great tragedy that that has occurred.

Let me turn to the Mount Stromlo Observatory, which is a matter of some concern to me. I am a member of the ANU Council as a representative of this parliament. It is a situa-

tion I understand this government are most anxious to rectify and they intend to bring forward legislation shortly to take members of parliament off the ANU Council. I understand it is not really me they are interested in; Senator Mason is obviously of greater concern to them. I think membership of the council is a matter we will have to discuss at some length later on, and I look forward to their views on the involvement of members of parliament with the National Archives or the National Library and the various other appointments that we make over time. I look forward to the discussion.

The ANU is a great institution. I really believe it is one of our better universities. It is able to do great things because it has been well resourced in the past. Mount Stromlo is a case in point. Every year 20,000 people go up to Mount Stromlo to have a look. Mount Stromlo has made a much bigger contribution to this region than just pure science and its contribution to research. Various heritage arrangements had been entered into—and many of the buildings are very old; they are of the same vintage as Old Parliament House—and there is a major gap between the insurance amounts the insurance companies are prepared to pay and the cost of rebuilding and refurbishment. We also have the question of how to restore an international reputation in regard to this research facility as a result of the bushfires earlier this year.

The Prime Minister indicated on his visit to Mount Stromlo that about \$19½ million or \$20 million was available. I hazard a guess that that was the position put to cabinet in February. What have we got now? We have got \$7.3 million in this bill. What has happened? It is my contention that the minister's office directly intervened to reduce that amount of money. I do not think that is appropriate and we ought to be looking at improving that situation. I understand that the minister has now said, 'Look, we can have

another cut at this.' It should not be necessary. It should have been attended to in this bill and that is what the second reading amendment goes to.

Another concern that I have is the government's research agenda itself. We are seeing a situation where there are some 12 separate research inquiries under way. Again, it was a cabinet decision in February that a certain set of policy directions should be followed. In essence, the game plan is simple: to move away from block grant payments towards a more competitive performance based system. We all know that benefits the mega four universities. At the moment, as a result of this government's policies, four big universities are attracting almost the majority of the funding—four universities! The other 36 or so have to scramble amongst themselves for the rest. There is an enormous concentration of resources to those universities that are already resource rich. They have had the benefit in some cases of 150 years of public investment. The University of Sydney and the University of Melbourne are such universities. The University of New South Wales and the University of Queensland are the other two of the four mega universities in this country.

The government's research policies are now forcing the regional universities into a very serious situation. Add that to their funding policies and you have a situation where, if the current arrangements are not changed dramatically—and I acknowledge the need to change those dramatically—some of those universities will not be financially sustainable. That is not to say that you have to accept the government's proposals for change, but I do think you have to acknowledge that the current situation is not sustainable. What is the government's answer? Their answer is to try to carve up the CSIRO, to move the block grant funding away from the CSIRO and from AIMS and other such institutions.

The Chief Scientist is out there now arguing the government's case. The Australian Research Council is out there arguing the government's case. We have had ministers in this government saying that various CSIRO laboratories should be moved into universities. Minister Macdonald says that the Atherton Tableland's laboratories for forestry would make a fine campus for James Cook. There has been a suggestion that AIMS up in Townsville would be a nice campus for James Cook. We already have the measurement laboratories being moved out of CSIRO into the new National Measurement Institute. So there is definitely a push on within government to undermine the funding mechanisms within our research agencies.

I think our university system is in crisis and that crisis is not being responded to. The government has set up 12 separate inquiries to change the funding arrangements for our research agencies. This poses an enormous threat to our capacity to develop first-rate contributions to education and research. This government is really not up to the job. It has an ideological view of how we should run society, and it is failing.

Senator WONG (South Australia) (10.42 a.m.)—The **Higher Education Legislation Amendment Bill (No. 3) 2002** before us does provide changes to the indexation for Commonwealth funding for universities and, as Senator Carr has indicated, the opposition is supportive of those changes. But we make the point that the level of indexation, and, indeed, the base funding to universities provided by this government, is manifestly inadequate.

In the term of the Howard government since 1996 we have seen \$5 billion removed from the university sector. We have seen a massive reduction in public investment in our universities and we have seen some 20,000 students, who were qualified for a

university place, miss out on a university place because of lack of access. Those are not my figures; the figure of 20,000 is the figure provided by the Australian Vice Chancellors Committee. We say this is an unacceptable situation and one where the blame can clearly be sheeted home to the policies of this government.

We are entitled to ask: why has the government presided over such a massive reduction in public funding of universities? Why have they allowed a situation where so many Australian students who are qualified cannot get access to a university or a TAFE place? Equally, we can also ask: why have they increased the Higher Education Contribution Scheme charges? Why have they lowered the levels at which students have to repay their HECS debt, thereby increasing the burden on poorer students and poorer families particularly? Why has this government increased levels of student debt to unsustainable and historic levels?

The reason is that they have no difficulty with an unfair higher education system in which wealthy students are privileged and poorer students are disadvantaged. We say that higher education, whether that be through TAFE or university, is one of the foundation stones of nation building. These are not just my words; this sentiment is echoed by the Productivity Commission which, in a recent study, showed quite clearly that Australians have to attain higher skill levels if we are to maintain and raise our living standards. The Productivity Commission also noted significant skills shortages in a large range of industries in Australia and the fact that skills growth as a driver of productivity has dropped in recent years. Instead of trying to deal with this skills shortage by increasing access to TAFE and university, this government has presided over a situation where poorer students in particular—people from poorer families—and mature age students

find it much more difficult to enter the TAFE and university sectors.

Apart from there being good economic reasons to properly resource higher education, both TAFE and university, there are also social imperatives. Providing equitable access to higher education is one of the ways we can create a fairer Australia. It is one of the ways we can enable people from disadvantaged backgrounds to gain the skills and the qualifications they need for jobs, better opportunities and a better future for themselves and their families. There is a clear and direct correlation between your educational qualifications and your employment outcomes. This is backed up both by statistical evidence and anecdotally. I am sure we all know of people who find it difficult to get jobs because they do not have the right qualifications. Enhancing access to the skills and opportunities that are provided by TAFE and by our universities is one of the key ways in which a government can work to create a fairer Australia.

This is one of the philosophical differences between the government and the opposition. We believe that education is one of the ways you can create a fairer Australia—one of the ways you can actively ameliorate and lessen disadvantage in our society. Enhancing access, particularly for lower socioeconomic groups and people who are under-represented in our higher education system, must be a political priority. Unfortunately the government does not share this view. The government does not see education as one of the ways you can create a fairer Australia—one of the ways you can provide people who do not have certain opportunities with better opportunities. The government may try to peddle this rhetoric but the facts of its record and what it is currently proposing to do to the higher education sector fly in the face of its ostensible concern.

For this government it is acceptable, perhaps even desirable, for access to higher education to reflect and enhance existing social inequities. Essentially it does believe that kids from wealthy families ought to have more privileged access to the higher education sector while those from poorer families have to make do with what they can get. This government's proposal for up-front fees clearly demonstrates its inequitable agenda for higher education. It is simply an absolutely unfair policy. Minister Nelson trumpets this: 'This government stands for the right of Australian students to pay an up-front fee to gain access to a university place.' Some right! What right is it? It is a right to purchase a place over a student from a family that cannot afford to pay. That is hardly a right worth championing.

Under this government we have one system for the wealthy and one for the poor and disadvantaged. This government desperately tries to pretend that this is not the case—that this is not its agenda, that its plans are not fundamentally unfair. Most recently we had the failure by Minister Nelson's department to disclose damning reports on the government's own record in higher education. Those reports, which have now been released after opposition pressure through the parliament, have demonstrated that the changes in 1997 implemented by this government have resulted in a decline in mature age enrolments. This is a particular issue for women, who are more likely to return to university or TAFE after child-rearing responsibilities have at least lessened. The report also shows that males from poor backgrounds were particularly hard-hit by the fee increases and that their enrolment in courses such as law and medicine declined by 38 per cent after those courses became more expensive than others in 1997.

One would have thought that the government would have heard some alarm bells

when this report was disclosed. After all, we are not a country that should say that, just because you are from a poorer background, you should not have access to a law degree or a medical degree. Surely we want an Australia where anybody who is qualified, regardless of their socioeconomic status, can have access to what are seen as privileged degrees. But what has this government done? Has it treated these reports as a clarion call regarding the inequitable outcomes of its past policies? More importantly, has it resiled from its proposed changes to the higher education system, including the up-front fees and the up to 30 per cent increase to the higher education charge? No, the government's response has been to undermine the report, to conduct a witch-hunt in the department and to continue to champion the right of Australian students to purchase a place—to pay an up-front fee to leapfrog over more meritorious students who might have the misfortune to come from a family that cannot afford an up-front fee.

We can only conclude that this government considers it acceptable for mature age students and students from lower socioeconomic backgrounds to be deterred from entering higher education. The Australian public are, I believe, seeing through these specious arguments. They know that at the end of the day what this government is on about is a system that privileges the privileged and disadvantages the disadvantaged. They also know that they want their children to have the opportunity to further their skills and to have that opportunity on the basis of scholastic merit, not on the size of their wallet.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Minister, are you going to move that the debate be adjourned?

Senator Hill—No. I prefer that the question on the second reading is resolved.

Senator Crossin—I seek some clarification, perhaps from the minister. My understanding was that this debate would be adjourned after the second reading speeches were finished, because we have two amendments to deal with and the mover of one of them is not here for the rest of the day. The agreement between the parties, as I understand it, was that the debate would be adjourned at the completion of the second reading stage. Perhaps the government would like to clarify if there has been a change in that.

Senator Hill—Under the arrangement we are supposed to be on another bill. I agreed that Senator Wong could speak at this time because that would complete the second reading. I am now told there are amendments to the second reading and it seems much more complex than what was put to me. I guess the second reading amendment should have been voted on. In all the circumstances, it seems that it may have been better if I had asked that it be adjourned. If I had been properly instructed I would have adjourned this some time ago and got back onto the heritage legislation.

Debate (on motion by **Senator Hill**) adjourned.

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

**ENVIRONMENT AND HERITAGE
LEGISLATION AMENDMENT BILL
(No. 1) 2002**

**AUSTRALIAN HERITAGE COUNCIL
BILL 2002**

**AUSTRALIAN HERITAGE COUNCIL
(CONSEQUENTIAL AND
TRANSITIONAL PROVISIONS) BILL
2002**

In Committee

**ENVIRONMENT AND HERITAGE
LEGISLATION AMENDMENT BILL
(No. 1) 2002**

Consideration resumed from 19 August.

Senator MURPHY (Tasmania) (10.55 a.m.)—There was a division held last night which dealt with, as I understand it, government amendments (1) to (10) on sheet RA234. I missed the division because I was involved in a very lengthy telephone conversation. I had my monitor turned down and I thought that we were actually dealing with the Democrat amendment. I was seeking to vote for the government amendments and I would like to request that the vote on those amendments be recommitted to allow me the opportunity to vote as I would have done.

Senator BROWN (Tasmania) (10.56 a.m.)—I will make a follow-up statement. This follows on from Senator Harris making a similar submission to the chamber last night and the chamber agreeing to recommit the vote. Let me be frank about this. The government's job is to ensure that, where it has legislation and indeed amendments before the Senate, the necessary numbers, if you like, of people are here to vote for those amendments to see them through. The government's job is to keep an eye on the movement of legislation like this, with multiple amendments, to know what is happening as far as the Independents and small parties are concerned. It is very clear from the

contribution to the debate what the position of the Greens and the Democrats has been on each of these items. The government is very well aware that on the amendments we are now being asked to reconsider—as with the amendment that was reconsidered last night—a vote or two would be in it, because of the opposition and the minor parties on the crossbench voting one way and the government another.

The government simply has to make sure that in situations like that a signal goes to the Independents to say, 'A vote is coming up; you are required in the chamber.' Otherwise, the chamber is serially put to the inconvenience of a recommitment of votes. I am sure members will agree with me that the ultimate exercise here is to ensure that the will of the Senate is properly counted, and that if one senator's vote is going to make a difference between government amendments being lost, as they were last night, or succeeding then we have to allow that second vote because the Senate is scrupulous in not trying to get a political jump against the ultimate will of the Senate.

In my experience in my six years here, one of the great things about the Senate is that political advantage is not taken of unfortunate circumstances in which a senator fails to get here for a vote and that vote becomes critical. But here we have had this occur twice within hours. On both occasions, the government should have been alert to this and should have signalled the Independent senators. Indeed the Independent senators involved should have been on the ball about it. It is not a light matter; it is a serious matter. The explanation that he was having a long telephone conversation is the thinnest explanation I have ever heard from a senator wishing to recommit a vote.

The Senate needs to look at that situation. I do not think we can ever say we will not

allow the resubmission of a vote. I say this with some trepidation because the next thing is that one can get caught out oneself, but we have to be serious about voting on matters like this. It is very difficult for independent members on the crossbench who have to cover everything; it is very difficult indeed. In that situation it is incumbent on the government and the minister to make sure that the Independents, who are voting one way or another on these matters, are there to vote when it comes to a crucial division of the Senate, where the opposition is voting on one side and the government is voting on the other. The government must accept responsibility for both these occurrences, in my book. What else can be said about it? The Senate should not be treated in a cavalier fashion. I am not saying it is here, but I am saying that the government is failing in its obligation to make sure that Independent senators, who are crucial to government amendments like this getting through, are here when the vote is taken.

Senator LUNDY (Australian Capital Territory) (11.01 a.m.)—I would like to get very specific clarification about the recommittal that Senator Murphy has asked for. In doing so, I would like to add some comments from the Labor opposition. Labor, too, has been understanding and committed to the principle of ensuring that the will of the Senate prevails and has allowed, in a number of circumstances where an explanation is provided, for votes such as this to be recommitted to the Senate. But I share Senator Brown's observations that when it happens twice in an evening, involving Independent senators in the circumstances that it has, there is a question of diligence on behalf of the government in organising their own legislative agenda and managing their own amendments. It is extremely unfortunate, but Labor has persisted with the principle that the will of the Senate needs to prevail and

has permitted the recommittal of votes such as this in circumstances where an explanation has been provided and will do so again.

Senator HARRADINE (Tasmania) (11.02 a.m.)—There were a number of people missing from that vote last night, I believe—Labor Party members and government members. A number of them were missing for that vote but they made sure between them that they paired those people. They were paired. I cannot get a pair; I either have to be here or not. Last night I missed the vote. But before I went out of here at about four minutes before knock-off, at 10 minutes to seven, I did say to the minister in charge of the bill that I needed to go to a function held by the Indonesians for Independence Day. I had been invited; the invitation was from six o'clock—I was already 50 minutes late. As a member of the Joint Committee on Foreign Affairs, Defence and Trade, I take that matter very seriously indeed. I did indicate to the minister in charge of the bill that that was where I would be.

Clearly, one of the questions that is before us is about listing the historical heritage value of places. Some of those listings will be international listings. As I understand them, these amendments are to make sure that there is proper consultation between ministers in Australia and ministers of foreign governments before that listing is made. That is the diplomatic thing to do and I cannot, for the life of me, understand why people are voting against these amendments. But that is going to the argument of the case. I do not blame the minister; he probably assumed, given the obvious nature of these particular amendments, that they would be carried. I do not know. But certainly it was not factored into that equation that I would not be here. I would have been here and I would have voted in accordance with what I believe to be proper diplomatic procedure for the amendments.

Senator MURPHY (Tasmania) (11.05 a.m.)—I accept the points that Senator Brown has made with regard to the government having an obligation in respect of numbers. But I have to say that during this process I have listened to this debate and I have chosen to make up my own mind about where I go. I do apologise because I have pretty much attended every what might be termed ‘critical vote’ on this legislation. Whilst I accept the comments that have been made, I apologise for the fact that I failed because I was doing something else. I thought this was another set of amendments that was being voted on, and that is unfortunate. The process that has been gone through to date is something I have considered and, from listening to the debate on all of the amendments, I have voted in the way that I have thought fit. That is the reason I make the request—because the opportunity for me to vote, as a result of my mistake, was denied and amendments that I would have supported were defeated.

The TEMPORARY CHAIRMAN (Senator Hutchins)—Is leave granted for government amendments (1) to (10) on sheet RA234 to be recommitted?

Leave granted.

Question put:

That the amendments (**Senator Hill’s**) be agreed to.

The committee divided. [11.11 a.m.]

(The Chairman—Senator J.J. Hogg)

Ayes.....	35
Noes.....	<u>32</u>
Majority.....	3

AYES

Abetz, E.	Alston, R.K.R.
Barnett, G.	Boswell, R.L.D.
Brandis, G.H.	Calvert, P.H.
Chapman, H.G.P.	Colbeck, R.

Coonan, H.L.	Eggleston, A.
Ferguson, A.B.	Ferris, J.M. *
Harradine, B.	Harris, L.
Heffernan, W.	Hill, R.M.
Humphries, G.	Johnston, D.
Kemp, C.R.	Knowles, S.C.
Lees, M.H.	Macdonald, I.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J.	Minchin, N.H.
Murphy, S.M.	Patterson, K.C.
Payne, M.A.	Santoro, S.
Scullion, N.G.	Tchen, T.
Tierney, J.W.	Troeth, J.M.
Watson, J.O.W.	

NOES

Allison, L.F.	Bishop, T.M.
Bolkus, N.	Brown, B.J.
Buckland, G. *	Campbell, G.
Carr, K.J.	Collins, J.M.A.
Conroy, S.M.	Cook, P.F.S.
Crossin, P.M.	Denman, K.J.
Forshaw, M.G.	Greig, B.
Hogg, J.J.	Hutchins, S.P.
Kirk, L.	Ludwig, J.W.
Lundy, K.A.	Mackay, S.M.
Marshall, G.	McLucas, J.E.
Moore, C.	Murray, A.J.M.
Nettle, K.	O’Brien, K.W.K.
Ray, R.F.	Ridgeway, A.D.
Stephens, U.	Stott Despoja, N.
Webber, R.	Wong, P.

PAIRS

Ellison, C.M.	Evans, C.V.
Lightfoot, P.R.	Faulkner, J.P.
Vanstone, A.E.	Sherry, N.J.

* denotes teller

Question agreed to.

Senator BROWN (Tasmania) (11.17 a.m.)—As we are getting to the end of this debate, I will come back to a couple of matters I have asked the minister about but on which I have not had sufficient information yet. First of all, on Monday I raised the issue of the bulldozing by Telstra of a very wide strip of important native vegetation to the top of the Patriarchs, which is a flora-rich range of granite hills on Flinders Island, to put up a tower on a reserve. I ask the minister: why

did Telstra not have to get clearance from the Commonwealth and state authorities to do that? If it did, why did it push a massive swathe through this important bushland with its rare and endangered species? What is to be done? Once damage to an environmental asset like this has occurred, you cannot undo it. What are the penalties that Telstra faces for this destruction of an important piece of the natural environment? What role is the minister, Dr Kemp, playing in preventing this sort of environmental destruction, which is totally unnecessary, by Telstra? What action will now be taken against Telstra, other than blandishments, to prevent this from happening again?

We have to be aware that, under the legislation of this government, Telstra has been exempted from environmental impact assessment on towers such as this—the policy of the Prime Minister, the Hon. John Howard, is to exempt Telstra when it puts up towers. Notwithstanding that, what is to prevent Telstra from doing the same thing in national heritage listed places in the future? What action is being taken by the minister to ensure that Telstra does not do this again, that it pays for the rectification and that it faces its day in court over this serious damage to this important part of Australia's heritage.

Senator HILL (South Australia—Minister for Defence) (11.19 a.m.)—I have some more information on that particular matter. I am told that clearing ceased pending investigations. I assume that that was when officials became aware of this matter, and I am assuming—although this is not actually explicit in my brief—that they communicated that to Telstra and that that is when the clearing was stopped. Two species—a rare dogwood and a horny cone bush—have been affected, and I am told that they are not listed under the Commonwealth EPBC legislation. In some circumstances it is necessary for Telstra to seek the approval

of the Secretary of the Department of the Environment and Heritage before bush is cleared, but whether or not that should have occurred in this instance—and it seems that it did not—is still being considered. The department is undertaking further inquiries on that. Furthermore, the Tasmanian Department of Primary Industries, Water and Environment is investigating whether all necessary Tasmanian approvals were in place. So whether Telstra acted in breach of its Commonwealth obligations or whether it acted in breach of its state obligations are matters that are still under assessment.

Senator BROWN (Tasmania) (11.22 a.m.)—That is not satisfactory. Let me give the figures on this. Telstra cut an 850-metre long swathe, 12 metres wide to lay cables to the top of the Patriarchs—an outrageous piece of vandalism by Telstra on this very important scenic and natural bushland component of Flinders Island. It is very prominent and there was no environmental impact statement. I ask the minister: what are the possible consequences for Telstra, if it is found to have destroyed this heritage unnecessarily? I note the minister says that the two endangered plants he speaks of—and there are quite a few others, potentially, in the area—are not listed. The question is: ought they to have been listed and why are they not listed on the national listing system? It comes right back to this fact: is it not true that this government removed the requirement for Telstra to do an environmental impact assessment when it puts up such towers all over Australia—whether they be in urban areas, rural areas or in wilderness areas? Is it not true that this government removed the requirement for Telstra to do an impact statement that would have prevented this from happening and therefore this is the responsibility of the Howard government that this has happened, because it took away the safeguard—the same as it has taken away

many of the safeguards to ensure that heritage is listed—under this piece of legislation that the chamber is dealing with now?

Senator HILL (South Australia—Minister for Defence) (11.24 a.m.)—As I said, whether Telstra has breached state or Commonwealth obligations is still being investigated. Those Commonwealth obligations may arise from the EPBC Act or they may arise from the telecommunications code of practice. The detail of the state processes, I do not know. I am told that a permit was obtained from the local council for the clearing. There was a 14-day period for objections to the permit and no objections were received. I am told that, after the 14-day period closed, one objection was received and, as a result of that, Telstra stopped the work on its own initiative. So it seems that it commenced work after getting the permit, which was on the basis of 14 days of no objection. There was then an objection and, as a result of that, Telstra, of its own initiative, stopped the clearing.

Senator BROWN (Tasmania) (11.25 a.m.)—Let me read from the *Age* article on Monday:

The tower is on the Patriarchs, a flora-rich range of granite hills in the island's eastern coastal plain. A 2001 investigation into Crown land recommended the area be protected as a reserve.

Local plant expert and environmentalist John Whinray lodged an objection to the power line planning application at lunch time on the last day of the objection period. He was too late: the clearing had already begun.

I ask: is it true that the clearing had begun before the objection period was completed? What is true is that this minister and this government removed the need for an environmental impact assessment, specifically for Telstra to do things like this, and that this federal government stands indicted for removing the requirement on Telstra that everybody else has got to face. It is an outrage

that Telstra behaves in this fashion. If the local council gave permission for an 850-metre swathe, 12 metres wide, then something is seriously amiss. The Tasmanian department, which, by the way, has as its head Premier Bacon, failed to prevent this from happening. It should have objected, but it did not. The federal government bears the primary responsibility for having no check at all on what has happened there.

This legislation—with the teeth extracted, because the amendments by the Democrats and the Greens have been turned down—is the problem. I might add, had the ALP opposed the process of removing environmental safeguards on Telstra towers, we would not be in this position. I note, by the way, that the minister is not talking about any potential penalties. One can conclude from that, potentially, that there are none. Why should Telstra bother? It will be left to patch-in-the-pants community organisations to try and do something about this, because this federal government is not taking responsibility—it is part of the problem when it comes to this rapid loss of native vegetation cover, even in important reserves like the Patriarchs on Flinders Island. It is not just that the bulldozers were allowed in; it is that the safeguard through an environmental impact statement was removed first by the Howard government.

The other point that I want to raise is the matter of Aboriginal sites being bulldozed in Tasmania by Gunns, the big woodchipping corporation, and by Forestry Tasmania, with or without the imprimatur of the minister for the environment, Mr Green, or the Premier, Mr Bacon. I asked very specifically earlier in this debate for the minister to get back to the committee with information about this. He implied that no such bulldozing of Aboriginal sites, including quarry sites, Aboriginal stone scatters and middens, is permitted under the regional forest agreement, and listed

sites—that is, listed under the Tasmanian heritage legislation—could not be corrupted under the regional forest agreement. I am asking the minister: does he still stand firm in his assurance to this committee that that has not happened and will not happen?

Senator HILL (South Australia—Minister for Defence) (11.30 a.m.)—In relation to the first matter, there is a procedure to ensure that matters of national heritage significance are not damaged by Telstra through a clearing operation. In this instance, Telstra did not advise Environment Australia of its intention to clear. The matter being investigated is whether they should have done so, under the Commonwealth obligations. So it is not true to say that the federal government has washed its hands of that responsibility.

In relation to the Aboriginal middens, I have no information to suggest that anything I said yesterday was incorrect. I said yesterday that my advice is that they are bound by the Aboriginal Relics Act. Under the Aboriginal Relics Act it is an offence, certainly, to deliberately damage a registered site. In relation to forestry activity, a known Indigenous site would be dealt with in a forest management plan by excluding that site from a clearing operation—if it is a clearing permit—with the objective of ensuring that it is not damaged.

I am told that I would like to add to my response of yesterday on that matter. The Relics Act operates on a permit system rather than through exemptions. The Tasmanian Heritage Office has advised that logging activities are subject to the provisions of the Relics Act. Subsection 14(1) of the Relics Act stipulates that:

Except as otherwise provided in this Act, no person shall, otherwise than in accordance with the terms of a permit granted by the Minister on the recommendation of the Director—

(a) destroy, damage, deface, conceal, or otherwise interfere with a relic ...

I think that is the relevant provision. The Tasmanian Heritage Office has advised the Commonwealth that a permit to interfere with a relic has been issued to Gunns Pty Ltd in accordance with the provisions of the Relics Act. The area concerned is an Aboriginal quarry site at Parrawe, in the north-west of Tasmania. The area was clear-felled some decades ago, replanted and subsequently re-harvested. The area is again being replanted in sections. However, it is understood that a number of reserves have been established to protect the cultural sites located within this area. The reserves will be replanted with native vegetation. State government advises that this mitigation strategy was developed and agreed as part of a consultation process involving the logging company Gunns, officers of the Aboriginal heritage section of the Tasmanian Heritage Office and representatives of the Tasmanian Aboriginal Land Council.

So what I said yesterday was correct, but there is a provision that in certain circumstances will allow a permit to be given. It seems that in one instance that permit has been given. It seems that a mitigation strategy—which I presume was negotiated at the time of the giving of the permit, but that is not absolutely clear from these notes—involved not only Gunns but also the relevant Aboriginal protection agencies of the Tasmanian government.

Senator BROWN (Tasmania) (11.35 a.m.)—So there we have it—the minister informing the chamber that Gunns has been given a special licence to interfere with Aboriginal heritage in Tasmania and this particular site in the Tarkine region. The question has to be raised as to why. Here is a company which is extraordinarily rich, getting a 35 per cent return on its investment, and whose supremo, Mr John Gay, made \$7 million on

31 July simply by cashing in his options. One has to ask—whatever the history of this place has been, and whatever the depredations by loggers in the past—why this permit should have been given to Gunns to get around the provisions of the Relics Act, which protect Aboriginal heritage.

I have enormous sympathy with the Tasmanian Aboriginal community. They are put upon from all directions. They are underfunded; they are serially trying to get changes made, but governments knock them back. Their claims to the Bass Strait islands, to Eddystone Point and to areas on the mainland are serially knocked back. They have great social difficulties because they are deprived in so many ways in terms of health, education and being able to pursue their own culture. I will not, for one second, have them blamed when Gunns exercises the power one way or another to move the bulldozers in on a clear-fell site to interfere with Aboriginal history for the first time because, if it is going to happen once, it is going to happen again.

This is potentially, I would understand from what the minister has said, a few hundred hectares in a logging suite of thousands of hectares each year. Forgoing this is not going to make a great difference to Gunns' bottom line. Being able to do this repeatedly elsewhere in Tasmania where there are Indigenous sites will make it some hundreds of thousands or millions of dollars extra to pay Mr Gay's next cashing in of options. It is outrageous. Where is the minister for heritage in Tasmania and Premier Bacon when it comes to ensuring that this does not happen? From what the minister has said, it is very clear an application has been made to the Tasmanian heritage authorities and that means the minister's imprimatur is on it.

I ask the minister, here and now, to intervene. What he has not done is to tell this

chamber what the status of logging is at Parrawe. But if it is under way, it should be stopped; if it is not under way, it should not be allowed to begin. In my book, if it has happened then there should be penalties applied to Gunns to make sure that it does not happen again. Sure, the minister can provide a waiver. Isn't that the problem with all the legislation that we have in this parliament? Instead of the independent Australian Heritage Commission being bolstered to do the job, it is going to be done by ministerial fiat—to put a place on the register and to take it off. Senator Harris from One Nation last night came in and cast the vital vote which means the Senate is disempowered from intervening in that process—where a place rather than a value is being delisted by a minister.

I should not be drawing matters like this to this minister's attention. He should be dealing with them as they happen and before the damage is done but here are two cases this morning where the federal and the state governments have failed in their obligations. But remember that this legislation is about transferring power from the federal arena to the states. Therefore the federal government is responsible for what happens—the shortfalls of that process. It says that it is going to be better; the Greens maintain that it is a lot worse. We are talking about national heritage here. This is a national responsibility. This is the federal government's responsibility.

The final matter that I want to return to, because it has not been completed, is Recherche Bay. We know that Gunns' bulldozers are coming onto the north-east peninsula of Recherche Bay. They want to bulldoze a road through the Southport Lagoon reserve, a conservation area. Earlier on Premier Bacon allowed that but it is in his hands now as to whether he will allow its completion. We have had the debate about the critically endangered swamp eyebright, a flowering

plant, which is within a kilometre of this process; but there is a 140-hectare site to the south of this peninsula, which is still manifestly intact from when the French arrived there 211 years ago, that came back again and had this phenomenal interaction with the Palawa Aboriginal people. Is this all going to be bulldozed too, to make a few more hundred thousand dollars for Gunns? By the way, its major investor is the Commonwealth Bank and Perpetual Trustees, so they are making money out of this as well. Is this going to happen even when we debate it in the chamber now with foreknowledge? I am very alarmed that that is going to be the case, that there will be excuses made, that there will be postage stamp reserves in this 140 hectares and Gunns will be allowed to go in and bulldoze the heart out of it to make more woodchips in order to make more money.

This is really a test case here. The minister should be able to get to his feet and say, 'From the knowledge we already have, this is a cultural landscape of international significance. I'll be adding it to the World Heritage List. In Tasmania, I'll be adding it to the existing World Heritage wilderness area and I'll be ensuring that it goes on this new National Heritage list.' The question is: is the minister going to say that to us? It is a fairly good test of whether this legislation the government has before us is going to work.

Senator HILL (South Australia—Minister for Defence) (11.43 a.m.)—We said the other day that there is a process of assessment taking place in relation to certain parts of Recherche Bay. There is a Tasmanian process under the Tasmanian cultural heritage act. There have also been applications for listing under the Register of the National Estate, the Commonwealth process, and therefore they are to be assessed. The Commonwealth is awaiting the results of the Tasmanian assessment, which it will take

into account in its process. So that is the current position under current legislation.

I think the question that Senator Brown is asking is whether, were this bill to pass, the larger area—rather than the specific sites that are being examined at the moment—would be eligible for listing on the national list. That would require an assessment under the new legislation. We have heard the case that Senator Brown has made in relation to obviously valuable heritage aspects. The real issue is whether that matches the requirements of the new legislation. Senator Brown clearly believes it does. That would be something that would have to be tested.

Senator ALLISON (Victoria) (11.45 a.m.)—by leave—I move Democrat amendments (1) to (3) on sheet 3060:

- (1) Clause 2, page 2 (cell at table item 2, column 2), omit the cell, substitute:

At the time the Act that establishes the Director of Indigenous Heritage Protection receives the Royal Assent

- (2) Clause 2, page 2 (cell at table item 3, column 2), omit the cell, substitute:

At the time when section 9 of the Act that establishes the Director of Indigenous Heritage Protection commences.

- (3) Clause 2, page 2 (line 10) to page 3 (line 1), omit subclause (3).

These amendments would have the effect of this legislation being enacted only once the Aboriginal and Torres Strait Islander Heritage Protection Bill comes into effect as well. Senator Lundy yesterday read from a letter we received two days ago from ATSIC. We are not satisfied with the government's response to progress that legislation. In our view, this legislation does not adequately protect Indigenous heritage. There have been some difficulties in doing that in this bill, and we recognise that the ATSIHP Bill has a different regime for Indigenous heritage. It

has been stalled. It would be the least we can do in this place to say that these two bills need to be dealt with and enacted at the same time. The effect of my amendments would be to hurry the government along and make sure that that legislation is provided to the Senate quickly.

Over time there has been a lot of pressure put on Indigenous groups concerning this legislation, not the least of which was in the last 24 hours or so. The concerns that ATSIC has are clearly stated in a second letter: we received a letter a week or so ago which spelled out some of the problems that ATSIC saw with this legislation. I think there has been inadequate consultation by the minister's office with Indigenous groups. So our proposal is that these two pieces of legislation are enacted together. It seems to us to be a very sensible approach. I trust that we will have the ALP's support in doing that, and that we have the government's support, because it does make a lot of sense. It has been said many times in this debate that there are Indigenous sites which either have already been destroyed or are at risk. I think the vast majority of Australians want to see us keep our Indigenous heritage. It goes back tens of thousands of years, maybe even more than that. We value it and we hope to work with Indigenous people to protect it. One way of doing that is to have strong legislation.

I do not know why the ATSIHP Bill is stalled. It seemed that Indigenous groups were happy with it some years ago. We went through a long debating process, and it seems to me that it would not be too difficult to bring that on pretty much as it was agreed. Obviously Indigenous groups would need to have another look at it and make sure the agreement they made back then with the government is still something they want to press for. We are extremely concerned that the Indigenous aspects of this legislation still have very serious question marks. I will not

go through that letter in detail, but the government may want to respond by indicating what they have done in relation to those concerns that have been expressed. The simplest way is for us to say that both bills should be enacted at the same time.

Senator MURPHY (Tasmania) (11.50 a.m.)—I rise to address the amendments proposed by Senator Allison on behalf of the Democrats. The government's commitment to and development of the ATSIHP legislation was an issue that I also had some concerns about and sought information on from ATSIC and the government. I understand there has been an exchange of correspondence between the minister and Mr Rodney Dillon with regard to the concerns initially expressed by ATSIC. It would seem that ATSIC have a view that the government remains committed to the ongoing processes for the development of the ATSIHP legislation. That is what I can see from a letter, which I have been given, from Rodney Dillon to the minister, Dr David Kemp. It says in part:

I note your confirmation that the amendments you have agreed with Senator Lees are those you had foreshadowed with ATSIC. I must reiterate that while ATSIC takes the view that these amendments could go further, I believe they are an improvement on the bill and that they represent a major step forward for protection of indigenous heritage and should pass through the Parliament as amended by Senator Lees.

It would seem to me that there is a view that ATSIC at least are satisfied with the process proceeding. While I did have some concern about this issue—and I hope the minister will get up and reiterate the commitments made by Dr Kemp and put them on the public record—I will not be supporting the Democrat amendments. Otherwise, I would have done.

Senator LUNDY (Australian Capital Territory) (11.52 a.m.)—Labor have expressed our concern and asked direct questions of the

minister about the Aboriginal and Torres Strait Islander Heritage Protection Bill and the proposals that are supposed to be forthcoming. We share the grave concern about the fate of these bills. We are particularly concerned about the impact of this legislation on Aboriginal heritage and that is why Labor have taken the position that we will be opposing this legislation. In light of the way this amendment is expressed, it is Labor's understanding that it has the objective of linking the start-up of the bills before us to the Aboriginal and Torres Strait Islander Heritage Protection Bill. Labor think that this will help keep Indigenous heritage in the frame. If this amendment is not supported it will have the effect of making Indigenous heritage a very poor cousin of what Labor believe will be an already very weakened heritage regime. On that basis the Labor opposition have decided to support this particular Democrat amendment.

Senator LEES (South Australia) (11.53 a.m.)—Currently, the Australian Heritage Commission only has an advisory role in terms of impacts that affect heritage places on the Register of the National Estate. This includes places that are on the register because of their significance as places of Indigenous heritage. I think the Democrats' attempts to stop this bill being enacted will have the reverse impact from the one that Senator Allison has said they intend—because we will be delaying an opportunity to give Indigenous heritage far greater protection. While the second bill will take the protection of Indigenous heritage further, that bill is in the process of being negotiated. There are still some issues that have to be resolved and we have a commitment in writing from the minister that he is going to facilitate the passage of that legislation. Indeed, I understand it will be the next issue that some in the department will be looking into once this package of three bills which

we are looking at today goes through. I say to Senator Allison that we should not be delaying this legislation. I understand that the Democrats do not really like where we have got to and may be voting against it at the end of the day, but I believe that it is very important that the new Australian Heritage Council be put in place and have some real powers to protect heritage.

Senator HILL (South Australia—Minister for Defence) (11.55 a.m.)—We gave undertakings a couple of days ago that the sites bill would be brought to the Senate as quickly as possible. The minister has since reaffirmed to me that negotiations and consultations are continuing to take place. Progress is being made and we do not believe that it will be long before we are able to bring the Aboriginal and Torres Strait Islander Heritage Protection Bill to the chamber. We recognise the shortcomings in the existing system. Reform of that is long overdue. Everyone has accepted that; the only issue has been the detail. We are anxious to have a new and better piece of legislation put in place as quickly as possible. We will certainly be working to that objective.

Senator BROWN (Tasmania) (11.56 a.m.)—The minister has ensured that Gunns Pty Ltd and the loggers in Tasmania are freed from responsibility under the reach of this heritage legislation—and Senator Lees agreed with this. I would be interested to know from the minister whether that is going to extend to the mooted Aboriginal heritage protection legislation that we are talking about now. Are you also going to give the woodchipping organisations, Forestry Tasmania, the Forest Practices Board—and the Right Hon. Jim Bacon, who heads it all up, and his deputy, Paul Lennon—along with Gunns Pty Ltd, carte blanche as you have done with the Australian heritage of forests, wildlife and wild rivers? Will you do that despite the fact that they go in and log,

breaching—serially, all over the place—the Forest Practices Code that the Prime Minister said was there to protect heritage? Will the same thing occur with Aboriginal heritage? We have heard the first little foray in that direction. Are you going to exclude or exempt regional forest agreements from the reach of Aboriginal heritage legislation—as you have done with all other heritage legislation? That is a very important question.

Senator ALLISON (Victoria) (11.58 a.m.)—Minister, our conversation with Commissioner Dillon, as late as last night, indicated that ATSIC was supportive of the amendments that we are proposing, which would see enactment at the same time. So I am surprised at what has been said by you and Senator Lees. It is still not enough for the Senate to accept that consultations are still taking place four or five years after, I thought, there was at least broad agreement. It could well be that this bill comes back with most of what the Indigenous groups that were involved with it at that time had agreed. How do we in this place know that the bill that comes back will not neuter the act? I think we really want to see the colour of the government's money. We do not know what these consultations are about and we do not know whether the government has put a whole new regime forward in them. We are completely in the dark. All we know is that some years ago those bills were largely agreed to by Indigenous people and the government has been sitting on them ever since. It is clear that the only way we get any commitments from government is to use some leverage, and I think this is a good opportunity for us to do that.

I asked previously what the nature of the consultations is: what kinds of things are being put to Indigenous people? Shouldn't we understand at least what the government's thinking is on this legislation now? I think that is critically important, and we have

an obligation to make sure that Indigenous people have their voices heard in this place. I think the voice is loud and clear. Sure, they are receiving a lot of pressure at the present time and like the rest of us they agree that this is an improvement on the current situation, which in terms of general heritage is no protection at all. As I said, it is our obligation to be a bit more satisfied than just accepting the government's comment that this is happening as quickly as possible, with no dates, no information about the nature of the consultations or what the government wants to do with that legislation. As I understand it, the delay is not with the Indigenous people but it is with the government and there is some sort of problem there with accepting what was previously got to. It is still our view that this could work, that we would not need to delay the heritage legislation much at all and that that bill could be brought on quite quickly.

Senator MURPHY (Tasmania) (12.01 p.m.)—The minister may have already covered this but I would be interested to hear something put on the record with regard to the process that the government intends to go through, from a consultation point of view, with ATSIC in respect of the implementation phase of these bills.

Senator HILL (South Australia—Minister for Defence) (12.02 p.m.)—In answer to Senator Murphy, part of Mr Dillon's letter—and I agree with the interpretation of it by Senator Lees and Senator Murphy, which is basically that ATSIC is happy that the heritage legislation should proceed and that it also wants the sites legislation to proceed as quickly as possible but it does not link the two—makes the point on behalf of ATSIC in relation to this legislation:

It is vital that ATSIC be closely involved in the implementation of this legislation. I would be grateful for your assurance that the current close level of consultation that has operated as the Bills

were developed will continue as the implementation phase is planned.

As I understand it, that commitment has been given to Mr Dillon and there have been preliminary discussions as to how that will be implemented in practice. In the development of the regulations and the other processes under which the new scheme will operate, ATSIC will be closely and genuinely involved in the substance of those issues because protection of Indigenous heritage of national value is a critical part of the whole package.

To answer Senator Allison, I do not think there is really much more I can say. I said that the sites bill is subject to current consultation. It is obviously inappropriate for me to interfere with that process. I have been given the undertakings which I have passed on to the Senate that the negotiations are well advanced and it is believed that a bill will be able to be brought in soon. It clearly will be a bill that has the support of Indigenous people because if it does not have the support of Indigenous people there is no point in proceeding with it because its objective is to protect Indigenous sites.

I could not understand Senator Allison's logic when she acknowledged that this bill is an improvement on the existing situation in relation to heritage protection but, on the other hand, she thinks it should be further delayed. We think it has been delayed far too long; we think it is time that it be implemented and that the Commonwealth assume a place in the protection of Australia's heritage.

Senator ALLISON (Victoria) (12.04 p.m.)—I seek some other assurances from the minister. Does the minister commit to immediately transferring all the Indigenous sites that are on the Register of the National Estate right now and also on Commonwealth

areas on to the Commonwealth Heritage List?

Senator HILL (South Australia—Minister for Defence) (12.05 p.m.)—It would be inappropriate to give that commitment. They would have to be assessed. I suspect that some of them have already been assessed.

Senator Brown—They have been assessed.

Senator HILL—I said some would have already been assessed. The department has been working in a preliminary way on these issues for some years. Provided that they meet the criteria of the new legislation and, I assume, provided it is the desire of Indigenous people then I would expect them to be transferred.

Senator ALLISON (Victoria) (12.05 p.m.)—It would be useful, I think, if we had a list of those sites that are not assessed so far so that we at least knew what numbers we are talking about that will be transferred immediately. In terms of consultation, it would be useful for us to know what the program of consultation is, and when the minister last met with Indigenous groups, just so we can be assured that consultation is in fact going on. It is hard to believe that it would be going on for all of the years that this legislation has been around. We might be more reassured if you could tell us that. What is the timetable for introducing the legislation? Senator Lees says we will see it this year. Is that your understanding? Do you make that commitment?

Senator HILL (South Australia—Minister for Defence) (12.06 p.m.)—I cannot and would not give—it is inappropriate—information on whom the minister is meeting with, on what date and so forth. In relation to the timing, it certainly is our hope and our expectation that the bill will be introduced this year. That is the objective. As I said, the

minister is working towards the objective of introducing it as soon as possible. Consultations are advanced. As has been said by Senator Allison, it has had years of development. Beyond that, I do not think it is my business to be placing myself in the environment minister's office.

Senator ALLISON (Victoria) (12.07 p.m.)—It is my understanding that Indigenous groups have had some assurances from the minister about Indigenous sites being put on the list. Perhaps this is one reason why ATSIC and other groups have sent what appear to be contradictory messages. What assurances have they been given about those sites?

Senator HILL (South Australia—Minister for Defence) (12.08 p.m.)—I think the comment that I made to the senator a few minutes ago stands.

Senator BROWN (Tasmania) (12.08 p.m.)—So we live in hope that the government might do something about this somewhere down the line with no commitment given to Senator Allison. I will try again by asking the minister: is the Aboriginal heritage protection legislation, when it comes, going to give an exemption to the woodchip industry through the RFA as it has been given in this wider heritage legislation that we are dealing with in the Senate today?

Senator HILL (South Australia—Minister for Defence) (12.09 p.m.)—It is very difficult to debate a bill that is not before the chamber. The current existing legislation does not provide for any specific exemption of that type. The new proposed legislation is intended to be an improvement in the protection regime. I cannot imagine that it would be an improvement if it exempts by definition certain specific industries.

Senator BROWN (Tasmania) (12.10 p.m.)—That is what Senator Hill himself did in this chamber just three years ago. He

brought a piece of legislation in here to protect Australia's heritage, saying that it was better than the existing legislation which did not have a caveat for the woodchippers and, with the support of Senator Lees, it excluded the woodchippers. He said, 'This has reached to everywhere except to the bailiwick of Gunns Pty Ltd in Tasmania and a few other woodchip operators working under the regional forest agreement—it does not apply to them.' What I hear from the minister is that the Indigenous legislation will not either; it will give them an out. The woodchippers are such a prodigious influence on the office of Prime Minister Howard and the government generally that they will get an exclusion.

You know what happened under the regional forest agreement arrangement and this heritage legislation. If there is any future intervention by the minister for the environment to protect, for example, the Styx Valley, the Valley of the Giants, the Blue Tier or the Tarkine, then Gunns get a compensation package from the Australian taxpayers to the value of those places as a pile of woodchips. That is Senator Hill and Prime Minister Howard's contribution to protecting the natural heritage, which we are dealing with in this legislation. The minister is opening the obvious conjecture that the same powerful influences will exclude Aboriginal heritage from the reach of forthcoming legislation where woodchippers want to have a go.

We have just heard this morning that a first exemption has been allowed to Gunns to woodchip and bulldoze in areas of Aboriginal heritage. It is quite an extraordinary and outrageous set of circumstances, and this minister, who is responsible for the legislation which allowed that to happen, basically says, 'What can I do? What can the Prime Minister do?' He signed the death warrant on those forests. He gave the power across to Gunns through the Rt Hon. Paul Lennon, the forestry minister in Tasmania, who basically

runs affairs in Tasmania when it comes to the extraordinarily powerful woodchip industry. I think it is incumbent on you, Minister, to give an assurance to the Senate in debating this particular motion that Gunns will not get that privilege when it comes to Indigenous heritage and that you will use Commonwealth powers to protect Indigenous heritage in Tasmania from that corporation, from Forestry Tasmania, and from the Tasmanian government.

Question negatived.

Bill, as amended, agreed to.

Senator Brown—No, a division is required.

The TEMPORARY CHAIRMAN (Senator Knowles)—I could only hear one voice, Senator Brown, so I do not know how else I could have called it other than for the ayes.

AUSTRALIAN HERITAGE COUNCIL BILL 2002

Bill—by leave—taken as a whole.

Senator LEES (South Australia) (12.14 p.m.)—We are now dealing with the *Australian Heritage Council Bill 2002*, which is effectively the bill that sets up the Australian Heritage Council. My first set of amendments is identical to a set of amendments to be moved by Senator Allison. Therefore I say to Senator Allison, as I put in writing some weeks ago that, if Senator Allison so wishes, I am more than happy to move these amendments in joint names, as they are identical. My following amendment (6) is similar but not identical to Democrat amendment (6); however, my amendments (1) to (5) on sheet 3037 are the same as Democrat amendments (1) to (5) on sheet 3040 to be moved by Senator Allison. So I ask Senator Allison if we could simply move these together in joint names.

The TEMPORARY CHAIRMAN—Senator Allison, are you agreeable to that proposition?

Senator ALLISON (Victoria) (12.15 p.m.)—I am agreeable to that, Chair. As Senator Lees says, the group of amendments she will be moving are identical to Democrat amendments (1) to (5) on sheet 3040.

Senator LEES (South Australia) (12.15 p.m.)—by leave—In joint names I therefore move amendments (1) to (5) on sheet 3037:

- (1) Clause 5, page 4 (line 28), omit “and conservation”, substitute “, conservation and monitoring”.
- (2) Clause 5, page 4 (lines 31 to 33), omit subclause 5(g), substitute:
 - (g) to organise and engage in research and investigations necessary for the performance of its functions;
 - (h) to provide advice directly to any person or body or agency either of its own initiative or at the request of the Minister;
 - (i) to prepare reports in accordance with Part 5A;
 - (j) to perform any other functions conferred on the Council by the *Environment Protection and Biodiversity Conservation Act 1999*.
- (3) Clause 7, page 5 (lines 12 to 26), omit “experience” (wherever occurring), substitute “substantial experience”.
- (4) Clause 7, page 5 (after line 26), at the end of the clause, add:
 - (5) The Minister may not appoint as the Chair or as a member, other than as an associate member, an employee of the Department administered by the Minister.
- (5) Page 6 (after line 20), after clause 10 insert:

10A No conflict with a member’s duty

For the purposes of section 10, membership of an organisation with similar goals and interests to those of the Council shall not be taken to

conflict with the proper performance of a member's duties.

Effectively, what these amendments do is, again, strengthen the legislation. Amendment (1) seeks to include monitoring in the list of matters the council is required to promote under its functions. Amendment (2) seeks to add four additional roles to the functions of the council, including undertaking research and investigation, providing advice to any person and preparing reports for parliament. Amendment (3) seeks to strengthen the qualifications of the council members by requiring that members have substantial experience rather than just experience. Amendment (4) seeks to exclude the appointment to the council, other than as an associate member, of an officer who is an employee of the department administered by the minister. Amendment (5) seeks to clarify that a council member's membership of an organisation with goals and interests similar to those of the council shall not be taken to conflict with the proper performance of the member's duties. Amendment (6) on sheet 3037, to be moved next, seeks to establish a new part of the bill providing for the council to prepare reports related to its functions for the minister to table in parliament. I recommend that these amendments be supported by the Senate.

Senator ALLISON (Victoria) (12.17 p.m.)—Democrat amendments (1) and (2) on sheet 3040 provide for a range of improvements to the legislation, including promoting the monitoring of heritage and organising and engaging in research and investigations. We think that it is a really important aspect of the duties of the Australian Heritage Council to be able to do research and investigations under their own undertaking; provide advice to any person, body or agency, either on the council's own initiative or at the request of the minister; and perform any

other function conferred on the council by the EPBC Act.

Amendment (3) requires members of the AHC to have substantial experience or expertise concerning natural, historical or Indigenous heritage. The current bills simply call for experience or expertise. We think that 'substantial' needs to be the operative word here. As we have seen in this place, very often such bodies are stacked with jobs for the boys. We want the expertise on the council to be substantial because we think that the council has an important task and ought to be able to call upon the best possible expertise in doing it.

Amendment (4) precludes employees of Environment Australia from being members of the AHC; they can be associate members but not full members. We think it is important to draw a clear distinction between departmental personnel and those who should serve on this council so that, at least in the best possible way, we can ensure some level of independence from Environment Australia and the Public Service.

Amendment (5) stipulates that membership of an environmental organisation does not constitute a conflict of duty for AHC members. We have seen the argument put so many times that somehow people who advocate on behalf of the environment or Indigenous cultural heritage or whatever are kept off the list of people who might be included, on the basis that they have a conflict of interest. They do not have a conflict; they have a job to do and they have a strong interest, not a conflict of interest. We think this is an important inclusion in what constitutes eligibility for membership.

Senator LUNDY (Australian Capital Territory) (12.20 p.m.)—Labor will not be supporting these amendments. I reiterate that our fundamental problem with this bill is the loss of independence. We will be seeking to move

an amendment along the same lines as our amendments to the previous bill to try to restore independence. With our previous amendments not gaining support in this place, I am not particularly optimistic about the amendments we will be moving to that effect; but I will say a bit more about that when we come to them.

Question agreed to.

Senator LEES (South Australia) (12.21 p.m.)—I move APA amendment (6) on sheet 3037:

(6) Page 14 (after line 16), after Part 5, insert:

Part 5A—Reports

24A Reports

- (1) The Council may prepare a report on any matters related to the functions of the Council and provide the report to the Minister.
- (2) A report prepared under subsection (1) may include the following matters:
 - (a) the activities of the Council;
 - (b) the protection and conservation of heritage;
 - (c) how a place included in the National Heritage List, Commonwealth Heritage List or Register of the National Estate, is being managed or conserved; and
 - (d) the effectiveness of any measures intended to protect or conserve the heritage values of a place or places included in the National Heritage List, Commonwealth Heritage List or Register of the National Estate;
 - (e) the provisions of grants and other financial assistance related to heritage;
 - (f) policies, plans and programs of the Commonwealth or of a State or self-governing Territory that relate to or have an impact on heritage;
 - (g) how the National Heritage List, Commonwealth Heritage List or

Register of the National Estate are being maintained;

- (h) how the condition of a place included in the National Heritage List, Commonwealth Heritage List or Register of the National Estate is being monitored.
- (3) The Minister must cause a copy of a report provided to the Minister under subsection (1) to be laid before each House of Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

This is a very important amendment. I ask those who continue to argue that this is all a pointless exercise and that the Australian Heritage Council is not as strong as the old Australian Heritage Commission to read this amendment. It makes the whole process far more transparent. It increases the number of matters that have to be reported and prepared under subsection (1). It talks about all of the information that must be reported to parliament. This will give us a far better idea of what is being done—of what heritage places are being listed. It talks about how a place is listed and the effectiveness of any measures intended to protect or conserve the heritage values of a place. So it will give parliament and therefore the community considerably more information than is available under the current legislation.

Senator BROWN (Tasmania) (12.22 p.m.)—I agree with Senator Lees that this will add something to the advisory council that is being established. However, she is quite wrong in describing the criticism as she has. The point is that increased powers and improved outcomes should be coming from the established Australian Heritage Commission. Its power should be being built up here. That is where the power should be going. It should not be being abolished as it will be under this legislation with an advisory council—and this is all about advice going to

government and information going on to the public record—being put in its place, but that is the way it is. That is the arrangement that is being made with government and we can but support this reporting process that is being added on here.

Senator LEES (South Australia) (12.23 p.m.)—I realise that this is going over old ground but I say to Senator Brown once again that, if we are to protect places, there has to be a penalty system. There has to be a means of substantially fining people and locking them up if necessary—and that has already happened under the EPBC Act. If we are going to give a body the level of power to actually lock people up, there must be some parliamentary involvement. I argue very strongly that it should not be an independent body out there.

Senator Lundy keeps talking about the independence of the old commission, but what does that independence mean? Independent to do what? Currently, it cannot actually do anything to protect heritage; it cannot fine anyone. Senator Brown has recommended that it have its powers increased, but I would say to Senator Brown that, if we are going to give the body substantial power, we have to have a parliamentary process involved. I think that we are entering into a whole new world of some place between parliament and the courts if we start giving separate bodies power to lock people up. This body will work and I guess that I am also speaking here to Senator Lundy's amendments as well.

I refer to an article in the Canberra Times on the 15th of this month, a few days ago, in which the Chairman of the Heritage Commission, Tom Harley, answered the criticisms that were made by Mr Uren. I understand and acknowledge Mr Uren's commitment to heritage, but Mr Harley makes the point:

I cannot agree with Mr Uren's concern that the new Australian Heritage Council will lack the

independence of the current Australian Heritage Commission.

The commission cannot protect heritage places, we can only advise. This means that apart from a limited number of World Heritage places, our nationally significant places have no effective national heritage protection. The new legislation will mend this hole in our current heritage system.

There is an unfortunate but common misunderstanding that the current legislation gives the Australian Heritage Commission power to stop actions by governments, corporations and individuals. This is not the case and never has been. It has only ever been an advisory body with a requirement that it be consulted by the Commonwealth.

The new Australian Heritage Council will make decisions about national heritage significance the most important step in the listing process. This is a very new role that the current commission does not have. Listing a place on the new national list will provide much stronger protection than was ever possible for places on the register.

I will not read the rest of the article but the final paragraph I quote states:

While the expertise and independence of the new council will in practice be as strong, if not stronger, than the current commission, the impact of the new council's decisions will be immeasurably stronger. Given the heavy civil and criminal penalties associated with not protecting the national heritage values of a place, listing is clearly a decision that can only be made by a minister who is answerable to Parliament.

Senator BROWN (Tasmania) (12.27 p.m.)—No, not answerable to parliament except in the wider sense. I have forgotten the name of the gentlemen that Senator Lees referred to there but he is wrong. He ought to have been defending the Australian Heritage Commission and ensuring that it got the teeth to do the job.

Senator Lees—He is the chairman of the commission.

Senator BROWN—What is his name again?

Senator Lees—Tom Harley.

Senator BROWN—Mr Harley should have been ensuring that the powers of the commission were enhanced so that it would be able to independently do the job of protecting Australia's heritage. Instead of that, Senator Lees's, the government's and presumably Mr Harley's prescription is to abolish the Australian Heritage Commission which would have at least—and thank goodness for the foresight of people like Mr Uren—had independence in the establishment of the Australian Heritage List. That will not be the case anymore; that can be simply vetoed by the minister of the day. What is more, when you get a place on the list, a subsequent minister, under the bidding of developers or Gunns Proprietary Limited, can have it delisted. That is not the case at the moment; that will be the case.

The argument that we are generally putting on this side of the house is that that independent ability and authority to analyse places, sites and values and to have them put on the Australian Heritage List should have been kept by the commission—it is a time-honoured one—and then it should have been given the power to protect those places. We would have taken one great step forward. Instead of that we take one step forward and two steps backward under this legislation. But presumably the numbers are there and, as Senator Lees says, that is going over old ground. But let's not have the Australian Heritage Commission's work and enormous potential for this country dismissed by Mr Harley or anybody else. It should have been given the powers of protection to complement its listing powers but it has not. Instead, it is going to be abolished.

Senator LUNDY (Australian Capital Territory) (12.29 p.m.)—Senator Lees asks La-

bor and others to respond and she asks that we reconsider. We have thought about this a lot as well and I have to say there is one glaring option that Senator Lees persistently defies exists—that is, that the Heritage Commission could have retained its power and its independence, and all of these improvements and strengths could have been added to it. That could have happened. It was a choice that the government made in putting forward these bills not to build a stronger structure around the Australian Heritage Commission and it was Senator Lees's decision, clearly, to accept the trade-off. Labor does not accept the trade-off. It does not matter what spin is placed on the changes that are taking place here, nothing will change the fact that a trade-off has occurred and that Senator Lees and others have accepted it. Labor has made it clear time and time again that we are not prepared to accept that trade-off. We believe it fundamentally weakens heritage protection in Australia and it is unacceptable in our view.

I too would like to take this opportunity to take up the point about the comments made by Mr Harley and the campaign by Mr Tom Uren. I have spoken earlier in this debate about the inappropriateness, in Labor's view, of Mr Harley's commentary and intervention in the public debate about the future of the Australian Heritage Commission. Tom Uren states extremely clearly in his expression published recently in the Canberra Times:

As every year passes the threat to our environment grows, not only in our own country but to the planet. Australia needs a legislative body that stands above party politics. The AHC is such an authority.

I did not think there would be anyone with the audacity to try to argue against that obvious fact. The legacy that the Australian Heritage Commission brought to heritage protection was one that deserved to be strengthened, not undermined. It deserved to be

strengthened, and this was an opportunity for this place to do exactly that. It is becoming clearer, I was going to say by the minute but it is, in fact, by the day—

Senator Hill—Four days.

Senator LUNDY—the four days as the minister points out—that that is not going to happen. It looks like the government are going to get their deal through, their bills up. It remains to be said and Labor will keep saying it: it is an unacceptable trade-off. No matter how much you tinker with the bill and put all these additional measures in to try to strengthen it, it is a fundamental trade-off that has weakened heritage protection.

Question agreed to.

Senator ALLISON (Victoria) (12.33 p.m.)—I move Democrat amendment (6) on sheet 3040:

(6) Page 14 (after line 16), after Part 5, insert:

Part 5A—Reports

24A Reports

- (1) The Council may prepare a report on any matters related to the functions of the Council and provide the report to the Minister.
- (2) The matters to which a report prepared under subsection (1) may relate include:
 - (a) the activities of the Council;
 - (b) the protection and conservation of heritage;
 - (c) how a place included in the National Heritage List, Commonwealth Heritage List or Register of the National Estate is being managed or conserved;
 - (d) the effectiveness of any measures intended to protect or conserve the heritage values of a place or places included in the National Heritage List, Commonwealth Heritage List or Register of the National Estate;

- (e) the provisions of grants and other financial assistance related to heritage;
 - (f) policies, plans and programs of the Commonwealth or of a State or self-governing Territory that relate to or have an impact on heritage;
 - (g) how the National Heritage List, Commonwealth Heritage List or Register of the National Estate are being maintained;
 - (h) how the condition of a place included in the National Heritage List, Commonwealth Heritage List or Register of the National Estate is being monitored.
- (3) The Minister must cause a copy of a report provided to the Minister under subsection (1) to be laid before each House of Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

What this amendment does is enable the council to prepare reports on any matters related to the functions of the council and to provide the report to the minister, and the minister would be obliged to provide that report within 15 sitting days to the parliament. We also thought it was wise to spell out some of the matters on which the council could report. It is necessary to do this because, under these circumstances, we acknowledge that the council is not going to be as independent as the commission, but it needs to be made clear the sorts of things that they ought to be able to do. That is the purpose of this amendment.

For instance, it needs to be made clear how a place included on the National Heritage List or the Commonwealth Heritage List or the Register of the National Estate is being managed and conserved. Part of the problem with the RNE is that not only is there nothing in the law to stop anyone demolishing or in other ways diminishing the values of a site on the RNE; it is also the

case that there is no role or does not appear to have been a role for the commission in monitoring that and determining whether it is being properly managed or conserved. We think this is a really important role for the council and I would strongly encourage the council to do that. A lot of the sites, as we know, fall into disrepair because they are not used and many are lost that way. Sometimes they are burned out, sometimes they just simply deteriorate for lack of management and care. It is important that the council is able to report on grants and financial assistance. If there is one thing that has been problematic—

Senator Hill—Mr Temporary Chair, I rise on a point of order. I do not want to unreasonably interfere but it seems to me that the amendment now being debated is, in substance, the same amendment that has just been carried. It seems to me you have one or the other; I cannot see how you can have both because you are passing two clauses and claiming that they are one.

Senator ALLISON—I understood that we had voted on amendments (1) to (5) and had not dealt with (6) yet. If the minister is correct I am happy to sit down.

The TEMPORARY CHAIRMAN (Senator Hutchins)—We have voted on (6).

Senator ALLISON—I see; I beg your pardon. The only difference between Senator Lees's (6) and my (6) is the wording in item (2). In my amendment it says:

The matters to which a report prepared under subsection (1) may relate include:—

and Senator Lees's amendment says:

A report prepared under subsection (1) may include the following matters:—

so it is entirely the same intent. I seek leave to withdraw Democrat amendment (6) on sheet 3040.

Leave granted.

Senator LUNDY (Australian Capital Territory) (12.37 p.m.)—by leave—I move opposition amendments (1) to (26) on sheet 2848:

- (1) Title, page 1 (line 2), omit “**Council**”, substitute “**Commission**”.
- (2) Clause 1, page 1 (line 7), omit “*Council*”, substitute “*Commission*”.
- (3) Clause 3, page 2 (lines 16 to 18), omit “Council” (wherever occurring), substitute “Commission”.
- (4) Part 2, clauses 4 and 5, page 4 (lines 2 to 33) omit the Part, substitute:

Part 2—Establishment of the Commission

4 Establishment

The Australian Heritage Commission is established by this section.

5 Functions

These are the functions of the Commission:

- (a) to make assessments under Divisions 1A and 3A of Part 15 of the *Environment Protection and Biodiversity Conservation Act 1999*;
- (b) to advise the Minister, at its own initiative or at the request of the Minister, on matters relating to heritage places and their associated values, including advice relating to:
 - (i) action to identify, conserve, improve and present heritage places and their associated values; and
 - (ii) heritage expenditure by the Commonwealth for the identification, conservation, improvement and presentation of heritage places and their associated values; and
 - (iii) grants and other financial assistance by the Commonwealth for heritage places and their associated values; and

-
- (iv) the monitoring of the condition of national and Commonwealth heritage places; and
 - (v) the Commonwealth's responsibilities for historic shipwrecks;
 - (c) to further training and education and to encourage public interest in, and understanding of, issues relevant to national and Commonwealth heritage places and their associated values;
 - (d) to identify places for inclusion on the National or Commonwealth Heritage Lists and to prepare a register of those places and other places in accordance with Part 5;
 - (e) to administer any grants program devised for the grant by the Commonwealth of financial assistance to the States and internal Territories and to approved bodies for expenditure on projects relating to heritage places and their associated values;
 - (f) to manage places included in the National or Commonwealth Heritage Lists that are given or bequeathed to the Commission;
 - (h) to organise and engage in research and investigation necessary for the performance of its other functions;
 - (i) to perform any other functions conferred on the Commission by the *Environment Protection and Biodiversity Conservation Act 1999*.
- (5) Heading to Part 3, page 5 (line 2), omit "**Council**", substitute "**Commission**".
 - (6) Clause 6, page 5 (lines 4 to 8), omit "Council" (wherever occurring), substitute "Commission".
 - (7) Clause 7, page 5 (line 10), omit "Council", substitute "Commission".
 - (8) Clause 7, page 5 (lines 9 to 26), omit "Minister" (wherever occurring), substitute "Governor-General".
 - (9) Clause 7, page 5 (lines 16 to 19), omit "experience or expertise concerning" (wherever occurring), substitute "qualifications relevant to, or special experience, expertise or interest in,".
 - (10) Clause 7, page 5 (lines 20 to 22), omit paragraph (3)(c), substitute:
 - (c) there are 2 members who have qualifications relevant to, or special experience, expertise or interest in, indigenous heritage, one of whom is a representative nominated by the Aboriginal and Torres Strait Islander Commission.
 - (11) Clause 7, page 5 (after line 26), at the end of the clause, add:
 - (5) The Governor-General must not appoint a person who is an APS employee within the meaning of the *Public Service Act 1999* as a member of the Commission.
 - (12) Clause 9, page 6 (line 7), omit "Minister", substitute "Governor-General".
 - (13) Clause 10, page 6 (line 19), omit "Minister", substitute "Governor-General".
 - (14) Clause 12, page 7 (line 3), omit "Minister", substitute "Governor-General".
 - (15) Clause 13, page 7 (lines 4 to 24), omit "Minister" (wherever occurring), substitute "Governor-General".
 - (16) Clause 13, page 7 (line 15), omit "Minister's", substitute "Governor-General's".
 - (17) Clause 13, page 7 (line 18), omit "Council", substitute "Commission".
 - (18) Heading to Part 4, page 8 (line 2), omit "**Council**", substitute "**Commission**".
 - (19) Clause 14, page 8 (lines 5 to 8), omit "Council" (wherever occurring), substitute "Commission".
 - (20) Clause 14, page 8 (line 13), omit subclause (4).
 - (21) Clause 15, page 8 (line 17), omit "Council's", substitute "Commission's".
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- (22) Clause 19, page 9 (lines 6 to 22), omit “Council” (wherever occurring), substitute “Commission”.
- (23) Clause 20, page 9 (line 24), omit “Council”, substitute “Commission”.
- (24) Part 5, clauses 21 to 24, page 10 (line 2) to page 14 (line 16), omit the Part, substitute:

Part 5—Register of the National Estate

21 Commission must keep Register of the National Estate

- (1) The Commission must establish and maintain a Register of the National Estate.
- (2) The Commission must enter in the Register of the National Estate places:
 - (a) previously included in the Register of the National Estate kept under the *Australian Heritage Commission Act 1975*; and
 - (b) included on the National Heritage List under Part 15 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
 - (c) included on the Commonwealth Heritage List under Part 15 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
 - (d) included in the Register in accordance with section 23.

Note: Under Part 16 of the *Environment Protection and Biodiversity Conservation Act 1999*, the Minister administering that Act must have regard to information in the Register in making any decision under that Act to which the information is relevant.

22 Details to be kept on Register

- (1) The Commission must include in the Register the following details about a place entered on the Register:

- (a) a description of the place sufficient to identify it; and
 - (b) the date on which the entry is made; and
 - (c) a note of any other list on which the place is entered.
- (2) The regulations may make provision in relation to:
 - (a) the Commission consulting or informing specified persons (other than those mentioned in section 23 or 24) about:
 - (i) the proposed or actual inclusion of a place in the Register; or
 - (ii) the proposed or actual removal of a place, part of a place or a heritage value from the Register; and
 - (b) the content of the Register; and
 - (c) the form in which the Register may be kept; and
 - (d) inspection, publication and copying of the Register.
- (3) Subsection (2) does not limit the regulations that may be made for the purposes of this Part.

23 Including places in the Register

- (1) The Commission may include a place in the Register only if the Commission:
 - (a) has taken all practicable steps:
 - (i) to identify each person who is an owner or occupier of all or part of the place; and
 - (ii) if the Commission considers the place has an indigenous heritage value—to identify each indigenous person who has rights or interests in all or part of the place; and
 - (b) has taken all practicable steps to advise each person identified that the Commission is considering whether to include the place in the Register; and

- (c) has given persons advised a reasonable opportunity to comment in writing whether the place should be included in the Register; and
- (d) considers the place meets the registration criterion.
- (2) A place *meets* the registration criterion if the place has a heritage value, whether for a reason described in subsection (3) or another reason.
- (3) A place may have a heritage value because of:
 - (a) the place's importance in the course, or pattern, of Australia's natural or cultural history; or
 - (b) the place's possession of uncommon, rare or endangered aspects of Australia's natural or cultural history; or
 - (c) the place's potential to yield information that will contribute to an understanding of Australia's natural or cultural history; or
 - (d) the place's importance in demonstrating the principal characteristics of:
 - (i) a class of Australia's natural or cultural places; or
 - (ii) a class of Australia's natural or cultural environments; or
 - (e) the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group; or
 - (f) the place's importance in demonstrating a high degree of creative or technical achievement at a particular period; or
 - (g) the place's strong or special association with a particular community or cultural group for social, cultural or spiritual reasons; or
 - (h) the place's special association with the life or works of a person, or group of persons, of importance in

Australia's natural or cultural history.

24 Removing places etc. from the Register

The Commission may remove a place, part of a place, or heritage value (the *lost value*) of a place from the Register only if the Commission:

- (a) has taken all practicable steps:
 - (i) to identify each person who is an owner or occupier of some or all of the place or part; and
 - (ii) if the Commission considers, in the case of the removal of the place or part, that the place had an indigenous heritage value or, in the case of removal of the lost value, that the lost value is an indigenous heritage value—to identify each indigenous person who has rights or interests in the place or part; and
- (b) has taken all practicable steps to advise each person identified that the Commission is considering whether to remove the place, part or lost value from the Register; and
- (c) has given persons advised a reasonable opportunity to comment in writing whether the place, part or lost value should be removed from the Register; and
- (d) considers:
 - (i) the place no longer meets the registration criterion; or
 - (ii) the part no longer contributes to the place meeting the registration criterion; or
 - (iii) the place no longer meets the registration criterion because of the lost value (whether or not the place meets the registration criterion for another reason).

24A Register must be publicly available

The Commission must ensure that:

- (a) up-to-date copies of the Register of the National Estate are available for free to the public on request; and
- (b) an up-to-date copy of the Register of the National Estate is available on the Internet.

(25) Page 14 (after line 16), after Part 5, insert:

Part 5A—Protection of the National Estate

24B Duties of Ministers and authorities

- (1) Each Minister shall give all such directions and do all such things as, consistent with any relevant laws, can be given or done by him or her for ensuring that the Department administered by him or her or any authority of the Commonwealth in respect of which he or she has ministerial responsibility does not take any action that adversely affects, as part of the national estate, a place that is in the Register unless he or she is satisfied that there is no feasible and prudent alternative to the taking of that action and that all measures that can reasonably be taken to minimise the adverse effect will be taken and shall not himself or herself take any such action unless he or she is so satisfied.
- (2) Without prejudice to the application of subsection (1) in relation to action to be taken by an authority of the Commonwealth, an authority of the Commonwealth shall not take any action that adversely affects, as part of the national estate, a place that is in the Register unless the authority is satisfied that there is no feasible and prudent alternative, consistent with any relevant laws, to the taking of that action and that all measures that can reasonably be taken to minimise the adverse effect will be taken.
- (3) Before a Minister, a Department or an authority of the Commonwealth takes any action that might affect to a significant extent, as part of the national estate, a place that is in the

Register, the Minister, Department or authority, as the case may be, shall inform the Commission of the proposed action and give the Commission a reasonable opportunity to consider and comment on it.

- (3A) Where the Commission is informed of a proposed action by a Minister, Department or authority, the Commission shall, as soon as practicable, provide its comments on the proposed action to the Minister, Department or authority (as the case may be).

- (4) For the purposes of this section, the making of a decision or recommendation (including a recommendation in relation to direct financial assistance granted, or proposed to be granted to a State) the approval of a program, the issue of a licence or the granting of a permission shall be deemed to be the taking of action and, in the case of a recommendation, if the adoption of the recommendation would adversely affect a place, the making of the recommendation shall be deemed to affect the place adversely.

- (26) Page 15 (after line 8), at the end of the bill, add:

Part 7—Reports

26 Reports

- (1) The Commission may report to the Minister from time to time at its discretion.
- (2) The Minister must cause a report received under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after receiving it.

As I stated earlier, Labor's proposed amendments to this bill were part of our overall strategy of seeking to divert control of listing assessment and disclosure processes back to an independent Heritage Commission. By virtue of the fact that those earlier amendments were not successful, I am not optimistic that these ones will be suc-

cessful. But it provides an opportunity to once again make our major point about this legislation—that is, that Labor wants to keep those functions at arm's length from the minister. Labor does not want those decisions to become political decisions subject to the political interference that we have observed in so many other facets of the coalition's administration.

The importance of such independence has been highlighted at many stages through this debate in this chamber but also again by Mr Tom Uren, who was one of the architects of Australia's heritage protection regime. His voice stands out as being clear and unequivocal that independence is absolutely critical to the integrity of heritage protection in this country. One of the big questions in the debate surrounding this bill has been the attitude of the Australian Democrats. We now know that a deal has been done between Senator Lees and others, but in the early stages of this debate there was at least some indication from the Australian Democrats that they would lend their support to the campaign being embarked upon by Mr Tom Uren. I would like to refer to the article by Mr Uren in the Canberra Times on 13 August 2003. I think the last part of the article sums up Mr Uren's expectations about the level of support that independence for the Australian Heritage Commission would actually attract once the debate came to this chamber. Mr Uren states:

ALP and Green senators support my campaign against the Bill. Two independent senators intimated they would vote to support the commission as an independent authority.

I was encouraged, too, that the Democrats had indicated their support. Senator Allison in her second reading speech in the Senate on March 5 said, 'We support retaining the independence and integrity of the current AHC. This means supporting the commission so that it is able to provide frank and fearless advice. We also support retaining the commission's name.'

But in last week of the Senate sitting before the winter break I asked Senator Allison whether, under her amendments to the Bill, the commission would be a part of the Environment Department or a statutory authority. Senator Allison said it would be part of the department. She has to be kidding. Under the administrative arrangements, any part of a minister's department is responsible to him or her and will carry out government policy.

I have told Democrat Leader, Senator Bartlett, that Senator Allison's amendments would mean a sell-out of the commission's independence.

Mr Tom Uren concludes the article with this question:

Will the Bartlett-led Democrats do to the environment movement and their supporters what the Democrats did in supporting the Howard Government's action to give Australia a GST tax?

It really begs one last remaining question about this: where will the Democrats stand on this bill when it comes to the third reading?

In my earlier speech on the [Environment and Heritage Legislation Amendment Bill \(No. 1\) 2002](#) I went through the detail of how Labor's proposed amendments would divert control of the listing assessment and disclosure back to the Heritage Commission and attempt to keep it at arm's length from the minister. This series of amendments goes through the issues of the name change and reinstating the independent functions of the commission. A whole group of the amendments changes the authority to appoint members of the commission from the minister back to the Governor-General. Opposition amendment (9) better defines the qualifications for appointment, amendment (10) better defines members with specific qualifications relating to Indigenous heritage and amendment (12) relates to non-Public Service membership. They are a series of amendments designed to complement earlier

amendments moved by Labor, and I commend them to the Senate.

Senator ALLISON (Victoria) (12.42 p.m.)—I indicate that the Democrats will not be supporting these amendments. I think if we were dealing with the current legislation, these amendments would certainly be an improvement on it, but they simply set up a similar arrangement to what we have rather than move to a new regime which has some teeth. As I said, I think they are improvements and would be worthy of support were we dealing just with the act, but we are not; we are dealing with a piece of legislation which changes the regime. I would welcome, for instance, some of the new functions were it to be called a council or a commission. I think they are worthy—in fact, some of those are reflected in our amendments as well—but, because this is a different system, we will not be supporting the amendments.

Question negatived.

Senator HILL (South Australia—Minister for Defence) (12.43 p.m.)—I move government amendment (1) on sheet RA263:

- (1) Clause 22, page 11 (lines 8 to 33), omit subclauses (2) and (3), substitute:
 - (2) A place *meets* the registration criterion if the place has a significant heritage value because of one or more of the following:
 - (a) the place's importance in the course, or pattern, of Australia's natural or cultural history;
 - (b) the place's possession of uncommon, rare or endangered aspects of Australia's natural or cultural history;
 - (c) the place's potential to yield information that will contribute to an understanding of Australia's natural or cultural history;
 - (d) the place's importance in demonstrating the principal characteristics of:
 - (i) a class of Australia's natural or cultural places; or
 - (ii) a class of Australia's natural or cultural environments;
 - (e) the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
 - (f) the place's importance in demonstrating a high degree of creative or technical achievement at a particular period;
 - (g) the place's strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
 - (h) the place's special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history;
 - (i) the place's importance as part of indigenous tradition.

Note: Under subsection 3(2), the expression *heritage value* has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*. Section 528 of that Act defines *heritage value* of a place as including the place's natural and cultural environment having aesthetic, historic, scientific or social significance, or other significance, for current and future generations of Australians.

I table a supplementary explanatory memorandum relating to the government amendment. The explanatory memorandum was circulated in the chamber on 13 August 2003.

Question agreed to.

Bill, as amended, agreed to.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Western Australia: Salinity

Senator JOHNSTON (Western Australia) (12.45 p.m.)—I rise to address an issue that is fast becoming a major environmental and economic disaster in Western Australia, namely the catastrophe of salinity. Indeed, it is not an overstatement to say that WA is currently in the grip of a full-blown crisis in this regard. As many senators know, the problem has its genesis in the relatively recent large-scale clearance of native vegetation in favour of shallow-rooted crops. This has meant significantly more water has been entering the ground, causing a consequent rise in the watertable, which has in turn unlocked the salt stored in the landscape. Saline waters gravitate to low-lying land, causing vast hectares to be effectively sterilised and rendered useless. In Western Australia literally hundreds of thousands of hectares have been so affected. Obviously there is a massive cost to our national economy, to our state economies—as the problem is of national importance—and to our local regional communities. In raising this issue, I focus primarily on the situation in Western Australia. However, much of what I have to say equally applies to the rest of Australia, particularly the Murray-Darling catchments.

I will commence by saying that much has been said and promised and so very little has been delivered or achieved by successive Western Australian governments who claim to have spent \$200 million over the past decade in tackling the salinity problem. The distressing fact is that during this period the amount of land affected by salinity has increased dramatically. In some areas the amount of land affected has doubled in just 10 years. During my regular visits to the ag-

ricultural region of Western Australia, I have seen first-hand the ravages of salinity upon the livelihoods of our primary producers, with vast areas of land devastated and overtaken by salt and waterlogging, all in the face of drought, higher chemical and fuel costs and lower grain and stock prices. It is, in short, simply heartbreaking for them.

The only clear message to emerge from this depressing scenario is that government solutions and strategies developed by the bureaucrats in the WA government have been, and continue to be, utterly ineffective. Labor Party stalwart, Doodlakine farmer and former federal finance minister Peter Walsh summed it up succinctly at the 2002 Pastoralists and Graziers Conference when he said:

So far, most of this money has been wasted on political stunts, conceived in ignorance, wishful thinking and bureaucratic empire building. Public investment to prevent salinity and environmental degradation would bring regulations imposed by people and agencies who were ignorant of the local environment or serving other agendas. They included the demands of green pressure groups.

There is little reason to believe that the latest will be better spent.

Of the few successes it can be said that these have come about because of the dedicated work of grassroot community groups and farmers themselves, often in spite of a stifling state government bureaucracy, who have actively opposed and attacked such successful and practical ‘on-the-ground’ strategies and engineering solutions at every turn.

I recently had the good fortune to meet groups of farmers in Corrigin and Quairading in my home state of Western Australia who have tackled the problem head-on. Both groups have been bashing their heads against the proverbial brick wall in trying to get state government agencies to support their practical ‘hands-on’ solutions that are working and achieving positive outcomes and results. One

group—Western Australians Using Salinity as a Resource—is led by an amazing and innovative Western Australian farmer, Mr Lex Stone. Lex is ably assisted by his neighbour John Hewett. Both John and Lex have refused to be beaten by the salinity scourge that is decimating their district. They are trialling different species of plants that can thrive and survive in high saline country. What makes their efforts even more remarkable is that they are not chasing anyone for funding or assistance. They gave this up long ago and simply got on with the job. Lex Stone has spent approximately \$300,000 of his own money in trying dozens and dozens of plant varieties that actually grow and, in some cases, thrive in saline-affected soils. He has also trialled water channelling with outstanding success. On my recent visit to his property I was taken to the south-east corner of his farm where I saw for myself just how effective this solution can be. On his side of the dividing boundary fence was a healthy, thriving crop of wheat. On the other side of the fence, on higher ground, his neighbour's property disclosed several hundred hectares of desolate, salt-affected country that had not been remediated.

Further to this, Mr Stone and others like him have received considerable support from the scientific community, principally the CSIRO, Murdoch University and the University of Western Australia, which as institutions are providing tremendous assistance to our men and women on the land. Murdoch University, through its WA grain biotechnology unit, is currently working on developing salt-tolerant crops to suit WA conditions. This research is highly regarded and only last year was one of five finalists in the New York based World Technology Award for Biotechnology. At the University of Western Australia, through the Cooperative Research Centre, they are similarly involved in

groundbreaking research in developing plant systems for managing dryland salinity.

A second group I met in Quairading was the channel steering committee. This group is headed by two remarkable and resilient Western Australians, Mr Greg Richards and Mr Alan Gelmi. They both have farms that have been severely affected by salinity. If they do not find a solution very soon, the prognosis is not good: they will rapidly run out of arable lands. Mr Richards said to me, 'It probably won't wipe me out, but the future of my still-at-school son is not too rosy.' To further illustrate this point it is plain to see that salt-affected lands have encroached to such an extent that his farmhouse is currently under real threat.

Mr Richards and Mr Gelmi, through their Channel Management Group, have a tried and proven solution that will save their farmlands from the ravages of salt. However, they are being thwarted at every step by the state government bureaucrats in the Department of Agriculture and in our Waters and Rivers Commission. They know that constructing channels through their properties stops the waterlogging of their paddocks and lowers the watertable. By doing this they can drain the salt out of their paddocks and, in a very short space of time, turn saline-ravaged paddocks into thriving and productive land.

The stumbling block for this group is that the water to be channelled ends up in a lake system called the Yenyenning Lakes. This is a series of lakes that stretch for approximately three kilometres before they feed into the upper reaches of the Avon River. The problem is that the Waters and Rivers Commission in Western Australia has dammed the lakes at the junction of the East Avon and the Salt River at a place called Qualandary Crossing. The net result of this damming is that the lands east of the dam are completely waterlogged. It was not until last week, 11 August, nearly at the end of our

11 August, nearly at the end of our winter, that the sluiceways at Qualandary Crossing were opened. You do not have to be a rocket scientist to see that this level of inaction by the Waters and Rivers Commission has caused immeasurable damage to hundreds of kilometres of farmlands to the east of this dam, increasing the level of the watertable and bringing salt to the surface.

The CSIRO has recently released the results from the first two years of a five-year study into the effectiveness of drainage networks in the Narembeen area in Western Australia. The findings show that there had been significant changes to water and salt levels since the commencement of the study. The report found:

Most drains lowered the water table to new equilibrium and there is evidence of reduced soil salinity around the area of the drain.

At the Bailey site, a crop had not been grown for 20 years—
due to salt—

The water level was one metre from the surface and salinity was very high. In less than a year after the drain was constructed water levels had dropped to the bottom of the drain. They sowed barley and got a crop.

The same CSIRO scientists have told the Channel steering committee group that as soon as the Yenyenning Lakes are permitted to flow naturally, the watertable in the area to the east will fall by a metre. By this very action a very large section of the heartland of the Western Australian wheat belt would be freed from the ravages of salinity. This action by the Waters and Rivers Commission in damming the Yenyenning Lakes is, quite frankly, a scandal. The action has been dictated by a misguided Western Australian government who place a greater importance on protecting the already salt-devastated ecosystems of the Yenyenning Lakes than they do on the salinity crisis that is threatening the

livelihoods of hundreds of Western Australian farmers.

My call is for the Western Australian Premier to show some leadership and compassion for the farmers of our salt-ravaged wheat belt and to direct the Waters and Rivers Commission to permanently open up the dam at the junction of the Salt and East Avon rivers so as to finally make an effort to avert this real-time disaster in our wheat belt.

Senators would think that, with this environmental and economic disaster on their hands, the Western Australian government would have jumped at the opportunity to share in the \$700 million that the federal government has made available through its national action plan for salinity. I can tell senators that the Commonwealth is very keen to assist Western Australia. The astonishing fact is that, with the election of the Labor government in Western Australia in early 2001, the whole process has virtually ground to a halt, with the state government refusing to put its hand in its pocket.

An agreement had been reached with the previous state government. This agreement was signed on 3 November 2000. The states and territories throughout Australia had agreed to match the \$700 million the Commonwealth put up, enabling high-priority actions to be undertaken in 21 key catchments and regions across Australia. The intergovernmental agreement specified that matching Commonwealth and state/territory funding would be additional to current monies being spent. Western Australia's share of the funding is \$152 million. All states bar Western Australia have now signed the bilateral agreement.

The Western Australian government is not only refusing to honour this agreement but is the only state not to take up the Commonwealth's funding offer. Once the bilateral agreement is signed, the WA government and

the Commonwealth would each make available approximately \$142.4 million for project funding, making a total of \$284.8 million available for Western Australia's national action plan projects to deal with salinity.

Further exacerbating the maladministration by the WA state government is the fact that currently they are seeking federal funding for two projects which do nothing to advance the salinity fight but actually seek to prop up two Western Australian statutory bodies—the Forest Products Commission and the WA Water Corporation, both of which generate substantial state government revenues.

The first project seeks funding from the Commonwealth for improving the water quality in the saline-affected Wellington Dam. The water from this dam is sold commercially to Harvey district irrigators by the WA Water Corporation; however, the quality of the water is being diminished because of salinity issues associated with its wider catchment area. The WA Water Corporation is a significant revenue earner for the Western Australian government and in the past financial year contributed a dividend of \$369 million to WA Treasury coffers. To have Commonwealth moneys diverted to prop up the commercial operations of the water corporation and save it from its corporate responsibilities in the provision of water that is suitable for irrigation is totally inappropriate and, at best, completely disingenuous.

The other funding proposal being proposed by the WA government under the national action plan is also to support a state owned and operated commercial enterprise—the Forest Products Commission. Under the proposal put forward by the state government, the principal intent is to grow trees for commercial sale. Once again, the Commonwealth simply should not provide

funds to prop up and support commercial arms of the Western Australian government.

In both cases, the salinity solutions proposed are of the same ilk as has been trotted out by WA bureaucrats over the past 20 years. The net result of the solutions that have been fervently championed in Western Australia by the Department of Agriculture has been that, over the past two decades, the amount of land affected by salinity in Western Australia has doubled. The situation is drastic in Western Australia and yet the government continues to play politics with this issue. What the Western Australian Premier and his army of bureaucrats need to understand is that the latest Australian dryland salinity assessment 2000 produced by the National Land and Water Resources Audit has estimated that 4.3 million hectares—that is, 16 per cent—of the south-west region of Western Australia have a high potential of developing salinity from shallow watertables. It is time for real and bona fide action now in the salinity fight before it is too late.

It is predicted that by 2050 the area affected by salinity in Western Australia will rise by a further 33 per cent to 8.8 million hectares. Nationally, the position is equally drastic, as it is predicted that the land area at risk from dryland salinity will rise from 5.658 million hectares in 1998-2000 to 17 million hectares in 2050. An interim assessment of the cost of the consequences of dryland salinity is currently \$664 million per annum.

As I have said many times in this speech, the time for action is now. By action, I mean a real and tangible cooperative energy and a determination by the WA state government to arrest the problem. The Commonwealth has put its money on the table and is prepared to play its part, as are all the other states. It is a tragedy that my home state of Western Australia continues to suffer the devastation of

salinity largely because of the inaction and game playing of our state government.

Agriculture

Fuel: Ethanol

Senator O'BRIEN (Tasmania) (12.57 p.m.)—It is interesting to talk about matters related to agriculture in this country. I intend to return later to some comments made by Senator Johnston, but today I want to address some matters related to this government's Sugar Industry Reform Program, the relationship between that program and the government's ethanol policy and the latest instalment of the agriculture minister's US beef quota bungle.

The Australian sugar industry has been doing it tough and the Howard government has done little to assist it. More than 12 months after the Hildebrand process concluded, the sugar industry lacks the certainty it needs because the Howard government has failed to fully honour its commitment to the sugar industry reform process—and I remind the Senate that the Minister for Agriculture, Fisheries and Forestry, Warren Truss, received Clive Hildebrand's report in June last year. Sugar growers had to wait until September for the Howard government's response to the Hildebrand recommendations. At that time, a \$150 million package was announced, with the Commonwealth's \$120 million of the package to be fully funded from a new tax to be imposed on sugar.

Right from the start, the Howard government sought to avoid its responsibilities to the industry by forcing sugar growers to wear responsibility for a brand new tax on food. Labor supported assistance to the sugar industry but we oppose this tax. Income support for sugar growers was instituted in October, along with the promise that money for industry reform would be forthcoming as needed. On this matter, Mr Truss said that the centrepiece of the assistance package was

\$60 million for adjustment, diversification and rationalisation. He also said that urgent, high-level discussions would be held in the weeks following the announcement in order to finalise the details of each of the initiatives in the assistance program. Of course, Mr Truss's notion of urgent action is different from that of most others and the sugar industry is paying the price.

Everyone agrees that reform of the sugar industry is needed. When announcing the assistance program Mr Truss stated that income support was a short-term measure that would last no more than 12 months. Well 12 months is almost up and he has done little to get the promised reform process under way. While the membership of the central industry guidance group was named in January this year, the engine room of industry reform—the work of regional guidance groups—has not proceeded. As recently as last month the Prime Minister said:

... we want to help the industry but there has to be reform. You can't have open-ended help; there's got to be reform.

The problem is the incapacity of Mr Truss to advance this issue. I understand that Premier Beattie wrote to Mr Howard in June seeking to advance sugar negotiations between his state and the Commonwealth. I understand that Mr Howard has failed to respond to that correspondence. Today Mr Howard returns from his latest overseas trip and, I understand, will attend a coalition sugar task force meeting that will discuss the government's failure to fulfil all elements of its promised assistance package. I urge the Prime Minister to give sugar growers the certainty they deserve and to deliver on his promise to the industry in full. Last year the government told the Australian people that it was changing the tax treatment of ethanol and imposing ethanol import protection, on the pretext of supporting the sugar industry. When announcing that package in September, the

leader of the National Party, Mr Anderson, said:

... today's steps offer a more sustainable future for primary producers whose crops can be used as feedstock for ethanol production.

On 25 July this year Mr Anderson said:

The expansion of the biofuels industry will be great news for regional Australia, because it will open the way for new ethanol and biodiesel plants or expansions in regional areas. The plants will create jobs and increase the viability of many farm industries, including the Queensland sugar industry.

And earlier this month, on 12 August, Mr Anderson said the government's ethanol package supports an industry that:

... offers a worthwhile alternative use of rural product such as wheat, sugar or wood waste and will reduce the nation's reliance upon imported fuels ...

Strangely enough, the benefits for sugar growers did not make it into the second reading speeches for the ethanol legislation recently introduced into the Senate and the other place, but that has not stopped the government backbenchers—including the members for Leichhardt, Dawson and Richmond—joining the leader of the National Party in pretending that the government's ethanol package assists sugar growers.

Regrettably, those members have forgotten to tell their constituents what is plainly obvious: the ethanol package provides disproportionate support for one company, Manildra, and that company uses wheat, not sugar cane, to produce ethanol. Manildra receives more than \$2 million a month in production subsidies and has done since September last year. For the 10 months to 30 June those payments totalled \$20,857,998 and represent 96.1 per cent of all payments made under the subsidy scheme. Of course, the cash register did not stop spinning on 30 June. Based on payments in 2002-03, I expect Manildra has now raked in \$25 mil-

lion or more. That company will further benefit from the receipt of a special \$10 million concession on subsidy payments, the services of an exclusive commercial facilitator and a good share of the \$37 million of capital grants available for sustainable ethanol production facilities. At the same time as Manildra has been enjoying this largesse its only competitor in the fuel ethanol business, CSR, has received less than four per cent of subsidies. Unlike Manildra, CSR produces its fuel ethanol from molasses, the sugar by-product.

It is regrettable that the deal that emerged from the Prime Minister's secret meeting with the Manildra chairman on 1 August last year resulted in serious damage to the future of Australia's alternative fuels sector. That deal damaged the future of the industry in two ways. Firstly, it meant that the government unnecessarily delayed the imposition of caps on ethanol fuel blends. While the delay allowed Manildra to continue to market fuel containing ethanol blends of more than 20 per cent, it did terrible damage to consumer confidence in ethanol as a fuel additive. Tragically, the loss of consumer confidence hit ethanol fuel trials in Queensland involving fuel containing an ethanol blend produced from molasses. Secondly, it reinforced the market dominance of the Manildra Group. If you were interested in intervening in the ethanol market to produce a sustainable and diverse industry, the last thing you would do is enhance the market position of an existing near-monopoly producer. And if you were genuinely interested in a link between ethanol and the sugar industry, you would not provide all this assistance to a wheat based ethanol producer.

The government has withheld funding and sacrificed industry reform for the sake of shabby politics driven by the desire of the Queensland opposition to maintain some relevance. It is ironic that the current Prime

Minister would allow a program worth \$120 million to be used as a plaything of the Queensland National Party, the same party that went close to destroying the federal coalition a little over a decade ago. But worse than that, the Howard government is prepared to put the self-interest of the Queensland opposition ahead of the future of the sugar industry and thousands of Australians who rely on that industry for their livelihoods. So far, cane growers have derived not one cent from the government's ethanol package. This is no surprise to Labor, and certainly no surprise to the government. Last year Treasury told the cabinet that it opposed linking the development of the ethanol industry with assistance for the sugar industry and said that 'such development will do nothing to assist sugar farmers and will only raise false hopes'. Cynically, the Howard government has been prepared to trade on those false hopes.

The sugar industry has received no benefit so far and is most unlikely to enjoy any future benefit from the government's Manildra-friendly package, because even if CSR and other companies risk capital in expanding sugar based fuel ethanol production in competition with Manildra, there is little evidence to suggest that they would pay more than the world price when buying sugar as a feedstock and, indeed, some would suggest that in certain circumstances they would not pay even the world price.

The Howard government has stacked the cards in favour of Manildra and against everyone else interested in a viable alternative fuels industry, including sugar growers. One of the primary industry groups that has had the cards stacked against it by the government is the intensive industry sector. As Senator Stephens told this place late last week, Labor supports the development of an alternative fuels industry but we do not support a policy that works against the interests

of other well-established agricultural industries.

Manildra's ethanol production is based on grain, just like the feedlot, chicken, dairy and pork industries. The subsidies directed to Manildra impose direct and prohibitive costs on those other industries. The Executive Director of the Australian Lot Feeders Association, Mr Rob Sewell, has recently described the government's ethanol policy as 'the Howard Government's Feedlot Industry Disintegration Program'. Mr Sewell says that, while his industry has been forced to accept a level playing field, grain based ethanol producers have got an unfair leg-up. In Mr Sewell's words, it is 'hardly fair when one team has their legs cut off'.

Independent research commissioned by the Australian Lot Feeders Association has found that the ethanol excise and subsidy arrangements now in place provide an indirect subsidy on grain and molasses inputs of \$152 per tonne for sorghum and \$98 per tonne for molasses. That means industries that add value to grain start \$150 per tonne behind when they go into the marketplace to buy grain. It is disappointing that the agriculture minister lacked the capacity, courage or foresight to defend the interests of these key industries in relation to the government's flawed ethanol policy.

I also want to make some brief comments on the matter of Mr Truss's administration of Australia's US beef quota allocation. On the first day after the winter break, the government tabled its response to the Senate Rural and Regional Affairs and Transport Legislation Committee's report on the Australian meat industry's consultative structure and quota allocation. Those recommendations represent the collective view of Labor and Liberal members of the committee based on the evidence we received. Not surprisingly, Mr Truss has rejected the evidence based

report of the committee and reaffirmed his commitment to the recommendations of his own quota panel.

Regrettably, Australia is likely to fail to fill the US beef quota this year and this is made more and not less likely by the minister's quota allocation model. Next month Mr Truss's department will write to quota holders inviting them to return quota that they are unable to use before the end of the year. I would be most surprised if anyone responded positively to that request.

Senator Ian Macdonald—How do you know he's going to do that?

Senator O'BRIEN—Because he is required to. In October AFFA will write again to quota holders seeking unused quota and the department will reallocate any returned quota some time after 1 November. Unless shipments are on the water by mid-November, they will not arrive in the United States in time to be counted as part of the 2003 quota year. So the process of recovering unused quota, together with the time frame in which the quota must be reallocated, will perversely work against maximising the benefits of the quota.

As at 18 August there were 116,500 tonnes still remaining in entitlement accounts. That is, with only 12 weeks remaining in the quota year to get product on the water, 116,500 tonnes are sitting in accounts unused. We have shipped only 69 per cent of the annual quota. In my view, it is in the interests of the whole beef industry, and the processing sector in particular, that Mr Truss immediately investigates how best to transfer unused quota to ensure the value of the quota is maximised. I also urge Mr Truss to re-examine the question of whether the rigidities in his current system will impact on the most effective use of the quota in the coming quota year. Sadly, based on past perform-

ance, Mr Truss will only move to act on this issue when his action will be all too late.

Muslim Schools Charter

Senator RIDGEWAY (New South Wales) (1.11 p.m.)—Today I want to highlight the enormous contribution that the Australian Muslim community have made towards unravelling the myths about Islam that have been allowed to gain currency since the events of September 11 in 2001. Whilst it has been disappointing that the federal government has not played its part in preventing the abuses that many Muslim Australians have suffered since this time, my admiration goes out to the Muslim community for taking it upon themselves to promote the values by which those in the faith abide.

I also want to comment generally on the need for the present government to take the lead in encouraging the importance of tolerance in Australian society. The actions and attitudes of this government have to date been to utilise the fears of the nation to promote another agenda which has caused the further marginalisation of some segments of the Australian community, including Australians of the Islamic faith. In particular I want to mention the Australian Council for Islamic Education, which is the umbrella organisation for 20 Muslim colleges nationwide. This year they issued a landmark charter condemning violence and hatred in the name of any religion, including Islam. It is in the form of an 11-point charter of standards and behaviour for its schools, students and teachers. The charter is a positive reaffirmation of the loyalties and beliefs of this important section of Australian society.

Like all Australian schools, Australian Muslim colleges teach their students to be proud Australians and to participate positively in building a prosperous, harmonious and safe Australia. The charter states that peace should always be sought instead of

war and stresses that humility and the sanctity of life are fundamental to the Islamic faith and its various educational institutions. Throughout the charter and the Muslim community, the atrocities committed by terrorists are universally reviled and denounced.

Mr Mohammed Hassan, the Director of the Muslim Minaret College in Springvale, Victoria, announced the release of the Muslim Schools Charter as a response to what were popular misconceptions of Islamic schools amongst many Australians. I think we must all remember that Muslim children have felt very keenly the fallout from the myths that are perpetrated about Islam—and, unfortunately, often on a personal basis. Mr Hassan said the belief in certain quarters that Muslim schools were linked to organisations that promoted the use of terror for political goals was simply untrue and unfair.

In specific response to these claims, the charter states that Muslim schools stand against those who preach violence and hatred in the name of any religion, including Islam. Furthermore, it goes on to say that no member of the Australian Council for Islamic Education endorses the taking of life for any cause whatsoever. Though it has been a difficult time for the Islamic community in Australia, students at these schools are being told that, by their actions and beliefs, they can affect the way the broader community sees the Islamic faith. As part of the values of the charter, students are also taught to be model citizens, to respect the rights of others and to understand the different backgrounds that make up Australia's culturally diverse society.

Australia is a multicultural nation, with people from over 140 different cultural backgrounds. However, the equitable sharing of power is quite problematic and, in practical terms, the wishes of the dominant culture

usually take precedence over others. Coupled with the lack of understanding that many people have about cultures other than their own, this does have the potential to breed fear and resentment. However, in saying this, I believe that there are many Australians of all walks of life who do appreciate the value of difference, and it is important that we as community and political leaders spread the message of tolerance. We must give leadership to Australians to move beyond tolerance and towards a more united Australia. Unfortunately, there are many examples of intolerance that have plagued our society. In recent times this has been especially visible against Muslim Australians.

Since the events of September 11, members of the Muslim community have been subjected to a series of ASIO raids. Reports indicate that the raids were highly invasive and, according to one lawyer for a raided family, potentially illegal. What is more, they were useless, revealing no evidence of any kind of terrorist links within the Australian Muslim community. The further strengthening of ASIO powers is excessive and irresponsible in the context of flawed raids such as these. Aside from the fact that they erode many of our democratic rights, these laws also add to perceptions amongst the Muslim community that they are being unnecessarily profiled. Another example occurred in the wake of the Bali bombings when the Muslim school at Rooty Hill in my home town of Sydney had its windows smashed. Other New South Wales schools cancelled student excursions and received abusive phone calls.

A well-known New South Wales upper house politician and evangelical Christian, the Reverend Fred Nile, reached ironic levels of religious intolerance when he claimed late last year that Muslim women wearing traditional dress should be banned from public places because of the potential to hide explosives under their clothing. Comments of this

type are little short of persecution, and are inexcusable coming from our political leaders. They give a clear signal that it is okay to make such outrageous and offensive claims. The media have since reported several accounts of Muslim women being abused and even assaulted simply because they were wearing the veil or chador. More recently, I believe that a lack of understanding—and fear and resentment—is behind the local council and community backlash regarding a proposed Muslim prayer hall in Annangrove in Sydney. The council ruled that the proposed house of worship was not considered to be in accordance with the shared beliefs, customs and values of the local community. Overturning the Baulkham Hills council's decision, the Land and Environment Court of New South Wales noted the strong community opposition to the proposal and that the residents did have real fears, but added that 'these fears must have foundation and a rational basis, which in this case is absent'.

These types of incidents tend to typify that we should not tolerate these things at any level, yet there has been little attempt by the present government to address the fears underlying these beliefs and behaviours. Rather than being able to condemn those incidences and educate Australians about such action, the government have maintained their 'divide and conquer' approach as a way of legitimising the tough stance that they have taken on asylum seekers and Australia's involvement in the war in Iraq. There is a disturbing lack of compassion in our current federal government, which impacts on the way Australians treat fellow human beings. There is a type of leadership that sends a message saying that bigotry, intolerance and racism are okay.

While governments argue and defend their actions surrounding the treatment of 'asylum seekers', 'illegal immigrants', 'boat people'—whatever label they choose to use at

the time—the fact remains that they are people and they are human beings. Recently, in Mr Peter Costello's speech entitled 'Building social capital', he made some very generous observations and remarks regarding the need for tolerance in Australian society. To quote the Treasurer:

... a prosperous country with high living standards supporting high standards of health care and education, high standards of transport and communication, and disposable income a strong country respected in the region and the world which was secure against outside threat and able to protect its citizens and allow them to enjoy this high standard of living.

I think that these are very noble comments indeed, but we have to ask the question: where are the actions to progress that sort of vision? Unfortunately, this is where the goodwill of the government appears to end—in nothing more than rhetoric.

Australian society is extremely preoccupied with the notion of 'a fair go'. It is up to the government to take the lead on the issue of tolerance and understanding—to ensure that the notion of 'a fair go' extends to all people as human beings. This includes the Muslim community who live here and it also includes those who seek asylum in Australia. I think it is highly relevant that the second last clause of the Muslim schools charter states that, as Australian citizens, Muslim Australians are devoted to defending the country against any aggression. I believe that this reflects strongly on the loyalty and patriotism felt by all Muslims for the country in which they live. The final article of the charter states that the Muslim community believes that their interests can be best served through the established systems of Australian democracy. These are hardly radical sentiments when we consider what our democracy means—what it means to uphold the rule of law and the values that emanate from that.

The Islamic community, along with all cultural groups in Australia, is a vital part of Australian society. I think that we need to acknowledge and reaffirm that message not just for the Muslim community but also for the younger generation. The contributions that have been made by Australians from all different cultural backgrounds are enormous, and it is important that we do not lose sight of this in thinking about our history and where we head in the future. I want to applaud the Australian Council for Islamic Education for being one of the groups that has been able to show vision and leadership where these issues are concerned. Since this government seems unwilling to take the lead in promoting a more tolerant society, we need to rely upon efforts such as those of the Australia Council for Islamic Education to ensure that we can be proud of the values of the next generation of Australians.

Fisheries: Illegal Fishing Vessels

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (1.22 p.m.)—I take the opportunity of this debate on matters of public interest to pay tribute to some gallant Australians. As members of the Senate would know, as we speak today there are Australian seamen, Australian Customs and Fisheries officers on the Australian Customs and patrol boat *Southern Supporter* chasing an alleged illegal fishing boat, the *Viarsa*, across the Southern Ocean in some of the most horrendous territory and seas that one could imagine. I place on record the congratulations and good wishes—I am sure that I can speak for all Australians—to those seamen, Customs officers and Fisheries officers who are engaged in this pursuit in the national interest.

Behind the public profile of this chase, a lot of work has been done by Customs and Coastwatch officers from the Australian Fisheries Management Authority and from

my department, the Department of Agriculture, Fisheries and Forestry—and indeed by all of the government departments that are involved in very sensitive issues, which involve international approaches to friends across the world, to other member nations of CCAMLR, whose assistance we have sought in stamping out illegal unreported and unregulated fishing in our seas. I think it is a very important job that is being done by these people and they deserve congratulations on it.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Thank you, Senator Macdonald. You are to be congratulated as well.

Patents: Registration

Senator TIERNEY (New South Wales) (1.24 p.m.)—I rise in the Senate today to make this chamber aware of a very serious challenge confronting Australia's information technology sector through an apparent loophole in the system for the registration of patents. Of course, our patent system, like its international counterpart, is designed to protect and reward innovation. If a person creates an invention, they can apply for a patent for it as long as the idea is new. Once the patent is granted, no-one else can copy the idea or make money from it without the express permission of the owner of the patent. When I think of the word 'patent', I conjure up images of Thomas Edison working by lamplight to perfect his electric light bulb; Alexander Graham Bell, performing wonders with his electric circuitry to create the telephone; or our own Professor Graeme Clark, working with his team at the University of Melbourne to bring hearing to the profoundly deaf through the innovative cochlear ear implant. I do not conjure up images of Johnny-come-lately opportunistic patent lawyers.

In my capacity as the Deputy Chair of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts, which has the oversight for communications and information technology, I have become aware of the potential danger that a recently lodged patent application could cause to this country's multimillion dollar e-commerce economy. A Canadian firm, DE Technologies, has claimed to own the system that many Australian firms use when making international purchases by computerised systems. The Canadian firm, headed by patent lawyers, has lodged a number of patent applications in Australia and indeed around the world. The broadest claims cover, in a general sense, e-commerce transaction systems. They define the steps of, firstly, selecting a language and a currency in which to view the product description and prices, selecting the product to purchase, retrieving information about the product's price, producing code and shipping, calculating the total cost to purchase the product and shipping it internationally, receiving the order and confirming that the purchaser has available funds, and accepting the invoice of the order.

As any member who has made overseas purchases from international trading companies such as Amazon.com would be aware, these steps define a fairly run-of-the-mill e-commerce type transaction. I am concerned not only about the potential for financial liability in future e-commerce transactions by this patent but also about those that have occurred since 29 December 1997, the priority date listed in this application. That date becomes relevant if the patent is granted because the patent is effectively backdated to that date. This is standard procedure for all patents, but when it is applied to the dynamic and rapidly changing Internet technologies that we now have in our e-commerce system, it could become commercially deadly. It

could mean that all Internet transactions over the past 5½ years may be found to have infringed on the patent, even though those involved were simply carrying out business in the accepted way.

The question for this parliament, and for those to whom we delegate responsibility, is whether or not the persons lodging the application are entitled to claim exclusive use of the practice. Flowing from that is the right to insist that others be permitted to use the system only under a licence issued in return for some payment to the purported owners of the patent. The patent application in this case is titled 'Universal Shopping Centre for International Operation'. Under delegated powers, the statutory body IP Australia is charged with accepting, assessing and, where appropriate, granting patents to such applications. I am very concerned about the ramifications of this particular patent application and have raised these concerns with IP Australia. I have been advised by IP Australia that it has examined the application and determined that it satisfies, so far as claimed, the criteria for patentability under the Australian Patents Act.

I am also told that the application was accepted on 3 April 2003. During the statutory opposition period of three months, apparently no notices of opposition were filed in Australia. How can that be? Just one day before the application was scheduled for granting on 17 July 2003, Mr Matthew Tutaki, Head of Business Development at the Australian firm Syntropy, requested an extension of time to file a notice of opposition to the patent. Mr Tutaki, originally a New Zealander, came across this all quite by accident. His mother was in New Zealand and he was searching the Web for stories on New Zealand so he could discuss what was going on in New Zealand with his mother. Then he came across this problem in New Zealand and he thought, 'I wonder if that applies to

Australia.' To his horror, he found that it did. So he has filed a notice of opposition to the patent, but he only had about a day to spare to do it.

The commissioner does have a statutory obligation to determine the extension of time on its merits before proceeding with the granting of the patent. That is where we are at the moment; it was postponed to allow an extension of the time for it to be considered. What concerns me, and I am sure most members of this parliament, is a system that allows a patent application to go through the approval process with little or no input from the affected industry. In a moment I will outline the appeal mechanism built into the Australian Patents Act but, suffice to say, as this example clearly indicates, any interested party who does not have notice of the application is seriously disadvantaged.

Under the act, where a patent application is made the commissioner must publish in the official journal the prescribed information about the applicant and the application. With all due respect to the legislation, this is not a widely distributed journal—in fact, I am informed it is primarily distributed to the intellectual property industry, not to the broader business community. I fail to see how such a publication can serve to give parties the appropriate level of notice to enable them to adequately protect their interests.

The application that was lodged in Australia is not dissimilar to an application that was lodged in New Zealand and granted on 29 December 2002. The registered proprietor of the New Zealand patent, DE Technologies—the Canadian company that has also made the application in Australia—has recently initiated patent enforcement action against New Zealand companies. The firm has written to a number of technology companies that are very active in e-commerce offering licensing arrangements that include

a sign-on fee, royalties and a cost per transaction for each document generated. Business advocacy groups in New Zealand are rightly concerned about the potential cost impost on businesses engaged in e-commerce, and the issue has generated much public and media interest in that country. It is worth noting that the New Zealand patent was also granted without any notices of opposition being filed.

I first became aware that this threat to our e-commerce systems was moving across the Tasman when consulted by Mr Matthew Tutaki who, as I have already indicated, sought extension of time to file a notice of opposition to the patent. That issue is still under consideration. Should Mr Tutaki's application be unsuccessful, I regret to say that we are headed for a prolonged period of uncertainty, littered with numerous court cases and additional cost to business. At a time when our small to medium enterprises are fighting for a foothold in the international trading community, this is the last thing we need. It is essential for Australian business that we take up this fight.

There are a number of avenues of review if, as I suspect, the system for which the patent application is being made is not in reality an innovative process. Patents are often granted because examiners are unable to find research material that would invalidate them. In this instance, there is no doubt that many firms traded using the same business system as the one for which the patent is sought. In response to the granting of the New Zealand patent, an Internet software development company has detailed the range of its operations which date back to 13 September 1996, predating the priority date of the patent application system by some 15 months. I am sure there will be similar cases in Australia which will eventually come to light. If anyone listening to this parliamentary broadcast knows of any examples, please send them to

me care of Parliament House, Canberra. In terms of fighting this system, which is proposing to milk the Australian e-commerce economy, getting those examples is one of the ways in which it can be stopped.

It is important to note that under the relevant section of the act, which allows the commissioner to re-examine a patent at any time after acceptance, she is only permitted to do so having been made aware of information in a document publicly available before the priority date—29 December 1997 in this case, as I mentioned previously. The document must contain information that affects the novelty and/or an inventive step of a claim to a patent. However, this power does not extend to the consideration of evidence of prior use, which is the only evidence that has been presented to date, as far as I am aware. An alternative course of action could be for the minister or other person to apply to the Federal Court for an order revoking the patent on the basis of its invalidity. In that case, evidence of prior use may be brought to bear.

A final consideration for this parliament is whether the circumstances and the potential threat to Australian business warrants a review of the legislation. The patent application deals with a business system, which is patentable subject to matters under the current Australian legislation. The Advisory Council on Intellectual Property has undertaken a review of patenting of business systems and its findings suggest that there is no clear evidence to support changes to the current legislation. That finding predates the current threat. The ACIP review also notes that the issue should be closely monitored to determine if business system patents become of such significance that further analysis would be warranted.

In Europe and the UK, business systems are nominally excluded from patentability by

not being considered to be within a 'field of technology.' Indeed, an application by the same party, DE Technologies, for a European patent for what it again called the 'universal shopping system for international operation' was refused in September last year. In its finding, the European examining division rejected the application because it sought protection for a method of doing business, excluded from the realm of patentable inventions. The panel felt that, apart from being implemented by a computer, the claimed features were not technical. In view of the serious repercussions that will flow from the enforcement of this patent if it is granted in Australia, I believe that in this country we should instigate a review of the Australian Patents Act which focuses particularly on the notice provisions of section 53 and on whether business systems should be excluded from the realm of patentable inventions as they are already in Europe.

Fisheries: Illegal Fishing Vessels

Forestry: Tasmania

Senator MURPHY (Tasmania) (1.36 p.m.)—Firstly, I would like to make a few comments with regard to Senator Ian Macdonald's earlier contribution on the pursuit by Fisheries, Customs and Defence of the *Viarsa*—which I understand was formerly a Uruguayan flagged vessel but is now an unflagged vessel—and add my support to his words. They have made a significant effort. I congratulate the government as well in respect of matters of illegal fishing. The government has been pursuing this matter in a way that it ought. The people aboard the Australian vessel are confronting a very difficult situation in very tough and, from seeing photographs of the seas they confront, sometimes life-threatening circumstances. They deserve the credit that has been given to them by the minister. I likewise add my support to that.

It is so important from a global fishing point of view that we, as much as possible, bring to an end illegal fishing of the nature that is being conducted, particularly in our southern waters. It is disappointing that the Uruguayan government has chosen to take a fistful of dollars for issuing flags of convenience rather than do the right thing from an international and global point of view—that is, to stop overfishing of very valuable resources. Again, I congratulate the people on board the Australian vessel. I hope they succeed, and I hope there is a worthwhile bounty on the Viarsa. Whilst I could think of a number of means that might shorten the chase—ones I will not mention here—at the end of the day I think this is the right and responsible thing to do. As I said, I wish them every success.

My primary reason for making a contribution at this point is to respond to some comments on the heritage legislation that have been made during the debate, publicly and in written form. A number of comments made during the debate would suggest that forestry in Tasmania has major problems. I, for one, do not deny that. But I cannot accept the reflections that have been made as though those problems are the fault or doing of one company, namely Gunns. Gunns are just participants in the process. The problem associated with forestry in Tasmania is clearly one of a management system breakdown. That is the problem that ultimately must be addressed. It is slightly unfair on the company to attempt to place the blame squarely at their feet. Not unlike any other publicly listed company, they have a responsibility to their shareholders; not unlike any other company, they are operating within the rules. There are times when things like the Forest Practices Code in Tasmania have been breached, and they have been breached by contractors of Gunns, but there are rules, regulations and laws that govern that. The

real problem is that in many cases these are not being applied.

This brings me to a letter to the editor published in yesterday's Examiner. Mr Terry Edwards, the chief executive of the Forest Industries Association of Tasmania, makes a number of statements in respect of Mr Bill Manning, who is to appear before the Senate Rural and Regional Affairs and Transport References Committee to give evidence in respect of its plantation inquiry. In his letter, Mr Edwards says:

So-called whistleblower Bill Manning allegedly has evidence of breaches of the Forest Practices Code, yet he was not prepared to make this evidence available to the Senate committee even though he arranged for it to subpoena him to do so.

I know Mr Edwards in his former life was a representative of employers before the Industrial Commission. He had some difficulty coping with providing truthful statements then and it seems that he has taken that affliction to his new life as chief executive of the Forest Industries Association. For the benefit of Mr Edwards and the public of Tasmania: Bill Manning never sought to appear before the Senate Rural and Regional Affairs and Transport References Committee. It was indeed I who requested that the committee write to Mr Manning and request that he appear. I go back to Mr Edwards's letter:

Interestingly, he is prepared to give this evidence if his anti-forestry mates are in attendance, together with a contingent of media. What is his real agenda? It certainly is not providing this so-called evidence to the inquiry.

If Mr Edwards's reference on this occasion is to the people who were present at the hearing that was adjourned in Launceston, I suspect the truth of the matter—unlike what Mr Edwards would portray it as being—is that most of the people in the room on that day

would have been unknown to Mr Manning. Then Mr Edwards says this:

It seems Mr Manning is only prepared to make his allegations under the protection of parliamentary privilege. What does he have to fear?

He goes on to say:

If Mr Manning indeed has any evidence of poor practice he should do the proper thing and accept the invitation to lay this information before the Ombudsman so that the real facts can be ascertained.

Again, for Mr Edwards's benefit—as I said, he seems to have some difficulty coping with the truth—Bill Manning, as a forest practices officer, filled out reports in respect of what he believed were breaches of the Forest Practices Code or, indeed, breaches of a timber harvesting plan. For Mr Edwards's benefit: that is the only legal document that can be prosecuted under the law of Tasmania. Mr Manning filled out his audit reports and submitted them to the Forest Practices Board. His concerns were that no action was taken.

Subsequently, in doing the right thing—which Mr Edwards alleges he has not done—Mr Manning took these matters to the then state Attorney-General, Dr Peter Patmore. For Mr Edwards's benefit again: if Mr Manning has not tried to do the right thing, I do not know who has. After many months, Mr Manning received a response from a staff member of the state Attorney-General which actually supported the views that he had expressed—there were breaches of the Forest Practices Code and the timber harvesting plans and, indeed, they were not being prosecuted. But the government chose to do nothing. That led me to the view that Mr Manning's evidence would be of some value to the plantation inquiry as a demonstration of whether or not forest practices were being conducted in accordance with the content of the regional forest agreement—that is, the criteria set down in the regional forest

agreement that require the state to ensure that its harvesting practices of the commercially available forested areas are conducted in a way that complies with the agreed Forest Practices Code.

Let us remember that the Forest Practices Code is a scientifically based document. It sets down criteria on the basis of assessment from a scientific point of view and is designed to ensure that the environment, both flora and fauna, is managed and protected. It is very disappointing that a person holding a position such as that which Terry Edwards holds—he is the chief executive of the Forest Industries Association of Tasmania—can write a letter to the paper that contains blatant mistruths. In fact, they are lies. Edwards has no proof to support his allegations against a person who never sought to be a 'so-called whistleblower'—to use Mr Edwards's words.

Bill Manning never sought to be a whistleblower nor to appear before the Senate committee. Bill Manning always proceeded on the basis that he had a responsibility under the act in Tasmania, under which he was employed, and he pursued his role in accordance with the act. He could do nothing else. Yet Terry Edwards, the Chief Executive Officer of the Forest Industries Association of Tasmania, whom the public would expect to be a person of some substance and some credibility, has demonstrated in his letter that he has none at all. He has no credibility, no honesty and no substance. This approach from the chief executive does reflect on the forest industry in Tasmania. I sincerely hope that Mr Edwards, now that he has been proven to be wrong—his allegations that Manning somehow sought to appear before the committee are wrong—has the intestinal fortitude to write a public apology to Bill Manning.

I also requested that the Senate Rural and Regional Affairs and Transport References Committee invite at least two representatives of the Forest Practices Board of Tasmania to appear before the committee. To date, they have failed to appear. I hope they will appear, because that process will enable the committee to ensure that any claims of malpractice are tested and can be contested by those who have primary responsibility for ensuring that the legislation that is applicable to forest practices in Tasmania is adhered to. If anything that Bill Manning or anyone else has said or will say in the future about forest operations in Tasmania cannot be substantiated, there is an opportunity for the Forest Practices Board of Tasmania to appear before the committee to refute the evidence given by various witnesses. I urge them to take the opportunity. Indeed, I urge the state minister, Deputy Premier Paul Lennon, to ensure that the Forest Practices Board does appear before the Senate committee.

Finally, whenever we stand in this place, it is our responsibility to portray matters of public interest in a factual way. Last week I made some comments about a dog that belongs to the Tasmanian fox task force. I had information that led me to believe that the dog, which had gone missing, had in fact been poisoned. I was incorrect in asserting that and I apologise to the fox task force in that respect. No-one is happier than I am to see good old Jock back with his owner and still alive.

Senator McGauran—It's miraculous.

Senator MURPHY—I note that Senator McGauran, who was present at the time I made the comments, is also present here today. It is good to see that the dog is back because, if there are foxes in Tasmania, the dog has a very important role to play.

Multicultural Affairs

Forestry: Tasmania

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (1.51 p.m.)—As there are a few moments left before question time, I will use some of that time to comment on some of the matters of public interest that Senator Murphy and Senator Ridgeway have raised. I indicate to Senator Ridgeway that the government and I take very seriously the comments that he made, some of the allegations that he indicated and some of the criticisms that he raised with the federal government. While we can always do better and we can always improve, the Howard government has been absolutely committed to harmony within the Australian community.

The Minister for Citizenship and Multicultural Affairs, the Hon. Gary Hardgrave, has been very involved in this particular aspect of Australian life. You might recall that in the May budget an additional financial commitment of \$3.3 million was made to a new multicultural policy to demonstrate our commitment to a multicultural and inclusive society. The new policy, Multicultural Australia—United through Diversity, places increased emphasis on the importance of community harmony and is particularly important in the current international climate. I know Mr Hardgrave is doing a lot of work to ensure that the sorts of issues and concerns that Senator Ridgeway raised do not occur. Indeed, Mr Hardgrave's efforts are mirrored by those of the government as a whole. The government are committed to promoting economic benefits that can be derived by capitalising on Australia's wealth of cultural and linguistic skills and through the social and business networks of Australian migrants. As a government we want to work very closely with a range of individuals and community, business and government or-

ganisations in condemning actions and statements which threaten community harmony. I am sure that Mr Hardgrave will carefully examine Senator Ridgeway's speech and will respond to Senator Ridgeway on those issues.

Senator Murphy raised the issue of some concerns in the Tasmanian forest industry. He was referring to a Senate inquiry which is currently in existence. As the minister who commissioned that inquiry, I do not want to comment particularly on matters internal to the committee before the committee reports to parliament at some later time. I did want to indicate to Senator Murphy that the forestry industry in Tasmania is a very significant industry. It employs a lot of people. It is a very sustainable industry in Tasmania. Whilst the Tasmanian government, its agencies and the companies involved have not always done everything right, I think a significant effort has been made to do the right thing sustainably with the forests in Tasmania.

Senator Murphy mentioned Gunns Ltd, an Australian company which I think deserves very considerable praise for the work that it does in building an economic base in Tasmania and increasing Australia's wealth from exports. Gunns has committed itself to sustainable forestry. Again, accusations are made and, as I mentioned previously, we can all improve, but I think across the board Gunns is the sort of Australian company that we should be proud of and should support. If it does at any time fail to meet the very stringent tests that we as Australians place upon our companies, particularly those in the resource area, then we should encourage Gunns to do that little bit better, but that should be in the way of constructive support rather than in the way of criticism.

Senator Murphy also mentioned Mr Terry Edwards, the CEO of the Forest Industries

Association of Tasmania. I cannot comment upon the specific issues that Senator Murphy raised in relation to Mr Edwards, because I am not privy to them. I can say, however, that in my role as the federal forestry minister I have had a number of dealings with Mr Terry Edwards and his association, and I find him to be a very honourable and honest person and one who has the interests of Tasmanians and the constituency he serves at heart. Senator Murphy also raised issues about the Forest Practices Code and alleged failures of both the Tasmania government agency and some of the forestry companies in Tasmania to meet that. Again, that code is well and scientifically put together. I am aware that most involved in the forestry industry in Tasmania do try to abide by that code. If they fail, of course they should be made to account. But the failures are infinitesimal compared with the successes and the compliance that does occur. I repeat that I cannot comment specifically on the matters that Senator Murphy raised, but I think it does behove all of us in this chamber to support what is a very significant and sustainable industry in Tasmania.

It is a very significant and sustainable industry right across Australia, I might add. Over 86,000 people are employed in the forestry industries around Australia, and I believe there is some new research coming out which actually shows that the number employed is far in excess of that. It is an industry that is very carefully managed, and it is an industry that I think we should support so that Australians do not have to rely as much on imports of forest and wood products—imports that very often come from forests that are nowhere near as sustainably managed or as carefully managed as Australian forests are. I get distressed at times when I see people masquerading under green labels criticising our forest companies, our forest practices and workers in the forest industry

but supporting imports that come from forests that have been raped and pillaged. I call upon those who take this line to have a serious look at what this is all about and have a serious look at some of the forests overseas. By criticising our industry, these people encourage imports of wooden forest products from countries that do not sustainably manage their forests and whose management regimes are nowhere near as precise and environmentally friendly as Australia's system. Those forest industries are significant, they are important to Australia and I think they deserve the support of all senators and indeed all Australians.

QUESTIONS WITHOUT NOTICE

Iraq

Senator FAULKNER (2.00 p.m.)—My question is directed to Senator Hill, the Minister for Defence and Minister representing the Minister for Foreign Affairs. Can the minister inform the Senate of the latest information in relation to casualties from the terrible bombing of the United Nations headquarters in Iraq, including specifically any Australians affected? More broadly, can the minister indicate how many Australians are known to be in Iraq, including Foreign Affairs officers, those serving with the UN and aid agencies, and ADF personnel? Minister, has the risk assessment changed for these Australians as a result of today's bombing? What action has the federal government taken, or what action will it take, in relation to the security of all Australians in Iraq and the Middle East in general?

Senator HILL—I thank Senator Faulkner for his questions. All Australians, obviously, will be appalled by the latest terrorist atrocity, this time directed against the UN headquarters in Baghdad. Our sympathy goes out to the victims and their families. Initial reports are that 20 people have lost their lives and as many as 100 are injured—many of

them seriously. Australians will be particularly saddened by the death of Sergio Vieira de Mello, the Special Representative to the UN Secretary-General. We, of course, remember and respect his tremendous contribution in East Timor. The program coordinator for UNICEF in Iraq, Mr Christopher Klein Beekman, and other highly respected UN staff were also killed. We would note that these people were working to bring about a better way of life for all Iraqis.

We are fortunate that no Australians have been reported seriously wounded or killed. The Australian Military Adviser to the Special Representative, Colonel Jeff Davie, was in the vicinity when the attack occurred but was not injured. I am advised that he remained on the scene to assist the rescue operation. All Australian Defence Force personnel in Iraq have been accounted for and are safe. The Chief of the Defence Force has reported to the government this morning on security measures. As far as Australian interests are concerned, the advice that we have received and accept is that the current security arrangements are considered appropriate. Nevertheless, obviously the latest attack underlines the danger faced by all who are working in Iraq, including Australians.

It is worth noting that this was not just an attack on the United Nations; it was as much an attack on the Iraqi people and their hopes and aspirations. We have witnessed recent terrorist attacks on both the Iraqi water system and the country's oil infrastructure. These attacks are designed to cripple the efforts that are being made to rebuild the social and economic backbone of Iraq. We all want the people of Iraq to enjoy the democratic freedoms that we enjoy. We want to see their nation's physical infrastructure restored and the economy growing to the benefit of their community. We want to restore their right to walk their streets free from the threat of terrorism or politically motivated violence.

There should be no doubt that, despite the loss and the pain that have been inflicted, this attack will strengthen the international community's resolve. Australia, for her part, will continue to make an effective contribution to efforts to bring to the Iraqi people the security and stability they have been denied for so many decades and to the international war against terrorism.

In relation to that part of the question which asked how many Australians are in Iraq at the moment, I do not have an answer on that. Australian Defence Force personnel working in the Middle East area of operations number about 800 now, so it is reasonable to presume that there would be something like 300 in Iraq on any one day. Then there is the Australian representative office. There are other civilians working with the new government and in humanitarian causes. *(Time expired)*

Senator FAULKNER—Mr President, I ask a supplementary question. I thank the minister for his answer. My supplementary question, Minister, goes mainly to your responsibilities as defence minister. I ask: what plans does the government have for withdrawal of ADF units from the area, including the Hercules transport squadron, air traffic controllers, and personnel providing security and WMD search functions? In light of today's bombing, will there be any change to the planned withdrawal or rotation schedules for ADF personnel currently serving in or close to Iraq?

Senator HILL—The rotations, or our contribution, will not change as a result of this atrocity. Four Australian forces are being rotated. Senator Faulkner referred to the C-130s. Personnel have been rotated several times. There is not a planned withdrawal date for that capability. It is doing very useful work carrying equipment and people in and out of Iraq. It is supporting the humanitarian

efforts, the efforts to establish the new government and the like. The air traffic controllers continue to do valuable work at Baghdad International Airport. They are intended to be replaced by a civilian capability. That has not yet occurred. We are looking at when that might occur. If it is not going to be for some time, there would need to be a rotation. Similar sorts of principles apply to the WMD forces—*(Time expired)*

Health: Hospital Funding

Senator BRANDIS (2.07 p.m.)—My question is directed to the Minister for Health and Ageing, Senator Patterson. Will the minister outline to the Senate the benefits of \$42 billion in Commonwealth funding over five years for state run public hospitals? Is the minister aware of false and misleading statements that are being advertised by the Queensland Premier in relation to the Commonwealth's record increase in funding?

Senator PATTERSON—I will start the answer to the question slightly off the track. I wish to pay tribute to the hundred or so young people who have been in the house today with type 1 diabetes and the tremendous effort they put in at lunchtime to tell us about their disease, and to thank Sue Alberti, the President of Juvenile Diabetes Research Foundation, for her amazing donation of \$5 million to diabetes research in Australia.

Honourable senators—Hear, hear!

Senator PATTERSON—It might have done Mr Beattie well to be there at lunchtime today with us. The \$42 billion over five years that represents a \$10 billion increase in funding to the states, 17 per cent over and above inflation, is a very generous offer. What we are asking the states to do is to sign up to put on the table for the first time what they are going to spend for the next five years and what they are going to spend this year, and to at least match our growth. We are bearing huge growth in the Pharmaceuti-

cal Benefits Scheme, huge growth in the MBS, the Medical Benefits Scheme—including MRIs, imaging and X-rays—and huge growth across other areas of the health bill.

The states need to come up to the plate, sign up and stop all this nonsense that is going on. If COAG had not been on next Friday, they would have signed up by now and we could have moved on with the reform agenda: streamlining cancer care, ensuring that we increase services to people with mental illness and improving quality and safety. The states need to sign up by 31 August, otherwise they will lose funding—they will get the same funding as last year and some growth. If they sign up we can move on to discuss the reform agenda—and some ministers have already agreed to discuss the reform agenda; I think their premiers are putting pressure on them—that we have outlined over a period of almost 12 months to work on those issues.

Mr Beattie on Saturday put an absolutely appalling and totally misleading advertisement in the paper. I am sure this is why you asked me the question, Senator Brandis. You must have woken up on Saturday morning and thought, ‘What on earth has Mr Beattie been doing or thinking to actually use taxpayers’ money to spread such misinformation?’ He has joined the club with Mr Gallop and Mr Bracks, who did it on the Medicare package. Their attitude was: ‘Don’t worry about the taxpayers’ money. Don’t spoil the story for the truth.’ Mr Beattie failed to tell Queenslanders that they were getting a \$2.1 billion increase in the offer—a 33 per cent increase over and above the life of the last agreement and a 20 per cent real increase in funding in real terms. How on earth can that be a decrease? I do not know how. No wonder Queensland is beginning to go down the tube economically if that is the sort of economics that Mr Beattie engages in: saying

there will be a \$160 million decrease when in fact we are giving Queensland a \$2.1 billion increase—20 per cent over and above inflation.

Mr Beattie can either sign up or he can refuse to sign the agreement and we will still give Queensland \$1.2 billion; it is his decision. If he signs by 31 August they will receive an extra \$2.1 billion. The choice is up to him. There are lots of other things that we could spend that money on in health. If Mr Beattie does not want to spend it on his hospitals, we can find ways of spending it on health. Mr Beattie needs to sign up to tell the Queensland public the truth—that it is a \$2.1 billion increase, 20 per cent over and above inflation. It is 20 per cent extra that they would be getting in the health care agreements, not a \$160 million decrease. He needs to use on hospitals the money that he has used on misleading advertising.

Defence: Capability Plan

Senator CHRIS EVANS (2.12 p.m.)—

My question is directed to Senator Hill, Minister for Defence. Is the minister aware that today’s Australian Strategic Policy Institute Report has stated, ‘As it stands, the Defence Capability Plan is undeliverable, unaffordable and uncertain’? In launching the report, didn’t the Treasurer effectively back up this comment by indicating that there would be no additional funding for defence and that the DCP would be brought back within its budget through the review process? Minister, how is it that, just two years after releasing the DCP, under your management the plan is underfunded by billions of dollars, forcing a review of defence procurement late last year, which is now being run by your office? Can the minister confirm that the PM’s office has also now taken over the review of the DCP? Is Defence now effectively being run by the Prime Minister’s department?

Senator Robert Ray—Why did the Treasurer launch the document this morning?

Senator HILL—The Treasurer launched the document because he was invited to do so and it is good that senior ministers are taking an interest. Just responding to the interjection, the last ASPI report, which was on the Solomon Islands, was launched by Mr Downer, the Minister for Foreign Affairs. The fact that cabinet ministers are becoming involved in the ASPI process is something to be applauded, I would say.

Senator Chris Evans—Some people suggest it is a lack of confidence in your management.

Senator HILL—Who are those some people?

The PRESIDENT—Minister, I ask you to ignore the interjections, return to the question and address your remarks through the chair.

Senator HILL—When the white paper was brought down, part of that process was to draft a Defence Capability Plan that would set out guidelines for capital acquisitions over the next 20 years but with considerable detail, including costings, for the first 10 years. That is the guidance under which the government has been operating, and a large number of projects have commenced pursuant to the list that is the DCP. A lot has changed, however, in the last few years, particularly with the war on terrorism, the threat associated with the proliferation of weapons of mass destruction and increased unrest within our own region.

As a result of that, the government earlier this year did an update of its strategic doctrine. At that time it announced that the DCP would be reviewed to take into account the changed strategic priorities, the practical experiences that the ADF had had—particularly in Afghanistan and obviously that which it has now had in Iraq—and also perhaps some

of the logistics experiences that came out of East Timor. That review is taking place at the moment. It is a whole-of-government process in the same way as the development of the white paper and the DCP was a whole-of-government process. That was endorsed by the National Security Committee of cabinet in the same way that the review of their document, in effect, is an NSC process. Defence has put forward a range of options as part of that review which will be debated over the next month or so within the National Security Committee of cabinet.

We are planning to have an outcome, in terms of an updated DCP, in October this year. We are not going to unnecessarily change what is in the DCP because it was in part designed to give confidence to Australian industry to invest in an acquisition program over a long period of time. But it is important that we ensure when we acquire new capability that it is relevant to the existing and expected strategic environment rather than one that existed a few years ago. It is true that for some projects there are cost pressures, and that is not surprising, and we are working on those as part of this process. (*Time expired*)

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I acknowledge that the minister has conceded that the DCP and the strategic guidelines that guide it are now a whole-of-government approach. I sense that means it is run by the Prime Minister's office. Isn't today's ASPI report, Minister, a fairly damning indictment of your management of the Defence portfolio over the last two years? Doesn't the report note that over the last two years the accumulation of \$1 billion of unspent funding in Defence was the result of 'lax financial controls and a failure to allocate money to where it is needed most'? Two years on, just what specifically have you done to fix the major problems identified in the ASPI report?

Senator HILL—That funding issue was a cash flow issue that largely, not surprisingly, came out of accrual budgeting. I do not know why Senator Evans is smiling because we have had this debate for some hours in the estimates committees and he knows the answers as well as anyone in this place. There is not really much point in coming in here and inventing a new answer for short-term political goals, but I guess that is the way the business works. He clearly failed to appreciate what I said to him, which was that the white paper was a whole-of-government process, the DCP was a whole-of-government process, the strategic update was a whole-of-government process and the review of the DCP will be a whole-of-government process.

Senator Chris Evans—Then what are they paying you for? Do you take the notes, do you?

The PRESIDENT—Order! Senator Evans, you have asked your question. Give the minister an opportunity to answer it.

Senator HILL—We make no apology for that at all. We believe—

The PRESIDENT—Minister, your time has expired.

Senator HILL—That is a pity!

The PRESIDENT—It has expired because of continued interjections from the left-hand side of the chamber.

**Australian Broadcasting Corporation:
Funding**

Senator SANTORO (2.19 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Is the minister aware that the Australian Council of State School Organisations has been circulating a petition calling on 'the federal government to immediately reverse the recent funding cuts to the ABC'?

Will the minister be kind enough to comment on this claim?

Senator ALSTON—I am indebted to Senator Santoro for drawing attention to what I think is a matter of very great importance because we do not want the Australian public to be misled in any shape or form. I know that Senator Santoro and those on this side are under no illusions, but—

Senator Faulkner—It's a new principle, is it?

Senator ALSTON—We do our best to educate the other side of the chamber, but you can only do so much. We are prepared to offer re-education courses, but they probably would not be able to find their way to the enrolment desk. In the meantime, all we can do is provide information. Senator Santoro draws attention to a recent petition which was circulated by the Australian Council of State School Organisations. They call on the federal government to reverse recent funding cuts to the ABC to ensure the educational programming budget is restored and to allow for the immediate reinstatement of *Behind the News*. In other words, what they are doing is giving effect to very understandable community outrage about a program that has been going for some 34 years—which is watched by 1.3 million students a week—being terminated by the ABC for no apparent reason, without warning and without justification. In fact the presenter said that she had no notice at all. She simply got an email and she was effectively given notice, which is a very unfortunate state of affairs. As a result there is a lot of community concern.

Fortunately the Council of State School Organisations has revised its petition and made it plain that they now understand that it is not a decision of government—it is entirely a matter for the ABC. The cost of *Behind the News* is about one-thousandth of the ABC's total budget—in fact, \$760 million a

year guaranteed, indexed; over a three-year period, some \$2.2 billion. For the first time in 16 years we gave them an increase of \$71.2 million for regional programming. We of course have given them close to \$700 million for digital transmission and infrastructure, and an extra \$90 million for ABC Asia-Pacific Television.

This matter is entirely in the control of the ABC; it is their responsibility. Members of the general public are very much aware of this. If you look at letters to the editor, it is quite clear they know where responsibility lies. They know that the ABC spends nearly four times as much on motor vehicles each year as it does on *Behind the News*. It spends half the cost of the programming cost of *Behind the News* on clothing allowances for staff. It spends half a million dollars a year on sending staff overseas to conferences. As a result, children and parents are hopping mad.

Senator George Campbell interjecting—

Senator ALSTON—You should be able to pass this on. Senator George Campbell does have a particular conduit back to the ABC and he ought to be able to make this information abundantly plain: children and parents are hopping mad because of a program discretionary cut made by and within the ABC and not by the government.

Defence: Capability Plan

Senator LUDWIG (2.22 p.m.)—My question is to Senator Hill, the Minister for Defence. Can the minister confirm that there is a \$12 billion funding black hole in the Defence Capability Plan and that the delivery of the plan is in a state of crisis barely two years after the government approved it? Given the Treasurer today did not endorse any increase for defence funding to cover this shortfall, isn't Defence now preparing options for the government's consideration on wholesale cuts to future defence capabil-

ity? Didn't the Treasurer indicate that there were good arguments for the early retirement of the F111s to cut costs? Isn't Defence also looking at options for the early retirement of our frigates, the mothballing of submarines and a scaling back of the Joint Strike Fighter purchase? Won't all of these result in a significant reduction in Australia's defence capability? Will the minister now categorically rule them out as options to be considered?

Senator HILL—There is no black hole and there is no financial crisis. There are, as I have said, some cost pressures on some projects. That is not surprising because the DCP did not have a detailed financial analysis for each of the projects. As I said, the DCP was looking at a period of over 20 years and it was not easy to estimate accurately the cost of some of those projects so far out. I would not have thought that that would surprise anyone, even the opposition.

In relation to capability, our objective of course is to enhance it. The projects that we have commenced are certainly heading in that direction. The armed reconnaissance helicopter—I would have thought Senator Ludwig would agree—will be a major capability for the Army. The Javelin missile will be a major capability boost for the Army. The AWAC aircraft will be a major capability boost for the Air Force and if we get the Joint Strike Fighter that will also be a huge capability boost for the Air Force. The air warfare destroyers will be a huge capability boost for the Navy. And so I could go on.

What I said in answer to the previous question is that it is important that the capability is relevant to the strategic scenario of the time. You do not simply hold onto old capability for the sake of doing so. It is important to analyse whether old capability should continue to be held, particularly taking into account the ever increasing cost of maintaining those assets. Any government

worth its salt would engage in that process. The Defence Capability Plan, as I said in answer to the previous question, is being reviewed in light of the changed strategic environment, the threats associated with weapons of mass destruction, the war against terrorism and the changed environment within the region. It is also being revised to take into account recent ADF experiences. That will ensure that it is relevant for the present and will most likely ensure that it is going to be relevant for the future. That is the process that we are going through and it strikes me and the whole of the government as being a very sensible thing to do.

Senator LUDWIG—Mr President, I ask a supplementary question. Minister, isn't it really the fact that the review of the DCP is being driven by the government's need, as I said, to cover the massive shortfall in funding for the plan? Isn't it a fact that the review will result in net cuts to the DCP? Won't these cuts reduce Australia's defence capability?

Senator HILL—There is no question of net cuts to the DCP. When this government brought the DCP in, it provided also for guaranteed increases in funding every year to enable the plan to be delivered. Nothing has changed in that regard. We recognise that providing the sort of capability that this country needs is expensive. That is why this government put into place guaranteed extra funding every year for 10 years: so that it can deliver the capabilities that this country will need in the future—which is something that any responsible government would do.

Taxation: Compliance

Senator MURRAY (2.28 p.m.)—My question is to the Minister for Revenue and Assistant Treasurer. Is the minister aware that the ATO have said they will be targeting 60,000 negatively geared property owners for tax avoidance and possible tax rorting?

Does the minister accept that the Reserve Bank has sound reasons for wanting to slow down the unsustainable and unbalanced growth in expenditure on housing assets and that the housing boom has resulted in Australia having higher real interest rates than most of the rest of the world, adversely impacting on exporters and farmers? Is the minister concerned that a large part of the housing boom is fuelled by speculative purchases by negatively geared property investors? Aren't both the ATO and the Reserve Bank signalling that negative gearing is a fiscal sore that needs lancing?

Senator COONAN—Thank you, Senator Murray, for the question. I can say that the Australian Tax Office, as part of its compliance program for 2003-04, has set out a number of areas that it wishes to target to ensure that the tax laws are being properly observed. One of those targets is negative gearing—and so it should be—to ensure that it is being appropriately used. The real point of Senator Murray's question is the fact that the compliance program—this now the second one that the tax commissioner has announced—looks not only at people who are operating in the cash economy but also at those claiming deductions, to make sure that they claim them properly. Certainly high-wealth individuals and those deliberately avoiding tax are among those identified for increased attention in the compliance program this year.

I do not think Senator Murray should take from that the fact that negative gearing per se is an extraordinary problem for the tax office; it is just that it is one of the areas that has been identified as where some particular attention might be paid, particularly by the compliance group and those who make checks, audits and site visits. In the circumstances I would say to Senator Murray that negative gearing as such is something that this government supports. Indeed, we knew

for about eight hours into Mr Latham's appointment as shadow Treasurer that the Labor Party apparently were going to remove negative gearing. Now they say they support it. So long as the law is observed there is nothing wrong with negative gearing and we will continue to support it.

Senator MURRAY—Mr President, I ask a supplementary question. Minister, thank you for your answer. Minister, why does the government support negative gearing in contrast to the governments of Canada, the United States and the United Kingdom who for sound policy reasons outlaw it as a distortionary, expensive and unfair tax concession? Will the minister consider reforming negative gearing if not outlawing it altogether?

Senator COONAN—The removal of negative gearing would in the short run, no doubt, reduce after-tax rental yields for a given level of house prices. We all know that when it was removed briefly by the Labor Party a number of years ago the rental stock was reduced, and house prices do not necessarily fall. You get a combination of both: either house prices fall or rents rise. You cannot really say that just simply by removing negative gearing you actually do anything to assist those who need to rent and you certainly do not do anything for those who want to invest.

Customs: Explosive Materials

Senator MARK BISHOP (2.32 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Minister, in light of the current crisis on the use of large quantities of high explosives by terrorist organisations very close to our borders, and which have already taken many Australian lives, what new arrangements have been put in place by Customs for the import of all types of explosive material, including the fertiliser ammonium nitrate?

Senator ELLISON—I can tell the senator the great steps we have taken to protect Australia's borders in relation to dangerous substances. We have announced an increase in the number of bomb detection dog squads that we have. These dogs are able to detect thousands of varieties of combinations of explosives and are essential to detecting dangerous substances which might be brought in illegally across our borders, be it at a port, an airport or otherwise. Added to that, we have 100 per cent X-ray of our mail, which is very important, and also 70 per cent X-ray inspection of air cargo shipments coming into this country. That is not all we have done. When you look at our container X-ray initiative, which has never been seen in this country before, you realise the steps we have taken to screen cargo coming into this country, increasing by 20 times the number of containers that can be inspected. We now have state-of-the-art container X-ray facilities in Sydney, Melbourne and Brisbane and they are soon to be introduced in Fremantle, in the home state of Senator Bishop.

Senator Cook—Are you going to keep dodging the question or answer it?

Senator ELLISON—This is clearly on the point of Senator Bishop's question. It deals with border scrutiny in relation to illicit and dangerous substances which people might want to bring into this country. We have put in place measures which have never been seen before and which the Labor opposition never did when it was in government. We have increased funding by 50 per cent to Customs to look after Australia's borders. We have increased not only the technology in looking out for Australia's borders but also the manpower available to do just that. We are doing other things at our borders. We see it not only in the increased proficiency and expertise of our customs people but in things such as our ion scans which can pick up particles. They can detect substances—

Senator Cook—Are you going to get to your answer?

Senator ELLISON—Senator Cook does not seem to understand that this sort of technology is essential if you are going to detect illicit substances such as explosives. It ranges from the increase in the number of our bomb detection dogs right through to technology and the increase in expertise of our people. We are seeing runs on the board especially in relation to illicit substances such as drugs. We have in place unprecedented measures in relation to dangerous substances such as—

Senator Mark Bishop—Mr President, I raise a point of order going to the issue of relevance. I asked the minister a very specific question as to the regulation of the importation of explosive material, particularly the fertiliser ammonium nitrate. The minister has responded by engaging in a general discussion on the issue of broader customs policy. It would be useful if you would request him to attend to the specific question on the basis that there is something less than one minute left to answer the question. Or is it satisfactory for the minister to engage in constant and continuing evasion of the question?

The PRESIDENT—Senator, I cannot direct a minister how to answer the question. You have the right to ask a supplementary question, and the minister still has one minute and 20 seconds to answer his question.

Senator ELLISON—I realise that the Labor opposition does not like hearing this because these are initiatives brought about by the Howard government and they have been welcomed by the Australian people in protecting the borders of this country. The measures we are taking in relation to border control go squarely to the question that Senator Bishop has asked, and that is: what are you doing to keep explosive and dangerous

substances out of Australia? I have just been outlining them, and I will do it again. We have a breeding program in place to increase the numbers of bomb detection squad dogs. It is one of the best in the world. We have container X-ray facilities which increased by 20 times the number of containers that are inspected. We have 100 per cent X-ray of mail coming into this country and 70 per cent inspection rates of air cargo. We have an increase in border control and scrutiny which this country has never seen before. If that is not aimed at keeping out explosive substances and substances which could pose a risk to this country, then I do not know what is.

We have put in place a comprehensive strategy to look out for Australia's borders. We guard against things like foot and mouth—we introduced those measures some years ago—illicit drugs and dangerous substances which could be a threat to our national security. We have seen runs on the board in relation to the interdiction rates by the Australian Customs Service. (*Time expired*)

Senator MARK BISHOP—Mr President, I ask a supplementary question. What assurances can the minister give the Senate that all explosive material is properly identified on shipping manifests and formally reconciled? What controls are in place for its subsequent distribution and management after entry?

Senator ELLISON—We have announced our cargo management re-engineering program, which is state-of-the-art screening in relation to cargo coming into this country. With that we can screen every container coming to this country in relation to its origin and its contents and carry out, on a risk assessment basis, scrutiny of those containers. This has never been done before in Australia and it is something which overseas

countries are looking at with a view to replicating in their own jurisdictions.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in my gallery of Mr Martin Lee QC, a member of the Legislative Council of the Hong Kong Special Administrative Region of the People's Republic of China. On behalf of honourable senators, I welcome him to Australia and in particular to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Taxation: Family Payments

Senator HARRADINE (2.39 p.m.)—My question is to Senator Vanstone. The minister has stated often that the family tax benefit part B provides a payment to help one-income or sole-income families with the cost of raising children and extra for families with a child under five years of age. Isn't it a fact that the cost of raising a child is just as high with a child under five years of age as it is for a child over five years of age—for example, with going to school, getting shoes and so on? Would the government consider raising the five-year threshold so that the allowance more closely reflects the reality of the costs experienced in raising a family?

Senator VANSTONE—I thank the senator for his question. He has had a longstanding interest, which he has pursued with vigour on occasions—on most occasions, actually—in relation to families. That is not to say, necessarily, that I have always agreed with the senator but we would not all have a cup of tea the same way so it does not matter much that we have occasional disagreements. Senator, you are right in identifying that the FTBB payment is there to assist families who have primarily one income. It does have a taper because some women—and it is women who are generally the non-

income earners—choose to return to work. It has a taper zone to assist that progression.

You are also right in identifying the differing amounts for children under five years. Senator Harradine may or may not know that years ago a number of my nieces and nephews were boarders, so they would always come to my house on the weekend. I have some sympathy therefore with Senator Harradine's view that as they get older children cost more. I did not mind. I was delighted to fill up the fridge and was delighted to have it cleaned out—it saved me doing it really. They were a great advantage, but kids can be expensive. We understand that, Senator Harradine, and they are very pleasurable as well.

The reasoning is that there are other costs than just the costs as a consequence of having the child. One example is that, while women who choose to return to the work force are out of the work force, there is a cost in the sense of the loss of income. For that reason, I think it may well be appropriate to leave it as it is because you can argue that women who stay out of the work force for varying periods of time—but while their child is younger—are generally not getting the income they would have got had they kept working or if they had returned to work sooner. So it is to assist them in that context that this is done in that fashion.

Senator HARRADINE—Mr President, I ask a supplementary question. Doesn't that response apply after five years of age as well as before? Aren't we an ageing population? I heard the figure of the number of Australians over the age of 100—you can have a guess what it is but I was told the figure. Isn't it important to remove all economic disincentives on families to raise children who will be future taxpayers and continue the service to elderly people—as we all grow old?

Senator VANSTONE—I understand Senator Harradine's point. You could argue

that if we do not provide a system that assists women who in the end want to return to the work force and if it does not accommodate that return then some women will choose to have fewer children so that they can return to the work force more rapidly. In fact I am arguing here that that may well be the case. Having a higher FTBB rate for children under five years is in fact just that—an incentive for people to be able to stay out of the work force longer because the FTBB rate, while the child is not of school age, is higher.

You asked whether the same argument applies when they get older: no, Senator Harradine, I do not think it does. The reason is that once they are of school age the outside school hours care is obviously a lot less and families by then generally, figures show, have returned to work. (*Time expired*)

Customs: Security

Senator KIRK (2.44 p.m.)—My question is to Senator Ellison, Minister for Justice and Customs. Can the minister confirm that, as a protection against terrorist activity, new provisions have been enacted in the United States which from 2 December last year require all shipping containers bound for the United States or ports beyond to be security cleared and advised to US Customs 24 hours in advance of being shipped? Given that tens of millions of dollars have now been spent on Australia's new cargo management re-engineering system for such clearances up to 30 days after shipment, what implications does this US initiative have for the new system, additional costs and further inconvenience to Australian exporters?

Senator ELLISON—When I met Commissioner Bonner, the head of the United States Bureau of Customs and Border Protection, in Washington recently and when he was out here a few months ago, we discussed this very issue. The United States has a high regard for the security arrangements in Aus-

tralia. In fact, Commissioner Bonner said that Australia was not one of the areas America was concerned about. The container security initiative which Senator Kirk referred to is an important one and will of course facilitate those countries and businesses that have good security arrangements doing business with the United States. We see Australia as being very well placed to do that in the international situation we are faced with, particularly because of our good security arrangements. I discussed recently with someone from the Port of Melbourne how they saw this panning out for them. They saw it as a distinct advantage for Australian business. It makes sense. Good security is good business, and we have good security in this country. This country is not regarded as a threat, and the United States has said so. As I have told you, I have already met with the head of United States Customs twice this year. He has seen for himself the facilities we have in place and he has said to me that they are very good.

Senator Faulkner—Name that person in Melbourne.

Senator ELLISON—It was Westgate, as I recall.

Senator Faulkner—I want you to be specific.

Senator ELLISON—The company will do. Senator Faulkner wants to learn a bit more about this area before he makes any comments. What we have in place in Australia puts Australian business and industry at the cutting edge of dealing with the new measures in America. We are ahead of other countries in relation to security initiatives and especially in relation to the container security initiative announced by the United States. This is a positive for Australian business. It is a positive because this government has taken the steps it has in relation to border security.

Senator KIRK—Mr President, I ask a supplementary question. Minister, if the United States believes that this precaution is necessary, will the Australian government also be adopting this initiative? If not, why not, given our greater proximity to the source of terrorist activity?

Senator ELLISON—We have in train the implementation of the cargo management re-engineering process which I mentioned. This is a means by which every container coming into this country is screened electronically as to its background, its origin and its contents. Its details are fed into a system and it is assessed for inspection. We have a risk assessed system. If there is any alert on any part of that—and I have seen it working—then an inspection of that container will be made. We commenced this process well before these current threats. It is one of the greatest changes we have seen in Customs in this country since Federation. It will streamline the process, business has welcomed it and it is good for security.

Health: Disability Services

Senator GREIG (2.48 p.m.)—My question is to Senator Vanstone as Minister for Family and Community Services. Is the minister aware of the recent Department of Health and Ageing statistics showing that some 6,069 young people with disabilities currently live in aged care facilities as a result of accommodation shortages under the Commonwealth, state and territory disability agreement? What leadership role has the minister taken to assist the states and territories to provide proper accommodation for these young people as an urgent priority? Will the minister now provide information about the specific strategies to address the issue of young people in nursing homes contained in the bilateral agreements with those states which have signed the CSTDA?

Senator VANSTONE—Senator Greig raises a question which in part should be directed to me but in part might otherwise have been directed to Senator Patterson. It does relate to both portfolios. With respect to my own portfolio, perhaps I could make it clear that, as I am sure Senator Greig realises, under the Commonwealth, state and territory disability agreement accommodation is a state responsibility. Employment services are a Commonwealth responsibility. We pay for all employment services but we make a contribution to the states to assist them in their role to provide accommodation—and, in fact, day services. The funding is in a roughly one to four ratio—that is, we provide roughly 20 per cent and the states provide roughly 80 per cent. It does vary from state to state. Nonetheless, that should make it very clear to you, Senator Greig, who is the main funding driver of accommodation for people with disabilities: it is the person who provides 80 per cent of the funding, not the person who provides 20 per cent—that is, it is the states.

You ask what the Commonwealth have done. We have sought to ensure that, when unmet need money was put into the Commonwealth, state and territory disability agreement in the last two years, it was given a specific focus on accommodation. I have to say that the assessments I have had done by outside bodies—not by my own department—make it pretty clear that none of the states are completely transparent as to where that funding has gone. Some states are desperately opaque when it comes to people being able to see what has happened. That makes it very difficult from a large block grant position to find out what has happened. In some states the Institute of Health and Welfare reports an actual decline in accommodation places. Those are places, so they should not vary on a snapshot day. Use of services might, but places would not. People

who are carers express very deep frustration to me about the management of these areas in the states—saying, for example, that people who should be in proper full-time accommodation are being placed in respite places because there are not enough accommodation places. What does that mean? It means there are fewer respite places for people who desperately need them.

It is as a consequence of that need and an understanding that something needs to be done that we said to the states that we would not put our increase into the Commonwealth State Territory Disability Agreement, where we spread out our funding over five years and spell it out, unless they matched our percentage increase of contribution to the CSTDA and they spelt out their commitment over five years. I am pleased to say seven of the eight states and territories have done that. Seven of the eight states and territories have got increases of five per cent or more in their funding and have either put it into their budgets or given a commitment from their premier that this will be done. New South Wales is the only state that has not done that and we regard their offer at the moment as being under four per cent—this is for a state that spends less per capita than, for example, the state of Victoria.

Nonetheless, in the new CSTDA we expect there will be \$5 billion more to spend. Some of that will be spent on employment and some on accommodation, obviously, but that is with the extra money from us and the guaranteed committed extra money from the states, which the disability sector has never had before. Why have they got it now? Because we have sat it out, put up with all the rubbish from some of the shock jocks and some of our colleagues opposite and held out until the states were prepared to come to the party and say, 'Yes, we will give a commitment for five years and yes, we will put an increase in.' (*Time expired*)

Senator GREIG—Mr President, I ask a supplementary question. Minister, the outcome, I think you will agree, is still unsatisfactory, particularly for the young people in nursing homes. Has the minister considered action that could allow the federal parliament to either prohibit or cap the number of young people being taken into nursing homes to cauterise this issue and to bring a resolution as a matter of priority?

Senator VANSTONE—Yes, I agree although I should make clear to the Senate that the figures I have seen for young people do not refer to simply under 25s; they go up to people under 60 and that is still far too young to be in a nursing home. The Commonwealth does have, under Senator Patterson's portfolio, an aged care innovative funding pool. That has 550 new flexible aged care places to pilot alternative strategies for particular target groups. Not one state has put in an application to use the innovative funding pool to find a better way to house younger people who should not be in nursing homes—not one state. So the first place to go, Senator, is to each of the states to say, 'Hey, there's Commonwealth money for innovation: why haven't you done something about it?' As to whether we could cap, we have legislation that says only as a last resort will we accept these people but some people need this level of care and if the states will not provide it, you cannot expect us to say no. (*Time expired*)

Australian Defence Force and Australian Federal Police: Allowances

Senator CHRIS EVANS (2.55 p.m.)—My question is directed to Senator Ellison, the Minister for Justice and Customs. I refer the minister to his letter in the *Daily Telegraph* on Monday in which he claimed: ... all Australians serving in the Solomon Islands are being paid fairly and are receiving comparable allowances.

Minister, isn't it true that on top of the \$48.85 worth of allowances paid to AFP officers, which is mentioned in your letter, clause 14.2 of AFP determination No. 7 of 2003 makes it clear that on deployment to the Solomon Islands, AFP officers are entitled to an additional composite allowance of 32 per cent of their base salary? Doesn't this mean that the average AFP officer in the Solomons will get an additional payment of \$51.32 each day on top of the \$48 mentioned in your letter? Why didn't you tell the whole story in writing to the *Daily Telegraph*? Isn't the government still trying to hide the fact that ADF personnel are being short-changed when compared to AFP officers engaged in the same operation?

Senator ELLISON—What we have here is a classic case of the Labor opposition really misrepresenting the situation because it is impossible to compare the role of a policeman with the role of someone in the Australian defence forces. Australian Federal Police officers are serving in the Solomon Islands. They have a different role, a different pay structure and, indeed, their own determination, which I tabled the other day in the Senate. They also have a tax ruling in relation to this matter, as do the ADF, but that is where they have a common tax ruling but different pay scales, different conditions and different roles. That is something which the Labor opposition is not telling the Australian community.

Instead of trying to mislead and undermine our activity in the Solomon Islands, why doesn't the Labor Party get on board and support the work that the Australian Federal Police and the Australian defence forces are doing in the Solomon Islands? I made it very clear what the Australian Federal Police were entitled to and I wrote that letter along with the Minister Assisting the Minister for Defence. What we wrote to the paper was a summary of a comparison be-

tween the two but we made it very clear that the roles of the two services are quite different. Their pay scales back in Australia are quite different. You cannot compare an AFP officer with a private in the Army, and if you try to, you are being silly because they are two entirely different roles. They have different qualifications and different backgrounds. I am afraid that if Senator Evans does not understand that, he has missed the point entirely. I made it very clear the other day by tabling the determination regarding the Australian Federal Police what the Australian Federal Police are entitled to whilst deployed in the Solomon Islands. I also tabled a public document anyway, which was the tax ruling by the ATO—

Senator Chris Evans—It wasn't public.

Senator ELLISON—It was. As I understand it, the tax office ruling was gazetted.

The PRESIDENT—Senator Evans, shouting across the chamber is disorderly.

Senator ELLISON—Senator Evans is confusing the determination with a tax office ruling. They are two separate documents. Senator Evans contacted my office about the determination by the Australian Federal Police and we provided that to him, but the tax ruling was gazetted and it was a public document. If he had done his homework he would have found it on their bloody web site.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. For the minister's information, I have had the tax ruling for about a week and that is why I asked the question. But, Minister, why do you continue to mislead the Australian public? You wrote a letter to the *Daily Telegraph* where you misled the public about the allowances paid. Why won't you come clean? Minister, why won't you answer the questions of Australian families?

Senator Ian Campbell—Mr President, I raise a point of order. The senator needs to

direct his question to you as the President and not yell across the chamber in a most unseemly manner.

The PRESIDENT—Order! I have drawn Senator Evans's attention to the fact that shouting across the chamber is disorderly. I think he is aware of the fact that he should be directing his questions through me but, in view of the time and the time wasted with interjections today, I will call the minister.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (2.59 p.m.)—Senator Evans refers to the letter that I wrote the other day. I can say that the main thing I was concerned about was that this article was wrongly saying that our people were staying at a waterfront hotel. Our people are not doing it easy over there. I will tell you right now that this crowd over here are not interested in the Australian defence personnel or the Australian Federal Police, who are doing a great job looking after Australia's interests and the interests of this region. I am not going to have some article saying that our troops are staying at a waterfront hotel when they are staying in accommodation that is basic and they are doing a job which is both dangerous and demanding for the purposes of this country.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator CHRIS EVANS (Western Australia) (3.01 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Defence (Senator Hill) to questions without notice asked today.

I have to say that I felt some sympathy for Senator Hill today because he has been the subject of a public humiliation by the Treas-

urer to reinforce the humiliation imposed on him by the Prime Minister. What has become clear today is that he is no longer the Minister for Defence. He collects the salary but he makes none of the decisions. That is because he cannot make any of the tough decisions. He has dithered, he has dallied but he has not made any of the tough decisions. As a result, we now see a most damning report on a government department on a financial management offence launched by the Treasurer—not launched by the Minister for Defence but launched by the Treasurer. Why? Because he shares Labor's concern and the concern now abroad in the wider community about the management of Defence.

Senator Ian Macdonald—You are such a joke.

Senator CHRIS EVANS—This report by ASPI, *Sinews of war: the defence budget of 2003 and how we got there*—go back to lunch will you, Macdonald—is the most damning indictment of financial management that you could possibly see. It is an extremely damaging critique and, as I say, the Treasurer launched it, acknowledging that Senator Hill's management of Defence is becoming a major concern.

Government senators interjecting—

The DEPUTY PRESIDENT—Senator Evans, resume your seat just for a moment. Those senators who want to clear the chamber, get out now so I can hear the speaker.

Senator CHRIS EVANS—Go and have a glass of wine.

Senator Ian Campbell—Mr Deputy President, I rise on a point of order. I ask you to ask Senator Evans to withdraw his remarks. He has clearly been out to lunch himself and has lost control of his ability to speak. He has been abusing Senator Macdonald on two occasions and has not been called to order. I ask you to do so.

Senator CHRIS EVANS—In relation to that point of order, after being called a dope by the senator, I responded by telling him to go back to lunch. If that is out of order, I am happy to withdraw it. I am sure Senator Macdonald will be happy to withdraw his remark as well.

Senator Hill interjecting—

Senator CHRIS EVANS—I mentioned he ought to go have another glass of wine because, clearly, he had had a liquid lunch.

Government senator—He was in here speaking at lunchtime, unlike you.

The DEPUTY PRESIDENT—I do not believe there is a point of order. I believe though that you should couch your terms very carefully and not reflect on a senator, if that is what your comment was meant to do. I do not take it that you were reflecting adversely on the senator at this stage but I advise you to be careful in the language that you use.

Senator Ian Campbell—On another point of order, in his response to the point of order, Senator Evans accused the senator of being at lunch and drinking. If that is not a reflection on another senator then I do not know what is. For the record, Senator Ian Macdonald was in the chamber doing his work as a senator during lunchtime and he probably had a cheese sandwich or something for lunch, while the senator opposite was probably out sipping chardonnay, like most of the Labor Party usually do at lunchtime. He is obviously inebriated now in the middle of the afternoon.

The DEPUTY PRESIDENT—Senator Ian Campbell! I did not take the comment that was made by Senator Evans as implying any improper behaviour or imputing any improper behaviour on the part of Senator Ian Macdonald.

Senator Ian Macdonald—You might not have but others might.

Government senator—Senator Campbell has raised a point of order.

The DEPUTY PRESIDENT—I have ruled that I did not see that as being a proper point of order. If it does reflect on the senator in an adverse way then I will call any senator to order, but the comments that were made—and I will reread the *Hansard*—should not have been interpreted in the way that you may wish to have interpreted those comments. I have warned Senator Evans that, if he is to make further statements in this place, the comments should not reflect adversely on any senator in this chamber. At this stage I have not taken his comments to reflect adversely.

Senator Ian Macdonald—On the point of order, Mr Deputy President, you may not have taken the comments to be a reflection but it is part of a continuing campaign of vilification and personal abuse by the Labor Party that is directed at me—obviously because I do my job properly. They cannot attack me on policy or administrative issues so they indulge themselves in personal abuse and vilification. Senator Ian Campbell was wrong in one instance, and it was that I have not had a cheese sandwich or anything for lunch because I was in here between 12 and one doing my duty as a minister in this chamber, as any senator who had any interest in what was happening in this chamber would know. I actually spoke twice during the past hour. Perhaps I am sniffing my words because I do have a cold and I am trying to get rid of it with antibiotics. But I think this sort of personal vilification and abuse from Senator Evans and some others of his colleagues is the sort of thing that you, Mr Deputy President, should stop straightaway.

The DEPUTY PRESIDENT—Senator Macdonald, as I have indicated—and I will reread the *Hansard*—I have ruled that—

Senator Ian Campbell—So it is all right to say that someone has been drinking at lunchtime? That's great!

The DEPUTY PRESIDENT—No. You are now putting words into my mouth through your interjection.

Senator Mackay—You said that we drank chardonnay.

The DEPUTY PRESIDENT—Senator Mackay, just stay out of this. I believe at this stage there has been no reflection on you, Senator Macdonald. That is the way I have ruled. I will reread the *Hansard* for you, but I believe at this stage there has been no reflection in the words that have been uttered by Senator Evans. I have warned Senator Evans about using words in such a construction that they reflect on the character of any senator, be it you or anyone else in this chamber.

Senator Ian Macdonald—I accept that you will look at the *Hansard*. I can say to you that I do take offence, and I would ask that you ask the senator to apologise publicly.

Senator Mackay—You apologise for calling him a dope then.

Senator CHRIS EVANS—As I indicated to you before, Mr Deputy President, if I have said anything unparliamentary I am always happy to withdraw and follow the standards of the chamber. What I do want to concentrate on is the public humiliation of the minister today and the real concern that now exists about the whole management of defence in this country. We now have the situation where the Prime Minister's office is effectively running a strategic review and the review of the Defence Capability Plan in this country because of the lack of confidence in

the minister to be able to deliver on the tough decisions that do confront Defence.

Six months ago we had an announcement regarding their concern about the procurement practices inside Defence. The Prime Minister's office intervened and the Kinnaird review was established in order to review procurement policies inside Defence. That has therefore taken that matter out of the hands of the minister. We now have today's information. I see that the minister used the 'whole of government' approach, but what we are effectively seeing is the Prime Minister's office, through an interdepartmental committee, taking control of the review of the DCP and, more importantly, taking control of the strategic decisions that will underpin any decisions about the Defence Capability Plan.

Before you can decide what you want to buy and what capability you want, you have to make some decisions about your strategic direction and the threats that are posed. So what we are seeing now is that the DCP review and those strategic decisions that drive it have been taken out of the hands of the minister and have gone to an interdepartmental committee. I understand that Dr Shergold will be driving the process, so the minister has effectively lost control of that as well. So we see deep concern by his ministerial colleagues at his failure to deliver proper financial management of Defence and we have the most damning ASPI report into the financial management of the Department of Defence, a report that confirms earlier calls for greater accountability and concern about financial management of Defence by people such as a former deputy chief of the defence forces and a whole range of commentators concerned about the way these issues seem to have got completely out of the government's control. This government has had four defence ministers in seven years and it has had three or four different review processes.

Senator Ferris—At least we've got a policy.

Senator CHRIS EVANS—Every minister has had a new policy! You have had more policies than I have had hot dinners. Every minister has a new policy, and what has happened is a total disintegration of management inside Defence. What we have, as I said, is a damning indictment of the Howard government's Defence management. This minister started off calling them legacy projects because he wanted to dissociate himself from the former ministers and their failures, but now the responsibility is coming home to roost.

We had a report the other day of the 20 top projects of Defence, none of them on time or on budget—a damning indictment of the management inside Defence and this government's failure to deal with it. Its answer has been to move the public servants on. We have lost a number of secretaries of the department. The other day we saw the resignation of the head of the DMO, Mr Roache. What we have seen is the government continuing to turn over the personnel, including its own ministers, but failing to come to terms with the problems. And now we have the Treasurer, Mr Costello, making it very clear that he shares the concern about the failure of this minister to gain control of the department. He shares ASPI's concern about the financial mismanagement of Defence, and he shares the growing concern in the Australian community that there is no point in this government putting more money into defence as it cannot spend it wisely. *(Time expired)*

Senator JOHNSTON (Western Australia) (3.12 p.m.)—Historically, the Australian Defence Force has very much to be proud of, notwithstanding the contribution of 13 years of Labor. May I also say that the current minister has very much to be proud of, be-

cause this current minister has achieved a very marked improvement in the standards and in the reform capabilities of our Australian Defence Force. There is very much for him to be proud of in what he has done in repairing the damage that was inflicted upon the Australian Defence Force by 13 years of Labor.

Let us talk about what they did to the Australian Defence Force: a complete and utter lack of commitment to personnel, to funding, to capability and to management. Under Labor, over 15,000 Australian Defence Force personnel were cut. Two full-time Army battalions, made up of 3,000 personnel, were disbanded. Combat capability was utterly run down under Labor, with deficiencies identified by the Army's own self-assessment that stated:

... units not adequately prepared for combat ...
Army lacks sufficient combat power ...

... ..

... units are understaffed, poorly equipped and low readiness levels.

That was back in 1994-95. This government has achieved an amazing degree of capability in the Australian Defence Force—for instance, East Timor, a situation that Labor refused to undertake for many years in the face of an overwhelming humanitarian argument; Afghanistan, getting in there and cleaning up that mess; and Iraq, participating as we did with our SAS and with the outstanding performance of our naval frigates and our mine clearance divers. All this was achieved because of the work undertaken by the current minister in making sure that our capability was in fact capable in the face of an outrageous rundown by Labor. Defence spending was reduced from 9.4 per cent of total budget outlays to eight per cent in 1994-95 by Labor.

Labor's mismanagement led to a significant problem with our No. 2 capability—our

Collins class submarine—and we had a huge billion dollar overrun and massive intellectual property difficulties, all of which have been resolved by the current minister. The current minister has also waded in and sorted out the combat capability systems. The ministers in charge at the time—and Mr Beazley, of course, was the then minister—

Senator Marshall—Torpedoes that don't fit.

Senator JOHNSTON—Whoever is telling you that really does not understand. Let me tell you: I have seen how they fit and I can assure you that they fit magnificently. But, of course, these are things you would not understand, because your attitude to defence is to sit back and wait for things like the ASPI report. Quite frankly, those in the opposition have absolutely no understanding and their sole—

Senator Marshall—But I know why you don't want to talk about it.

Senator JOHNSTON—I will talk about it until the cows come home, because the Collins class submarine is a fabulous piece of capability—a great idea, I will concede to senators on the other side—but one that has been absolutely poorly mismanaged. There is not one aspect of the management of that project that Labor can be proud of. The ANAO told you in 1994 that this project was off the rails. It has taken a coalition government to put it back on the rails and, may I say, the Collins class submarine is now the world benchmark for conventionally powered submarines, a capability that Australia should be very proud of. Indeed, the submarines performed so outstandingly at the RIMPAC exercise in 1999 that the United States has had to significantly rethink its approach to dealing with conventional class submarines.

As a government, we have delivered the largest increase in defence funding for more

than 20 years. That is a fact that the ALP simply does not want to identify. The capability plan is just that: a plan. The most important thing about it is that we have a plan. All we hear from senators on the other side—and, indeed, Senator Evans is always very vociferous about the so-called problem with defence—is: where is the plan? We hear nothing from Labor, which has a policy vacuum in this important area. It is indicative of so many areas in which Labor does not have any idea of what is required to come up with a feasible, credible plan. (*Time expired*)

Senator LUDWIG (Queensland) (3.17 p.m.)—I rise to take note of the answer on this same issue of defence funding. Today we have heard Senator Hill, the Minister for Defence, who is supposedly responsible for the delivery of the \$28 million Defence Capability Plan, respond to questions on funding for the plan. But it is clear that the Prime Minister has made a judgment about this. It seems that the judgment is that Senator Hill is not fit to deal with the Defence Force. After two years of policy failures, changes in direction, massive delays and an inability to make any decision about the future of our Defence Force, it is not hard to see why the Prime Minister has come to this conclusion. The Prime Minister's own department and not Defence is now responsible for the two biggest policy issues facing Defence today. The Prime Minister has ordered his department and not the Department of Defence to take control of the defence capability review.

We did hear Senator Hill talk about the defence capability review, but he talked only about the review itself. He did not talk about being involved with it, overseeing it or implementing the outcomes that might come from it. We are yet to hear what Senator Hill's role in that whole affair will be. I suspect he will not have a role; I suspect the Prime Minister will in fact have the role. There appears to be a complete lack of con-

fidence by the Prime Minister in Senator Hill and his ability to manage the Department of Defence.

This follows the Prime Minister's intervention last year when he ordered the establishment of a major external inquiry into defence acquisitions. So we have a serial offender here—a person who is incapable of monitoring, looking after and dealing with the Defence Force. What we have is the Prime Minister trying to cover up, obscure or otherwise fix the problems that have now come to light. Reports of continuing bungling, mismanagement, budget overruns and massive delays in the delivery of key defence projects have reached the point where the Prime Minister has had no choice, I would suggest, other than to intervene and do something about it. If the Minister for Defence is not responsible for reviewing defence acquisitions, and if he is not responsible for reviewing defence capability funding, it really does beg the question as to exactly what he is responsible for.

We asked Senator Hill a number of questions today about the Defence Capability Plan and about his role. He had an opportunity to talk about his role in this affair but he was silent. Why should taxpayers have any confidence in the minister's ability to manage the Defence portfolio when the Prime Minister does not have any confidence in him? The government's failure to deliver the Defence Capability Plan is Senator Hill's failure. It is a shocking failure, and he should be held accountable and responsible. The Prime Minister should not take the opportunity of trying to prop him up. The Prime Minister should do the right thing here. The ASPI report's findings today that the Defence Capability Plan is 'undeliverable, unaffordable and uncertain' is a damning indictment of Senator Hill's performance over the last two years as Minister for Defence. The fact that there is already a \$12 billion black

hole in the Defence Capability Plan barely two years after the plan was signed off by the government—as I said in my question to Senator Hill—is further proof that Senator Hill has failed in the same way as his three predecessors failed as ministers for defence in the Howard government. They have all failed to deliver an effective program in the Defence portfolio.

The defence department is important. It will spend something in the order of \$15.8 billion of taxpayers' money, an increase of some \$1.2 billion in the 2002-03 year. Considering this represents approximately 1.9 per cent of the gross domestic product, this figure warrants close scrutiny. Senator Hill is not on the ball. The ASPI report is not critical of this government; it is scathing. It is scathing to the extreme. It sees that money has been and is available for defence spending, yet the plan stands as undeliverable, unaffordable and uncertain. Its certainty is a matter for this review—it should be able to bring something to light, but it is unlikely, given Senator Hill's inability to drive the portfolio forward. I suspect the Prime Minister will again and again have to ensure that something happens—he will perhaps crack the whip—or, in this instance, he will have to put his hand in and do the work himself. *(Time expired)*

Senator LIGHTFOOT (Western Australia) (3.22 p.m.)—It is rather sad that, of all the issues that could be treated in a bipartisan fashion, the opposition chooses defence to bring about uncertainty in this coalition administration that they hope will spill over to the public and the public will say, 'At least with defence, we should give the Australian Labor Party the opportunity to form a government.'

Let me deal with the \$12 million shortfall in the Defence Capability Plan first and, to some degree, the ASPI report that was re-

leased today. The improved scrutiny of this administration has led to some delays—the unforeseen Afghanistan war, the Iraq war, East Timor and the Solomons. The coalition government has faced up to all of these important and dangerous issues with remarkable efficiency and attention to detail with respect to our serving armed forces men and women. Key, large projects, such as the AWACS aircraft and the armed reconnaissance helicopters, are progressing well and new programs will be brought forward under the flexibility that this government not only embraces but should embrace with respect to those issues that have become more important. Since 9/11 and other significant developments around the world, there has been a reckoning and a reconsideration of the government's priorities and the people of Australia have been served as a result of that.

As the bipartisan approach with respect to defence seems to have been swept aside by the opposition, let me recall how the submarines were in a mess when this government came to office. On paper they looked good, but they were in a mess. They were, of course, the initiative of the previous Labor administration. Those submarines cost well over \$1 billion each. They could have been bought off the shelf for a quarter or less than that. The Labor administration's bad planning with respect to those submarines cost us hundreds of millions of dollars. It took this administration to make them seaworthy; it took this administration to make sure that the lives of our men and women were not put at risk. Today, as Senator Johnston said in his contribution, those submarines are among the best, if not the best, conventional submarines in the world.

As a former national serviceman, let me talk about national service. There is no culture of looking after our armed services in the Australian Labor Party. I regret to say that: it is a sad admission coming from any-

one, even from someone on this side of the house. I remember how our men were treated with utter and total disdain when they came back from Vietnam. When our national servicemen returned, they were sent home with their kitbags. There was no welcome for these men. It came years later as something that was forced on Labor by conservative people in Australia.

I remember when Mr Simon Crean tried to destabilise those men and women who went off to the Iraq war, saying that it was an unjust war. In doing so, he gave the impression that he was supporting the Iraqi regime of Saddam Hussein. But Mr Crean could not wait to get down to the airports and to the wharves when our serving men and women came back. And do you know what happened, Mr Deputy President? There was not one casualty—not one. They predicted casualties but there was not one. There is no culture on the other side of looking after our armed services men and women. Destabilising them with some of that false information that is being spread around today is the greatest manifestation of what I am talking about.

Time does not permit me to talk about this, but the history of the Labor Party in World War II was disgraceful. That may be an area for discussion another time. East Timor was the same: there was no bilateral support for the troops in East Timor. There never is. There was not in Afghanistan. There never has been support from the Australian Labor Party with respect to troops serving overseas. (*Time expired*)

Senator MARSHALL (Victoria) (3.27 p.m.)—Senator Lightfoot poses the question to the Senate: why does Labor choose defence to talk about when there are so many other issues to talk about? Indeed, there are.

Senator Ian Campbell—He didn't say that at all! Read the *Hansard*.

Senator MARSHALL—He did and I will.

Senator Ian Campbell—He did not.

Senator MARSHALL—The health system and higher education system are in disarray also, but we have to appreciate and acknowledge that the Defence budget accounts for \$15.8 billion of taxpayers' money annually, an increase of \$1.2 billion this year. More money is pouring into defence, and we need to be assured as a parliament that we are getting value for that money and that we are getting more out of defence for that extra money. Clearly, the Australian Strategic Policy Institute report presented today indicates that is not the case. That report indicates that this minister is not on top of this portfolio and that the portfolio is completely out of control.

Senator Ferris—Oh, come on!

Senator MARSHALL—Senator Ferris, you ought to read the report. I know you have not read it. I have read it and I am going to take you through some elements of the report, because the report effectively says that.

Senator Ferris—Come on!

Senator MARSHALL—One of the things it says is:

As it stands, the Defence Capability Plan is undeliverable, unaffordable and uncertain.

What do we hear the minister say in question time today? He simply dismisses this criticism with:

... for some projects there are cost pressures ...

That is a far cry from what the report actually says, which is that the defence capability plan is 'undeliverable, unaffordable and uncertain'. Here we are pumping \$15.8 billion into a mess—a portfolio that is not being managed and is absolutely out of control. It seems that every week there is a new report coming out indicating problems. There have

been several. The last ASPI report effectively said that it was pointless putting more money into defence, because they would only waste it. That is what is happening, because this portfolio is out of control.

The Auditor-General in his report put conditions on the audit of the Defence portfolio—for the first time ever. Previous ASPI reports have talked about the property sales being financially irresponsible. I turn to that point. On 19 June this year I asked the minister: why did the government sell the six properties for \$440 million and then pay more than twice that to rent them back for the next 20 years? We are going to pay \$960 million to rent back those properties over 20 years. What did the minister say? 'Obviously, our economic advisers said it made good economic sense.' I was waiting for the ASPI report—the independent report—today to verify that, to come out and say, 'Yes, the actions of this minister make good economic sense.' But the report has not done that—it has said exactly the opposite. It says:

It is hard to escape the conclusion that the last couple of years have seen both lax financial controls and a failure to allocate money where it is needed most.

It points out a myriad of other related issues and indicates to me that it is just the tip of the iceberg. That is where we are going in this portfolio—it is the tip of the iceberg and a downwards spiral. It is because there is no significant good governance happening in this portfolio. It is because this minister seems to be unable to manage the \$15.8 billion of taxpayers' money which is being poured into defence. All we seem to get is one bungle after another. We spend \$450 million for torpedoes that do not fit our submarines. We pay \$1.4 billion for frigate upgrades that are running two years late. (*Time expired*)

Question agreed to.

Taxation: Compliance

Senator MURRAY (Western Australia) (3.31 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Revenue and Assistant Treasurer (Senator Coonan) to a question without notice asked by Senator Murray today relating to taxation and negative gearing.

Last week the Treasurer, when talking about negative gearing, said:

We on this side of the House will not be abolishing negative gearing, because we believe that if you make a loss on an investment you should be able to set that loss against income, as you can under the normal principles of taxation law.

This is not entirely accurate because if you have ordinary income you cannot deduct capital losses, foreign losses, business losses—unless you meet certain criteria in the non-commercial losses legislation—and losses within a company or trust. In fact, negative gearing into shares or property is one of the very few permitted ways to reduce ordinary salary and wage income.

I refer to the issue of accountability. I think the Senate would agree that, when such issues are debated, it is important that declarations are made by senators or members if they have negatively geared investments. There is a strong likelihood that a number of members and senators will have negatively geared investments, and if they are going to participate in these debates they should declare that.

I want to quote from HSBC's Australia & New Zealand Weekly for the week commencing 14 July 2003. I have a high opinion of that publication and of their Chief Economist, John Edwards. They are balanced and informed observers. The lead-in paragraph from that publication of that week states:

Speaking to the Business Council last week, RBA Governor Ian Macfarlane concluded with a very

pertinent observation, the significance of which has been largely missed. He said that the really large fluctuations in economic activity in the last decade have not come from what used to be called the business cycle, but from booms and busts in asset prices. He mentioned the Japanese bubble, the Asia crisis and the United States stock market bubble, but he no doubt also had in mind the doubling of the average value of Australian houses over the last eight years, and the associated doubling of household debt compared to household income.

That is an extremely important observation. The classic business cycle of boom and bust has altered to a classic cycle of asset boom and bust. The thoughtful and experienced journalist Tim Colebatch, writing in the *Age* on 5 August 2003, had this to say:

In two years, the Commonwealth Bank reports, the median price paid by first home owners has risen by 50 per cent. That's one hell of an inflation rate, when average income per household rose just 6.25 per cent.

Later on in the article he says:

Last year University of Canberra economist Simon Kelly projected these trends into the future. By 2020, he estimates, barely 20 per cent of people in their early 30s will own their own home, a massive change from more than 50 per cent now. Australia will become a nation of landlords and renters, as income disparities widen, while the tax laws redistribute income from renters to landlords.

At the end of his article he says:

The supply side matters. But this boom was driven by speculative demand, and it is futile to pretend otherwise.

It is very important that people start to get a grip on the facts, and not the assertions, in this debate about negative gearing and how negative gearing has contributed to exceptionally high asset prices and the consequent inability of many young Australians and many poor Australians to acquire their own home. The purpose of negative gearing is not only to create a capital gain on an acquired

asset over a number of years, but also to reduce income tax annually on other current unrelated earned income.

The Democrats have opposed the use of negative gearing for many years because they think it is largely a tax avoidance practice, and a speculative practice. It costs Australia approximately \$2 billion a year. The United States, for example, allows negative gearing from investment to be claimed against income from that and other investments, but not against ordinary salary and wages earned income. The reason there should be a debate on negative gearing in this country is that it attacks the integrity of the tax system and also distorts the nature of asset values and the housing sector. (*Time expired*)

Question agreed to.

NOTICES Presentation

Senator Watson to move on the next day of sitting:

That the time for the presentation of the report of the Select Committee on Superannuation on draft Superannuation Industry (Supervision) Amendment Regulations 2003 and draft Retirement Savings Accounts Amendment Regulations 2003 be extended to 10 September 2003.

Senator McLucas to move on the next day of sitting:

That the time for the presentation of the report of the Select Committee on Medicare, and on the Health Legislation Amendment (Medicare and Private Health Insurance) Bill 2003 be extended to 30 October 2003.

Senator Stott Despoja to move on the next day of sitting:

That the Senate—

- (a) notes that:
 - (i) the week beginning 24 August 2003 is Hearing Awareness Week 2003, and
 - (ii) it is estimated that up to 2.7 million Australians need assistance for hearing

loss, yet only one-fifth of those Australians who would benefit from a hearing aid have one;

- (b) recognises that although the Commonwealth Government funds Australian Hearing, it does not provide funding for Auslan interpreters for the thousands of Australians who rely on Auslan interpreters to communicate with their doctors and medical specialists;

- (c) notes that:

- (i) on 14 August 2003 a petition was tabled in the Senate calling on the Federal Government to urgently fund interpreting services for deaf and deafblind Australians, and
- (ii) this petition was signed by 10,469 South Australians, highlighting the level of frustration and anger at the Government's thoughtlessness and discrimination; and

- (d) calls on the Government to provide urgent funding for Auslan interpreting services.

Senator Brandis to move on the next day of sitting:

That the time for the presentation of the report of the Economics Legislation Committee on the Late Payment of Commercial Debts (Interest) Bill 2003 be extended to 16 October 2003.

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

That the following bill be introduced: A Bill for an Act to amend the Quarantine Act 1908, and for related purposes. Quarantine Amendment (Health) Bill 2003.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.37 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Quarantine Amendment (Health) Bill 2003, allowing it to be considered during this period of sittings.

I also table a statement of reasons justifying the need for this bill to be considered during

these sittings and seek leave to have the statement incorporated in *Hansard*.

Leave granted.

The statement read as follows—

**QUARANTINE AMENDMENT (HEALTH)
BILL 2003**

Purpose of the Bill

The bill amends the human quarantine provisions of the Quarantine Act 1908 to:

- clarify the arrangement for pratique (health clearance) for overseas aircraft arrivals to be granted automatically except in specified circumstances;
- establish a framework for vector control and monitoring activities to be undertaken in and around ports and landing places; and
- include a new provision to allow people access to an independent medical opinion when ordered into quarantine.

Reasons for Urgency

Introduction and passage in the 2003 Spring Sittings is sought on the grounds of the critical importance of legislative provisions on human quarantine for the protection of public health.

The proposed amendments implement the recommendations of the Final Report of the Human Quarantine Legislation Review to better align the legislation with contemporary policy and practice.

Rapid and increasing international movement of goods and persons through migration, business travel and tourism increases the risk to the Australian population posed by the importation of communicable diseases, including quarantinable diseases. The recent outbreak of Severe Acute Respiratory Syndrome (SARS) and the potential for other new and emerging disease threats (such as an influenza pandemic) highlight the importance of border protection measures against the transmission of disease as an essential first line of defence. On 8 April 2003 the government gazetted SARS as a quarantinable disease, in order that the full measures available under the Act could be applied to this new disease threat, when and if required, based on ongoing assessment of risk.

The resulting level of public interest and awareness of quarantine issues both nationally and in-

ternationally has heightened the need for timely implementation of measures to strengthen the legislative framework for human quarantine activities in Australia.

An undertaking has been given to major stakeholders that the amendments will be implemented as a priority, as these amendments will better position the Commonwealth in the event of a disease or vector outbreak.

(Circulated by authority of the Minister for Health and Ageing)

Senator Stott Despoja to move on the next day of sitting:

That the Senate—

- (a) expresses its concern that the draft legislation prepared in accordance with Hong Kong's requirement to introduce national security legislation could encroach on the rights and liberties of the people of Hong Kong;
- (b) notes that, pursuant to the Sino-British Declaration of 1984, the People's Republic of China pledged to preserve the rights and freedoms of the people of Hong Kong for a period of 50 years from 1 July 1997;
- (c) recalls that the Australian Government has previously expressed its support for the Sino-British Joint Declaration;
- (d) welcomes the improvements to the Article 23 legislation announced by the Hong Kong Special Administrative Region (SAR) Government on 3 June 2003 and 5 July 2003, but considers that further amendments and clarifications are necessary to show how the legislation will be implemented;
- (e) looks forward to the enactment and implementation of commitments by the People's Republic of China regarding democratic governance in the Hong Kong Legislative Council; and
- (f) welcomes the Hong Kong SAR Government's decision to further consult with the people of Hong Kong regarding the proposed legislation, urging it to recognise that while national security

legislation may affect the civil liberties of offenders, it should not be used to diminish the individual rights and liberties that are fundamental to the democratic process.

COMMITTEES

Selection of Bills Committee

Report

Senator FERRIS (South Australia) (3.39 p.m.)—I present the ninth report of 2003 of the Standing Committee for the Selection of Bills, and move:

That the report be adopted.

I also seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 9 OF 2003

1. The committee met on Tuesday, 19 August 2003.
2. The committee resolved to recommend—That—
 - (a) the Communications Legislation Amendment Bill (No. 2) 2003 be referred immediately to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report on 9 September 2003 (see appendix 1 for statement of reasons for referral);
 - (b) the provisions of the Fuel Quality Standards Amendment Bill 2003 be referred immediately to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report on 28 October 2003 (see appendices 2 and 3 for statement of reasons for referral);
 - (c) the provisions of the Migration Legislation Amendment (Identification and Authentication) Bill 2003 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report on 11 September

2003 (see appendix 4 for statement of reasons for referral);

- (d) the provisions of the Non-Proliferation Legislation Amendment Bill 2003 be referred immediately to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report on 11 September 2003 (see appendix 5 for statement of reasons for referral);
- (e) the order of the Senate of 18 June 2003 adopting the committee's 6th report of 2003 be varied to provide that the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 be referred immediately to the Employment, Workplace Relations and Education Legislation Committee, together with the provisions of the Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003, for inquiry and report on 13 October 2003 (see appendices 6 and 7 for statement of reasons for referral); and
- (f) the following bills not be referred to committees:
 - Australian National Training Authority Amendment Bill 2003
 - Family and Community Services (Closure of Student Financial Supplement Scheme) Bill 2003
 - Student Assistance Amendment Bill 2003
 - Statistics Legislation Amendment Bill 2003.

The committee recommends accordingly.

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

Bills deferred from meeting of 12 August 2003

- Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003
- Social Security Amendment (Supporting Young Carers) Bill 2003.

Bill deferred from meeting of 19 August 2003

- National Animal Welfare Bill 2003.

(Jeannie Ferris)

Chair

20 August 2003

Appendix 1

Name of bill:

Communications Legislation Amendment Bill (No. 2) 2003

Reasons for referral/principal issues for consideration

The bill allows the government to direct a person not to use, supply or cease using or supply a carriage service on national security grounds and there are restricted appeals processes against such decisions. For this reason, it is imperative that the bill's provisions are carefully examined at Committee stage. Labor is concerned these provisions could be used to arbitrarily deny persons access to telecommunications services.

Possible submissions or evidence from:

Civil liberties groups

Internet users associations

Telecommunications user groups

Unions

Community organisations

Committee to which bill is referred:

Environment, Communications Information Technology and the Arts Legislation Committee

Possible hearing date: August 2003 (determined by the committee)

Possible reporting date(s): around September

P. Crossin

Whip/Selection of Bills Committee Member

Appendix 2

Name of bill:

Fuel Quality Standards Amendment Bill 2003

Reasons for referral/principal issues for consideration

To consider the effectiveness of the bill to deliver and enforceable national labelling regime for fuels that achieves:

- (1) informed consumer choice in fuel purchases; and
- (2) increase likelihood that proposed amendments result in key provisions of the act being enforceable.

Possible submissions or evidence from:

Australian Automobile Association, NRMA, RACV, automobile manufacturers, sugar and grain industry groups, ethanol manufacturers, Australian Consumers Association, ACF, oil companies.

Committee to which bill is referred:

Environment, Communications Information Technology and the Arts Legislation Committee

Possible hearing date: ASAP

Possible reporting date(s): end October 2003

P. Crossin

Whip/Selection of Bills Committee Member

Appendix 3

Name of Bill:

Fuel Quality Standards Amendment Bill 2003

Reasons for referral/principal issues for consideration:

To examine the provisions of the bill particularly in relation to the development of fuel quality information standards.

Possible submission or evidence from:

Australian Biofuels Association

Biodiesel Association of Australia

Australian Institute of Petroleum

Australian LPG Association

Australian Natural Gas Vehicles Council

Major petrol companies

Committee to which bill is to be referred:

Environment, Communications, Information Technology and the Arts Legislation Committee

Possible hearing date(s):

Possible reporting date: As soon as practicable

Lyn Allison
Whip/Selection of Bills Committee member

Appendix 4

Name of Bill:

Migration Legislation Amendment (identification and Authentication) Bill 2003

Reasons for referral/principal issues for consideration:

To examine the rationale in the provisions of the bill which gives the Minister extra powers in relation to citizen identification and the use of biometric information and the effect of these powers on individual rights and liberties if the bill is implemented in its current form.

Possible submission or evidence from:

HEREOC

Amnesty International

Refugee Immigration Legal Centre

South Brisbane Immigration and Community Legal Service

Parish Patience

Dr Patricia Ranald, Public Interest Advocacy Centre

Committee to which bill is to be referred:

Legal and Constitutional Legislation Committee

Possible hearing date(s):

Possible reporting date; As soon as practicable

Lyn Allison

Whip/Selection of Bills Committee member

Appendix 5

Name of Bill:

Non-proliferation Legislation Amendment Bill 2003

Reasons for referral/principal issues for consideration:

To investigate the impact of the provisions of the bill on currently legal protest activities against nuclear facilities, and also on 'whistleblowers' in regard to nuclear facilities.

Possible submission or evidence from:

Australian Conservation Foundation

Friends of the Earth

Committee to which bill is to be referred:

Foreign Affairs, Defence and Trade, Legislation Committee

Possible hearing date(s):

Possible reporting date: As soon as practicable

Lyn Allison

Whip/Selection of Bills Committee member

Appendix 6

Sue Mackay

Labor Senator :or Tasmania

Opposition Senate Whip

18 August 2003

Senator Jeannie Ferris Government whip

SELECTION OF BILLS AGENDA

I write to seek your cooperation to add the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 to the agenda. of the Selection of Bills Committee meeting on Tuesday 19 August 2003.

This Bill was previously considered at a meeting of the Committee but as yet has not been debated in the Senate.

I am available to discuss this matter with you if required.

Yours sincerely

Sue Mackay

Appendix 7

Name of bills:

Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003

Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003

Reasons for referral/principal issues for consideration

Committee to consider:

Why this legislation is necessary in light of existing provisions in the Workplace Relations Act covering similar issues

Similar provisions in other legislation, such as the Administrative Appeals Tribunal Act

The punitive provisions and one-sided nature of the provisions in the compliance bill

Possible submissions or evidence from:

Committee to which bill is referred:

Employment, Workplace Relations, and Education Legislation Committee

Possible hearing date: ASAP (to be determined by the committee)

Possible reporting date(s): 15 October 2003

P. Crossin

Whip/Selection of Bills Committee Member

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.39 p.m.)—I would not normally speak on this but I think that it is important that the Senate understands that this Selection of Bills Committee report will have an impact on the way that the government's program is dealt with. Generally the Selection of Bills Committee finds consensus on the reference of bills and has done so very effectively for a long period of time. We generally negotiate between ministers' and shadow ministers' offices and committees and find acceptable reporting dates which will lead to timely consideration of bills which will allow the Senate as a whole to deal with them in a timely manner.

My concern is that a number of the reporting dates in this report—and, as you will note, Mr Deputy Speaker, we are here in the middle of August—are looking at bringing matters back to the Senate reporting dates in the last week of October, which is effectively 2½ months hence, and will leave the Senate with about 2½ sitting weeks to deal with a number of bills. One particular bill I wanted to draw attention to, and it is one where the government has disagreed with the reporting date, is the **Fuel Quality Standards Amendment Bill 2003**, which this report says should be referred to the relevant committee and not

report back until 28 October. This is one on which we have disagreed on the date. We think that it is a bill that could be handled literally over the next fortnight and reported on in the first week of September to allow it to be dealt with in those weeks. There is little benefit in seeking to bring that to a vote. We know that the Democrats, the Labor Party and the majority of people would not support an earlier reporting date.

Senator Robert Ray—You could get the motion recommitted again.

Senator IAN CAMPBELL—That is right, we could try. We have a habit of that this week, Senator Ray. The point that needs to be made is that we respect that there is a majority for all of these reporting dates; we will have to live with that. I do thank the Manager of Opposition Business as he certainly works hard to try to find agreements that, quite often, find a satisfactory compromise and I thank Senator Ludwig for the work that he puts in. But I do want to make the point that we believe that this Fuel Quality Standards Amendment Bill could be reported on a lot earlier than that. We are opposed to this and a number of very late reporting dates which will back-end load the program to an even greater extent than normal. The Senate program always tends to bunch up towards the end of a sitting period, which usually means that we deal with an inordinate amount of legislation in the last few days of a sitting. The benefit on the other hand, and I want to be balanced in this presentation because it is an important issue—

Senator Ludwig—You have not been so far.

Senator IAN CAMPBELL—I am going to balance it up, Senator Ludwig, I have given you a plaudit. In principle, a Senate committee considering a bill should be able to look at the detail of legislation and then reduce the amount of time that is needed to

consider the bills in the chamber. I guess that is the upside; that is the intent. That does not always occur, so my hope is that the committees that are going to go off and do all the hard work looking into the legislation will in fact be a way of truncating the consideration in the chamber. That has not always proven to be the case in the past but I hope that that will be the case. I also hope that the Environment, Communications, Information Technology and the Arts Legislation Committee, which is handling a number of these bills, is able to report earlier on some of these bills. In particular, if it is able to bring some of the reports back in for those October sittings or, dare I say it, even some of the September sittings, it will assist the whole chamber to ensure that all of these pieces of legislation get proper consideration by the parliament and are not jammed together and considered in the early hours of a Friday morning in December.

Senator MACKAY (Tasmania) (3.44 p.m.)—I alert the Manager of Government Business in the Senate to the fact that negotiations have occurred with respect to a number of those bills this morning. As Deputy Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee, I would also point out that we do not set the parliamentary program—the government sets the parliamentary program. We are cognisant, however, having had on many occasions to give the government additional time to consider legislation after insufficient time has been set for sittings, that a logjam may in fact occur. This argument does find some favour with the opposition, and negotiations have taken place, inter alia, with respect to the bill Senator Campbell mentions. As always, we will see how we go and, as always, attempt to be cooperative.

Question agreed to.

NOTICES

Withdrawal

Senator STOTT DESPOJA (South Australia) (3.45 p.m.)—Mr Deputy President, I withdraw general business notice of motion No. 528 standing in my name for today relating to Hong Kong.

Postponement

Items of business were postponed as follows:

General business notice of motion no. 542 standing in the name of Senator Mackay for today, relating to the cancellation of the ABC program *Behind the News*, postponed till 21 August 2003.

General business notice of motion no. 544 standing in the name of Senator Ridgeway for today, relating to the Free Trade Agreement negotiations between Australia and the United States of America, postponed till 21 August 2003.

General business notice of motion no. 545 standing in the name of Senator Stott Despoja for today, relating to the Mine Ban Treaty, postponed till 21 August 2003.

COMMITTEES

Community Affairs References Committee

Extension of time

Senator MACKAY (Tasmania) (3.47 p.m.)—by leave—At the request of Senator Hutchins, I move:

That the time for the presentation of the report of the Community Affairs References Committee on poverty and financial hardship be extended to 27 November 2003.

Question agreed to.

FISHERIES: ILLEGAL FISHING

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.47 p.m.)—I move:

That there be laid on the table by the Minister representing the Minister for the Environment and

Heritage (Senator Hill) by no later than 3 pm on 21 August 2003, the following documents:

A copy of any correspondence from the Minister for the Environment and Heritage (Dr Kemp) to the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) in which the Minister for the Environment and Heritage indicated a willingness not to prosecute fishers under the *Environment Protection and Biodiversity Conservation Act 1999* for the incidental capture of members of listed threatened species, listed migratory species and listed marine species in Commonwealth areas if the fishers were operating in accordance with fishing concessions granted under the *Fisheries Management Act 1991*.

Question agreed to.

SOLOMON ISLANDS

Senator BROWN (Tasmania) (3.48 p.m.)—I ask that notice of motion No. 549, which relates to the establishment of a truth and reconciliation commission in the Solomon Islands with the assistance of the Australian government, be taken as a formal motion.

Senator MACKAY (Tasmania) (3.48 p.m.)—by leave—I just want to check with Senator Brown that there is an amendment with respect to this motion. Is he proposing to amend his motion?

Senator Brown—No.

Senator MACKAY—Is he sure?

Senator BROWN (Tasmania) (3.48 p.m.)—by leave—I gather from the communication I am having now with Senator Mackay that there has been a request from the opposition for me to amend this motion in some way. It is an important motion and I would like to see it get through. I therefore seek leave to ask the Senate if I could have it held over until tomorrow.

Leave granted.

Senator BROWN—I move:

That general business notice of motion No. 549 be postponed till the next day of sitting.

Question agreed to.

SOLOMON ISLANDS: INDO-PACIFIC BOTTLENOSE DOLPHINS

Senator BROWN (Tasmania) (3.49 p.m.)—I move:

That the Senate—

- (a) recognises that as many as 170 Indo-Pacific bottlenose dolphins are being held in primitive sea pens in the Solomon Islands;
- (b) notes that a recent inspection by Solomon Island non-government organisations and Australian diplomatic staff indicates that six of these dolphins have died from starvation in the past week and the remaining dolphins are lying motionless in overcrowded and shallow pools contaminated by faeces, and a number have blistered due to exposure to the sun; and
- (c) calls on the Australian Government:
 - (i) to provide immediate veterinary attention to the dolphins, and
 - (ii) after the dolphins have received veterinary attention, to press the Solomon Islands' authorities for their immediate release.

Question agreed to.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (3.51 p.m.)—I was caught on the hop by Senator Brown's motion No. 550 about dolphins, which has been voted on and agreed. Senator Brown and I had a private conversation yesterday. For the benefit of all senators and everybody, I table a document which responds to those points raised in the motion.

INDIGENOUS AFFAIRS

Senator CHERRY (Queensland) (3.52 p.m.)—I move:

That the Senate—

- (a) notes that thousands of Indigenous workers in Queensland suffered the economic injustice of having their wages stolen, or of being underpaid, as the direct result of Government policy up to the 1970s;
- (b) endorses the view of the Queensland Council of Unions that the issue of stolen wages is a legitimate issue of wage and workers' justice; and
- (c) calls on the Beattie Labor Government to withdraw its paltry \$2,000 and \$4,000 compensation caps and negotiate a full, just and proper settlement of stolen wages.

Question negatived.

COMMITTEES

Privileges Committee

Report

Senator ROBERT RAY (Victoria) (3.52 p.m.)—I present the 114th report of the Committee of Privileges, entitled *Execution of search warrants in senators' offices—Senator Harris: matters arising from the 105th report of the Committee of Privileges*.

Ordered that the report be printed.

Senator ROBERT RAY—I move:

That the Senate take note of the report.

The report I have just tabled follows on from the committee's 105th report, tabled in June last year, which concluded that there had been no breaches of the immunities of the Senate or contempts of the Senate involved in the execution of a search warrant on the Mareeba office of Senator Len Harris on 27 November 2001. The search warrant was issued in connection with an investigation into election reimbursement claims submitted by Pauline Hanson's One Nation Queensland Division for the 2001 state general election.

An issue which remained unresolved at the time the committee reported was whether any of the documents taken by the Queensland Police Service from the office of Sena-

tor Harris were immune from seizure because they were covered by parliamentary privilege. A second issue was whether any of the documents were outside the terms of the warrant: that is, whether any of the documents were seized unlawfully. Apart from a few documents in paper form, all the documents in question had been copied by the Queensland Police from computer hard drives in Senator Harris's office onto five compact discs and three hard drives. These were subsequently sealed and placed in a safe in the office of the Queensland Police Service Solicitor, after intervention by the Clerk of the Senate.

In December last year the Committee of Privileges decided to commission an independent assessor to address the two unresolved issues: that is, to determine whether any documents were covered by parliamentary privilege and whether any were outside the terms of the warrant. It did so acting under the terms of its original inquiry into the execution of the search warrant. The committee decided to act after receiving a request to that effect from the Queensland Police Service, which had been notified by Senator Harris's solicitors that Senator Harris would be maintaining a general claim of privilege rather than identifying particular documents himself. The committee also was mindful of the action previously taken by the Senate in the case of a search warrant executed on the offices of then Senator Crane.

The independent assessor appointed by the committee was Mr Stephen Skehill, who had conducted a similar exercise with respect to the documents seized by the Australian Federal Police in the Crane matter. Both the Queensland Police Service and Senator Harris agreed to be bound by the outcome of the independent assessment. Mr Skehill presented his report on his assessment of the documents to the committee on 7 August. It is reproduced in full as an appendix to the

committee's report. Mr Skehill was asked to examine the documents and divide them into two categories: those not covered by the warrant or immune from seizure by virtue of parliamentary privilege, which were to be returned to Senator Harris; and those not immune from seizure, which were to be conveyed to the Queensland Police.

In his report to the committee Mr Skehill puts his view that the police, in 'mirroring' or downloading Senator Harris's computerised information onto compact discs, removing those discs and transferring the data to hard drives, had acted outside the scope of the warrant. He says that on that basis alone he could conclude that none of the documents printed from the hard drives was within the warrant. Nevertheless, because he had been engaged by the committee to examine all the documents, he had done so. He downloaded and examined a total of 74,098 pages of documents. Mr Skehill found, as a result of examining each document, that not one of the 74,098 pages of documents was within the terms of the warrant. Because of this finding, it was not necessary for him to determine which of the documents would also have been immune from seizure on the basis of parliamentary privilege.

The outcomes of the assessments conducted by Mr Skehill for the Senate, in the case of former Senator Crane, and for the Committee of Privileges, in the case of Senator Harris, raise an important issue. This is that on two occasions after the execution of search warrants on the offices of senators, either a large proportion or all of the documents seized by police were found to be outside the warrant—that is, they were seized illegally. It is the role of the courts to determine whether documents seized in the execution of a search warrant fall within the terms of the warrant. The question has to be asked: why, then, in the case of search warrants executed on the offices of senators is

the Senate performing this task? The answer is that the Senate and the Committee of Privileges have become involved basically because the courts, or at least the Federal Court, have effectively passed the buck. In *Crane v. Gething*, a judge of the Federal Court determined that the issue of search warrants was an executive act and not a judicial proceeding, and that only the house concerned and the executive could determine whether parliamentary privilege applied to documents subject to seizure under a search warrant. The judge did not accept the view put by the Senate at the time that the courts should determine the application of parliamentary privilege.

In the committee's view, the judge's finding is wrong: it should be for the courts to apply the law of parliamentary privilege and to make the necessary determinations, as the courts do with any other law. In the case of former Senator Crane the independent assessor, after commencing his assessment of documents to determine those immune from seizure because of privilege, soon found that the majority were also outside the terms of the warrant. The Senate subsequently authorised the independent assessor to examine the documents on both grounds. In the matter involving Senator Harris, the Committee of Privileges asked the independent assessor from the start to examine the documents on both grounds. In both cases this was done with the agreement of the relevant police agency. Asking the independent assessor, in both cases, to identify documents outside the warrant as well as those to which privilege should apply was done to provide maximum protection to the senators concerned. So we have the situation of the Senate performing roles which should be performed by the courts. And until the decision in respect of privilege in *Crane v. Gething* is overturned, we are probably stuck with it.

Although we may be stuck with it for the time being, there are two ways in which the work involved can be minimised. The first is that police forces in all jurisdictions should properly train their police to strictly observe the limitations set out in particular search warrants. That is what is required of them by the laws governing search warrants. If there is a problem for police in determining what material on a computer may be relevant to an offence, the answer is not to take the easy way out and sweep up everything for examination later. It may be that the law has not caught up with the difficulties which can be caused by a computer's ability to store vast amounts of information, and that the law in various jurisdictions may need to be revisited, but not in such a way that police have arbitrary and unlimited powers of seizure.

The second is that protocols should be put in place which will assist police in the identification of documents which may be subject to a claim of parliamentary privilege. An appropriate model here, which the committee canvassed in its 75th report and has advocated since, is that which has been developed by the Law Council of Australia and the Australian Federal Police in relation to documents subject to claims of legal professional privilege. Such protocols in respect of parliamentary privilege were being developed by the Attorney-General's Department and the Australian Federal Police for consideration by the Presiding Officers, but have yet to see the light of day. In its report, the committee urges that they be developed as soon as practicable.

The 40 cartons of documents have been returned to Senator Harris, although not directly. Officers of the Senate and one of Senator Harris's staff accompanied the documents to their final graveyard and they were destroyed yesterday, I think. It would have been a massive punishment to give the 40 cartons to Senator Harris, but we desisted

from that and now, I understand, they are no longer in existence. I commend the report to the Senate.

Senator HARRIS (Queensland) (4.01 p.m.)—I concur absolutely 100 per cent with the decision of the Privileges Committee, and also Senator Ray's comments. On a lighter note in something that has enormous gravity I can also assure Senator Brown that we have done the environmentally correct thing and those 40 boxes of documents that it was necessary to create are now being recycled.

Back to the issue: as Senator Ray has clearly set out, on 9 January the Commonwealth Department of the Senate engaged Mr Skehill to look at the materials and to check them for two issues: firstly, privilege and, secondly, those that fell within the scope of the warrant. In Mr Skehill's response to the Committee of Privileges at item 2.1 it says:

When Queensland Police Service officers purported to execute the warrant at Senator Harris' office on 27 November 2001, they "mirrored" the hard discs of computers located in that office onto 5 compact disks in a compressed and encrypted form.

The important word there is 'purported' because we are increasingly seeing situations of warrants that are executed by police officers and, as Senator Ray has so correctly identified, some of those warrants are defective. Mr Skehill went on to say at 2.8:

In the end result, after various other options failed—

This is speaking with regard to three files that they could not open. The Privileges Committee was approached and they also then approached me asking if I could assist with that. I provided a compact disk that carried a program that had been developed for me and subsequent to that Mr Skehill was able to access all of the files. Speaking

briefly on the search warrant, at 3.5 Mr Skehill's report says:

The search warrant goes on to identify which of section 79 search warrant powers may be exercised under it and appears to exclude only the powers set out in sections 74(2)(a) and 74(2)(b)(i).

At 3.6 it says:

The powers therefore conferred did not expressly include a power to "mirror" on to compact discs, or download a copy of, the contents of computers located on the premises named in the warrant and to take away the copy thereby made.

Mr Skehill goes on to say at 3.11:

In my view therefore the actions of the Queensland Police Service in:

- (a) 'mirroring' or downloading Senator Harris' computer information onto compact discs;
- (b) removing those discs from Senator Harris's office; and
- (c) transferring the data on those compact discs onto hard drives,

were outside the scope of its power under the search warrant.

He goes on to speak about the documents he examined and his ultimate assessment that none of them fell within the scope of the warrant.

The issue I want to bring before the chair this afternoon goes further than protecting senators. I agree with Senator Ray that all senators are entitled to a reasonable protection in relation to the activities that they carry out in their offices. What concerns me further is the protection of the confidentiality between a constituent and that senator, and that, I believe, is the real problem with this whole issue. Yes, I have been totally vindicated by the investigation, but that does not take away the fact that there are now a group of people who have had complete access to every constituent who has written to my office for over a three-year period. They have

access to every action that I have recommended on behalf of those constituents and the ultimate outcome of those issues. That is the issue that the Senate needs to address.

If the Senate does not address that issue how then can constituents have the confidence that they can take very personal issues to the one person who has been elected to this Senate to look after their interests? How can they take those very confidential, private, personal issues to a senator and know absolutely, with categorical assurance, that they will not be divulged to anyone else? That is the issue that has to be addressed by this chamber. The issue is the confidence of the people of Australia in our Senate.

Senator BROWN (Tasmania) (4.08 p.m.)—I have a great deal of concord with the position put by the senator who has been injured by this process and by the seizing of all the documents in his senatorial office relating to all constituent matters. If there is no consequent action on this, then we are all vulnerable to that further down the line, and we ought not to be. This is the heartland of democracy we are talking about. This is the contact between elected representatives to this national parliament and their constituents.

Through the want of a police investigation, according to authorities, the documents were not selectively taken. There was not a process which could sort out what documents might be germane to police investigations that were being undertaken. Senator Harris and his constituents simply had everything taken from them in terms of, as he has just said, the relationship between elected representative and electorate. We can say that this should not happen, but I agree with Senator Harris there has to be a process put in place to ensure that it does not happen. It is just not good enough to say that police at the level at which the seizure was taking

place need to be educated. We need it to be known by the authorities on the top rung that if they take action like this they will suffer very severe consequences.

We are living in an age when there is a great deal of pressure put on to investigate and to invade the privacy of every citizen in this country. That is coming from the government due to global circumstances. But this matter occurred before that pressure arose and I think we have to make sure and be diligent that measures are in place to ensure that tomorrow it is not any senator opposite or any senator on this side who is next in having all their documents seized.

I am very open about relationships with the electorate but there are some matters which are simply confidential, as they are in any relationship between people who are professional and people in the public who want counsel or want to have action taken against a grievance or to promote a benefit to society. What has happened in this situation is not acceptable. In particular it should not be left as acceptable because the senator involved happens to be from a minor party. We should ask ourselves: what would be the case if this was the office of the President of the Senate or the office of the Prime Minister that was invaded by the police, and all constituents'—all constituents'—letters seized and read and, as far as we know, kept on record?

Senator Robert Ray—They were not read once privilege had been invoked. The police have no idea what was in Senator Harris's file.

Senator BROWN—I thank Senator Ray for that. They were not read once privilege had been invoked, and that is important for the sensitivities of those people involved. I think it is fortunate that they were not read and are not recorded. We have not got a

guarantee that that is not going to happen in the future. It is a very serious matter.

The government has lots of measures coming down the line to have people taken off the street and questioned even if they are innocent, to have people investigated, or to have their phone lines effectively cut if they are rated as a security threat to the country. This senator is not a security risk. His constituents are not. But they have been treated in a way which should not occur in a democracy. The question to the government is: what action is in train on this occasion to defend that important privilege between elected representatives and their constituents?

Question agreed to.

Public Accounts and Audit Committee Report

Senator WATSON (Tasmania) (4.14 p.m.)—On behalf of the Joint Committee of Public Accounts and Audit, I present the 395th report of the committee entitled *Inquiry into the Draft Financial Framework Legislation Amendment Bill* and move:

That the Senate take note of the report.

This report presents the committee's review of an exposure draft of the Financial Framework Legislation Amendment Bill. The review commenced following a proposal from the Minister for Finance and Administration. The committee has had an ongoing interest in the Commonwealth's financial framework, having recommended in 1995 that the government introduce accrual budgeting. Most recently the committee reviewed the accrual budget documentation in 2002. The committee believes that the review of the draft bill will identify at an early stage any changes that are needed and will expedite passage of the bill when it is introduced in parliament.

The bill is very long. It proposes amendments to 108 acts of parliament and the re-

peal of 28 acts. Some of the amendments introduced by the bill cover technical matters such as the nature of, and the framework for, special accounts, which record amounts in the consolidated revenue fund designated for specific purposes. The committee has concluded that the bill will make an important contribution to improving the financial framework. It will do so by aligning references in many acts to financial management with the Financial Management and Accountability Act 1997, by updating provisions to reflect good practice and by clarifying other provisions.

However, the committee has recommended some changes to the draft bill with a view to further improving the financial framework legislation. These include enhanced information to be included in determinations of the Minister for Finance and Administration made under the Financial Management and Accountability Act 1997 to establish a special account, and a change of the term 'special account' to 'designated purpose account'. The committee also considered whether reporting in the Commonwealth will be improved by the bill. In relation to special accounts the committee has noted improvements in the reporting to parliament for 2003-04. However, it will keep a watching brief on actual improvements to ensure that greater transparency and accountability to parliament is achieved.

The committee is of the firm view that the Commonwealth's financial framework legislation is important to underpin the efficient and effective management of the Commonwealth's resources and to promote good practice. The bill, with the changes recommended by the committee, will bring this framework up to date. Consequently, the bill should be introduced into parliament as soon as is feasible.

In conclusion, I express the committee's appreciation of those people who contributed to the inquiry by preparing submissions and giving evidence at the public hearings. I also thank the Department of Finance and Administration and the Australian National Audit Office, which made important and useful contributions to the inquiry by making their technical expertise available to the committee. I also thank the members of the sectional committee involved for their time and dedication in conducting this inquiry. That includes the secretariat staff: the acting secretary to the committee at the time, Mr James Catchpole; the inquiry secretary, Dr John Carter; the research staff, Mr Gavin Ford and Ms Suzanne Hinchcliffe; and the administrative staff, Ms Maria Pappas.

I also take this opportunity to pay special tribute to the Chairman of the Joint Committee of Public Accounts and Audit, Mr Bob Charles. Bob Charles recently announced that he will not be standing for re-election at the next federal election. Bob Charles has been a fearless leader of the very powerful and influential Joint Committee of Public Accounts and Audit. Bob's leadership of the committee has produced some noteworthy reports of ongoing significance. Bob has been a prominent guest at public forums on matters of government not only in Australia but also on the international stage. We will indeed miss him next year or whenever the election is held. I commend the report to the Senate.

Question agreed to.

Treaties Committee

Report

Senator KIRK (South Australia) (4.18 p.m.)—On behalf of the Joint Standing Committee on Treaties, I present a report entitled *Treaties tabled in May and June 2003*, together with the *Hansard* record of

proceedings and the minutes of proceedings, and move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement in *Hansard*.

Leave granted.

The statement read as follows—

Report 53 contains the findings of the inquiry conducted by the Joint Standing Committee on Treaties into nine treaty actions tabled in the Parliament on 14 May 2003 and 17 June 2003, relating to the matters identified in the title of the report.

A further treaty action proposing Amendments to the annex to the International Convention for the Safety of Life at Sea, 1974, including consideration and adoption of the International Ship and Port Facility Security Code was also tabled on 14 May 2003. The Committee believes that this treaty warrants further investigation and has informed the Minister for Foreign Affairs accordingly.

Mr President, the Agreement with Sri Lanka for the Promotion and Protection of Investments aims to encourage and facilitate bilateral investment by citizens, permanent residents and companies of Australia and Sri Lanka. The Agreement is intended to put Australian investors in a better position to benefit from the investment opportunities in Sri Lanka by providing them with a range of guarantees relating to non-commercial risk.

The Committee also supports the Social Security Agreements with Belgium, Chile and Slovenia which essentially address gaps in social security coverage and provide for portability of benefits from one country to another. They predominantly cover age pensions, disability support pensions for people who are severely disabled, and survivors' pensions. While the agreements have several features in common, they also cover specific entitlements such as Chilean pension of mercy payments.

Mr President, the Agreement with Timor-Leste relating to the Unitisation of the Sunrise and Troubadour Fields provides a comprehensive framework for the joint development of the Sunrise and Troubadour Fields, together known as the

Greater Sunrise Field, which straddles an international boundary. The significance of the International Unitisation Agreement is that it is the framework which will allow the commercial exploitation of the Greater Sunrise Field to proceed. It addresses matters such as the administration of the Field, taxation, employment and training, safety and health, as well as customs, security and environmental protection.

The Committee recognises that International Labour Organization Conventions Numbers 83, 85 and 86, which apply only to Norfolk Island, are no longer relevant to Australia. The Committee found that these denunciations ensure that International Labour Organization Conventions that are no longer relevant to our circumstances form part of Australia's regulatory structures.

Mr President, among the proposed treaty actions tabled on 17 June and supported by the Committee was the Agreement on Medical Treatment for Temporary Visitors with the Kingdom of Norway. This bilateral reciprocal health care Agreement enables visiting residents of one country to access the public health system of the other, and to obtain any treatment that is immediately necessary prior to travelling home. This particular agreement covers public hospital, pharmaceutical care and 'out-of-hospital care'.

The Committee also supports the Convention on Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, which will establish a Commission to manage and conserve such fish stocks and promote their optimum utilisation and sustainable use. The Committee recommends that, through preparatory conferences, Australia support and encourage the aim of ensuring that countries that are proposed as members of this body, ratify the United Nations Fish Stocks Agreement. Mr President, the Committee was concerned about an apparent conflict in the principles that the Commission will follow in adopting conservation measures between 'best scientific evidence' and a 'precautionary approach'. The Committee considers that the notion of 'precautionary approach' is ill-defined and recommends that, in future, Australia seeks to give preference to more rigorous language such as that contained in Article 5(b) relating to 'best scientific evidence'.

Mr President, the treaty action concerning the Fulbright Agreement amends one provision. It provides that members of the Board of Directors of the Australia-American Fulbright Commission are appointed for two years instead of the current one. The Committee believes that the amendment will result in the Board operating more efficiently and effectively.

In conclusion, Mr President, it is the view of the Committee that it is in the interest of Australia for all the treaties considered in Report 53 to be ratified, and the Committee has made its recommendations accordingly.

I commend the report to the Senate.

Senator STEPHENS (New South Wales) (4.18 p.m.)—I rise to speak briefly to the report of the Joint Standing Committee on Treaties and in particular to draw the attention of the Senate to an important treaty that was signed between the government of Australia and the government of the Republic of Chile on 25 March this year. Some aspects of that agreement are very noteworthy because they highlight Australia's commitment to human rights, human dignity and decency and show a generosity of spirit that seems to have been missing from some government decisions.

In particular, this agreement with Chile makes reference to the Chilean pensions of mercy payments. These payments are reparations for human rights abuses or political violence suffered in Chile between 11 September 1973 and 10 March 1990. It has appropriately been decided that these payments are not to be treated as income for the purpose of social security income tests and means tests. This comes after a very long period of advocacy by the Australian Chilean communities in Melbourne, Sydney and Canberra and by my parliamentary colleague Nicola Roxon, the federal member for Gellibrand, who first raised this issue in the parliament almost two years ago.

It has been estimated that these pensions of mercy would amount to under \$1,000 per year for each of a fixed group of around 400 people—a trifling amount in the larger scheme of things and a small gesture of compassion to people who suffered so grievously during that sad period of Chilean history and for whom such a small payment for previous damage is undeniably justified, even though it can never make up for the horrors they experienced. There is a precedent for this exemption of the Chilean pensions of mercy from the Australian social securities income test. An exemption exists in law for Holocaust payments by several countries to people who were victims of the Holocaust in Europe.

However, there is a very important issue of concern to the Australian Chilean community in relation to these arrangements. This is the issue of an income tax exemption for Chilean pensions of mercy. In a letter dated 20 March 2003 to Ms Valenzuela, President of the Chilean Committee for the Politically Exonerated People and Relatives of Disappeared Persons Victoria, the Treasurer has advised:

Some pensions received by Australian residents from foreign compensation schemes are exempt from tax. However, these exemptions are limited to pensions relating to National Socialist persecution, or to persecution by forces of an enemy of the Commonwealth or resistance against these forces during the Second World War.

It would be difficult to provide an exemption to Chilean pensions of mercy and not provide such an exemption more broadly to other foreign compensation schemes that may be payable to Australian residents now, or in the future.

Honourable senators will be aware that this broad issue is about to come before the Senate in the form of schedule 1 of the Taxation Laws Amendment Bill (No. 7) relating to the provision of an exemption from income tax

and capital gains tax for Second World War payments relating to persecution, loss or damage to property, or illness and injury resulting from persecution or involvement in resistance during World War II. Surely in dealing with that legislation we should afford the survivors of Pinochet's brutal regime who have found refuge in Australia the same concessions as those of the Holocaust.

Question agreed to.

Scrutiny of Bills Committee

Report

Senator MACKAY (Tasmania) (4.22 p.m.)—On behalf of Senator Crossin, I present the eighth report of 2003 of the Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills *Alert Digest* No. 9 of 2003, dated 20 August 2003.

Ordered that the report be printed.

NOTICES

Presentation

Senator O'BRIEN (Tasmania) (4.22 p.m.)—by leave—I give notice that on the next day of sitting I shall move:

That the Senate—

(a) notes that:

- (i) 18 August to 24 August 2003 is National Landcare Week,
- (ii) Labor established Landcare in 1989,
- (iii) Landcare is a program of community-based land care projects directed by landholders, community groups and individuals who contribute to grass roots conservation activity,
- (iv) Landcare has made an invaluable contribution to tackling the decline in Australia's land and water quality, but significant challenges remain, and
- (v) the 2003 National Landcare Awards recognise organisations and individuals making an outstanding contribution to the protection and rehabilitation of Australia's land and waterways;

(b) congratulates finalists in the 2003 National Landcare Awards and thanks all Landcare volunteers for their magnificent contribution to our environment;

(c) notes that:

- (i) Landcare's contribution and future are being undermined by the fact that the Howard Government has not organised the Natural Heritage Trust 2 (NHT2) appropriately and as a result, up to 600 Landcare and Coastcare coordinators across Australia were moved to short-term contracts on 7 July 2003 when their Commonwealth-funded contracts expired, and
- (ii) as a result 600, highly skilled Landcare and Coastcare workers are at increased risk of leaving these programs to find more stable employment, and that the programs may face a skills shortage and therefore be less effective in the future; and

(d) condemns the Howard Government for its mismanagement of NHT2 and therefore its lack of commitment to Landcare.

TURNBULL PORTER NOVELLI

Return to Order

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.23 p.m.)—by leave—This statement is on behalf of Hon. Ian Macfarlane MP, the Minister for Industry, Tourism and Resources. The order arises from a motion moved by Senator Brown, as agreed by the Senate on 25 June 2003, and it relates to work undertaken by the public relations company Turnbull Porter Novelli for Biotechnology Australia and the department. I now table the relevant documents.

COMMITTEES

Public Works Committee

Reports

Senator McGAURAN (Victoria) (4.24 p.m.)—On behalf of the Parliamentary Standing Committee on Public Works, I present the

following reports: No. 5 of 2003—*Redevelopment of the Australian Institute of Sport, Bruce, ACT*; No. 6 of 2003—*Provision of facilities for the collocation and re-equipping of the 1st Aviation Regiment at Robertson Barracks, Darwin, NT*; and No. 7 of 2003—*RAAF Base Tindal perimeter security fence, Katherine, NT*. I move:

That the Senate take note of the reports.

I seek leave to incorporate three tabling statements in *Hansard*.

Leave granted.

The statements read as follows—

REDEVELOPMENT OF THE AUSTRALIAN
INSTITUTE OF SPORT, BRUCE,
AUSTRALIAN CAPITAL TERRITORY

On behalf of the Parliamentary Standing Committee on Public Works I present the Committee's fifth report of 2003 titled: *Redevelopment of the Australian Institute of Sport, Bruce, Australian Capital Territory*.

The purpose of the proposed works is to provide facilities at Bruce capable of supporting elite athlete training and, more generally, to enable the Australian Sports Commission to fulfil its statutory role in developing Australian sport. The estimated cost of the proposed works is \$ 65.4 million.

As the Commonwealth agency responsible for the development of participation in sport at both the elite and community levels, the Australian Sports Commission seeks to maintain and develop its reputation and capabilities:

- as a world leader in sports development;
- as a national centre of excellence in elite sports development, training and education;
- as a national leader in the development of Australian sport; and
- in the delivery and expansion of sports training and development services.

The proposed refurbishment of the Australian Institute of Sport will also enable the Sports Commission to deliver the Federal Government's ten-year plan for Australian Sport, *Backing Aus-*

tralia's Sporting Ability—A More Active Australia, which was announced in April 2001.

The work is necessitated chiefly by the fact that many of the facilities at Bruce are around 20 years old and are no longer adequate for their purpose.

Many training facilities are outdated and no longer provide athletes with a competitive advantage in international competition. Much of the office and residential accommodation is sub-standard, can not accommodate current technologies and work practices and, in some cases, does not meet occupational health and safety requirements.

The ad hoc nature of past development and refurbishment also means that facilities require rationalisation to increase amenity and efficiency.

Works required to meet the Sports Commission's objectives comprise:

- new residential, dining and education facilities for athletes;
- a new AIS Service Hub, comprising a range of new testing and training facilities;
- the upgrade of technology and air-conditioning of training halls and the AIS Arena;
- extension of the Gymnastics Hall;
- a new Combat Sports Facility;
- an Aquatic Testing and Training Facility;
- improvements to the existing pool complex;
- a Sports Development and Education Centre;
- modernisation of Sports Commission's office building;
- improvements to Rowing Centre at Yarralumla;
- an upgrade of trunk engineering and support infrastructure as required; and
- any necessary demolition.

Members of the Committee inspected the site of the proposed works and noted particularly the necessity of upgrading the athletes' dining and residential facilities.

While there were no major concerns raised in relation to the Sports Commission's proposal, the

Committee was interested to hear how any delay or alteration to the construction of the new Gungahlin Drive may affect the project.

The Committee was informed that the road alignment agreed upon by both the ACT Government and the National Capital Authority was also the alignment preferred by the Australian Institute of Sport, as it minimised noise and air pollution impacts upon the campus. The Australian Sports Commission stated that they would be concerned should the route of Gungahlin Drive be altered.

The Committee also wished to know if the Sports Commission anticipated any impact upon project costs and timing to result from increased competitiveness in the Canberra construction sector, following the recent bushfires.

The Sports Commission replied that it believed local industry would be able to meet the demands of the project and added that, the bulk of construction works would not commence for some eighteen months, when more normal industry conditions may be expected to prevail.

The Committee was generally satisfied with the quality of evidence presented to the inquiry, but requested that the Commission provide a more detailed cost breakdown for the athlete's residences and associated dining and recreational facilities, as these constitute a significant proportion of the total project budget. The Commission subsequently provided the requested figures in writing.

In closing, Mr President, I would like to thank my Committee colleagues for their support throughout this inquiry, the staff of the secretariat and all those who assisted the Committee in the course of its inquiry.

I commend the Report to the Senate.

PROVISION OF FACILITIES FOR THE
COLLOCATION AND RE-EQUIPPING OF
THE 1ST AVIATION REGIMENT AT
ROBERTSON BARRACKS, DARWIN, NT

Mr President, on behalf of the Parliamentary Standing Committee on Public Works I present the Committee's sixth report of 2003 titled: *Provision of Facilities for the Collocation and Re-*

equipping of the 1st Aviation Regiment at Robertson Barracks, Darwin, NT.

The report addresses a range of new facilities necessary to support the relocation to Robertson Barracks of the 1st Aviation Regiment, and the equipping of the Regiment for the introduction into service of the new *Tiger* reconnaissance helicopters. The cost of the proposed works is estimated at \$75 million.

The Defence policy White Paper *Defence 2000* confirmed the need to improve the firepower, protection and mobility of Australia's ground forces. To meet this requirement, Defence intends that two squadrons of armed reconnaissance helicopters should be introduced into service by 2004-05.

The armed reconnaissance aircraft will be a significant new capability for Defence. Twenty-two *Tiger* helicopters are to be procured under the Armed Reconnaissance Helicopter Project, 17 of which will be operated by the 1st Aviation Regiment. The restructuring and collocation of the Regiment is necessary to optimise the combat power of this capability.

At present, the 1st Aviation Regiment is spread across several Australian military bases; with its headquarters, surveillance and technical support squadrons based at Oakey in Queensland; one reconnaissance squadron and an operational support squadron at RAAF Base Darwin; and a second reconnaissance squadron at Laverack Barracks, Queensland. Under the proposed new arrangements, the Regiment will be reorganised into five squadrons, all of which will be accommodated at Robertson Barracks.

The decision to base the armed reconnaissance aircraft at Robertson Barracks also provides operational synergies with the 1st Brigade's ready deployment formation, located at RAAF Base Darwin. This unit has the high mobility capability most consistent with the 1st Aviation Regiment's intended capability.

Works required to meet the Defence objective include:

- 1st Aviation Regiment Headquarters facilities;
- a logistics precinct;
- aircraft repair and maintenance workshop;

- vehicles and stores repair and maintenance workshop;
- hangars and shelters for 17 aircraft;
- training facilities, including a flight simulator;
- associated engineering services; and
- living-in accommodation for 110 personnel.

It is anticipated both by Defence and by the Northern Territory Department of Business, Industry and Resource Development that the works will be of immediate benefit to the local economy. It is Defence's intention to adopt a contracting methodology that will maximise opportunities for local small to medium enterprises to become involved in the project. It is estimated that some 150 personnel will be employed on-site during the two-year construction phase of the works, with further job opportunities being generated off-site from the manufacture and supply of materials and equipment.

Some issues relating to the Defence proposal were raised by the Northern Territory Airspace Users Advisory Committee and Darwin International Airport. Specific concerns held by these bodies included:

- air safety implications of the Defence proposal;
- the potential for *Tiger* helicopters operating from Robertson Barracks to disrupt civil aviation operations at Darwin airport; and
- the ongoing validity of Defence's arrangements in relation to the proposed helicopter flight path.

Both written and verbal evidence received by the Committee demonstrated that Defence is aware of the issues surrounding air traffic management and is working to address them.

At the public hearing, Defence stated that the results of a safety case investigation into airspace management at Robertson Barracks had just become available, to the effect that the Civil Aviation Safety Authority approved the Defence proposal. Written confirmation of this approval was subsequently forwarded to the Committee, to the Northern Territory Airspace Users Advisory Committee and to Darwin International Airport.

Defence stated further that it had made a policy commitment that, excepting emergency or conflict situations, civil aircraft in the Darwin area would be given priority at all times.

Defence assured the Committee that *Tiger* helicopters would use Robertson Barracks as a departure and arrival point only. It is proposed that the aircraft will follow a specified flight corridor to undertake operations well away from residential and environmentally sensitive areas. Both Defence and officers of the Northern Territory Government stated that the future development of the land below the proposed flight corridor for residential use was unlikely.

In view of the approval of the aviation safety case and Defence's commitment to the resolution of any future air traffic management issues, the Committee recommends that the works proposed for the Collocation and re-equipping of the 1st Aviation Regiment and Robertson Barracks proceed at a cost of \$75 million.

Mr President, I wish to thank the many people who assisted the Committee during the course of the inspection and public hearing, my Committee colleagues and the staff of the secretariat.

I commend the Report to the Senate.

RAAF BASE TINDAL PERIMETER
SECURITY FENCE, KATHERINE, NT

Mr President, on behalf of the Parliamentary Standing Committee on Public Works I present the Committee's seventh report of 2003 titled: *RAAF Base Tindal Perimeter Security Fence, Katherine, NT*.

The objective of the project is to enhance security at RAAF Base Tindal by means of an alarmed perimeter security fence some 13.9 kilometres in length. The estimated cost of the proposed works is \$9.25 million.

The Defence submission identifies three principal elements which constitute the need for the proposed perimeter security fence; namely:

- the protection of Defence property and capability,
- the prevention of injury claims; and

- the inadequacy of the current security arrangements.

As the home base of 75th Squadron, a tactical fighter squadron equipped with F-18 Hornet aircraft, RRAAF Base Tindal plays a key role in maintaining Australia's air combat capability. Loss or damage of base property and aircraft through theft or sabotage could impair the base's ability to fulfil its role. Protection of the base and the aircraft is, therefore, essential.

As the base perimeter is not adequately controlled and sign-posted, there is also concern that injury to persons entering the area may give rise to damages claims against Defence.

Security at RAAF Base Tindal currently consists of a passive or non-alarmed fence, which is patrolled by Defence personnel and guarded at key points during times of increased security.

The existing fence:

- does not comply with the present Defence Security Policy;
- is poorly sited; and
- is inadequate as both a deterrent to, and an indicator of, intrusion.

Works associated with the construction of the new perimeter fence will include:

- a weld-mesh security fence equipped with intruder detection systems and security cameras;
- a standard cattle fence outside the security fence to prevent activation of the alarm by livestock;
- a sealed, all-weather access road inside the fence;
- a maintenance track/firebreak outside the fence;
- a computerised control system located inside the base; and
- civil works, including culverts and drainage channels.

Prior to the public hearing, Defence informed the Committee of four major changes to the construction plan for the new fence that had arisen from a value and risk assessment process undertaken

subsequent to the preparation of Defence's written evidence in June 2002.

The changes included:

- amendment of the fence alignment to reduce the overall length from 17.7 km to 13.9 km, and to provide improved access to Katherine's civil air terminal;
- the use of weld mesh instead of chain mesh;
- the installation of an intruder detection system with security cameras in place of taut wire technology; and
- sealing of the proposed all-weather road.

Defence believes that these alterations to the original proposal will improve the through-life costs and performance of the fence.

At the public hearing, Defence explained that the fence would be designed to a British standard, which is more stringent than the comparable Australian Standard; and would also comply with the relevant sections of a raft of national and departmental codes, standards and regulations. In response to a request from Committee members, Defence confirmed in writing the currency of all applicable policy guidance documents.

At the hearing, the Committee noted that changes to the original fence alignment had resolved potential difficulties associated with public access to the Tindal civil terminal. The Mayor of Katherine, who was present at the hearing, indicated his support for the proposal.

In considering the culvert design proposed by Defence, Committee members expressed concern that, without rigorous maintenance, water-borne debris may block the steel security screens and undermine the fence structure during times of high water.

Defence witnesses concurred and assured the Committee that the issue would be addressed under the proposed maintenance plan.

In view of the harsh climatic conditions prevailing in the Katherine region, the Committee was interested to know the expected design life of the fence and its components. Following the hearing, Defence supplied a document indicating a life expectancy of between ten and fifteen years for the detection technology and cameras, twenty

years for the all-weather road and up to fifty years for the culverts, poles and plinths.

At the request of the Committee, Defence also supplied a detailed cost break down of the impact of the proposed design amendments upon the total project budget.

Having reviewed this information, the Committee recommends that the works proposed for the construction of the RAAF Base Tindal Perimeter Security fence proceed at the estimated cost of \$9.25 million.

Mr President, once again, I would like to thank all those involved in the inspections and hearings conducted at Tindal and in the reporting process.

I commend the Report to the Senate.

Question agreed to.

Regulations and Ordinances Committee

Ministerial Correspondence

Senator McGAURAN (Victoria) (4.25 p.m.)—At the request of the Chair of the Standing Committee on Regulations and Ordinances (Senator Tchen) I present a volume of ministerial correspondence relating to the scrutiny of delegated legislation for the period March 2003 to June 2003.

Membership

The ACTING DEPUTY PRESIDENT (Senator Cherry)—Order! The President has received letters requesting changes in the membership of various committees.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.26 p.m.)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Community Affairs Legislation Committee—

Appointed: Senator Tchen, as a substitute member to replace Senator Knowles, from 22 August 2003 to 19 December 2003, inclusive

Community Affairs References Committee—

Appointed: Senator Tchen, as a substitute member to replace Senator Knowles, from

22 August 2003 to 19 December 2003, inclusive

Appointed, as a participating member: Senator Knowles from 22 August 2003 to 19 December 2003

Standing Committee of Privileges—

Appointed: Senator McGauran, from 22 August 2003, and Senator Knowles from 22 December 2003

Discharged: Senator Knowles, from 22 August 2003, and Senator McGauran from 22 December 2003.

Question agreed to.

WORKPLACE RELATIONS AMENDMENT (CODIFYING CONTEMPT OFFENCES) BILL 2003 FAMILY LAW AMENDMENT BILL 2003

First Reading

Bills received from the House of Representatives.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.27 p.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.27 p.m.)—I table a revised explanatory memorandum relating to the **Family Law Amendment Bill 2003** and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

WORKPLACE RELATIONS AMENDMENT
(CODIFYING CONTEMPT OFFENCES) BILL
2003

Respect for the law and its institutions is at the heart of any civilized community.

The Commonwealth has a duty to the Australian people and nation to ensure that its laws are upheld, in this case when unlawful industrial action threatens business performance, international competitiveness, and jobs. It also has a duty to protect the integrity of the Australian Industrial Relations Commission and its procedures.

On 19 December 2002, I announced that the Commonwealth would take a much more active role in instigating legal action and pursuing penalties against people and organisations that fail to comply with Federal Court or Industrial Relations Commission orders. The Government will make full use of existing laws to seek penalties where there is strong evidence that a person or organisation has defied orders and it is in the public interest to take the legal action.

When I made this announcement I foreshadowed that the Government would amend the Workplace Relations Act to clarify the scope of the prohibition against contempt of the Commission and update the penalties for that offence.

The Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003 does this.

Section 299 of the Workplace Relations Act creates offences that prohibit conduct in relation to the Commission. For example, there are offences of interrupting proceedings or using words calculated to improperly influence members of the Commission and witnesses.

Paragraph 299(1)(e) of the Workplace Relations Act is currently a kind of “catch-all” provision for all other contempt-like behaviour relating to the Commission. It makes it an offence to do any act or thing in relation to the Commission that would amount to contempt of court if the Commission were a court. Contempt of court arises under common law. It enables a court to punish those

who interfere with its proceedings or with the administration of justice. Common law contempt does not apply to proceedings of commissions or tribunals, so these bodies are often protected by statutory provisions, sometimes referred to as “deemed contempt” provisions. Paragraph 299(1)(e) is a deemed contempt provision, because it applies to the Commission the whole of common law contempt as it operates with respect to courts.

However, the common law is continuously evolving court-made law and can be difficult to state with precision. The report of the Australian Law Reform Commission on the law of contempt in Australia noted the difficulty in transplanting the technical notion of contempt from its judicial context to the administrative context of commissions, and the failure to clearly identify the conduct that can result in an offence being committed. The report recommended that such provisions be replaced by specific statutory offences that identify contemptuous conduct.

This bill will stipulate the behaviours which will amount to contempt of the Commission, clarifying for all parties what constitutes the offences and identifying the necessary mental and physical elements.

I now turn to the specific provisions of the bill.

The bill provides for three new offences that codify certain forms of contempt. The maximum penalty for each of these offences is 12 months’ imprisonment or a pecuniary penalty of \$6,600 for a natural person, and \$33,000 for a body corporate.

The first codification offence is engaging in conduct which contravenes an order of the Commission. At common law, this is sometimes called “disobedience contempt”. It recognises the importance of compliance with the Commission’s orders. Commission orders must be taken seriously and clear sanctions must be available when there is a failure to comply with those orders.

The second codification offence is publishing a false allegation of misconduct affecting the Commission. This is drawn from scandalising at common law. Maintaining confidence in the Commission must be balanced with freedom of expression and open justice. The bill achieves this

by requiring the allegation to be false, and the publication to adversely affect public confidence in the Commission as a whole.

The third codification offence is inducing another person to give false evidence. This is a component of interference with proceedings at common law.

The fourth offence in this bill is giving false evidence, which has been included to protect the integrity of the Commission and its proceedings. This offence is a form of perjury, rather than common law contempt, and has been included for completeness.

Other offences in the Crimes Act 1900 and the Criminal Code will also continue to apply to conduct in relation to the Commission—for example, using dishonest means to influence officials performing public duties, interference with witnesses and destruction of evidence. The bill uses legislative notes to enhance accessibility to these existing offences.

The bill also updates other penalties provided in Part XI of the Workplace Relations Act to bring them into line with the penalty levels proposed for the new proposed offences in section 299 and penalties that apply to similar provisions elsewhere. Many of these penalties have not been revised in this way since the 1970s and 1980s so an update is timely.

The bill will promote respect for the rule of law and better protect the integrity of the Commission.

FAMILY LAW AMENDMENT BILL 2003

The Family Law Amendment Bill 2003 is a part of the Howard Government's ongoing reform of the family law system as highlighted in the 2001 election promises.

The reforms are consistent with the recommendations of the recent report of the Family Law Pathways Advisory Group Pathways to the Future for Families experiencing separation (the Pathways Report). They aim to simplify and better integrate the family law system and keep people out of court wherever possible in order to minimise the emotional and financial costs associated with separation and divorce.

The Government recognises the extraordinary stress that is placed on people experiencing relationship difficulties and is committed to improving the assistance given to those persons whose relationships are experiencing difficulties to resolve those difficulties.

The bill will help separating couples achieve greater financial equity and certainty. Many of the amendments relating to property and financial agreements are complementary to the recent changes to superannuation and family law.

Of major significance are provisions in Schedule 6 of the bill that will allow the court to make orders binding third parties to give effect to property settlement proceedings under the Act. These provisions will apply to all creditors of the parties to the marriage whether they are family, friends or financial institutions. In limited circumstances, where it is considered necessary, the court will be able to alter the terms of a contract between the parties to a marriage and a creditor. For example the court could adjust the proportion of debt that each party of a marriage owes a creditor or order that liability for a debt belongs to just one of the parties. The changes do not affect the underlying substantive rights of creditors and provide creditors with procedural rights.

A number of the amendments in this bill clarify or refine changes to the Family Law Act that were made by the Family Law Amendment Act 1996 and Family Law Amendment Act 2000. This process of continuous improvement ensures that the experience of those using the provisions is taken into account and that operational issues are addressed in a timely manner.

Schedule 5 of the bill contains a number of amendments to the operation of Financial Agreements. Financial Agreements were introduced by the Family Law Amendment Act 2000 as an important method of allowing parties to resolve property matters after separation without resorting to litigation. Agreements allow people to have greater control and choice over their own affairs in the event of marital breakdown. This is consistent with the recommendations of the Pathways report. The changes to the provisions in Schedule 5 will improve their workability.

In particular, the legal profession has raised concerns with the difficulties in the current certifica-

tion provisions that require both parties to seek independent legal advice about the implications of the agreement including the financial aspects of the agreement. The amendments will remove the reference to the provision of financial advice by a legal practitioner for the purposes of this certification.

Schedule 4 of the bill will address an area of significant public concern, the enforcement of parenting orders. The three stage parenting compliance regime for enforcement of parenting orders introduced in the Family Law Amendment Act 2000, as recommended by the Family Law Council in its 1998 report on Child Contact Orders, will be amended to improve flexibility for clients, the court and program providers.

A greater range of orders will be available to the court at Stage 2 of the enforcement regime to allow the Court flexibility in how to best address non compliance with orders. These changes are consistent with recommendations of the Pathways report to ensure that the family law system works in a more coordinated way so that separating families are directed to services which best meet their needs.

Referrals to a post separation parenting program will now be to a program provider rather than to a particular program. These changes will address concerns both about the difficulty judicial officers have in satisfying the current requirement to specify a specific program and the problems that program providers experience in providing an exhaustive and current list of all of their programs for the purpose of the publication under section 70NIB.

Schedule 1 of this bill repeals the requirement to register a parenting plan. Parenting plans were introduced by the Family Law Amendment Act 1996 in order to encourage parents who separate to consider carefully the needs of their children and to put in place workable parenting arrangements that promote the best interests of their children. I remain committed to this objective.

However, the Government recognises that registration of parenting plans made them inflexible as circumstances change and specifically as needs of children change as they grow up. Only a very small number of plans have ever been registered.

The preferred way to ensure plans are legally binding is to seek consent orders from the court.

In light of this both the Family Law Council and the National Alternative Dispute Resolution Advisory Council recommended to the Government that the requirement to register parenting plans be repealed¹ The Government still encourages the use of parenting plans as a practical but informal arrangement to assist parents post separation.

The amendments will ensure that agreements can easily be made to vary the parenting plans where this is appropriate. These amendments are consistent with recommendation 1 of the Pathways Report that the family law system, in whole and in all off its parts, should be designed to maximise the potential for families to function cooperatively in the interests of children after separation.

There are a range of other minor amendments in this bill.

The amendments in Schedule 3 of the bill are being made at the request of the court to reflect changes that have been made to the management structure of the Court. In particular a distinction is made between the role of Registrars and Registry Managers with the latter taking on many of the more administrative functions of the court. The changes also reflect the decision of the Court to refer to all of its Primary Dispute Resolution matters as mediation. A new position of Principal Mediator is established. These changes will assist the efficient administration of court.

Schedule 2 of the bill ensures that the power of the Court to use electronic technology is put beyond doubt. The provisions mirror existing legislation in particular Division 5 of Part 6 of the Federal Magistrates Act 1999. Provisions allowing split courts are also included so that Judges will have the capacity to sit in separate places as part of the one court. The amendments recognise that many parties will reside in different places and that severe difficulties can be experienced by being required to attending court hearings in a particular place. These amendments will provide significant savings of time and money to all parties and to the court generally.

Amendments in Schedule 7 will assist in the implementation of the work of the Family Law Rules Revision Committee. The amendments

make provisions relating to the Rule making powers of the court less proscriptive and reduce the details required in the Rules.

Schedule 7 also makes changes to the provisions relating to admissibility of evidence of admissions and disclosures made in counselling and mediation. This implements recommendations 16 and 17 of the Family Law Council's September 2002 report on Family Law and Child Protection. The amendments provide a limited exception to admissions by adults and disclosures by children relating to child abuse. The amendments address concerns that the current provisions are not serving our children well. They will ensure that judges will have access to evidence vital to the protection of children. These changes recognise that it is appropriate for there to be a limited exception to the overall confidentiality of counselling and mediation where the safety and wellbeing of children is at stake.

The changes made by this Amendment bill are intended to benefit persons involved in family law matters. This bill will improve the procedural efficiency with which matters can be dealt with by the courts and assist in minimising the distress and trauma that arises when families break down.

Full details of the measures contained in this bill are contained in the Explanatory Memorandum to the bill.

Letter of Advice to the Attorney-General on Parenting Plans Part 1—16 March 2000

Debate (on motion by **Senator Mackay**) adjourned.

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

WORKPLACE RELATIONS AMENDMENT (TRANSMISSION OF BUSINESS) BILL 2002

Consideration of House of Representatives Message

Message received from the House of Representatives acquainting the Senate that the House has disagreed to the amendments made by the Senate and requesting the reconsideration of the amendments.

Ordered that consideration of the message in Committee of the Whole be made an order of the day for the next day of sitting.

MIGRATION AGENTS AMENDMENT REGULATIONS 2003 (No. 1)

Motion for Disallowance

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.28 p.m.)—I move:

That items [2] to [6] of Schedule 1 of the Migration Agents Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 92 and made under the *Migration Act 1958*, be disallowed.

I do not intend taking up a lot of time with the Senate on this issue. Before even starting out on my very convincing arguments I acknowledge that they are not going to succeed. I am partly proceeding with this simply to try to flag an issue that is of concern to me and to the Democrats. Basically, the components of the Migration Agents Amendment Regulations 2003 (No.1) that I am seeking to disallow is a new section which allows immigration assistance to be given by people who are not registered as migration agents in relation to the new professional development visa.

I am aware that the Australian Vice Chancellors Committee are supportive of what the government is doing here, and they certainly indicated their lack of support for what I am trying to do. I appreciate the substance of their argument—that it makes life easier for them to not have to go through the formal process of using migration agents—but I do think it is important to draw attention to this being the second time that a visa category has been created that exempts people from the normal legal requirements of not being able to give immigration advice or to deal with applications for visas unless they are registered migration agents. Whilst this particular exemption may not in itself be a ma-

major potential problem, the issue of a growing range of visas where there is not a requirement to seek or use professionally trained and registered migration agents is a potential problem down the track. I wish to proceed with this to flag that concern. Australia is still pretty much in the infancy of having a properly developed regime of overseeing migration agents, through the Migration Agents Registration Authority, which has only been in place for five or six years. The professional development procedures for migration agents are still in fairly early days. I think there have been some positive and very worthwhile developments there, but there is still a fair way to go.

The whole area of trying to get better control and better standards of advice from migration agents is a very important one. Migration visas is a massive area that affects literally hundreds of thousands of people, and we need to do everything possible to ensure that people are getting best quality advice. There have been controversies in recent times—which I will not go into for the purposes of this debate—involving the minister for immigration and people allegedly either seeking immigration assistance or providing immigration assistance without being a registered migration agent. Not only is that against the law; it is also a bad idea. The law is there so that, firstly, people who go to migration agents have a better hope of getting decent advice; and, secondly, so that the system is less open to abuse by people operating outside that registration framework where, at least when people do the wrong thing, there is some prospect of some punitive action. There can certainly be some improvements in that sphere as well, but I think things are at least moving in the right direction.

To have things developing along that track in the area of migration agents and migration advice, while at the same time removing the requirement for people to be required to use

registered agents in the case of certain visas, is a little risky. As I said, with this particular visa it will not be the end of the world: there is not that much risk for abuse and it certainly would reduce the administrative costs for universities in the use of this new professional development visa. But there are still potential risks in opening up the areas of exemption that do not require registered migration agents to be involved in visa applications and immigration advice. Alongside that, whilst these professional development visas are short-term ones, there is still a prospect of people's families wanting to come with them or to travel with them or to have visitor visas. There is a potential risk that those people will also not use migration agents because the primary applicants did not use one. Again, I do not think it is a huge risk, but I do think that the practice that is potentially developing of exempting people from the requirement to use trained migration agents is a little dangerous.

For that reason, I felt it appropriate to proceed with this disallowance motion to enable those points to be made, even though I recognise that it will not get the support of the Senate and I do acknowledge the Vice Chancellors Committee's support for what the government is doing. I would have to say that at least some in the migration industry are a little nervous about it, more in terms of what it might mean in terms of a trend rather than the specific visa itself. Whilst I will not kick and scream about this particular one, I do want to flag to the government that it is an area that I certainly have some concerns about and I will be looking closely at whether this becomes a growing trend.

Senator LUDWIG (Queensland) (4.35 p.m.)—In respect of this disallowance motion moved by Senator Bartlett, in the 2003 budget the government introduced a new professional development visa, subclass 470, with effect from 1 July 2003. The new visa is

designed to enable Australian universities and other training providers to deliver tailored non-degree training for professionals, managers and government officials from overseas. The government has introduced regulations to enable the staff of approved training providers to provide immigration assistance to visa applicants without being registered migration agents. The Leader of the Australian Democrats, Senator Bartlett, has given notice of a motion to disallow these regulations.

The opposition are not supporting the disallowance because we are yet to be convinced that the regulation would endanger the integrity of the migration program or leave vulnerable consumers open to exploitation. We also note that this is not the first time that some categories of workers have been exempt from the requirement of the migration agents registration arrangements. Senator Bartlett may recall that this happened on a previous occasion without the Democrats taking any disallowance action.

On the registration and migration agents' issue, with some exemptions the Migration Act provides that a person providing immigration assistance to a visa applicant or making immigration representations to a visa decision maker must be a registered migration agent. The phrases 'immigration assistance' and 'immigration representations' are broadly defined. Registration applies to non-fee charging agents, such as those employed by migrant welfare groups, as well as to fee charging agents. The act imposes penalties of up to 10 years imprisonment where an unregistered person is found to have provided immigration assistance for fee or reward. The regulatory system is designed to both defend the integrity of the migration program and protect vulnerable consumers from exploitation. It is managed by the Migration Institute of Australia, acting as the Migration Agents

Registration Authority, more commonly known as MARA.

Under the act, as I have mentioned, automatic exemption from registration is given to parliamentarians and their staff, government officials, diplomats and consular personnel and the staff of international organisations. Subsequent regulations have granted further exemption to employees of large corporations who provide immigration assistance solely to their employees or prospective employees but not, of course, to the general public. The regulations now enforce the new professional development visa. The new visa has been promoted by the government as an opportunity for the education and training sector in Australia to capture a portion of a growing niche market for tailored training programs targeting senior staff of foreign government agencies and large overseas employers.

It has explicitly linked its introduction with the opportunities arising from the preparation for the 2008 Beijing Olympic Games. In order to participate in the measure, the Australian educational or training organisation must be approved as a professional development sponsor. The application process will involve consideration of the proposed training program and the overseas employer as well as the proposed sponsor organisation. Organisations will be required to enter into specific undertakings backed by securities lodged with DIMIA relating to their own conduct and that of the visa holder participating in the training program.

Unlike people applying for a student visa, the applicants will be restricted to individuals who are employed by or nominated by an overseas employer. The sponsoring educational or training organisation will be required to assist visa applicants with their applications and to lodge them on their behalf with DIMIA's processing centre in

Hobart. This will clearly entail the provisions relating to immigration assistance as set out in the Migration Act.

Labor's position on the disallowance of those regulations which are now in force is that it is essentially a side issue to the issue facing MARA and the regulation of migration agents more generally. No-one involved in the system has approached the opposition expressing any concern about the matter to date. We would prefer that MARA focuses on weeding out the shonks from the migration advisory industry and deals with the reform agenda as set out in the Spicer report. As we see it, it is DIMIA's responsibility to closely monitor the implementation of the professional development visa and to keep a close eye on the sponsors and visa applicants. The arrangements that it is putting in place, including the requirement that formal undertakings from sponsors backed by the lodgement of security, are applicable and show that it understands its requirements. One would expect that it would take that requirement seriously and would monitor it to ensure that the program provides the outcomes that it set out to achieve.

There is nothing to suggest that MARA can add any value to this arrangement, nor is there any indication that it has sought coverage of this particular initiative. The opposition cannot guarantee that the implementation of the new visa will be flawless. We expect that if problems do emerge, however, DIMIA would deal with them promptly, adequately and conclusively. Imposing sanctions on the sponsor concerned is a far better approach at this point than telling people to take their concerns to MARA, which has of course far more limited powers. Unfortunately, the average complaint-handling process takes some 10 months. As mentioned previously, there is precedent for this exemption. Some large corporations, especially those operating in several countries, became

concerned that the breadth of the phrase 'immigration assistance' in the Migration Act potentially put them at risk, even when they provided in-house visa related assistance to their own staff or potential staff.

When the opposition were approached about that matter, we saw no good reason to bring corporate HR staff within MARA's purview. We do not believe that the parliament in fact intended that. A regulation to exempt some HR staff was put in place with the opposition's consent. The Democrats, as I said earlier, took no action on that occasion to disallow the exemption. On that basis, and from what I have already said about our position, we are not convinced, and certainly not persuaded unfortunately by Senator Bartlett's otherwise excellent speech, to support the disallowance motion.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.42 p.m.)—I will briefly close the debate if there is no government speaker, and I presume there is not, given the lack of any action in standing up over there. In response to Senator Ludwig's comments—and I understand the rationale behind them and the decision by the Labor Party—as he pointed out, it is not the first time there has been an exemption, and that is partly why I have flagged my concern this time. This is the second time at least that there has been an exemption, and I am a trifle concerned there might be a third, fourth, fifth and sixth down the track. There is a role for MARA. They have a responsibility and they are the ones who tend to cop the flak when there are flaws in advice and visa application systems. They obviously have a responsibility to be aware of what is happening. I do not imagine it was the intent of Senator Ludwig's comment, but perhaps there was potential to draw an inference that MARA are not focused on what they should be doing. I am sure they are focused on what

they should be doing, and they do have an incredibly difficult task.

As I said in my initial comments, it is a task that is still evolving. Whilst there is certainly plenty of room for improvement, I think it is nonetheless worth trying to find ways to enable them to do that task as effectively as possible. That is probably a side comment to the issue at hand in this motion, but I thank at least one of the other parties for bothering to put forward an opinion. I have spoken with government ministerial staffers about this issue, and certainly they are aware of the broad thrust of my concerns. As I have said, I will keep monitoring how things develop.

Question negatived.

**PARLIAMENTARY ENTITLEMENTS
AMENDMENT REGULATIONS 2003
[NO. 1]**

Motion for Disallowance

Senator BROWN (Tasmania) (4.45 p.m.)—I move:

That item 3, Schedule 1 of the Parliamentary Entitlements Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 149 and made under the Parliamentary Entitlements Act 1990, be disallowed.

This is the regulation which increases the parliamentary entitlement for printing for members of the House of Representatives to an annual capacity of \$150,000. It has put it up by \$25,000 per annum for each of the 150 members of the House of Representatives. When you add all that up, you get a figure of some \$22.5 million in the printing entitlement for the House of Representatives.

The first thing that needs to be said is that it does not affect the Senate where the 76 members have an entitlement which is set out in reams of paper: five to 10 reams per annum. When you look at the expense of all 76 senators in utilising those reams over the last 12 months for which I can get figures,

you see it comes in at just under half a million dollars—\$493,000—for the Senate as opposed to \$22.5 million for the House of Representatives. But these things should not be judged on what is fair and equitable amongst members of parliament; they should be judged on what is fair and proper for the taxpayer, who funds the very generous allowances that we members of parliament get.

I also want to say at the outset that I am not an MP who is opposed to all increases in entitlement payments and superannuation for members of parliament. I think members should be adequately paid and should have the staff and accoutrements to be able to service the community and also deal with the prodigious amount of legislation and the issues of the day, which we all know puts an enormous pressure on our lives and the lives of those around us.

Let me give an indication that the regulation before the Senate would, amongst other things, also provide a less cumbersome mechanism for the Prime Minister to approve overseas travel by non-government members and senators, introduce purpose provisions for the electorate office entitlements and the entitlement whereby members of parliamentary delegations may extend overseas travel and limit the uncapped entitlement of certain parliamentary office holders to postage so as to prohibit mass mail-outs. I think that applies to ministers, and that is actually a reduction on the open go there currently is for mass mail-outs by certain office holders of the parliament. There is also a provision for a mechanism for providing additional mobile phones for personal staff of non-government parties and Independents—the same with personal computers in electorate offices—and the making of a range of minor changes in respect of the administrative arrangements associated with overseas travel by parliamentary delegations. I think those changes, by the way, include

staff accompanying MPs being given business class travel so that they can travel with their MPs.

Those things of themselves will always warrant a debate, but they are eclipsed totally by this provision from the government for members of the House of Representatives to have not just \$125,000 a year in printing facility but now \$150,000 a year. When you look at the way in which it is structured, members of the House of Representatives—the majority of whom, of course, are government members—will be able to withhold 45 per cent in a given year and roll it over to the next year so that they get \$225,000 in an election year to bombard the letterboxes of their constituents with repeated glossy productions obviously oriented towards the re-election of those MPs.

You cannot see that in isolation. It is clearly absolute overkill. It would not be too strong to call that a rort if it were to be given approval by the Senate. Who on earth amongst us can justify a printing allowance for an electorate of up to 100,000 voters of much more than \$100,000 per annum? Remember that there is just so much that members of electorates can absorb. But you can see letterboxes receiving three, four or five pieces of mail in the run-up to an election, giving the incumbent MP a total advantage over all other comers in the election. Why would MPs want to do that? Because, whether we like it or not, glossy materials in letterboxes work. They influence people. They create votes.

Senator Abetz—And that's why the Greens do it.

Senator BROWN—Exactly, Senator Abetz, that is why the Greens do it. Let me remind you that these days we have a Greens member—Michael Organ, the honourable member for Cunningham—in the House of Representatives, so I am not in the position,

as I used to be, where what happened in the House of Representatives was not impacting upon the Greens. I would remind the Senate that the honourable Greens member is currently moving to curtail gold passes after retirement for MPs.

Let me come back to this issue. It is manifestly excessive. Not only is it an impost on the ability of electors to be informed fairly about the competing candidates in their electorate, what they offer and what their record is, because it gives zero allocation those other candidates; it is also a huge impost—millions of dollars—on the pockets of those very same electors. It is a backdoor way of enhancing the public funding of elections—but this one is absolutely discriminatory because it gives the advantage to the incumbent. Let me remind senators that, on the last assessment I saw, the advantage already going to incumbent MPs through their having an office, staff and so on at election time was well in excess of \$50,000. I think it is probably way beyond \$100,000 but at least, to those who have looked at it, it is in excess of \$50,000. On top of that is going to come this advantage.

What is happening here is simply wrong. It will reflect very badly on the current parliamentarians if we allow it to pass, because it says we want to advantage ourselves and keep ourselves in this place not through dint of argument, policy or ability to attract the attention of our electorates but through sheer spending power. In this age of advertising, spending power counts—and, what is more, it is saying we are not going to provide the spending power; it is going to be provided by the taxpayers. Already, the \$125,000 is way over the top. It is far too much. There is a very strong argument that this allowance should desist before elections, that there should be a period of grace running into an election period in which the spending allowance is not permitted because it is unfair to

all other comers. There is a good argument for MPs being able to inform their electorates about the issues of the day, but this has got out of hand. It is greedy and it is self-invested. It is the government saying, 'We want to buy the next election,' and it needs a check on it. That is why I have moved to disallow this regulation.

Let me be straight talking about what may happen here. Had it not been for the limitation on the printing I do not think I would have got support for this disallowance motion. In other words, the big parties—and they are competing with each other—would both have supported the regulations. I hope the opposition, the Labor Party, now that I have confined this motion to the printing allowance—the most outrageous component of this suite of increased entitlements—will support this Greens disallowance motion. I expect that the government will come back with some alternative proposition and I will listen very carefully to that. The important thing here is that this extra spending of millions of dollars—extra spending on top of the \$125,000 per member—should not be allowed. This regulation facilitates that; my disallowance would stop it. I appeal to the rest of the Senate to support this disallowance motion.

Senator MURRAY (Western Australia) (4.56 p.m.)—I am speaking to this motion as the Australian Democrats spokesperson for electoral matters. I also have oversight of the entitlements—although I think every senator in this place carries the portfolio of entitlements in their own interest. Right from the outset let me make it clear that the Australian Democrats support the disallowance of the provisions to increase the capped printing entitlement for members from \$125,000 to \$150,000 per annum and to introduce the mechanism to allow for the carrying forward of up to 45 per cent of the entitlement from one year to the next. We are really arguing in

this debate about quantum. The Australian Democrats support two things. Firstly, we support the idea that members and senators should have a printing allowance. Secondly, we support the right idea, which we now have, that the printing allowance should be capped. We simply cannot support a quantum of this magnitude. It is excessive. A printing entitlement of this quantum for members is unconscionable and indefensible.

According to the ANAO audit report No. 5 of 2001-02 on parliamentarians' entitlements in 1999-2000, which the Democrats initiated and which was supported by Labor and the rest of the crossbenchers, the lowest printing amount for a member—I think the member was a saint—was \$1,294 and the highest figure was \$219,004, about which there was a great fuss at the time, quite rightly. But the average was only \$37,287. Being the much better creatures that they are than members of the House of Representatives, senators' average was only \$7,103—about one-fifth of the members' expenditure. We recognise, of course, that the difference is because members do spend money on constituency matters on a different basis to senators, and the fact that there should be a differential allowance between the two is not, in the view of the Australian Democrats, a material issue. Perhaps they are the three principles: first, that we support the entitlement; second, that it should be capped; and, third, that we do not object to a differential between members and senators, based on the different jobs they have to do.

I would like to draw the attention of the chamber to figure 5.3 in the Auditor-General's report, which showed that only 15 of the 150 members—I think there were 150 members at that time—had printing allowances higher than \$75,000. As mentioned already, one member's was \$219,004. The next four members' allowances were in the range of \$100,000 to \$124,999, and the al-

lowances of 10 more were in the range of \$75,000 to \$99,999. That tells you that the cap of \$125,000 that the government decided on after Audit report No. 5 was printed was extremely generous. It far exceeded that which was common usage. Raising that amount, as the government have done, has to us little merit, based on both precedent and the nature of it. I think it would be helpful to members if I were able to table the figures I am referring to from the Auditor-General's report. I have here five copies of figure 4 and five copies of figure 5.3. I seek leave to table those.

Senator Abetz—We haven't seen them but they are okay, I'm sure.

Senator MURRAY—They are out of the report, Minister.

Leave granted.

Senator MURRAY—I thank the Senate. Let me talk now about the brief history of printing and personalised stationery benefits. Prior to 1990, personalised letterhead stationery for both senators and members was printed and supplied by the chamber departments under an administrative convention. Then, with the Parliamentary Entitlements Act 1990, came the formalisation of the entitlement as previously described. The regulations of 1997 were the last to deal with this entitlement before the Prime Minister announced changes in response to the Auditor-General's report. In his report, the auditor called the framework of benefits 'a complex mixture of capped and uncapped entitlements'. He found the administration of the printing and stationery benefits similarly complex.

While senators and members had an unlimited benefit under the act, existing administrative arrangements meant that, at the time of the auditor's report, the benefit could be described as follows: Finance was responsible for funds appropriated under the act for

the benefit; the Department of the House of Representatives administered access of the members' benefits, meeting some of its costs—which were \$3,850 at that time—from departmental funds; and the rest, with no cap on expenditure, were to come from Finance. Members had unlimited quantities of envelopes and stationery, and volumes of newsletters and other approved material printed externally; an additional capped printing allowance of 42,000 A4 sheets or equivalent per annum, with more for office holders and shadows, a capacity to have up to 42,000 A4 sheets per annum transferred from one member to another; and unlimited quantities of magnetised calendars and community and information cards.

The Department of the Senate administered all personalised stationery and printing requirements for senators. All costs were met from departmental funds, with no access to the funds administered by Finance; senators were entitled to a monthly allowance of 5,000 A4 sheets in total, whether printed internally or externally; a maximum of 15,000 small and non-magnetised calendars per annum were deducted from the allowance; the monthly allowance could be transferred between senators; and any allowance not used was forfeited. There were also differing restrictions on cost and colour of paper to be used across the chamber departments. The Auditor-General stated that the arrangement whereby the Senate had no access to Finance funds was the result of ministerial determination. In essence, there was a cap on expenditure on stationery and printing for the Senate and no cap on that for members, except for the audited year following 1999-2000. We do not know how much is or was spent by members of parliament on the benefit, as it is or was not reported. The auditor's recommendation 19 reads:

... that Finance and the Department of the House of Representatives undertake a review of the costs

and benefits of rationalising the management of Members' printing entitlements and services under a single department which might then be put to Government for consideration.

The Department of the House of Representatives agreed to this, while Finance signalled that they disagreed. In fact and in effect, though, Finance did institute those changes which were necessary. Recommendation 20 reads:

... to enhance the accountability framework for Members' expenditure under their entitlement to personalised letterhead stationery and other printing for distribution to constituents, and to provide assurance as to the ongoing reliability of the certifications provided by Members as a key control for that expenditure, Finance and the Department of the House of Representatives undertake systematic periodic reviews of Members' processes for the selection of printers and value for money assessments.

Again, the Department of the House of Representatives agreed to this while Finance recorded disagreement. Again, of course, these things actually occurred. In a press release of 27 September 2001, the Prime Minister responded to ANAO report No. 5 with an announcement of changes to the print entitlement. Mr Howard said:

... after a careful review of services and facilities provided to existing parliamentarians the government has decided to place a cap of \$125,000 per annum on Members' of the House of Representatives printing entitlements.

This cap will apply from 1 January 2002 with a pro rata entitlement from that date until 1 July 2002. Given that these new arrangements are being entered into three months in to this financial year the government does not believe it appropriate to backdate it to 1 July 2001. Senators' printing entitlement remain the same.

In 2000, regulations were introduced to give effect to the government's decision. The Australian Democrats thought at the time that that was an extremely generous decision, but nevertheless it was a vast improvement

on previous circumstances and, of course, you could rely on many members not to use up their full entitlement and to behave with some discretion in that area.

In 2003 regulations were introduced which essentially increased the cap on printing entitlements for members from \$125,000 to \$150,000 and allowed 45 per cent of the entitlement to move from one year to the next. Consider that 10 years ago the average spending on printing was \$5,000 and only three years ago the printing average, as recorded by the auditor, was \$37,287 a year. If each member of the House of Representatives were to be given a capped maximum \$150,000 printing allowance—and it will not happen—and if all members were to use that, you would find that there would be \$22 million spent on legitimate usage plus propaganda. That is \$22 million. The important point is that it is \$4 million more than is spent at present, notionally. We have just had a debate this week—Senator Robert Ray was a big participant in that debate and is very well informed on it—in which we had to deal at length with the consequences of security measures being imposed upon parliament at parliament's cost. This amount of money—this \$4 million—is greater than the amount of money that would have to be found for that. Let's save the \$4 million here and use it for the security of parliament. That would be a good outcome.

That \$22 million, maximum, is not even indicative of the situations where members of parliament might choose to roll over the existing allowances to the following year, particularly given that it is an election year. That is an excess that simply cannot be acceptable to the Australian people. My judgment of the sorts of correspondence we get and the way the media reacts to public pressure on this is that the Australian people really will not like the idea of \$22 million of expenditure of this kind being able to be

shoved into their letterboxes. We have to be sensitive to public opinion in this matter.

That there were excesses in the past is acknowledged by all sides of the chamber and by both the former government and the present government. That the system has drastically improved is to the credit of the Senate, which applied pressure, the House of Representatives, which applied pressure, and of course the ministers and their departments. It is not through envy that we attack this entitlement; it is just over the top. It is excessive. It is a 10-course meal when a one-course meal would be appropriate. We think \$125,000 is ludicrously excessive. We would cap it at a little above the average, but anything less than the amount offered is a great improvement. If it were as low as \$40,000 per annum and if your average was \$37,000 previously, frankly I cannot see why that would be unfair.

The Democrats have always been opposed to the government giving parliamentarians moneys in excess of what is necessary to do their jobs, but we are not foolish about it. That is why I have made the point that we support the principles that lie behind the printing entitlement and the cap and we are prepared to support a differential between senators and members on the grounds of the different jobs they do. Labor—and I have always been grateful for their support—were prepared to support us in producing the first audit of parliamentarians' entitlements in 100 years. I think—again referring to the debate the other day—Senator Robert Ray made the point that there is still only one agency or department in the whole Commonwealth which is not yet audited, and that is the House of Representatives. That should be corrected. I also am aware that many of the state and territory houses are not audited. That should be corrected. But the fact is that we have had the audit of parliamentarians' entitlements and governments have im-

proved the systems; now it is a matter of judgment as to what you should be sensitive about.

Changes to the printing and stationery allowances for members of parliament potentially represent a huge money grab, and the reasoning behind this is very difficult to fathom. It does not seem to be related to indexation and a case does not seem to have been made for it in terms of changed needs of members of parliament. No evident rationale has been put to the parliament—perhaps the minister, in his speech, will put it—which justifies this amount of money. Therefore, on this basis, in terms of the normal prudence the Senate should exercise, we are justified in saying, 'If you don't put up a valid justification, we are entitled to reject it.'

The original printing allowance was designed for members of the House of Representatives to circulate information on parliamentary business to their constituents. We know that is still a need; the need for information remains very high. We know that many constituents are annoyed by it but many constituents value it. Where it is corrupted into a form of party advertising it needs to be stamped on, and I welcome the better rules that now exist in that area. But we need to make sure that the sensitivity and accountability issues here are exposed and we need to make sure that these sorts of sums are justified. I am afraid that, in examining this issue, the Australian Democrats came to the view that we could not under any circumstances support an increase of this kind.

Senator ABETZ (Tasmania—Special Minister of State) (5.13 p.m.)—We are discussing today one regulation out of a suite of regulations. I note that the opposition have not indicated their attitude to this—undoubtedly they are seeking the advan-

tage—so I cannot respond. That is a tactic, and good luck to them on that. We have here a suite of regulations designed to bring up to date certain entitlements of members and senators, and it is always a cheap shot for any parliamentarian to condemn these enhanced entitlements. For those listening—just to show up some of the hypocrisy that we have been fed to date in relation to these matters—I indicate that at a later stage of my contribution I will be suggesting an amendment: that we substitute item 3 for items 3, 7, 9, 204, 205 and 208. It will be interesting to see how the matters of principle then come into play, but we will get to that later.

There has been a very selective discussion in relation to the entitlements. Indeed, we were told that the capped printing entitlement provides an unfair advantage to a sitting member. Yes, it does. It is one of the benefits of being a sitting member. What we were not told is that one of the benefits the Greens get at taxpayers' expense—I imagine it would cost the taxpayer about a quarter of a million dollars extra—is that each of them gets an extra staff member. But we do not talk about that, do we?

Senators and members have an uncapped telephone, mobile phone and photocopy entitlement. I am not going to mention names but it was very instructive to me to read the names of the top 10 users of photocopy paper out of members and senators. Out of the top 10 there were seven Labor, two Democrat and one Liberal. But of course, the uncapped photocopy entitlement is not going to be touched by the Labor Party or the Australian Democrats—no way, because they are the ones who use it.

A Democrat senator tells us that the excessive use of a mobile phone can cause brain damage. I am starting to believe her because I think somebody who has contributed to this debate is the most prolific user of

a mobile phone. Therefore, her theory might be correct. Once again, there is no mention of that uncapped entitlement as needing to be dealt with. It is interesting to see how different members of parliament communicate. One of those who have contributed may well be in the very top four or five users of telephone and fax. Where some people want to communicate with their electorate through a newsletter, others communicate with their electorate through the uncapped fax stream.

We are seeing rank hypocrisy in this debate where Labor, the Democrats and the Greens are cherry picking one single entitlement and trying to make a cause celebre out of it. Let us recall the history of this. Under Labor, the printing entitlement was uncapped. Did it motivate the Greens or the Democrats to say, 'We've got to do something about it'? No, not really. It was the Howard Liberal government that introduced the cap of \$125,000. The interesting thing is that, since its introduction, there has been a 13 per cent increase in printing costs. Add 13 per cent to \$125,000 and already you are at \$140,000. We have indicated with these regulations that we do not see an increase until the year 2006.

Senator Brown tells us that this \$125,000 limit is already too high. If that is the case, why did Senator Brown not disallow the regulation 18 months ago? Surely \$125,000 would have been even more extravagant 18 months ago. Oh no: it was okay 18 months ago but now even \$125,000 is too much. The advisers tell me that these regulations did go through this place. This is another example of Senator Brown being asleep at the wheel.

The 35 per cent rollover provision is quite appropriate because, from anecdotal evidence, when we come to the end of the financial year we see members go on a bit of a spending spree. As minister, it is my view that, if you made provision for rollover, you

would not have the spending spree and chances are there would in fact be less expenditure overall.

The real rort in relation to the printing entitlement was the fact that it was uncapped. We as a government fixed it and we are now seeking to adjust it in very rough terms, with the costs associated with printing increasing as time marches by, in exactly the same way as MP salaries go up each year. When phone charges, mobile phone charges or the cost of photocopy paper increase, all those increases are borne by the Australian taxpayer, but there is no complaint from the big users of mobile phones or photocopy paper—none. They say, ‘That’s okay because the Labor Party and Democrats use those. We’ll quarantine that area.’ Of course that exposes the duplicity in this debate. We have had Senator Murray as well telling us that \$125,000 is an excessive quantum. I simply repeat the comments I made earlier in relation to that. If it is an excessive amount today, one would have assumed that it was an excessive amount some years ago.

In relation to the extra \$22 million figure that is being talked about, those listening should be aware that the printing entitlement, if this proposal goes through, will still be capped at \$125,000. What we are talking about is not the total entitlement but only an increase of \$25,000, which I am told roughly equates to \$3.5 million per annum. If this is such a huge and excessive amount per annum, I am sure that the Australian Labor Party will forgo the rental rort out of Centenary House, which just happens to equate to—you’ve guessed it—\$3.5 million per annum. They are now getting 177 per cent above the market rental rate. In other words, 277 per cent is being charged for rental of Centenary House and Labor make a cool profit of \$3.5 million. All of a sudden that figure, which is dismissed in relation to Labor’s Centenary

House rort, becomes a huge figure for the purposes of a printing entitlement.

With some of the other items I have suggested for consideration by honourable senators, let us look at item 7—additional benefits for members travelling overseas. The benefits will accrue chiefly to opposition and other non-government MPs, such as the Greens and the Democrats. It will be interesting to see whether the benefits that accrue to Labor, the Democrats and the Greens will be clung onto or whether they are going to put their money where their mouth is, join with us as a government and knock out some of the things that may be of benefit mainly to opposition and non-government members.

The argument is being made that somehow this amendment is a benefit to government members. It is not; it is a benefit to every single member of the House of Representatives. And believe it or not, when you are in government, you hold a majority of members in the House of Representatives. Therefore, if you use that logic, more government members can possibly use it, but that is the same argument in relation to the uncapped photocopy paper entitlement, the uncapped phone entitlement and the uncapped mobile phone entitlement. We know who the users are of those facilities, so we hear no comment from them.

There is the additional benefit of the use of special purpose aircraft. The benefits will accrue chiefly to opposition and other non-government MPs. There is no concern about that from those opposite, is there? There will be additional mobile telephone services for the staff of Independent MPs—mobile phones are raised again. Guess what? The new mobile phone services will benefit those opposite, but there is no complaint about that. There are no costings by the Greens or the Labor Party as to how many million that is going to cost the Australian taxpayer, be-

cause that is going to be a benefit that accrues chiefly to them. Let us move on to item 9—additional photographic services for the Leader of the Opposition—

Senator Robert Ray—That is there because the Prime Minister overspent. You're just trying to square it off.

Senator ABETZ—If that is the case, Senator Ray, I suggest you forgo it and vote for my amendment. What is the bet that you do not? There will be additional mobile phone services for opposition personal staff—that is another item in the regulations, but the Labor Party will not be voting against that. Let us move on to item 204—charter travel by the staff and/or spouse of opposition office holders. Not a word raised against that, is there?

Senator Robert Ray—What extra money is involved? Nothing.

Senator ABETZ—If you are really concerned about these issues, come clean and put your money where your mouth is. Stop this rank hypocrisy. Stop the duplicity. Let us move on to item 205—and this is a good one—charter transport by the leader of a minority party. We are going to increase that by 50 per cent. There will be a massive 50 per cent increase on charter for the leader of a minority party. That is okay, but a very modest increase in the printing allowance is somehow an outrage, somehow a rort.

Senator Robert Ray—You put it in.

Senator ABETZ—Yes, we did put it in. The reason that we put it in, as Senator Ray well knows—

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—Senator Abetz, I must call on you to go through the chair, not across the chamber.

Senator ABETZ—I did go through the chair if you were listening. Senator Ray shouted out, 'Why did you put it in?' I say to

Senator Ray the reason is that we as a government have dealt with these matters in a very sensible, even-handed way to ensure that there was an enhancement of entitlement to all the minor parties, Independents, opposition members et cetera. The Labor Party—and, in a very cynical way, the Greens and the Democrats as well—have cherry picked one small item out of this entitlement knowing that, because we have a greater number in the House of Representatives, somehow this might hurt us more than it will the Labor Party or anybody else.

If there is a concern about a \$25,000 increase from \$125,000—and I have not done figures—it definitely is not about the 50 per cent increase that is being suggested for the increase in charter allowance for the leader of a minority party, such as the Australian Democrats. Surprisingly, there is not a squeak out of the Australian Democrats about that. There is no mention about the increased access to mobile phones—no mention at all—or the uncapped entitlement that quite clearly ought to be uncapped. It ought to be retained for the benefit of members of parliament. I do not have any difficulty with that. What I do have difficulty with is the duplicity and the rank hypocrisy of those opposite, seeking to cherry pick and accrue all the benefits for themselves, other than in one little area where they happen to think that they are going to do more damage to government members than to themselves.

We do not come to this debate in such a cynical manner as those opposite. It will be very interesting to see whether or not honourable senators opposite will put their money where their mouth is, show the concern they allege they have for taxpayers and support the government amendment. I move:

Omit "item 3", substitute "items 3, 7, 9, 204, 205 and 208".

I commend the amendment to the Senate.

Senator ROBERT RAY (Victoria) (5.29 p.m.)—Most parliamentary entitlements accrue from the Remuneration Tribunal, but it is a reality of life that no Remuneration Tribunal can cover all the areas in such a complex world as the one in which we live. Therefore, that devolves very much to the Special Minister of State and the MAPS section of DOFA, who are required quite often to fill the vacuum. They are also required to interpret Remuneration Tribunal decisions. They are required, in fact, to administer them, and to give assistance to members and senators in the administration of those entitlements. But it is true that there have been a lot of vague areas in the past.

I have to congratulate the minister at the table on some of the steps he has taken in the recent year. Firstly, we are getting far more written interpretations and rulings out of the department than we ever have before. It is to the credit of this minister that he is willing to see these matters properly interpreted for the guidance of senators and members. The second improvement that the minister has been involved in is, where the vacuum filling occurs—that is, it is not a Remuneration Tribunal decision—he has been willing to regulate and take the risk of a disallowance motion to put all this on a firm footing. I think that that is an advance. That is what this place is about, anyway. That is what administration is about and what this parliament is about: moving these issues forward. The minister has done so in many of these areas.

Most of the rules in Statutory Rules 2003 No. 149 are pretty sensible; some of the rules rectify past inequities. But the controversial one has always been the House of Representatives printing allowance. The minister has referred to it, and I will refer to it very directly. It was introduced by the then Labor Minister for Administrative Services, Mr Frank Walker, in 1994 or 1995—I cannot remember the exact time. It was not a deci-

sion, incidentally, of a board to cabinet, so I did not particularly know about it, being a senator at the time, and I may not have objected to it. But it had the classic weakness of a new entitlement: there was no cap on it whatsoever. The lesson we have to learn quite often is: do not introduce entitlements without a cap unless you have a very valid reason. Certainly, when it comes to printing material, there should always have been a cap.

Other issues then started to emerge out of having an uncapped printing allowance. Firstly, in the past there was no scrutiny as to what was being printed. You did not know whether it was overtly political material; the only way a minister knew was if a complaint came in. Quite clearly, a lot of people would not have picked up on the fact that this was taxpayer funded. So a lot of very overtly political material on both sides was printed and sent out, and that was not the original intention—or, if it was, it was badly intended. Secondly, there was no requirement on a House of Representatives member to get the cheapest possible deal. This was unlimited; this was uncapped. So it did not matter what the printer quoted you; you just accepted it.

Thirdly, we have a suspicion—and I am not accusing anyone, but there was great suspicion and there were rumours—that contra deals were done: ‘Print my newsletter at X cost and then give me the how-to-vote cards free during an election period.’ All of these sorts of things circulated around. They were very hard to prove because there was no transparency and no accountability. Finally, one thing that we do know went on was that the insertion and delivery costs were rolled up into the printing costs. That happened time and time again with newspaper inserts and, indeed, letterbox deliveries. Again, I am not softening up the minister; I congratulate him on tightening up this area. This minister has ruled that out. This minis-

ter has said, 'You must use your communication budget for distribution.' Senator Abetz can interrupt me and say that I am wrong on that, but I am pretty certain that that is the action he has taken, so that there is clear transparency as to costs—and so there should be.

I turn to the question of the House of Representatives communications allowance. This is why Senator Abetz was so far off the mark in his speech when he accused our side of double standards. He does not understand what happened in the past with regard to this. This matter was raised with the government in 1998. I am not going to go into all the details; it is not in my nature to reveal private discussions. But I assure you that they happened. I assure you that we asked questions in the estimates process about the printing allowance. If you do not believe me, ask the officials; they were put on notice. We were given assurances that the printing allowance would be capped before the 2001 election. Guess what? Absolutely nothing happened. I reminded the people involved in those discussions on at least two occasions that we had an agreement to cap the printing allowance so that it would be accountable before the 2001 election, and absolutely no action was taken.

In the meantime, as Senator Murray says, the Auditor-General did an investigation into the broad breadth of parliamentary entitlements. One of his conclusions was that the House of Representatives printing allowance was one of the most vulnerable to abuse. Without saying which members he was referring to, he cited four examples. That alerted government—and reinforced the view of the opposition—that there were problems with the printing allowance. What happened after the Auditor-General reported? Suddenly figures appeared in a newspaper regarding one member of parliament: Mr Bob Horne, the member for Paterson. Suddenly he was ex-

posed as spending \$211,000 on his printing allowance—much to his political disadvantage because the local Liberal machine campaigned against him on this particular basis. He was highly criticised in the press. Indeed, he was the target.

We do not know how that information got into the public arena. It could only have come from four areas: Mr Horne himself—and I think we can dismiss that as probably unlikely—the Auditor-General's office, the minister's office or the department. We have had a degree of denial when we have asked questions about this, so we simply do not know. Guess what? No leaks inquiry into this one! No calling in the Federal Police to see where that leak came from! Absolutely not—because they might have actually found out where it came from. But what later transpired was more aggravating to us: the Auditor-General's snapshot figure that so entrapped Mr Horne was quite wrong. When you look at the proper figures, you find that in that year Mr Horne came in 14th. Guess how many were above him? Thirteen coalition members of parliament! I am not saying that they did anything wrong. I am sure that Mr Haase, when he spent \$416,000, properly communicated to his electorate. But he was not subject to the same ridicule and political attack as Mr Horne in the electorate of Paterson. I am not going to run through the whole list—I have it here—of who spent what. But Mr Horne came in 14th. In the list of about 20 top spenders, there were only three ALP members; the other 17, of course, were coalition members.

What galls me a little on this is that, after we had raised these issues so often between 1998 and 2001, straight after the 2001 election the Prime Minister announced that he was taking the appropriate step and capping the entitlement. There is a little bit of discourtesy involved here, because we were not consulted on this after having been involved

in a dialogue on it for three years. There was no attempt to approach the opposition and say, 'We are now going to cap it'—no attempt whatsoever. Indeed, I suspect that for the most part the office of the minister at the table was bypassed in this—not necessarily as an insult to him, but the Prime Minister was the one that announced it, so I assume they worked up the proposal. They came up with the view that it should be capped at \$125,000, very conveniently, after they had spent this absolute wad of money in the run-up to the 2001 election.

The potential cost of this proposal is about \$22 million—it is \$66 million an election cycle. When Senator Brown moved his disallowance motion, he moved to disallow every particular regulation. That left us in a classic dilemma: what were we to do? We do not agree with the increase in the printing allowance but we do agree with the rest. Which way do we then vote? It did leave us right over a barrel—I admit it. But yesterday Senator Brown came into this place and said that he would amend his disallowance motion. That meant that we could vote the way we wanted to on the printing allowance and not have to disallow anything else. Senator Abetz would say that that is cherry picking. There is agreement between the opposition and the government on a lot of these other regulations, but we were never able to negotiate on the printing allowance. We were informed that it was coming, and so I give credit there, but I think the minister acknowledged that we never gave our agreement to it at any stage. It was never subject to a negotiation process where we agreed, so there is no breaking of our word.

But what happened yesterday, of course, was that Senator Brown had to seek leave from the entire Senate to amend his disallowance resolution. Before I saw the gormless amendment moved by the minister at the table, I was going to congratulate Senator

Abetz for allowing Senator Brown to amend his disallowance motion and thus ensure its success. He was sitting here yesterday when it happened and his adviser was sitting in the box, and I thought, 'Here is a case where Senator Abetz has put his role as a parliamentarian first and his role as a politician second.' Some of his colleagues would have cynically denied leave simply to win the issue. I thought, 'Here is a real gentleman; someone that would allow leave to do this knowing it was going to ensure his defeat on this particular thing.' Now, looking at the amendment today, I have to say that he may have been asleep at the wheel—maybe he did not realise what was happening. Maybe I have given him too much credit for allowing this particular matter to be amended. That is a bit disappointing.

The opposition have indicated that they will support the disallowance motion and that they will not grant a rollover provision. As I have said before, we were informed of the government's intention here but we were not negotiated with—I am sure that if I am wrong the minister will interject here—about the quantum or the rollover, whereas many of the other provisions were subject to some negotiation.

Senator Abetz—No objections were raised.

Senator ROBERT RAY—That is true, no objections were raised. But, then again, can we at least agree on this, Minister—through you, Chair—that no assent was given either, and so I can leave it as an accurate description of what happened. The minister may well recall that once these provisions were aired for the first time I asked whether there was an explanatory memorandum in the chamber here, and again the minister's office was cooperative in that regard. But I have to say to the minister at the table that if there are surplus funds around there are other areas

of entitlement that have a higher claim than the printing allowance, not the least of which is staff travel—and, again, I am pleased that the minister is reviewing this. He indicated that to the estimates committee before last and again at the last estimates committee. That is a positive development.

In his contribution Senator Abetz fulminated against Senator Brown. Senator Brown knows I enjoy fulminations against him—I have done so a few times myself. But Senator Abetz asks why Senator Brown did not disallow the regulations of \$125,000. If he had moved for the disallowance of the \$125,000, guess what would have happened? We would have had an uncapped entitlement. Mr Haase would have been able to spend \$416,000 in a year; Mr Slipper would have been able to spend \$355,000 in a year; Mr Somlyay would have been able to spend \$342,000 in a year; Mr Hardgrave would have been able to spend \$325,000 in a year; Mr Cameron would have been able to spend \$286,000 in a year—and on the list goes. Senator Brown would have been a mug at that stage to move a disallowance motion to bring it back to a totally uncapped entitlement. You are often put in a dilemma here. The dilemma is: do you vote for a cap even though you do not agree with the quantum of the cap or leave it uncapped? That was the dilemma that I think Senator Brown would have been in, and maybe Senator Murray as well. They would have preferred at least a cap, even if they were not committed to the quantum.

We then move to the amendment. I wonder how long they spent thinking this one up. The amendment says, 'It looks like we won't have the numbers to get the printing allowance up, so let's take our bat and ball and go home. First of all, we'll take away a few of the regulations that will assist the opposition. We'll fire a bit of grapeshot at them and see if they cave in.' We are not caving; we are

not giving in to what we see as having the effect—although it may not be intended—of blackmail. We will not do that. The second thing the amendment says is, 'You've missed the Labor Party. See if you can hit the target on the other side. You can go out and proselytise now that the Democrats and the Greens and some other minor parties have in fact voted for an increase in public expenditure on entitlements.' Senator Murray dealt with that very well when he said he does not necessarily oppose an increase in some entitlements.

Senator Abetz—Those that benefit him.

Senator ROBERT RAY—What he believes in is capped entitlements. Senator Abetz also drops a few broad hints that he might out a few people over photocopying and mobile phones. We can all play that game, Senator Abetz, and you better than anyone else because you have the responsibility for the proper custody of those figures. But, if you want a reasonable discussion about transparency in the use of parliamentary entitlements, you have come to the right place because we have generally argued that the greater transparency the greater the honesty.

I do not know whether the minister at the table, his predecessors and others have adopted a policy of transparency out of principle or pragmatism, but it does not matter. It is here, now, today, and it is here to stay. Since we have seen far more transparency in travel allowance claims and the whole range of entitlements, we have seen far more honesty right across the board, and that is something we should encourage. I know at times it can be embarrassing to have every detail revealed in public, but it is not as embarrassing as where the temptation is there to abuse, maximise and overuse entitlements and then exposure occurs.

The whole issue of the House of Representatives printing allowance has been pretty tawdry. We do not come to it with clean hands—I admitted that earlier today. It was our government that introduced it, and we introduced it without a cap. We have something to be ashamed about in its administration. But the current government should have acted on it earlier. They were urged to act on it earlier. They committed and they promised to act on it earlier, and they did not do so. It took until after the 2001 election for a proper cap to be put in, and it was put in without proper consultation. The Labor Party opposition were treated with great discourtesy, not by the minister at the table but by others in executive government who did not consult on it.

It is our long-term view that a proper cap in this particular area would be more appropriately set at \$75,000, but we all have to play by the rules of the game. Don't expect us to spend only \$75,000 if our opponents can spend \$125,000, but I think that would have been a more appropriate level. I do make this suggestion: given that the minister has been able to divide the purposes of this between communications and printing, I think it is time we looked at some miniglobal budgets. The minister at the table knows that I totally oppose global budgets because of the temptation to abuse. But I think a communications and printing allowance for both senators and members of the House of Representatives as a global budget would be a more attractive proposition. It would allow more choice in communicating with the electorate—that is, by direct mail or by newsletter. It is something we should look at into the future, and it would give members a lot more scope.

It is easy to say that the \$3.75 million potential increase in expenditure each year is not a lot of money. But it is a lot of money in terms of the matched budget. As Senator

Murray points out, we have had to go to hell and back to find the \$6.4 million worth of savings required by the five parliamentary departments to fund security around this building. I would be happy, frankly, to take the whole \$18 million out of the printing allowance and devote it to security in this building. I think the Australian public and all members of parliament would be better off, but that is an aspiration we are not going to reach, so the opposition will be supporting Senator Brown's disallowance motion on the printing allowance.

We do not agree with the tactical position that has forced the minister now to come into this place and say: 'I'm sorry. I put all these regulations in place. I'm now going to move to disallow five, six, seven or eight of them. I've suddenly had a road to Damascus conversion from yesterday to today and now believe we should disallow those ones as well.' It is very strange for a minister to come in and effectively move the disallowance of his own regulations, regulations which he thought were quite appropriate on 1 July this year but which he thinks are no longer appropriate in mid-August. It is a very strange action. If the tactics are to put us over a barrel, you always have to call the bluff on that, and I am sure the minor parties will do exactly the same.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (5.48 p.m.)—I would also like to speak briefly on this disallowance motion. I think my colleague Senator Murray has covered the details extremely well and, as is usually the case with the Democrats, in as objective a way as possible in trying to rise above some of the obvious temptations for political mud throwing, backwards and forwardsing, finger pointing and point scoring. It highlights the risks of raising an issue like this, and I think everybody would acknowledge that it is almost an unfortunate disincentive to start

pointing to one particular entitlement, because it automatically begs the sort of response that we got today from the minister. He will say, 'You don't like this one, so we're going to threaten to take these ones off you,' or, 'If you do that then we're going to make public things that are going to embarrass you about your inappropriate expenditure in other areas.' So develops a convention where, if everybody just shuts up and keeps their head down, we can keep increasing entitlements wherever we feel like it without having any sort of scrutiny about whether that increase is appropriate.

I also do not have a problem with increases where they are justifiable or appropriate. I think most in the broader regulations are appropriate. I must say I do not know what a few of them will mean, including the ones that the minister was trying to disallow relating to mobile phone services for the personal staff of the leader of a minority party, which would be me. I thought I already had some mobile phones for my personal staff, so I am not quite sure what difference this one will make. As far as I know, I did not make any representations to bring it in, but it may have been brought up prior to my taking on this role. I take the minister at his word, which may be a risky activity. Presumably it might mean some extra costs to the taxpayer. I think they would be justifiable costs, given the incredible importance of basic communication for people in some of those key roles, and I would be quite willing to argue that case if necessary. Again, I think the increase in the transparency of processes is important.

There is another provision in these regulations that puts in place what it says is a long-standing convention that the official postal entitlements of officeholders, including people such as me, should not be used for mass mail-outs. It still has the flaw of not defining precisely what a 'mass mail-out' is, but I guess it is always better to have a convention

in writing and out in the open rather than just acknowledged privately. As the minister would know, I previously approached him to seek some clarification about that. I do think that, whilst it is obviously easy to start going around saying, 'So and so from this party spent this much on that,' we should refrain from doing so. The basic point here is, quite frankly, that I am of the view, as is my party, that this increase is not justifiable. We do not oppose many entitlements. Sometimes we advocate increased entitlements in various areas where we think they are inadequate and see if we can counterbalance those with savings in other areas. It would be good to try and have those sorts of debates without the potential undercurrent of finger pointing, outing offenders, point scoring and the like. Usually we can do that reasonably well, but obviously sometimes the temptation is a bit too great for some people.

I did not hear all of the minister's contribution—I was on the phone a couple of times—but as far as I am aware he spent a lot of time attacking everybody else in the chamber for what he alleged was our keeping benefits that suited us and trying to take away benefits that might be perceived to inordinately or unequally assist the Liberal Party members of the House of Representatives. I think that is some of the understandable political point scoring. I do not know if he actually spent any time justifying why this increase was needed, which I would have found more useful, but I will go back—

Opposition senators interjecting—

Senator BARTLETT—Two minutes out of the 20? Okay. Senator Murray and, I think, Senator Ray have referred to the Audit Office report, and I should again pay tribute to Senator Murray for playing a key role in this very significant audit of parliamentary entitlements. As he said, the average of members' use of printing allowance three or

four years ago was \$37,000. Quite why \$125,000 was picked I do not know. It seems excessive to me based on what the average expenditure was a couple of years earlier. But looking at the explanation that was given in the official explanatory memorandum did not fill me with any greater confidence. The only justification given in there for increasing the limit from \$125,000 to \$150,000 was, 'Experience has shown that a slight relaxation in the arrangement is appropriate by an increase in the limit.' I am not quite sure how an increase in the limit by \$25,000 equates to a relaxation in the arrangement. It does not actually say what the experience is that highlights why it needs to be increased by what is a pretty significant hike on top of what is already a pretty significant figure.

There are always opportunities to look at some of these entitlements and regulations that come through here. If we were just doing this for political point scoring, I am sure that there are others that we could have found that technically would have been politically beneficial for us to deny to others. Almost by basic logic, any entitlement that is available to all parliamentarians inordinately benefits the larger parties more than it does the smaller parties because there is more of you lot to use the extra entitlements that are there than there are of us. So if we were going to be political about it we would deny increases in entitlements across the board to try and keep that gap from getting bigger. But we do not do that because we recognise that entitlements are not there to gain political advantage; they are there to do a job. It is a job that does cost a lot of money. The support services that are required are important and very complex. They are detailed jobs that need to be done well for the interests of the people of Australia.

I would make the point that if there is spare money going around, rather than some of the other things that possibly are in here, I

would be quite happy for that to go into—not so much security—extra staff for the Department of the Senate and some of the support services there. Without any doubt at all they could do with some extra people. But again those are points that we can raise in other circumstances. The bottom line with this is that this particular entitlement, because of the size of it, is inordinate. Most of the parliamentary entitlements we do not criticise. The Democrats are not prone to doing a lot of finger pointing about the size of the Prime Minister's travel bill or those sorts of things—apart from the occasional what seems to be highly excessive hotel bill—because we recognise that that is pretty much unavoidable and it goes with the job. Whilst it might be a cheap shot, it cheapens the whole process to get into that sort of stuff.

We do, I must say, have a lot of problems with the parliamentary superannuation scheme, and we will continue to try and change that to make it what we believe would be more equitable. There are possibly one of two other entitlements that we would look at, but across the board we are not out there every day doing the holier than thou, snouts in the trough, everybody except us type of approach. We recognise that most of them are acceptable, but we believe in this case that it is not acceptable. The case has not been made for such a significant increase, particularly given the much lower average expenditure that was clearly shown to be the case just a few years ago.

Senator BROWN (Tasmania) (5.57 p.m.)—The disallowance motion I first moved would have disallowed all the benefits and, indeed, the capping of and, therefore, the restraint of benefits for ministers in one case. That is what I first moved, and I was very keen for that to get through because it would have put to bed this particular breakout of spending for printing entitle-

ments. However, it became clear to me that that would not pass because it would be opposed by both the government and the opposition. I moved an amendment yesterday which ostensibly has the support of the opposition. I am not going to support a change to it which might risk losing that support. There is a real danger here that we will end up, at the end of the day, without any change at all—in other words, my disallowance motion will be lost.

I note Senator Abetz's contribution and the potential outing, as Senator Ray said, of various spending. Let it be. I am surprised that Senator Abetz did not table it. In fact, I think it is quite untoward for a minister in his position to be implying that if senators do not do such and such, or proceed in such and such fashion, information to their detriment might be made public. I would counsel the minister—

Senator Abetz—I didn't say that!

Senator BROWN—That is the implication that I got. The minister says that he did not say that, but I am saying that that is a message that I got, and the minister should be very careful not to put pressure on senators who are debating a matter in this place. The disallowance motion that I put will stop this runaway, excessive printing allowance; and so it should.

Question put:

That the amendment (**Senator Abetz's**) be agreed to.

The Senate divided. [6.04 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	28
Noes.....	<u>33</u>
Majority.....	5

AYES

Abetz, E.

Barnett, G.

Boswell, R.L.D.
Calvert, P.H.
Coonan, H.L.
Ellison, C.M.
Heffernan, W.
Johnston, D.
Knowles, S.C.
Macdonald, J.A.L.
McGauran, J.J.J.
Payne, M.A.
Scullion, N.G.
Tierney, J.W.
Vanstone, A.E.

Brandis, G.H.
Colbeck, R.
Eggleston, A.
Ferris, J.M. *
Humphries, G.
Kemp, C.R.
Lightfoot, P.R.
Mason, B.J.
Minchin, N.H.
Santoro, S.
Tchen, T.
Troeth, J.M.
Watson, J.O.W.

NOES

Allison, L.F.
Bishop, T.M.
Brown, B.J.
Cherry, J.C.
Cook, P.F.S.
Evans, C.V.
Harradine, B.
Hogg, J.J.
Kirk, L.
Ludwig, J.W.
Mackay, S.M. *
McLucas, J.E.
Murphy, S.M.
O'Brien, K.W.K.
Ridgeway, A.D.
Stott Despoja, N.
Wong, P.

Bartlett, A.J.J.
Bolkus, N.
Buckland, G.
Collins, J.M.A.
Denman, K.J.
Greig, B.
Harris, L.
Hutchins, S.P.
Lees, M.H.
Lundy, K.A.
Marshall, G.
Moore, C.
Murray, A.J.M.
Ray, R.F.
Stephens, U.
Webber, R.

PAIRS

Alston, R.K.R.
Campbell, I.G.
Chapman, H.G.P.
Ferguson, A.B.
Hill, R.M.
Macdonald, I.

Conroy, S.M.
Faulkner, J.P.
Campbell, G.
Crossin, P.M.
Sherry, N.J.
Nettle, K.

* denotes teller

Question negatived.

Original question put:

That the motion (**Senator Brown's**) be agreed to.

The Senate divided. [6.08 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	33
Noes.....	<u>28</u>
Majority.....	5

AYES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Bolkus, N.
Brown, B.J.	Buckland, G.
Cherry, J.C.	Collins, J.M.A.
Cook, P.F.S.	Denman, K.J.
Evans, C.V.	Greig, B.
Harradine, B.	Harris, L.
Hogg, J.J.	Hutchins, S.P.
Kirk, L.	Lees, M.H.
Ludwig, J.W.	Lundy, K.A.
Mackay, S.M. *	Marshall, G.
McLucas, J.E.	Moore, C.
Murphy, S.M.	Murray, A.J.M.
O'Brien, K.W.K.	Ray, R.F.
Ridgeway, A.D.	Stephens, U.
Stott Despoja, N.	Webber, R.
Wong, P.	

NOES

Abetz, E.	Barnett, G.
Boswell, R.L.D.	Brandis, G.H.
Calvert, P.H.	Colbeck, R.
Coonan, H.L.	Eggleston, A.
Ellison, C.M.	Ferris, J.M. *
Heffernan, W.	Humphries, G.
Johnston, D.	Kemp, C.R.
Knowles, S.C.	Lightfoot, P.R.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J.	Minchin, N.H.
Payne, M.A.	Santoro, S.
Scullion, N.G.	Tchen, T.
Tierney, J.W.	Troeth, J.M.
Vanstone, A.E.	Watson, J.O.W.

PAIRS

Campbell, G.	Chapman, H.G.P.
Conroy, S.M.	Alston, R.K.R.
Crossin, P.M.	Ferguson, A.B.
Faulkner, J.P.	Campbell, I.G.
Nettle, K.	Macdonald, I.
Sherry, N.J.	Hill, R.M.

* denotes teller

Question agreed to.

TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL 2003

Report of Economics Legislation Committee

Senator EGGLESTON (Western Australia) (6.11 p.m.)—On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee on the provisions of the Trade Practices Amendment (Personal Injuries and Death) Bill 2003, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (No. 1) 2002

AUSTRALIAN HERITAGE COUNCIL BILL 2002

AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2002

In Committee

Consideration resumed.

AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2002

Bill—by leave—taken as a whole

Senator LUNDY (Australian Capital Territory) (6.13 p.m.)—by leave—I move opposition amendments (1), (2) and (3) on sheet 2847:

- (1) Title, page 1 (line 3), omit “*Council*”, substitute “*Commission*”.
- (2) Clause 1, page 1 (line 6), omit “*Council*”, substitute “*Commission*”.
- (3) Schedule 1, item 2, page 3 (line 10), omit the item, substitute:

2 Subsection 9(3)

Repeal the subsection, substitute:

Australian Heritage Commission Act 2003 does not apply

- (3) The making of a decision, or the giving of an approval, under this Act is not an action for the purposes of section 24B of the *Australian Heritage Commission Act 2003*."

As with Labor's position on the earlier bills, we are moving amendments that attempt to reinstate control of the listing, assessment and disclosure processes back into the commission. Again, we know that these amendments will not be successful. In fact, if they were successful they would probably cause a problem for the rest of the bill now, because we are dealing with the consequential areas of the legislation, but it presents Labor with another opportunity to present our arguments as to why these bills are fundamentally flawed.

Certainly one of the issues that arises in this set of amendments that I have moved is a very important concern for Labor: the definition of actions that trigger the heritage protection regime has been narrowed by the government's proposals. The term 'actions' is used to describe the set of events that bring to life the heritage protection regime. Where actions will affect a Commonwealth place that is listed on the Register of the National Estate, the commission must be notified and given an opportunity to consider the action and comment on it. Section 30 of the Australian Heritage Commission Act expressly includes such actions as government decisions, approval of programs, the issuing of licences or permits, grants of financial assistance or the adoption of recommendations. The definition of action is also significant to the operation of the enforcement provisions of the proposed new protection regime. The bills propose a narrower set of actions than currently exist, and matters such as the provision of financial grants and the granting of

authorisations have been deleted. This amounts to a weakening of the heritage protection regime. These amendments will strengthen the definition by reinstating those Commonwealth actions for heritage items included under the previous Australian Heritage Commission Act 1975 that the government proposes to delete.

Again I state Labor's position on this bill. The bills together present a fundamental weakening of the heritage protection regime in Australia. For that reason, we have gone through an exercise in observing the deal that has been done between Senator Lees and others and the government and in observing an attempt by the Democrats to be a part of that deal. We may know before 6.50 this evening what the Democrats are going to do on the bill, so we will wait and see.

Senator LEES (South Australia) (6.16 p.m.)—I have already spoken at length as to why I am very strongly supportive of this legislation. In fact, I am a little surprised that Labor is persisting in resisting this consequential bill. As Senator Lundy said, we have already passed the substantive bills and still the Labor Party persists in saying that this is not better protection. I will not read again the long list of groups that are actively supporting, encouraging and, indeed, waiting for this to be passed—but there is another group. I acknowledge that Ken Saunders has been in the wings waiting for this legislation for quite a few days. He has asked that I read a statement, so I would like to begin by acknowledging the Gunditjmara peoples from the Lake Condah area in western Victoria. This is a statement on behalf of Ken Saunders and Damein Bell of the Gunditjmara peoples and the Lake Condah project. It reads:

The Gunditjmara people have taken a particular interest in the Environment and Heritage Legislation that this Chamber has been debating.

The Gunditjmara cultural landscape is one of the oldest examples of sedentary socio-economic infrastructure in the world.

This landscape has never been adequately recognised for its enormous significance as showing continued Aboriginal settlement of a specific site over a period of 8000 years.

This new legislation will give Aboriginal and non-Aboriginal people an opportunity to come together to understand, acknowledge and embrace this place and others like it. It will safeguard these places and provide a common path into the future.

So, for yet another reason, I will be opposing these Labor amendments.

Question negatived.

Senator BROWN (Tasmania) (6.19 p.m.)—At the request of Senator Nettle, I move Australian Greens amendment (1) on sheet 2813:

- (1) Schedule 1, item 4, page 3 (line 19), after “1999”, add “, or the Register of the National Estate, under the *Australian Heritage Council Act 2002*”.

This is an important amendment because it will ensure that, when the current list of national heritage sites is dismantled under this legislation and collapses from some 14,000 places and sites to some hundreds, the potential for private owners of heritage sites that are currently on the Australian heritage register but that are not put on the new list to gift their property to the state and have it tax deductible is lost.

This amendment will ensure that, if somebody gifts, for example, a historic house and stables which are currently listed on the national heritage register to the Commonwealth after the passage of this legislation but the minister does not put that same house and stables onto the new list, the Commonwealth can take receipt of that property and it will be tax deductible for the giver. This is clearly meant to encourage the protection of national heritage. That facility for tax deductibility of a gift—and very often it would be a gift that

has some millions of dollars worth of heritage—exists now. It ought not to be taken away under this legislation.

This amendment ensures that the gifting of private property to the public welfare so that heritage can be protected in the public domain—this can apply to land as well as to built environments—is tax deductible. We are concerned that the majority of places that are currently in private hands and are given to the state, and which would be tax deductible, will not be after the passage of this legislation. Through this amendment we are trying to ensure that the current tax deductibility arrangements for a whole suite of very important buildings, places and parts of the existing natural heritage are not lost.

Senator LUNDY (Australian Capital Territory) (6.23 p.m.)—Labor will move an amendment shortly, which I understand has similar effect to this, so I will be supporting our amendment, not this one.

Senator HILL (South Australia—Minister for Defence) (6.23 p.m.)—Everybody is in heated agreement, but for the odd word or two, that the purpose is to ensure that gifts given to items that remain on the Register of the National Estate continue to be tax deductible. As I understand it, all parties agree that that should be the case. We have three amendments that basically do the same thing. After careful consideration, our preference is for Senator Lees’s set of words—on merit, I should say to Senator Lundy—so we will not support this one. Senator Brown will nevertheless be able to celebrate because his objective will be achieved.

Senator BROWN (Tasmania) (6.24 p.m.)—I might ask the minister whether it is just the form of words, because I think Senator Nettle’s amendment has a pretty wonderful turn of phrase, or is there some inherent extra value in what Senator Lees has to say?

If it is just the form of words and the minister is saying the legal application will be clearer or better using Senator Nettle's formula then I would be happy to make way on this. The important thing is that the concept stands, and I am very pleased to hear that it will.

Senator HILL (South Australia—Minister for Defence) (6.25 p.m.)—That is right; it is a question of language. I think Senator Lees and the Democrats use exactly the same words, so if they shake hands and put it jointly then we all should be happy.

Senator LEES (South Australia) (6.25 p.m.)—Mr Temporary Chair, given that my pair of amendments are absolutely identical to the pair of amendments being moved by Senator Allison, if it is acceptable to you I would like to suggest that they be taken together as we were able to do with the last bill. I foreshadow that I will be moving that way when we get through the amendment that Senator Brown has moved.

The TEMPORARY CHAIRMAN (Senator Watson)—Senator Brown, do you wish to withdraw your amendment then or do you wish to pursue it?

Senator BROWN (Tasmania) (6.26 p.m.)—After one small piece of further reassurance. Could I have it from the minister that Senator Nettle's amendment will not be diminished if it is replaced by Senator Lees's—in other words, that there are not sites that would be covered by Senator Nettle's motion that are not covered by the wording in Senator Lees's?

Senator HILL (South Australia—Minister for Defence) (6.27 p.m.)—I think I can give the assurance that there is not a site that would achieve this advantage under Senator Nettle's amendment that will not achieve it under Senator Lees's proposed amendment. All of the advisers nod in agreement.

Senator BROWN (Tasmania) (6.27 p.m.)—I would take an assurance like that from Senator Hill; I rest easy. I seek leave to withdraw Australian Greens amendment (1) on sheet 2813.

Leave granted.

Senator LUNDY (Australian Capital Territory) (6.27 p.m.)—I am not nearly as reassured, so I would like to persist. Our amendment does go to the same thing but, for the sake of going through the exercise, I move opposition amendment (4) on sheet 2847:

(4) Schedule 1, item 4, page 3 (line 19), after "included in", insert "the Register of the National Estate, under the *Australian Heritage Commission Act 2003*, or".

Senator MURPHY (Tasmania) (6.28 p.m.)—While we are on matters of taxation—this is probably pertinent and should have been mentioned when we were debating the last bill—the government has undertaken, certainly from an indication I have from the minister in a letter, to reintroduce the tax rebate. Whilst it is a rebate for a different purpose than that which we are discussing here, I would appreciate it if the minister put on the record some statement to the effect that the government is going to reintroduce the tax rebate, which I think was removed in 1997—that is, a rebate that has application to heritage listed properties that are privately owned.

The TEMPORARY CHAIRMAN (Senator Watson)—Is it relevant to the bill?

Senator MURPHY—It is relevant to the bill because it is a matter that was discussed when ensuring that this bill goes through this chamber.

Senator HILL (South Australia—Minister for Defence) (6.29 p.m.)—It sounds as though there is some bilateral arrangement between Senator Murphy and Dr Kemp, but I do not have instructions on it.

Senator MURPHY (Tasmania) (6.29 p.m.)—I am actually waiting for a copy of the letter to be brought down, so maybe when I get that I can then refer to it.

Senator ALLISON (Victoria) (6.29 p.m.)—I raise another housekeeping matter. The minister promised yesterday or the day before to provide some information about the Norfolk Island sites. I wonder if that is available.

Senator HILL (South Australia—Minister for Defence) (6.30 p.m.)—I thought I tabled the information Senator Allison wanted. I am not sure what further information she is seeking.

The TEMPORARY CHAIRMAN (Senator Watson)—Senator Allison, can you clarify the information you are seeking?

Senator ALLISON (Victoria) (6.30 p.m.)—I did not receive yesterday any documents on Norfolk Island.

Senator HILL (South Australia—Minister for Defence) (6.30 p.m.)—Details of the nine sites—that is, the complexity of tenure and that sort of information—are on the record somewhere.

Senator ALLISON (Victoria) (6.30 p.m.)—As I recall it, the minister also offered to provide an update on the status of assessment for each of those.

The TEMPORARY CHAIRMAN—Senator Hill, do you wish to respond? We will go to Senator Murphy. Senator Murphy, do you have an issue you would like to raise?

Senator MURPHY (Tasmania) (6.31 p.m.)—The matter I raised before was in respect of a letter of 13 August addressed to me from Minister David Kemp. Item 2 of that letter reads:

2. Taxation rebate for private owners of heritage places

The Government is prepared to reinstate the provision in the Australian Heritage Council (Conse-

quential and Transitional Provisions) Bill 2002, which provides a tax rebate for gifts to the National Trust of places in the Register of the National Estate. This is in addition to a similar rebate for gifts to the National Trust of places in the National Heritage and Commonwealth Heritage Lists.

Would the minister mind pointing out to me where that has occurred? If it has not occurred, can we ensure that it does?

Senator HILL (South Australia—Minister for Defence) (6.32 p.m.)—I feel as if I am being ambushed here. I need a copy of the letter. Then I will get prompt advice and respond.

The TEMPORARY CHAIRMAN—Senator Murphy, would you provide a copy of that letter to Senator Hill?

Senator Murphy—Yes.

Senator HILL—On the issue of the sites, I do not think we have further information. As I understand it, the Commonwealth parts of each of those sites are being assessed.

Senator ALLISON (Victoria) (6.32 p.m.)—I am sorry. I have just checked and it was in fact when we were talking about the processes to do with the land initiatives, otherwise known as selling the land and some sort of package. I think the undertaking was that you would give us some advice about the processes and where they are at.

Senator HILL (South Australia—Minister for Defence) (6.33 p.m.)—Sorry, I do not have any information on the nine sites beyond that which I was able to table yesterday.

Question negatived.

Senator LEES (South Australia) (6.34 p.m.)—by leave—I move amendments (1) and (2) on sheet 3038 in my name and in the name of Senator Allison:

(1) Schedule 1, item 4, page 3 (lines 16 to 19), omit the item, substitute:

4 Section 30-15 (cell at table item 6, column headed "Type of gift or contribution")

Repeal the cell, substitute:

A gift of a place included in:

- (a) the National Heritage List, or the Commonwealth Heritage List, under the *Environment Protection and Biodiversity Conservation Act 1999*; or
 - (b) the Register of the National Estate under the *Australian Heritage Council Act 2003*.
- (2) Schedule 1, item 5, page 3 (line 24), at the end of the item, add "and Part 5 of the *Australian Heritage Council Act 2003*."

I will speak to each amendment independently, which may clear up some other issues we have been discussing. Amendment (1) seeks to amend section 30-15 of the tax act to include places that are on the National Heritage List or the Commonwealth Heritage List in addition to the places on the Register of the National Estate in the category of places that may be donated to the National Trust for tax deduction purposes. Amendment (2) inserts into the bill the provision that section 30-15 of the tax act applies in relation to a gift of a place on the Register of the National Estate after the commencement of the Australian Heritage Council Act 2003. That is the timing one. The key amendment, which details what these amendments are about, is amendment (1).

The TEMPORARY CHAIRMAN—Senator Allison, do you wish to speak to the amendments?

Senator ALLISON (Victoria) (6.35 p.m.)—I will take up the matter of Norfolk Island again, if I may. The minister undertook to check to see whether it was possible to table the information. I think the information was available but he had to check. That was on Monday; I have just had a look at the *Hansard*. That is what the minister said with respect to the processes.

Senator HILL (South Australia—Minister for Defence) (6.36 p.m.)—I had some talking points that dealt with the process, and I did say I would check to see whether they could be tabled. I am sure they could be. I will find them and table them in a moment. My hands are full of paper. I am trying to deal with Senator Murphy at the same time.

Senator HARRIS (Queensland) (6.36 p.m.)—I rise to again put on the record that One Nation supports the consequential and transitional provisions, especially the amendments being proposed at the moment. The amendments largely apply to the situation where a person has gifted a property of value to the National Heritage List. The question that I would put to the minister—and I know he is very busy—relates to the situation of a private dwelling being placed on the National Heritage List, either voluntarily or by the government following the process and making the listing. That places on a person quite considerable costs that may well exceed those that would normally be attributed to a person maintaining a property that they have—whether it be for commercial purposes or their own private home. Through being involved in the process of restoring some absolutely lovely homes that are already listed, I am very aware of the additional costs to those people that I have assisted. I believe that if the government is making this decision to protect a property or an area for the benefit of the community, then it is very important that the government also provide some form of assistance so that the person is able to maintain the property or building.

I believe this could be attained in two ways. It could be attained through a person having access to a grant to maintain the property. The other way it could be achieved would be by giving a person the ability to claim the additional costs as a tax deduction.

I believe that would also encourage people to not only look after these homes but also, in some cases, go that extra yard and make a special effort to either restore or at least maintain a property's current condition.

At this point in time I have to acknowledge that I have a vested interest in this matter. It is not by way of my ever having achieved any profit or benefit through promoting the idea, but I need to bring it to the committee's notice that I own a building which I will be requesting be placed on the list. I wanted to put that clearly before the committee. It is not for the purpose of my gaining a financial benefit personally; my concern is that we are asking people to maintain properties that will be on this list and, as I said, I will be voluntarily requesting a listing on a dwelling that I own. The additional cost in maintaining that property—and in my case restoring it—will be well above those that the average person would incur. Would the government consider one of two things: either providing grants for other people who find themselves in this situation or allowing tax deductibility for the costs that are over and above what would normally be expected when maintaining those buildings?

Senator MURPHY (Tasmania) (6.41 p.m.)—Senator Harris has raised the matter that I wrote to the minister about. I thought that the minister's response to me concerned the reintroduction of the tax rebate that did exist and which was removed, I think in 1997. There was a rebate system in operation that was replaced with the grant scheme. What I proposed to the minister was the reintroduction of the tax rebate in addition to the grants scheme. In point 2 of my letter to the minister I said:

... the reintroduction of a taxation rebate to assist private owners of heritage places in addition to the grants scheme operating through the cultural heritage places program.

I took it—maybe incorrectly—that point 2 of the minister's letter stated:

The Government is prepared to reinstate the provision in the Australian Heritage Council (Consequential) ... which provides a tax rebate for gifts ...

Having just had a conversation with the advisers, I understand that this is covered in the amendment we are currently dealing with, but that is not what I sought. I sought a rebate program so that when people have costs associated with the management and/or restoration of a heritage listed property that is privately owned there is a rebate applicable to those outlays. That was what I was seeking to have reintroduced. I do apologise, because it was probably my misunderstanding. When I read the reinstatement provision, I thought that was what we were dealing with. It seems not to be the case. I would ask—even at this late stage—that further consideration be given to my proposal.

Senator HILL (South Australia—Minister for Defence) (6.44 p.m.)—The cost to private owners of maintaining heritage items is an important one. It has always been a challenge. It is true that there was a tax rebate scheme and there was considerable debate on how effective it was—this was some years ago. The outcome of that debate was that a grants scheme would be a better alternative. The tax rebate scheme favoured those who were well off and who could probably afford to maintain the heritage value, but it was of no benefit to those who were not well off, who were more likely to need public support to maintain the heritage value. So a grants scheme was substituted. That was in addition, as Senator Murphy says, to the tax deductibility of gifts to items that are on the Register of the National Estate or items that will be on the new lists.

In addition to all of that, Senator Kemp said in the last paragraph of his response to

Senator Murphy that there is a process at the moment in conjunction with the states, again looking at this particular issue, with the detailed studies of the tax consequences and the like, to seek to identify additional funding sources. I am assured that the issue of tax deductibility, even though it was found to be not so effective in the past, is nevertheless back on the table as one of the items being considered in the development of that strategy. I cannot take it any further than that at the moment other than to say that the minister understands and accepts the point which Senator Harris and Senator Murphy are making. Apart from the support that is given in this bill, there is a process to determine whether it would be possible to give other forms of support as well.

Concerning information sought by Senator Allison, I table the detail I referred to the other day in relation to processes concerning properties on Norfolk Island.

Senator MURPHY (Tasmania) (6.47 p.m.)—I appreciate what the minister has said. The way it operated in the past is one point, but with the introduction of the grants scheme—and this is only as I understand it—grants are quite often difficult to get. It may be that the government might consider a mixture of the two things. At the end of the day I accept what the minister says—that it probably favoured more wealthy people—but all this is in the interests of preserving heritage properties. I suspect that some guidance or criteria could be drawn up so that if people receive a grant they may not be eligible for a tax rebate. If they do not receive a grant and they expend moneys, it may be that they would be eligible for a tax rebate. I am quite sure that this is not an insurmountable problem and again I urge the government to give serious consideration to that. While I respect the fact that it may not be possible to fix this right now, I am quite sure it is some-

thing that could be addressed and should be addressed in the longer term.

Senator HILL (South Australia—Minister for Defence) (6.48 p.m.)—I take that on board, but it is consistent with the spirit of Dr Kemp's letter to Senator Murphy. We all recognise that there need to be new and innovative ways found to better fund conservation of heritage values on private property. That is why the state ministers and the federal minister are developing this national strategy. One can say at the moment that the particular proposal that Senator Murphy has outlined is one of the proposals that is under consideration by the ministerial council.

Question agreed to.

Progress reported.

DOCUMENTS

Department of Agriculture, Fisheries and Forestry

Senator O'BRIEN (Tasmania) (6.49 p.m.)—I move:

That the Senate take note of the report.

I rise to speak to the *Torres Strait Protected Zone Joint Authority—Annual Report 2000-01*. The Torres Strait Protected Zone Joint Authority was established under the Torres Strait Fisheries Act 1984 and is responsible for managing fisheries in the Torres Strait Protected Zone. The zone was established under the Torres Strait Treaty entered into between Australia and Papua New Guinea in 1985. It acknowledges and protects the traditional way of life and livelihood of the Indigenous people of the Torres Strait. The fisheries under the authority's management include prawn, tropical rock lobster, pearl shell, Spanish mackerel, fin fish, barramundi and traditional fishing. Last year an important reform was made to its composition with the chairperson of the Torres Strait Regional Authority joining the

Commonwealth Minister for Fisheries, Forestry and Conservation and the Queensland Minister for Primary Industries and Rural Communities as a member of the authority. I am pleased today to acknowledge the contribution of members of the authority, including the Queensland Minister for Primary Industries and Rural Communities, Mr Henry Palaszczuk.

The authority provides an important service and does important work. For that reason, I cannot help but express disappointment that the authority's annual report for 2001-02 has not been tabled sooner, particularly when it has been in Senator Ian Macdonald's hands since 20 March 2003. One of the most pressing issues in the Torres Strait Protected Zone is the scourge of illegal fishing. The management of illegal fishing is a priority issue because it impacts on the environmental sustainability and economic resource security of our fisheries. It also concerns the protection of Australian sovereignty—a matter this government thinks is a priority when transgressors are refugees but treats much less seriously when the sustainability of our fisheries is at stake.

Alleged illegal activity in Australia's Southern Ocean fishery, adjacent to the Heard and McDonald Islands, has excited considerable media attention in recent days. This media attention has been encouraged by ministerial statements promoting the government's so-called 'hot pursuit' of an alleged illegal fishing vessel identified as the Viarsa. It is regrettable that these statements have not contained crucial information, including when the Australian government first learned of the planned activities of the vessel, whether the vessel has previously been detected in Australian waters, whether the government has provided the pursuit vessel with adequate enforcement and logistical support to realise the apprehension of the Viarsa, what arrangements have been final-

ised with other governments to assist the Australian operation and, most importantly, when the Viarsa will be apprehended.

I was surprised to see Senator Ian Macdonald on the *7.30 Report* last night, questioning the insight possessed by David Carter from Austral Fisheries in relation to the management of illegal activity in the Heard and McDonald Islands fishery. Senator Macdonald said he is privy to information about illegal fishing that holders of fisheries licences, such as Austral, are not. If that is the case, I would have thought it sensible to share that information with the people whose very livelihoods are affected by illegal activity—and that applies beyond the Heard and McDonald Islands matter.

In relation to the Northern Australian waters, including the Torres Strait Protected Zone, I note that Senator Macdonald has not announced the apprehension of an illegal fishing vessel since 1 July. At that stage, the minister had announced 71 such apprehensions for the year. His 1 July media release was the last in a long line of statements promoting the government's so-called 'commitment' to tackling illegal fishing in northern waters. Since then we have heard nothing. I am not sure whether someone has whispered into the minister's ear that the never-ending presence of illegal boats in Australian waters did little for the government's credibility on border protection or whether someone told him that he could not keep running the argument that a handful of apprehensions in the southern waters and a multitude of apprehensions in the northern waters could both denote success for the government's illegal fishing strategy.

Whatever the reason, it would be appropriate for the minister to come into the chamber and tell the Senate how many boats have now been apprehended. I understand that the number has increased by at least five

and I would not be surprised if the number were much higher. Perhaps at the same time the minister could tell us why more progress has not been made in dealing with the problem of illegal fishing through the Australia-Indonesia Ministerial Forum.

Question agreed to.

ADJOURNMENT

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

That the Senate do now adjourn.

Launceston: Elphin Sports Precinct and Regional Aquatic and Leisure Centre

Senator BARNETT (Tasmania) (6.55 p.m.)—I rise tonight to highlight plans by the Launceston City Council, in my home state, for a sports precinct and aquatic centre. It is a priority project for the council and a high priority for the region around north and north-east Tasmania. A few months ago the council's mayor, Janie Dickenson, on behalf of the council asked me to be a member of the steering committee overseeing the development of the proposal—after the council had secured an Australian government grant under the Regional Solutions Program for a feasibility study into the concept. I supported, on behalf of the Tasmanian Liberal Senate team, the funding for the feasibility study. I thank Minister Wilson Tuckey and the Australian government for funding this important study.

The council has secured a commitment from the Tasmanian government for funding of up to \$8 million and is seeking a similar funding commitment from the Australian government. Last Monday council officers, the consultants and members of the steering committee briefed councillors in Launceston on the project to date. The council will soon formally consider the proposal and then, sub-

ject to approval, I envisage that at a future date they will prepare a submission that will be put to the Australian government.

I am 100 per cent in support of a suitable and viable proposal for a sports precinct in northern Tasmania for a number of reasons. The development offers enormous benefits to community health and wellbeing and significant economic development opportunities for northern Tasmania. The project is leading the way in partnership approaches between all levels of government, communities of interest and the private sector. The scale of the development and the breadth of the issues addressed ensure the participation of all levels of government and stakeholder groups. The integrated sports precinct and indoor stadium have been developed in line with best practice community sport and recreation planning and management principles.

The project is a 40-year solution. It is a big task for the local community and government, but it is visionary. I support the project, because I believe preventative health is a real investment in our future. A comprehensively based aquatic centre and sports precinct coupled with indoor and outdoor dry sports—such as netball, tennis, basketball, soccer and other contact sports—is an investment in the healthy future of northern Tasmania.

I recall that in 1975 the Whitlam government promised Launceston a new public hospital—a promise which was honoured by the Fraser government. The hospital complex in 1980s prices cost more than \$100 million and has been an outstanding provider of health services to northern Tasmania. The point I make is that diagnostic health in northern Tasmania has been satisfactorily catered for with modernised facilities, but preventative health has been advanced on an ad hoc basis and, more often, by the private

sector. More still can be done in terms of preventative health.

Launceston is afflicted in winter by a chronic smog problem caused by wood heater smoke from burning wet or green wood, among other things. This problem stems partly from the topography of the Tamar Valley and has been addressed, to some extent, by Australian government grants for a wood heater replacement program. I support these grants and this initiative. It is a very good one. I am not able at this time to give an expert assessment of the full consequences of the winter smog, but I know there are health problems stemming from this phenomenon. My friend and colleague Dr Jim Markos, a lung specialist, has certainly convinced me of this point well enough, together with the many asthma sufferers in the Tamar Valley.

I believe that there is another far more effective and economical way to help tackle the health problems of the city and the region, and that is the provision of sports facilities and infrastructure with both government and private sector support. In 1998 the Australian government spent \$5 million to assist the Launceston City Council to redevelop the York Park football ground. I applauded that because the money was a strategic investment in Launceston's sports, health and fitness. York Park is an outstanding facility and is well appreciated. For example, many Tasmanians and others will be attending the Rugby World Cup match there in October.

The development of a sports precinct can play an even greater part in the health of the region because it is not elitist and can be inclusive of the greater population. As well, being in a temperate climate, Launceston's ageing aquatic assets are limited for general use to just a few months of the year. A few years ago the three levels of government

combined their resources to help fund an aquatic centre in Hobart, which has provided year-round swimming and a venue for national championship meets. It has been a success, and offers great service and facilities to Hobart and the southern region of Tasmania. Further, successive Australian governments have invested handsomely in the Inveresk redevelopment in Launceston, which has provided a complex of multipurpose facilities, including historic displays, a convention centre, part of the Queen Victoria Museum and part of the university art school. I see this as worthwhile public investment.

This brings me to my final point: where exactly do our children play? Like many cities, Launceston has its share of evening tomfoolery by young people and, while this is by no means worse than in any other city, I am a strong believer in public investment in social and sports activities. I believe that such investment produces a corresponding drop in crimes such as vandalism, burglary and assault. Public investment in facilities for young people produces healthy outcomes and helps to prevent crime. Consequently, it can save on significant damage caused by vandalism, general damage to property, burglary and motor vehicle theft.

I am not the government as such, so I am not in a position to say how successful or otherwise the Launceston City Council will be in its submission for Australian government funding. But I will do what I can to ensure that the best possible sports precinct proposal is put before the Australian government and that once it is submitted it is given the best and most comprehensive evaluation possible. Some say it would be wise for a politician belonging to a government to run quiet or run dead on issues such as this one, in case they do not get up. I differ from that view. If I am ultimately satisfied that the Launceston City Council's pro-

posals is both viable and suitable for northern Tasmania, then I am staying in there with the steering committee to fight for it. Otherwise, what is the point of my being an elected representative of my region?

Social Welfare: Pensions and Benefits

Senator LUDWIG (Queensland) (7.03 p.m.)—I rise on behalf of constituents where my office is situated—in Beenleigh in the electorate of Forde—to speak about certain issues that have been raised through the week. Particularly, I want to take the time available to go back to Minister Vanstone's answer to a question without notice addressed to her on 18 August. Her answer to that question was insufficient in its content. It is worth setting out the detail of this because it will make a bit more sense when we come to the constituents who have been to my office and advised me of some of the issues that surround social security. The question asked was:

What explanation has the minister obtained from her department as to why thousands of high-wealth families are accessing family tax benefit A, a payment intended only for low and middle income families? In particular, has the minister sought an explanation as to why 778 families earning over \$100,000 per year are also obtaining a social security income support pension or allowance in addition to the maximum rate of family tax benefit A?

It went on to ask:

Is the minister aware that under her flawed family tax benefit system only a customer estimate of income is made when claiming and no verification of current income actually occurs when a claim is lodged and payments commence? Could this loophole explain why so many wealthy families have accessed the payment?

Let me inform the minister of what is happening within her own portfolio. When a claim for family tax benefit is lodged, no verification is made of current family income, as far as I am aware. Payments are

made on the basis of customer estimates alone. Margin lending losses from playing the share market may be used by families to artificially reduce assessable income. The government relies on the self-reporting of foreign income, and no verification mechanisms are in place. If this were not already embarrassing enough for the minister, her claim that at least four of the 15 millionaires claiming benefits are the result of a 1993 policy change just does not stack up. Yes, some families who were receiving child disability allowance in 1993 did retain family payments when benefits were overhauled. The coalition decided to preserve the benefits again in 1998 when carer allowance was introduced. Surely the minister knows that carer allowance is not means tested. If the minister would like to introduce an income test for carer allowance, she should indicate that.

The minister has given a clueless performance in defending the 18,000 families earning over \$100,000 who are receiving family tax benefit A—18,000 families, including millionaires, getting family tax payments. These payments—or 'benefits', as they are referred to—are primarily to assist families with the raising of their children. The minister consistently holds up low-income families as inept when they incorrectly estimate their incomes for the upcoming financial year, but she does not bother to check foreign income recipients or point the finger at the high end of the income bracket. In fact, the minister takes a sledgehammer to low- and middle-income families who are getting their rightful entitlements. She talks about average families being in the bucket of welfare. The average families getting family payments get those payments to assist them to feed, clothe and educate their children.

The minister is quite content to have loopholes that allow 18,000 high-income families, including 15 millionaires, to receive

payments. She has left loopholes which allow people to get payments by negatively gearing shares or having a foreign income. Her protests of, 'I don't adhere to one rule for the rich and another for the poor' and 'Just look at Christopher Skase!' fall on deaf ears for those families in need. If we turn to Christopher Skase, we see that the fact is that he did get away with it: he never returned to Australia to face his creditors. The fact is that over 587 families on \$100,000 a year have got away with it. The next fact is that over 600 families on incomes of between \$200,000 and \$300,000 have got away with it and, of course, 15 families on \$1 million are in receipt of a Centrelink benefit. In answer to a question without notice on 24 May 2001 the minister said:

This government believes that Australians are extremely generous. They want welfare payments to go to the people in need and they want them to get there quickly. I tell you what they do not want. They do not want overpayments and they do not want payments to go to people who are, in one form or another, manipulating the system to get more.

The government stand proudly behind our compliance record, because we want to make sure that welfare goes to the needy and not to the greedy.

The minister said 'the needy not the greedy' in this chamber. In saying this, she was talking about people being breached under the compliance requirements of mutual obligation—hardly people in the \$100,000 class and definitely not people in the \$1 million class receiving a benefit. It beggars belief that a minister who so vociferously defends her determination to be accountable to the Australian taxpayer comes out this hard only against low-income earners. The reasoning given by the minister is offensive and shows that the Howard government once again has two standards: one for those at the top end, who are allowed to get away with anything and are not branded as welfare cheats, and

another for average families who have worked hard to make this country what it is today.

Unlike high-income families accessing family tax benefits, there are less fortunate families currently being thrown off the carers allowance because of the tighter medical assessment, not their income. Let me give you an example of hardship as a result of the stinginess of this government. First, we have constituent A. There is always a problem with mentioning names, so I will leave it at that; but if anybody wants to check the record with me I am quite happy to take them through it. Constituent A works hard for charity in my electorate and is a 48-year-old legally blind woman. She has been legally blind after four successive operations failed to achieve any improvement in her vision. Two of her brothers are also legally blind. Earlier this year, the family received a letter from Centrelink after Senator Vanstone made statements about tightening the benefit guidelines. A letter! Unlike those who are partially blind, these constituents cannot read anything that is not in braille. The letter asking them to confirm their blindness was wasted on them as it was sent on laser printed paper, and so their payment was suspended pending a new assessment.

Then we have the case of a 46-year-old man who has a disease so severe that if he bumps into something or falls over his body forms life-threatening clots. His wife is currently on a carers allowance. This person has spent more time in hospital than out of it during his life. A review by Centrelink instigated by the minister because of fraud in the disability support pension and performed by Health Services Australia found him able to work, and so his pension was cancelled, as was his wife's carers allowance. The doctor from Health Services spent a total of six minutes with my constituent, declined the opportunity to look at notes provided by my

constituent's specialist, then asked my constituent to lift and rotate his arms. He said, 'That will be all,' and pronounced him fit to work. Only after intervention by my office and a full medical review where the specialist's notes were taken into account did the constituent have his disability pension reinstated. To add further insult to injury, Centrelink then sent a carers allowance review form after the minister decided that some people with disabilities do get better and conditions do become manageable.

Minister Vanstone, cases like these of my constituents do not go away. I can quote until the cows come home instances of injustice which have all been instigated to stop welfare fraud and all instigated by you as a policy. Each time you attack the low-income end of the scale you are causing both emotional and financial hardship for those who get caught up in your scheme to save a few dollars. It is necessary to have accountability, but there is a point where you need to ensure that that accountability does not cross the line. I believe there is a need for checks and balances. Perhaps the minister's department can use some of the tact they reserve for the high end of town towards everyday people.

Minister Vanstone likes to blame Labor for faults in the social security system. I must say she seems to enjoy railing against Labor's supposed failures. The truth is that Labor never treated hardworking low-income families with the contempt that this government has. The minister was asked a question about affluent families claiming benefits and refused to be clear and concise on what her government will do to rectify the anomalies, while over 600 families on an income of between \$200,000 and \$300,000 a year are still eligible for the benefit. If the minister is looking for someone to blame she should look no further than herself and her inability to manage the Family and Community Services portfolio. During her period as minister

of this portfolio she has consistently trodden on the most vulnerable in our community. First it was the legally blind person who was sent a letter not in braille asking for proof that they are blind. Of course, that person could not read the letter, which really adds insult to injury when you consider the course that was taken. Then there is the issue of the Job Network breaching fiasco, closely followed by the persecution of families who have saved taxpayers billions of dollars by taking responsibility for their handicapped children and partners instead of institutionalising them. Work on the top end of town is needed: adjust payments accordingly, and think before you blindly challenge people's principles, integrity and honesty. (*Time expired*)

Industry: Textile, Clothing and Footwear

Senator COLBECK (Tasmania) (7.13 p.m.)—In November last year the Treasurer, the Hon. Peter Costello, referred post-2005 assistance arrangements for the textile, clothing and footwear industries to the Productivity Commission for inquiry and report by 31 July this year. As published in the Productivity Commission position paper outlining the review of TCF assistance, the government's current assistance arrangements for the TCF industries, implemented by the Howard coalition government, comprise: the Textile, Clothing and Footwear Strategic Investment Program, known as SIP; a commitment to hold tariffs for TCF products at 2001 levels until 2005, when at that time tariffs will be legislated to reduce from 25 per cent to 17.5 per cent for clothing and finished textiles, from 15 per cent to 10 per cent for cotton sheeting and fabrics, carpet and footwear, and from 10 per cent to 7.5 per cent for sleeping bags, table linen and footwear parts; and also the Expanded Overseas Assembly Provisions Scheme, which includes specific TCF policy by-laws and market access initiatives.

Presently Australia has a commitment with APEC members to free and open trade and investment by 2010. However, it is abundantly clear that the TCF industry will be vulnerable to considerable disruption should that occur. My electorate office is situated in Devonport, the home of TCF industry companies Australian Weaving Mills Pty Ltd and Ulster Tascot carpet manufacturers. Additionally in Tasmania, major companies Blundstone Pty Ltd manufacture footwear in Hobart, James Nelson (Tasmania) Pty Ltd manufacture woven fabrics and products in Launceston and Waverley Woollen Mills produce woollen blankets and rugs in Launceston. With a work force of 250 people, Australian Weaving Mills is a very large contributor to Devonport's economy, as is Ulster Tascot, with a work force of around 220 people at its East Devonport factory.

Because of the very significant contribution both companies make to the local economy and the large number of local people each company employs, I actively took part in the Productivity Commission inquiry and submitted my report on 7 March this year. Additionally, following the Productivity Commission's position paper, released in April and prepared for further public consultation and input, I prepared a response to the commission's post-2005 options for tariffs and the SIP. In my submission, I concluded:

- Since the pause on tariffs announced in 1998, two TCF companies have closed down in Tasmania—Tamar Knitting Mills in Launceston and Sheridan Australia in Hobart. Sheridan commenced its operations in Tasmania in 1969 and at one stage employed over 1,000 people. Operations were moved to Adelaide and China 12 months ago.
- Slow reduction in tariffs is easier for the industry to adjust to and cope with. With slow adjustment, natural attrition can be relied upon to reduce and stabilise the work-

force. Rapid adjustment forces retrenchments and closures.

- Female, married/partnered employees are disadvantaged in retrenchments and closures as they are less able to move their family to another Australian centre to seek employment as husbands/partners work in other industries. Mobility for many in the TCF industry in Tasmania is not an option.
- Significant gains and structural change have been achieved from imposed tariff reductions, innovation and the implementation of the SIP Scheme.
- Further gains will be achieved through the continuation of and modification of the SIP Scheme to encourage additional investment and innovation in the industry.
- Australian tariffs should not be reduced in front of our trading partners otherwise, increasing competition from imports will continue to cause the TCF industry to contract.

I recommended:

1. The Productivity Commission examine what progress is being made internationally in reducing tariffs.
2. The Productivity Commission examine international tax regimes for competitors in the TCF industry and make like comparisons with Australia.
3. There must be a level playing field.
4. The Productivity Commission examine the drastic implications of reducing tariffs, particularly in the clothing and finished textiles range where tariffs are currently 25%, reducing to 17.5% in 2005, to comply with its commitment to free and open trade and investment with APEC members by 2010.
5. The Textile, Clothing and Footwear (Strategic Investment Program) Scheme (SIP) be extended past 2005 and be modified to increase the 5% cap and allow for capital investment in one outlay without being penalised by the rules of the Scheme. The Scheme must be accessed in larger amounts, faster.
6. Under SIP, adequate recognition be given to full Australian manufacturers rather than full importation or partial importation.

Last night in the other place, Mr Sidebottom, the member for Braddon, spoke of the inquiry and gave significant emphasis to jobs and the workers. However, Mr Sidebottom took a long time to understand the significance of the issues facing Tasmanian textile, clothing and footwear workers. It was only the chance to grandstand at a union rally that recently swung him into action, some nine months after the inquiry was announced by Treasurer Costello. Mr Sidebottom did not make a submission to the Productivity Commission. Nor did Senator Sherry or Senator Denman, and they both live in the Devonport area. The Productivity Commission released its position paper in April, and Mr Sidebottom did not make a response. Nor did Senator Sherry or Senator Denman. Mr Sidebottom had a tremendous opportunity to outline his recommendations to the Productivity Commission and thereby influence the commission's recommendations to the Australian government, exactly as I have done. He is their local member, for heaven's sake, but he did not raise a finger. Again, he has failed the very people he claims to be the protector of: the workers.

I make no apologies for suggesting at a recent rally in Devonport that the TCFUA are being narrow minded for their sole concentration on tariffs, because the industry also needs the SIP as part of this process. Without the SIP and the further innovation and investment that that will bring, workers' jobs may be in even more danger—in fact, no investment, no jobs. Following Mr Sidebottom's comments, I reflect on which party has actually reduced tariffs, which has adversely affected the workers it claims to be the protectors of—it is Labor. Tariffs on shoes went from 55 per cent to 25 per cent in 1990 and from 45 per cent to 15 per cent with absolutely no industry assistance at all. Here we have another situation where you cannot believe what Labor says but you

should take note of exactly what it does. In this case, it has taken Labor nine months to do absolutely nothing. In fact, Labor has done nothing positive for the TCF industries or their workers since 1990. The reality is that the Howard government has provided unprecedented assistance to the textile industry, and it has become the real friend of Australian TCF workers.

Agriculture: Genetically Modified Crops

Senator CHERRY (Queensland) (7.21 p.m.)—On 25 July the Office of the Gene Technology Regulator announced the approval of the commercial release of genetically modified canola by Bayer CropScience. The regulator is still considering a similar application by Monsanto. This was a very important decision. It was the first approval of the commercial release of a genetically modified food crop into Australia and comes at a time when the world outcome for GM crops is still quite uncertain. At the time, I raised serious concerns about the regulator's approval, which was based on a very narrow assessment of environmental and health effects. The regulator, Dr Sue Meeks, is a respected scientist who, in my view, has always acted with the utmost integrity and comprehensiveness. But she is constrained by a very restrictive mandate under the act to deal only with the immediate health and environmental effects rather than the broader changes from GM.

This has resulted in an approval based on a narrow set of criteria that expressly excludes key environmental issues, such as changes between agricultural practices due to different crop herbicide systems and the ability to effectively segregate GM and GM-free canola. Ironically, the approval came just one week after the report of a panel of 30 British scientists headed by the chief scientist, Sir David King, on the science of GM crops.

They warned that in considering the effects of GM pest-resistant crops:

... it is necessary to judge the crop-pesticide combination as a 'system' rather than simply considering the ecological impacts of the crop in isolation.

The Australian decision failed to do just that, deferring any questions to do with pesticide to another regulator, who in turn will rely on a crop management system designed by Bayer CropScience. The question of the combination of crop and pesticide and its impact on biodiversity simply has not been considered. The science review panel has also warned:

... we must be cautious in drawing general conclusions as these observations were based on relatively few field experiments.

Yet this is exactly what Australia has done. The Democrats support the more cautious approach of the precautionary principle, as no corner should be cut when we are dealing with the issues of the food we eat and the environment we live in.

The panel warned of major gaps in the knowledge of environmental effects of genetically modified crops and called for more research before new GM crops were approved for commercial release. It found that the longer term impact on biodiversity and wildlife, on soil ecology and on pesticide use was uncertain and needed to be more certain before crops were commercialised. We need now to do that longer term research work. The moratoria at state levels now give us the time to do that, and the Democrats welcome the moratoria that have been declared in South Australia, Western Australia and New South Wales this year, and also in Tasmania last year. The Victorian government has also declared a one-year moratorium while the crop segregation issues are sorted out.

The only state not to move is my home state of Queensland. I wrote to Premier

Beattie in April urging him to follow Bob Carr's example. I pointed out that many key science and health bodies have raised concerns about the gaps of knowledge about GM crops. These include the British Medical Association, the European Environment Agency, the Royal Society of Canada, the British National Institute of Agricultural Botany, the American Academy of Natural Sciences and the Public Health Association of Australia. Queensland is now the only place in Australia where GM food crops can be grown. And, given that there have been three GM canola trials in the Lockyer Valley, the Lockyer-Darling Downs region could be the first place in Australia where GM canola is grown commercially. That is a first I do not think my home state of Queensland needs to add to its list.

State government moratoria on the growing of genetically modified crops could in fact be the next target of US trade negotiators, following the decision of the US to challenge the European Union's GM crops ban at the World Trade Organisation. I found it incredible that the Australian government joined this action when Australia exports no genetically modified food crops and when five states have no plans to do so. The American biotechnology industry is not happy with Europe's labelling of GM crops and could, in fact, challenge Australia's labelling laws as well. The moratoria by the states prevent the importation of US biotechnology products into those states and this in turn could be challenged. The US challenge interferes with the right of each nation—including, potentially, ours—to protect legitimate environmental and health issues within its borders, and should be opposed rather than supported by the Australian government.

Australian farmers are yet to embrace genetically modified crops, with a new survey by Biotechnology Australia this week show-

ing that an overwhelming 74 per cent of farmers said they would not consider growing genetically modified crops at this stage. Forty-nine per cent said they were generally opposed to GM crops, while 23 per cent said that they were supportive and 17 per cent were 'agnostic'. The position of farmers is in very sharp contrast to the public support for GM from peak organisations such as the National Farmers Federation and from federal Minister for Agriculture, Fisheries and Forestry, Warren Truss.

Farmers in that survey were particularly worried about consumer resistance with GM crops, followed by performance in the paddock and access to markets with GM bans. There was also a concern about the flow of pollen from GM plants and their resistance to weeds. These issues are yet to be fully sorted out in an Australian context. It is worth noting that 90 per cent of Tasmanian farmers said they would not consider growing GM crops at this stage, while in Queensland the resistance was much lower. Around three-quarters of New South Wales and Victorian farmers said they would not grow GM crops yet—and that is a good one for Senator McGauran to note. What I said at the time was that this was clearly a wake-up call to our government, that farmers did not have confidence in the GM technology and the current regulation. Farmers in Australia tend to be conservative people, but they will always pick up the technology where they have confidence in it from an environmental point of view and in terms of an economic benefit. That is yet to be proved in Australia: yet to be proved to our farming community and to our consumers—and our government needs to do more work on it. Yet the Prime Minister and his minister Mr Truss argue that genetically altered crops are the way of the future and that we cannot afford to turn our back on them. This contrasts with the view of the Network of Concerned Farmers, which

believes that many farming groups and the federal government have been misled by smart promotion and industry interests into backing GM crops. Ms Julie Newman, from the network, says:

GM benefits are doubtful but the risks are very real.

She says:

There is high market sensitivity to very low levels of GM contamination in any of our produce.

One of her group's key concerns, and one shared by some grain handlers, is the time and effort that must go into segregating GM crops from GM-free crops. Mr Truss believes that farmers will come to a solution, yet the Grains Gene Technology Committee has come up with the weakest segregation scheme in the world. They need to listen—and Mr Truss needs to listen—to the advice of the former British environment minister, Mr Michael Meacher, who warned in a recent column:

There are several lessons that Britain can, and should, learn from the Canadian experience. The most important is that "coexistence"—a framework to ensure that organic and conventional farming can survive and prosper alongside GM farming—is a mirage.

That is something that our government needs to take account of—that the evidence coming from Canada, the evidence being collected by the former environment minister of Britain, is showing that the road we are going down could ultimately be a blind alley for Australian farmers.

There is also growing resistance to GM foods in European markets. Even in the UK it is now quite clear that supermarket chains are saying they will not stock any GM food because of concerns about consumer resistance. This is only with the argument over GM canola which, for most consumers, only ends up in margarine or cooking oil. Wait until GM wheat—which is now being tri-

alled in the United States and Canada—is proposed in Australia. I should note that research has been conducted on GM wheat in my home state of Queensland. In addition, in Australia scientists are working on a genetically modified grapevine that has been altered to boost sugar and colour. The Queensland Department of Primary Industry is developing a GM pineapple that would not suffer from the disease blackheart. It is also looking at genetically modified sugar cane and papaya. Worldwide, around 68 per cent of soya beans, 49 per cent of cotton and 32 per cent of canola is now genetically modified.

This issue can only get more intense, yet what we are seeing in Australia is a federal government that is blind to these concerns, blind to the holes in the research and blind to the concerns being expressed by farmers. To quote Mr Truss again:

The federal government firmly believe that once a science based decision has been made by the Gene Technology Regulator, all commercial decision making should be left to the industry.

The problem is that the Gene Technology Regulator is operating, and continues to operate, under a very narrow mandate. There are very large holes in the science, and that science based decision giving the confidence that our farmers need has not yet occurred and needs to occur before we go further down the GM route.

Senate adjourned at 7.31 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:

Aboriginal Land Commissioner—Report and explanatory statement by the Minister for Immigration and Multicultural and Indigenous Affairs—No. 65—Lower Roper River land claim no. 70.

Torres Strait Protected Zone Joint Authority—Report for 2000-01.

The following documents were tabled by the Clerk:

A New Tax System (Family Assistance) Act—Family Assistance (Meeting the Immunisation Requirements) Determination 2003.

Defence Act—Determination under section 58B—Defence Determination 2003/23.

Environment Protection and Biodiversity Conservation Act—Instruments amending list of threatened species under section 178, dated 4 March 2002; and 3 June and 21 July 2003.

Migration Act—Instrument of Approval of Primary Reporting System (Aircraft Passengers), dated 23 June 2003.

Social Security Act—Child Disability Assessment Amendment Determination 2003.

Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended on 3 December 1998:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2003—Statements of compliance—

Aboriginal and Torres Strait Islander Commission.

Department of Health and Ageing.

QUESTIONS ON NOTICE

The following answer to a question was circulated:

Environment: Listed Species**(Question No. 1599)**

Senator Bartlett asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 3 July 2003:

- (1) On how many occasions has the Secretary of Environment Australia been notified of the death or injury of a member of a listed threatened species or listed ecological community in a Commonwealth area under section 199 of the Environment Protection and Biodiversity Conservation Act 1999 ('the Act').
- (2) On how many occasions has the Secretary of Environment Australia been notified of an action that consists of, or involves, trading, taking, keeping or moving a member of a listed threatened species or listed ecological community in a Commonwealth area under section 199 of the Act.
- (3) On how many occasions has the Secretary of Environment Australia been notified of the death or injury of a member of a listed migratory species in a Commonwealth area under section 214 of the Act.
- (4) On how many occasions has the Secretary of Environment Australia been notified of an action that consists of, or involves, trading, taking, keeping or moving a member of a listed migratory species in a Commonwealth area under section 214 of the Act.
- (5) On how many occasions has the Secretary of Environment Australia been notified of the death, injury or taking of a cetacean in the Australian Whale Sanctuary under section 232 of the Act.
- (6) On how many occasions has the Secretary of Environment Australia been notified of the taking of an action that consists of treating a cetacean killed, injured or taken in contravention of section 229, 229A, 229B or 229C under section 232 of the Act.
- (7) On how many occasions has the Secretary of Environment Australia been notified of the death or injury of a member of a listed marine species in a Commonwealth area under section 256 of the Act.
- (8) On how many occasions has the Secretary of Environment Australia been notified of an action that consists of, or involves, trading, taking, keeping or moving a member of a listed marine species in a Commonwealth area under section 256 of the Act.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

No formal notifications of incidents have been forwarded to the Secretary under sections 199, 214, 229, 229A, 229B, 229C, 232 or 256. However reports of interactions have been provided to the department as detailed below.

- (1) 5
- (2) 0
- (3) 1
- (4) 0
- (5) 4
- (6) 1
- (7) 41
- (8) 0