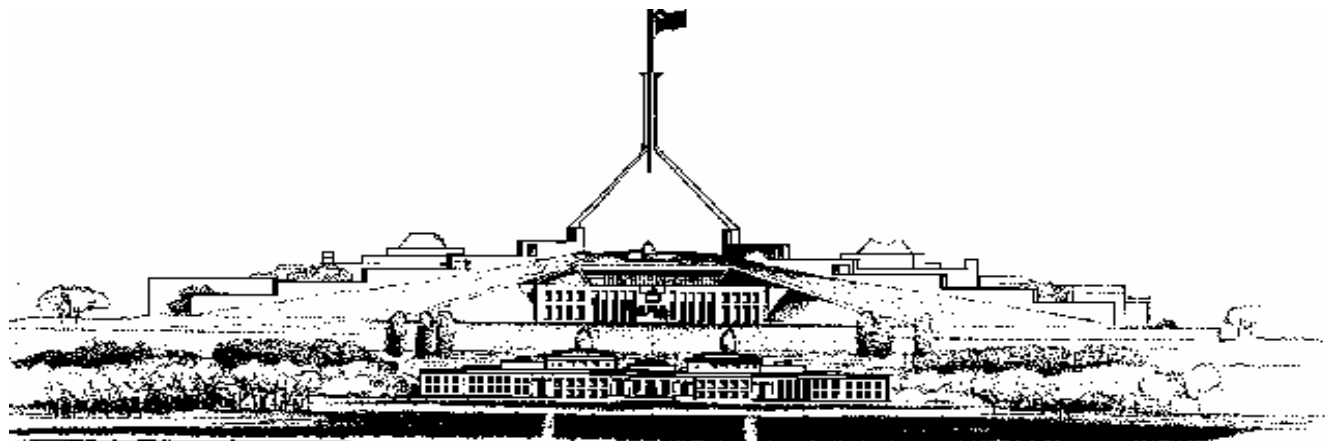




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



SENATE

Official Hansard

No. 10, 2003

MONDAY, 8 SEPTEMBER 2003

FORTIETH PARLIAMENT
FIRST SESSION—SIXTH PERIOD

BY AUTHORITY OF THE SENATE

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SITTING DAYS—2003

Month	Date
February	4, 5, 6
March	3, 4, 5, 6, 18, 19, 20, 24, 25, 26, 27
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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<i>ADELAIDE</i>	972 AM
<i>PERTH</i>	585 AM
<i>HOBART</i>	729 AM
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**FORTIETH PARLIAMENT
FIRST SESSION—SIXTH PERIOD**

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

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert

Deputy President and Chairman of Committees—Senator John Joseph Hogg

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

Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill

Deputy Leader of the Government in the Senate—Senator the Hon. Richard Kenneth Robert
Alston

Leader of the Opposition in the Senate—Senator the Hon. John Philip Faulkner

Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy

Manager of Government Business in the Senate—Senator the Hon. Ian Gordon Campbell

Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill

Deputy Leader of the Liberal Party of Australia—Senator the Hon. Richard Kenneth Robert
Alston

Leader of the National Party of Australia—Senator the Hon. Ronald Leslie Doyle Boswell

Leader of the Australian Labor Party—Senator the Hon. John Philip Faulkner

Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy

Leader of the Australian Democrats—Senator Andrew John Julian Bartlett

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Members of the Senate

Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	Tas.	30.6.2005	LP
Allison, Lynette Fay	Vic.	30.6.2008	AD
Alston, Hon. Richard Kenneth Robert	Vic.	30.6.2008	LP
Barnett, Guy ⁽⁵⁾	Tas.	30.6.2005	LP
Bartlett, Andrew John Julian	Qld	30.6.2008	AD
Bishop, Thomas Mark	WA	30.6.2008	ALP
Bolkus, Hon. Nick	SA	30.6.2005	ALP
Boswell, Hon. Ronald Leslie Doyle	Qld	30.6.2008	NP
Brandis, George Henry ⁽²⁾	Qld	30.6.2005	LP
Brown, Robert James	Tas.	30.6.2008	AG
Buckland, Geoffrey Frederick ⁽⁴⁾	SA	30.6.2005	ALP
Calvert, Hon. Paul Henry	Tas.	30.6.2008	LP
Campbell, George	NSW	30.6.2008	ALP
Campbell, Hon. Ian Gordon	WA	30.6.2005	LP
Carr, Kim John	Vic.	30.6.2005	ALP
Chapman, Hedley Grant Pearson	SA	30.6.2008	LP
Cherry, John Clifford ⁽³⁾	Qld	30.6.2005	AD
Colbeck, Richard Mansell	Tas.	30.6.2008	LP
Collins, Jacinta Mary Ann	Vic.	30.6.2005	ALP
Conroy, Stephen Michael	Vic.	30.6.2005	ALP
Cook, Hon. Peter Francis Salmon	WA	30.6.2005	ALP
Coonan, Hon. Helen Lloyd	NSW	30.6.2008	LP
Crossin, Patricia Margaret ⁽¹⁾	NT		ALP
Denman, Kay Janet	Tas.	30.6.2005	ALP
Eggleston, Alan	WA	30.6.2008	LP
Ellison, Hon. Christopher Martin	WA	30.6.2005	LP
Evans, Christopher Vaughan	WA	30.6.2005	ALP
Faulkner, Hon. John Philip	NSW	30.6.2005	ALP
Ferguson, Alan Baird	SA	30.6.2005	LP
Ferris, Jeannie Margaret	SA	30.6.2008	LP
Forshaw, Michael George	NSW	30.6.2005	ALP
Greig, Brian Andrew	WA	30.6.2005	AD
Harradine, Brian	Tas.	30.6.2005	Ind.
Harris, Leonard William	Qld	30.6.2005	PHON
Heffernan, Hon. William Daniel	NSW	30.6.2005	LP
Hill, Hon. Robert Murray	SA	30.6.2008	LP
Hogg, John Joseph	Qld	30.6.2008	ALP
Humphries, Gary John Joseph ⁽¹⁾⁽⁷⁾	ACT		LP
Hutchins, Stephen Patrick	NSW	30.6.2005	ALP
Johnston, David Albert Lloyd	WA	30.6.2008	LP
Kemp, Hon. Charles Roderick	Vic.	30.6.2008	LP
Kirk, Linda Jean	SA	30.6.2008	ALP
Knowles, Susan Christine	WA	30.6.2005	LP
Lees, Meg Heather	SA	30.6.2005	APA
Lightfoot, Philip Ross	WA	30.6.2008	LP
Ludwig, Joseph William	Qld	30.6.2005	ALP
Lundy, Kate Alexandra ⁽¹⁾	ACT		ALP
Macdonald, Hon. Ian Douglas	Qld	30.6.2008	LP

Senator	State or Territory	Term expires	Party
Macdonald, John Alexander Lindsay (Sandy)	NSW	30.6.2008	NP
McGauran, Julian John James	Vic.	30.6.2005	NP
Mackay, Susan Mary	Tas.	30.6.2008	ALP
McLucas, Jan Elizabeth	Qld	30.6.2005	ALP
Marshall, Gavin Mark	Vic.	30.6.2008	ALP
Mason, Brett John	Qld	30.6.2005	LP
Minchin, Hon. Nicholas Hugh	SA	30.6.2005	LP
Moore, Claire Mary	Qld	30.6.2008	ALP
Murphy, Shayne Michael	Tas.	30.6.2005	Ind.
Murray, Andrew James Marshall	WA	30.6.2008	AD
Nettle, Kerry Michelle	NSW	30.6.2008	AG
O'Brien, Kerry Williams Kelso	Tas.	30.6.2005	ALP
Patterson, Hon. Kay Christine Lesley	Vic.	30.6.2008	LP
Payne, Marise Ann	NSW	30.6.2008	LP
Ray, Hon. Robert Francis	Vic.	30.6.2008	ALP
Ridgeway, Aden Derek	NSW	30.6.2005	AD
Santoro, Santo ⁽⁶⁾	Qld	30.6.2008	LP
Scullion, Nigel Gregory ⁽¹⁾	NT		CLP
Sherry, Hon. Nicholas John	Tas.	30.6.2008	ALP
Stephens, Ursula Mary	NSW	30.6.2008	ALP
Stott Despoja, Natasha Jessica	SA	30.6.2008	AD
Tchen, Tsebin	Vic.	30.6.2005	LP
Tierney, John William	NSW	30.6.2005	LP
Troeth, Hon. Judith Mary	Vic.	30.6.2005	LP
Vanstone, Hon. Amanda Eloise	SA	30.6.2005	LP
Watson, John Odin Wentworth	Tas.	30.6.2008	LP
Webber, Ruth Stephanie	WA	30.6.2008	ALP
Wong, Penelope Ying Yen	SA	30.6.2008	ALP

(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

(2) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Warwick Raymond Parer, resigned.

(3) Chosen by the Parliament of South Australia to fill a casual vacancy vice John Woodley, resigned.

(4) Chosen by the Parliament of Queensland to fill a casual vacancy vice John Andrew Quirke, resigned.

(5) Appointed by the Governor of Tasmania to fill a casual vacancy vice Hon. Brian Francis Gibson AM, resigned.

(6) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.

(7) Chosen by the Legislative Assembly of the Australian Capital Territory to fill a casual vacancy vice Hon. Margaret Reid, resigned.

PARTY ABBREVIATIONS

AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; APA—Australian Progressive Alliance; CLP—Country Labor Party; Ind.—Independent; LP—Liberal Party of Australia; NP—National Party of Australia; PHON—Pauline Hanson's One Nation

Heads of Parliamentary Departments

Clerk of the Senate—H. Evans

Clerk of the House of Representatives—I.C. Harris

Departmental Secretary, Parliamentary Library—J.W. Templeton

Departmental Secretary, Parliamentary Reporting Staff—J.W. Templeton

Departmental Secretary, Joint House Department—M.W. Bolton

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Minister for Transport and Regional Services and Deputy Prime Minister	The Hon. John Duncan Anderson MP
Treasurer	The Hon. Peter Howard Costello MP
Minister for Trade	The Hon. Mark Anthony James Vaile MP
Minister for Foreign Affairs	The Hon. Alexander John Gosse Downer MP
Minister for Defence and Leader of the Government in the Senate	Senator the Hon. Robert Murray Hill
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate	Senator the Hon. Richard Kenneth Robert Alston
Minister for Employment and Workplace Relations, Minister Assisting the Prime Minister for the Public Service and Leader of the House	The Hon. Anthony John Abbott MP
Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation	The Hon. Philip Maxwell Ruddock MP
Minister for the Environment and Heritage and Vice-President of the Executive Council	The Hon. Dr David Alistair Kemp MP
Attorney-General	The Hon. Daryl Robert Williams AM, QC, MP
Minister for Finance and Administration	Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry	The Hon. Warren Errol Truss MP
Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women	Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training	The Hon. Dr Brendan John Nelson MP
Minister for Health and Ageing	Senator the Hon. Kay Christine Lesley Patterson
Minister for Industry, Tourism and Resources	The Hon. Ian Elgin Macfarlane MP

(The above ministers constitute the cabinet)

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Minister for Fisheries, Forestry and Conservation	Senator the Hon. Ian Douglas Macdonald
Minister for the Arts and Sport	Senator the Hon. Charles Roderick Kemp
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Minister for Science and Deputy Leader of the House	The Hon. Peter John McGauran MP
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Minister for Children and Youth Affairs	The Hon. Lawrence James Anthony MP
Minister for Employment Services	The Hon. Malcolm Thomas Brough MP
Special Minister of State	Senator the Hon. Eric Abetz
Minister for Veterans' Affairs and Minister Assisting the Minister for Defence	The Hon. Danna Sue Vale MP
Minister for Revenue and Assistant Treasurer	Senator the Hon. Helen Lloyd Coonan
Minister for Ageing	The Hon. Kevin James Andrews MP
Minister for Citizenship and Multicultural Affairs	The Hon. Gary Douglas Hardgrave MP
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Parliamentary Secretary to the Minister for Transport and Regional Services	Senator the Hon. Ronald Leslie Doyle Boswell
Parliamentary Secretary to the Treasurer and Manager of Government Business in the Senate	Senator the Hon. Ian Gordon Campbell
Parliamentary Secretary to the Minister for Foreign Affairs	The Hon. Christine Ann Gallus MP
Parliamentary Secretary to the Minister for Defence	The Hon. Frances Esther Bailey MP
Parliamentary Secretary to the Minister for the Environment and Heritage	The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Finance and Administration	The Hon. Peter Neil Slipper MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry	Senator the Hon. Judith Mary Troeth
Parliamentary Secretary to the Minister for Family and Community Services	The Hon. Ross Alexander Cameron MP
Parliamentary Secretary to the Minister for Health and Ageing	The Hon. Patricia Mary Worth MP
Parliamentary Secretary to the Minister for Industry, Tourism and Resources	The Hon. Warren George Entsch MP

SHADOW MINISTRY

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Leader of the Opposition in the Senate, Shadow Special Minister of State and Shadow Minister for Home Affairs	Senator the Hon. John Philip Faulkner
Deputy Leader of the Opposition in the Senate and Shadow Minister for Trade, Corporate Governance, Financial Services and Small Business	Senator Stephen Conroy
Shadow Minister for Employment Services and Training	Anthony Albanese MP
Shadow Minister for Veterans' Affairs and Shadow Minister for Customs	Senator Mark Bishop
Shadow Minister for Children and Youth	Senator Jacinda Collins
Shadow Minister for Industry, Innovation, Science and Research and Shadow Minister for the Public Service	Senator Kim Carr
Shadow Assistant Treasurer	David Cox MP
Shadow Minister for Ageing and Seniors and Assisting the Shadow Minister for Disabilities	Annette Ellis MP
Shadow Minister for Workplace Relations	Craig Emerson MP
Shadow Minister for Defence	Senator Chris Evans
Shadow Minister for Citizenship and Multicultural Affairs	Laurie Ferguson MP
Shadow Minister for Urban and Regional Development and Shadow Minister for Transport and Infrastructure	Martin Ferguson MP
Shadow Minister for Resources and Shadow Minister for Tourism	Joel Fitzgibbon MP
Shadow Minister for Health and Deputy Manager of Opposition Business	Julia Gillard MP
Shadow Minister for Consumer Protection and Consumer Health	Alan Griffin MP
Shadow Treasurer and Manager of Opposition Business	Mark Latham MP
Shadow Minister for Information Technology, Shadow Minister for Sport and Shadow Minister for the Arts	Senator Kate Lundy
Shadow Attorney-General and Shadow Minister for Justice and Community Security	Robert McClelland MP

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Shadow Minister for Heritage and Territories	Daryl Melham MP
Shadow Minister for Primary Industries	Senator Kerry O'Brien
Shadow Minister for Regional Services, Shadow Minister for Local Government and Shadow Minister for Housing	Gavan O'Connor MP
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Shadow Minister for Foreign Affairs	Kevin Rudd MP
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Shadow Minister for Communications	Lindsay Tanner MP
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Parliamentary Secretary (Defence)	The Hon. Graham Edwards MP
Parliamentary Secretary (Family and Community Services)	Senator Michael Forshaw
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Parliamentary Secretary (Communications)	Michelle O'Byrne MP
Parliamentary Secretary (Primary Industries)	Sid Sidebottom MP
Parliamentary Secretary (Northern Australia and the Territories) and Parliamentary Secretary (Reconciliation)	The Hon. Warren Snowdon MP
Parliamentary Secretary (Regional Development, Transport, Infrastructure and Tourism)	Christian Zahra MP

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Monday, 8 September 2003

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

BUSINESS

Rearrangement

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (12.30 p.m.)—I move:

That government business notice of motion No. 1 standing in his name for today, relating to consideration of legislation, be postponed till the next day of sitting.

Question agreed to.

SEX DISCRIMINATION AMENDMENT (PREGNANCY AND WORK) BILL 2002

Second Reading

Debate resumed from 3 March, on motion by **Senator Ian Campbell**:

That this bill be now read a second time.

Senator LUDWIG (Queensland) (12.31 p.m.)—The *Sex Discrimination Amendment (Pregnancy and Work) Bill 2002* amends the Sex Discrimination Act 1984 to partially implement recommendations made by the Human Rights and Equal Opportunity Commission in its August 2000 report *Pregnant and productive*. It is a right, not a privilege, to work while pregnant. In case we need it, this bill is further evidence of the government's abysmal track record on work and family issues. It is long overdue and it goes only part of the way to addressing the matters raised in the report to which I have referred.

The bill shows just how limited and belated the government's work and family approach is. Over three years ago, in March 2000, the member for Jagajaga introduced into the House of Representatives a private member's bill with the same title as this bill. That private member's bill amended the Sex

Discrimination Act and the Human Rights and Equal Opportunity Commission Act to make sure that pregnant, potentially pregnant and breastfeeding women are not discriminated against in the workplace. The bill was in response to a clear need for legislative change highlighted in the *Pregnant and productive* report. That report was presented to the Attorney-General in June 1999—over four years ago. The bill before us today implements only some of its recommendations. It has taken three years for the government to introduce a legislative response to that report.

Not only is this bill abysmally overdue; it is also totally inadequate. It implements only three out of the 12 recommendations of the report calling for amendments to the Sex Discrimination Act. Nondiscrimination in the workplace is in fact like being pregnant: there is no halfway. You cannot be a little bit pregnant and you cannot have only a bit of nondiscrimination. A workplace is either free of discrimination or it is not. There is no point in the government settling in this instance on half-measures. This bill shows that the government is willing to do exactly that: settle for half-measures by implementing, three years late, only three recommendations from the *Pregnant and productive* report for amendments to the Sex Discrimination Act.

When the report was publicly released, Ms Susan Halliday said that the report had uncovered horror stories such as women miscarrying because they were not allowed to sit down at work, men being sacked for attending the births of their babies and women being harassed about their appearance and removed from the front desk where they were visible to the public. In one case documented by the commissioner, a woman working in a car factory was denied a chair despite bleeding and severe pain. She collapsed at work when seven months pregnant

and her baby was born prematurely with an underdeveloped heart. Ms Halliday said:

Something has to be done. It is fair to say that there are lives at stake here.

In the face of such truly shocking stories, it is appalling that it has taken the government so long to implement any of the commission's recommendations. It is willing to settle for half-measures—in fact, only quarter-measures—considering three of the 12 recommendations for more than four years; that is, the time of five pregnancies. How many pregnant women or new mothers have had to combat a form of discrimination because of the government's inaction?

While discrimination and harassment on the grounds of pregnancy and potential pregnancy are grounds for complaint under the Sex Discrimination Act, the *Pregnant and productive* report found that workplace discrimination and harassment on those grounds remain real issues for many women and that clarification of this act is needed in a number of areas. The commission reported that some employees conceal their pregnancy for as long as possible because they fear pregnancy discrimination and that some senior professional women took accrued annual leave, long service leave and the like so that they would not have to reveal and have recorded on their employment records the fact that they had taken maternity leave.

Amendments to the Sex Discrimination Act were overdue four years ago and now the government has introduced a bill of half-measures or even quarter-measures. The bill in its current form just does not go far enough. The bill only covers three areas of the act identified in the Human Rights and Equal Opportunity Commission report that relate to, firstly, whether discrimination against breastfeeding women is a ground for sex discrimination; secondly, the asking of questions about pregnancy or potential preg-

nancy during job interviews; and, thirdly, the use of information obtained in medical examinations. The Human Rights and Equal Opportunity Commission recommended that the act be amended to make the law in these areas clearer for the benefit of employers and employees. In particular, the report found:

Erroneous tactics and exploitive practices are to this day being utilised to remove pregnant women from the workplace or deny pregnant and potentially pregnant women equal employment opportunity.

The bill we are debating redrafts the part of the act that prohibits requests for information that are connected to acts of unlawful discrimination and provides clarification by adding an example of a prohibited question. The bill also adds an explanatory note to make it clear that the exception that allows requests for pregnancy related medical information to be made does not override those provisions of the act which prohibit discrimination on the basis of sex or pregnancy. The operation of the act is expanded by the amendments. They eliminate confusion identified in the Human Rights and Equal Opportunity Commission report about the meaning and operation of the acts regarding pregnancy and pregnancy related issues.

Unfortunately, the bill does not address a number of other legislative changes recommended by the HREOC report. These changes are significant, and worthy of noting specifically. They include: empowering HREOC to publish enforceable standards in relation to pregnancy and potential pregnancy, allowing referrals by the Sex Discrimination Commissioner to the Industrial Relations Commission of discriminatory awards or agreements without the need for receipt of a written complaint, enabling the awarding of punitive damages as well as compensatory damages, removing the exemption for educational institutions established for religious purposes in relation to

pregnancy and potential pregnancy, ensuring coverage of unpaid workers and removing the exemption of employment by an instrumentality of a state.

The amendments we propose in contrast address 10 of the *Pregnant and productive* report's 46 recommendations. Our proposals will enhance the right of pregnant and potentially pregnant women by: (1) empowering the Human Rights and Equal Opportunity Commission to publish enforceable standards in relation to pregnancy and potential pregnancy; (2) ensuring unpaid workers are covered by the Sex Discrimination Act; (3) removing the exemption for employment by an instrumentality of a state from the Sex Discrimination Act; (4) removing the exemption for educational institutions established for religious purposes in relation to pregnancy and potential pregnancy; (5) allowing exemplary damages to be awarded; (6) specifically including breastfeeding as a ground for unlawful discrimination; (7) allowing the Sex Discrimination Commissioner to refer discriminatory awards or agreements to the Australian Industrial Relations Commission without the requirement to have received a written complaint; (8) clarifying that a complaint about a discriminatory advertisement may be made by any person; (9) clarifying that the asking of questions to elicit information about whether and when a woman intends to become pregnant and/or her intentions in relation to meeting her current or pending family responsibilities is unlawful; and (10) clarifying that it is unlawful to discriminate in medical examinations of pregnant women during the recruitment process. The amendments also extend the antidiscrimination provisions to employees who are in the process of adopting a child.

Improving the protections for pregnant women is important, but it is just the tip of the iceberg. A lot more in terms of policy change is needed and called for. Improving

the protections is a matter that requires action by this government—not a half report, as provided here. This was recently acknowledged by the Minister for Family and Community Services, who is reported as saying on radio 2UE on 4 August: 'I don't know that Australia has really moved ahead in the family friendly workplace in the way that some other countries have.'

Australia does indeed need a sea change in policies and attitudes that are hindering the capacity of women to take on and survive the complex responsibilities of work on the one hand, and family commitments on the other. It is time women—particularly women who are thinking about starting a family and women who have young families—are supported by policies that will make a difference to their lives and assist them to balance those competing responsibilities. I am not referring to how women who are corporate high-fliers with nannies, housekeepers and the like cope with the challenges they confront, but to the millions of Australian mothers whose jobs are the safety net for their family's economic survival. They literally work to pay bills. They work to support their family.

With the dramatic increases in real estate prices and in credit card debt, it is becoming more the norm for families to require two incomes to survive, and certainly to survive in the capital cities in Australia, where most families reside. But the Howard government refuses to recognise that most families just cannot afford to have one parent at home full time for five years and that most women who leave work to have a baby return to work at some stage after the birth. The proof is in the statistics themselves. Well over 60 per cent of Australian women spend their baby's first year out of the paid work force, but more than half of new mothers in two-parent families are back at work before their baby is just two years old. By the time their child has turned three, nearly 70 per cent of mothers

these days are back in the work force, usually, as I indicated, as a result of the economic pressures.

Mothers understand the importance of staying attached to the work force during these early child-rearing years. Their preference is for part-time work. Among parents of dependent children in June 2000, 57 per cent of employed partnered mothers and five per cent of employed partnered fathers worked part time. What the statistics do not show are the difficulties, the pressures and the anxieties experienced by parents as they negotiate the demands of their double lives. Research is increasingly showing the anxieties and pressures and the effect of those pressures on children in circumstances where their parents are trying to balance the challenges of both work and family responsibilities.

Now, it seems, many young women think it is all too hard and are deciding not to have children. The evidence is indisputable. Australian women are having fewer babies. The birth rate fell dramatically, from 3.5 babies per woman in the early 1960s to just 1.7 in 2001. This is the lowest rate on record. It is down from 1.75 children on average in the year 2000, and much worse than the previous lows of 1.86 and 1.94 recorded in 1991 and 1981, when these figures were last taken. We are in very real danger of becoming a baby-free society, a place where children are a private responsibility that must never impinge on a parent's working life. If that culture becomes our culture, we will see the birth rate declining even more rapidly than it currently is. The Prime Minister's policies are creating this baby-free society.

The Prime Minister's ideological preference is a world where men are breadwinners, women are full-time homemakers and children are at home with their mothers until they start school. The government's tax and welfare policies clearly favour single-income

families. For example, the government's family tax benefit B is only available to single-income families. The election conceived baby bonus offends all notions of equity. It provides the greatest financial help to those who need it least and it is quickly eroded if the stay-at-home parent earns any part-time money. The everyday reality is that it just does not work according to the Prime Minister's view of life.

The Howard government's policies reflect a very narrow, conservative ideology—not the reality of most families, where both parents work because of the financial pressures that they face these days. That is why Labor is pushing for a sea change in policy and attitude and why it is committed to catching up with the rest of the world and introducing a system of paid maternity leave. Australia is one of just two developed countries that do not yet have a paid maternity leave scheme. Shame on this government! Countries we are lagging behind include Japan, Canada, Austria, Italy, the United Kingdom, Norway, the Slovak Republic and New Zealand—countries which have suitable, family friendly policies and a higher birthrate where assistance is provided to families to have children. Clearly members of the government prefer a system in Australia where only middle-class professionals who work for large organisations have access to paid maternity leave and women in low-income jobs and small businesses simply do not.

If the length of time that the government has taken to introduce and debate this bill is an indication, it will be many, many long years before we get even some response to Pru Goward's report recommending a national, government funded scheme for paid maternity leave. If you are serious, do something about it. The aim of paid maternity leave is to make a contribution towards the income a woman forgoes while she leaves work to have a baby and during the subse-

quent period of leave needed for the health and welfare of both the mother and the newborn baby. But paid maternity leave is not the beginning and end of work and family issues. We understand and fully appreciate that.

Paid maternity leave is a fundamental part of the work and family balance but, in itself, is not sufficient to help families meet the challenges and joys that a new child brings. Families confronting that life-changing event need one thing above all else: more options to suit their particular circumstances—more options for striking the balance between work, family and other activities, such as study, that best suit their needs and those of their children. There is no one-size-fits-all solution for families, because no two families are alike. No two families need the same solution. Parents need a range of possible options so they can develop a solution that best suits their needs. Parents want the flexibility to choose different solutions at different stages of their lives. Some parents may want to stay at home with their children; others will return to full-time work as soon as possible, while others may want to work in a part-time capacity.

We need to support and encourage this diversity between families by giving parents a range of viable—and I underscore ‘viable’—alternatives, at least for the first five years of a child’s life when, clearly, children are heavily dependent on the support and nurturing of their parents. Parents need to be able to construct their own long-term parenting plan from a number of options, and discrimination against pregnant women in the workplace must become a thing of the past. That is what we believe a genuine family friendly environment looks like. I urge the government to accept the opposition amendments to this bill to help realise that environment. I move the following second reading amendment:

At the end of the motion, add:

“but the Senate calls on the Government to support all the legislative amendments and other actions necessary to give effect to the recommendations of the Human Rights and Equal Opportunity Commission in its report *Pregnant and Productive: It’s a right not a privilege to work while pregnant*”.

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—I now call Senator Stott Despoja. I should say congratulations are in order, too, Senator.

Senator STOTT DESPOJA (South Australia) (12.48 p.m.)—Thank you, Mr Acting Deputy President—that is much appreciated. I rise today to speak on the **Sex Discrimination Amendment (Pregnancy and Work) Bill 2002**. Like the previous speaker, Senator Ludwig, I support the bill before us. On behalf of the Australian Democrats, we will be voting for the legislation, but we also believe that this bill does not go nearly far enough towards addressing the pressing and the major issues that women continue to face in the workplace.

As has been referred to, in 1999 the then Sex Discrimination Commissioner, Susan Halliday, made 12 recommendations regarding the Sex Discrimination Act in a HREOC report entitled *Pregnant and productive: it’s a right not a privilege to work while pregnant*. This bill, however, is a totally inadequate response to the report and, coming a number of years later, it has only taken up three of the 46 recommendations. While these three recommendations are welcome, they really only clarify existing provisions within the act. These recommendations aim to prohibit discrimination against women who are breastfeeding, prohibit potential employers from asking employees questions regarding pregnancy or potential pregnancy and attempt to ensure that medical informa-

tion collected from pregnant women is only used for appropriate processes and purposes, such as for occupational health and safety reasons.

The first item in the bill states that breastfeeding and expressing milk pertains 'generally to women'. These recommendations make it clear that discrimination against breastfeeding women is a form of sex discrimination, so I am glad to see that item has been included in this bill. The second item inserts a new subsection 27(1) into the act, which defines the rules surrounding questions that can be asked of potential employees regarding pregnancy or potential pregnancy and attempts to make these rules more transparent. Fundamentally, this subsection states that questions regarding pregnancy and potential pregnancy should not be asked unless the question would be asked of everyone—for example, people of both sexes or people of different marital status. This item makes it illegal to take information regarding pregnancy or potential pregnancy into account when deciding on the best candidate for the job.

Item 3 inserts a note to subsection 27(2) clarifying that as long as information about a person's medical condition or pregnancy is used in a legitimate way—for example, for occupational health and safety reasons—it is not discriminatory to ask questions relating to pregnancy or potential pregnancy. Obviously this allows employers to ask questions which distinguish between the sexes for the purpose of enforcing precautionary measures—not for deciding whether or not to employ someone.

While the Democrats generally support the initiatives contained in this bill, we believe the government's failure to act on the remaining recommendations reflects a lack of genuine support by this government for the needs of working women. It is a very

limited, narrow and inadequate response to what was a significant and quite groundbreaking report. The proposed changes are indeed superficial and ignore the more important changes that must be made and still need to be made to the Sex Discrimination Act with regard to pregnancy and work.

As Senator Ludwig has pointed out, Australian society is changing very rapidly. Today only one-third of families are in male breadwinner households with a full-time female caregiver. That is half as many as 20 years ago. In 1966, 36 per cent of women were in the labour market compared to 55 per cent of women this year. More and more of us are living alone. At the same time the proportion of single parents has risen sharply. Both members of a couple now work in more than half of all couple households. That is a significant increase. Some 42 per cent of Australian women work part time compared to the OECD average of 24 per cent—and we should remember that almost two-thirds of all part-time work in Australia is casual.

The average weekly hours worked by full-time employees has increased from 39.9 hours per week in 1982 to 42.3 hours in 2001. So this puts Australia at the long hours end, if you like, of the international spectrum of working hours, and our working hours, as we all know, are continuing to grow—they are longer and longer. Almost two-thirds of overtime work is unpaid. In Australia one in six children are being raised in households where no-one has a full-time job. That statistic is amongst the highest in the OECD. So as a result of these changes and I guess the failure of our institutions to adapt to them, Australians, particularly those with caring responsibilities—most of whom are women—are suffering.

As Senator Ludwig mentioned, while the birth rate was 3.5 in 1961 and 2.9 in the

1970s, it is only 1.75 now. HREOC reports that Australian women are increasingly opting out of motherhood or limiting their number of children due to discrimination on the basis of pregnancy and indeed in the absence of paid maternity leave.

Out of the 46 recommendations made by HREOC in *Pregnant and productive*, only three have been included in this bill. In some ways they are Clayton's changes in that they do not change the act; they only clarify sections of it. Where is the amendment to empower the Human Rights and Equal Opportunity Commission to publish enforceable standards in relation to pregnancy and potential pregnancy as stated in recommendation 1? Where is the amendment to extend the coverage of the act to federal statutory employees, judicial officeholders and indeed members of parliament? Where is the amendment to ensure coverage of unpaid workers? Where is the amendment to remove the exemption of employment by an instrumentality of a state? Where is the amendment to remove the exemption contained in section 38 for educational institutions that are established for religious purposes? Where is the amendment to allow the Sex Discrimination Commissioner to refer awards to the AIRC? Where is the amendment allowing a complaint to be made about a discriminatory advertisement? Where is the amendment that prohibits discrimination against employees who intend to adopt, or are in the process of adopting, a child?

Why is it that these recommendations were not taken on board by the government? In order to correct these omissions and to ensure that meaningful change is introduced today the Democrats will move amendments to this bill which will address those additional HREOC recommendations relating to the Sex Discrimination Act. The ALP will also move similar amendments, as Senator Ludwig mentioned. These amendments are

long overdue. Every day we know that women experience discrimination in the workplace, and we must do everything in our power to ensure that that does not happen.

A recent newspaper article—I believe it was in the *Daily Telegraph*—cited case studies which revealed the extent of this discrimination. I will list a couple of examples. A clerk claimed she was told by her supervisor to have an abortion after finding out she was pregnant soon after joining a real estate firm. She insisted she did not know she was pregnant when she took the job. She refused to have an abortion and was sacked. After conciliation, she was reinstated and paid \$4,000 in damages. A casual worker with a government department was told she could not breastfeed or express milk at work, or take her baby to the office. After conciliation, the department changed its policy and paid her \$1,200. An import and wholesale company refused to provide a full-time administrative assistant with light duties, insisting she carry on with heavy duties such as lifting and carrying, despite her doctor's orders. She received \$9,000 after conciliation.

These case studies—and there are many more—highlight that there are horror stories out there still. They echo the stories revealed by Susan Halliday in *Pregnant and productive*. These situations continue to occur years after her initial report. Things have not improved significantly, with discrimination against women, on the grounds of their sex and pregnancy, continuing unabated. This is an appropriate time for us to pay tribute to the work of Susan Halliday, the then Sex Discrimination Commissioner, whose work in this area was groundbreaking. Her work on paid maternity leave was incredibly significant and is not always acknowledged. She, like many people in this chamber and the community, has been campaigning for change in these areas for many years.

It feels a long time since I on behalf of the Democrats began campaigning for the right of women to be able to breastfeed in public and in the workplace without being discriminated against. In May we changed the standing orders of this place to allow breastfeeding in the chamber should it be required. This change brought the standing orders into line with many workplaces around Australia, including two state parliaments. While the Victorian parliament changed its rules to allow breastfeeding in parliament at the Speaker's discretion, the ACT Legislative Assembly changed its standing orders to allow breastfeeding in the chamber without permission from the Speaker, becoming the first state or territory to do so.

I moved an amendment to the Taxation Laws Amendment Bill (No. 6) 2001 to exclude lactation aids from the goods and services tax. As many people would know, lactation aids play a very important role in facilitating some women's choice to breastfeed their babies. Baby formula is GST-free, as it is classed as a food. In order to facilitate choices for women, the Democrats felt that the tax treatment of the provision of breast milk should be equalised. We continue to endorse calls by the Nursing Mothers Association of Australia and many other representative bodies for the right to breastfeed to be protected in legislation.

I strongly endorsed the recommendations in HREOC's report when it was released almost four years ago and have been calling for the Attorney-General to amend the Sex Discrimination Act to prohibit discrimination on the basis of breastfeeding since long before then. It is disappointing that women continue to face discrimination and harassment for the simple, natural act of breastfeeding their baby. Surely this is an activity we should be promoting, not restricting.

Until there is employment protection for breastfeeding, working women will continue to face the choice between work and family. Enshrining the right to breastfeed is one change that would assist thousands of women. Therefore, I will be moving amendments to improve workplace conditions for breastfeeding mothers. The Democrats will be asking for breastfeeding breaks or breaks to express milk and adequate places for mothers to breastfeed and express milk, and will also be encouraging workplaces to provide the necessary storage facilities for milk.

Subsequently, if the government really wanted to end discrimination against working women, it would—as Senator Ludwig has also suggested—introduce a national scheme of paid maternity leave for Australia's working women. At the committee stage I will be introducing an amendment that would do just that: provide a national scheme of paid maternity leave. The amendment would incorporate such a scheme into this bill.

Australian working women deserve some form of support that enables them to take paid time off around the birth or adoption of a new baby. We also support a complementary benefit for women who are looking for work, are self-employed or, indeed, are at home. The Democrats were the only political party to take such a policy of paid maternity leave to the last election. Since that time, after much consultation—and it has been significant—with business groups, women's groups, unions, community organisations and others we have progressed our policy proposals further.

We have asked the government on many occasions to restructure its expensive, poorly structured and regressive baby bonus. The Democrats tried to amend the baby bonus in the Senate. We did not succeed. We have suggested that the baby bonus be abolished

and replaced by more equitable, less expensive paid maternity leave. However, the government has offered nothing for working women in its subsequent budgets in 2002 and 2003 beyond the so-called baby bonus. As most people know, and as recent research bears out, the baby bonus fails, in effect, as women increase their paid working time. This will deliver very little to many working women.

In response to this policy vacuum, on 16 May last year I introduced a private senator's bill to establish paid maternity leave. The [Workplace Relations Amendment \(Paid Maternity Leave\) Bill 2002](#) offers all non-government employees with more than a year's service 14 weeks paid maternity leave at the rate of the minimum wage, \$431.40 at present, or if they are normally paid less—say, they work part time—at their usual lower rate. The payment would be provided by government. That proposal is supported by a number of groups in the community, as we heard through the Senate committee process.

Employers and employees could be involved in negotiations to top up that payment to average weekly earnings, say, or to provide additional facilities or additional leave time. State, federal and territory governments already offer paid leave in many cases. Their exclusion from the basic maternity payment would encourage them to make equivalent or hopefully better payments to their employees.

This scheme—which we have put on record and tabled in the chamber and which has been through a Senate committee process by which a number of important and impressive additions or improvements have been made to the bill—means that all contribute. Employees and employers contribute through their taxes, employers contribute through top-up payments if they choose, em-

ployees contribute through forgone earnings where their payment is less than their usual earnings and they take additional unpaid leave, and governments contribute through their funding of leave for their direct employees and through taxes for the basic maternity payment.

The model proposed in this bill, which has pretty much been emulated by the current Sex Discrimination Commissioner, Ms Pru Goward—who has done a lot of work on the issue of paid maternity leave and whose report *A time to value* is worth reading—is costed at a minimum of \$213 million, less than half the cost of the government's baby bonus. The Democrat model has received backing from a number of groups—major business and industry groups such as the Australian Hotels Association and the Australian Industry Group, as well as a number of women's and community organisations.

It is well past time to act on this issue, as Senator Ludwig said. We are one of two OECD nations that do not provide women with this basic working entitlement—the other country that does not do so being the US, of course. I remember Naomi Wolf, when she was here at the beginning of this year, saying that she sometimes wonders whether her home country, the US, exists just to make everyone else look good. Australia is one of only two OECD countries, along with the US, that fails to provide this payment, which would make such a difference to the lives of many Australian women.

I hope that today we will take the opportunity to give Australian women the kind of benefit most women in the OECD enjoy—with, of course, the exception of the US. If this government is serious about its rhetoric on balancing work and family life, I urge it to support the amendments before it today—not just the Democrat amendments but also the ALP amendments. We have worked out

an arrangement whereby most of the recommendations contained in the original HREOC report will be implemented if those amendments are supported by a majority in the chamber today. They are impressive amendments—they are appropriate recommendations in that report—and they will make a huge difference to the lives of Australian working women.

The amendments attempt to balance a number of significant and glaring omissions with recommendations from that groundbreaking report *Pregnant and productive*. We know that there is much more that can be done—of course there is—to prevent discrimination against women and ensure that the right of women to work while pregnant is fully protected by legislation. The amendments before us today to be moved by the Labor Party and the Australian Democrats are a good start, and I urge the chamber to support them.

Senator MARSHALL (Victoria) (1.06 p.m.)—I rise to speak on what I see as the hopelessly deficient **Sex Discrimination Amendment (Pregnancy and Work) Bill 2002**. This bill highlights the low regard and priority the Howard government has for, and gives to, stamping out discrimination against women on the basis of pregnancy, potential pregnancy and breastfeeding in the workplace and throughout the wider Australian community. It is a poor and pathetic bill which has made its way to the Senate today and is one which is symptomatic of this government's lax attitude towards working women and working families more broadly in this country.

Like many others, this bill demonstrates that the Howard government is only interested in the most cosmetic of reforms when it comes to addressing the real issues affecting 21st century workers and their families. This is a most unsatisfactory situation. It is

bills such as this which offer governments the opportunity to facilitate significant, genuine change in attitude and practice within the community and the labour force on issues of discrimination. It is unfortunate, yet comes as no surprise, that the bill before us today, exhibiting this government's commitment to stamping out workplace discrimination on the grounds of pregnancy and breastfeeding, is no more than hopeless and inadequate policy. The bill before us is yet another indication that this government is simply not willing to address the issues of juggling work and family in this country. The bill represents a sad indictment of a government which professes to have a strong record on family policy.

The few measures contained within this bill are inspired by a HREOC report commissioned by the Attorney-General and developed, researched and written by the then Sex Discrimination Commissioner, Ms Susan Halliday. The report, titled *Pregnant and productive: it's a right not a privilege to work while pregnant*, was presented to the Attorney-General in June 1999. It is only now, in September 2003, that the Senate is offered the chance to debate the government's legislative response to this report. This extremely slow response to the *Pregnant and productive* report speaks volumes for the level of importance, or lack thereof, which this government places on the issues, the report's findings and its recommendations.

In order for us to understand the very important issues we are dealing with here, and indeed the rationale behind the report's recommendations, I would like to read a couple of passages from the *Pregnant and productive* report itself. The report stated:

... erroneous tactics and exploitative practices are, to this day, being utilised to remove pregnant women from the workforce or deny pregnant and

potentially pregnant women equal employment opportunity.

Moreover, the 1999 report added that on the 15th anniversary of the Sex Discrimination Act the fact cannot be ignored that:

... workplace discrimination and harassment on the ground of pregnancy and potential pregnancy remains a real issue for many women in our society. Regardless of status, industry, discipline or level of education, or for that matter age, race or religion, for many women pregnancy results in inequitable workplace treatment as well as long and short term financial impact and career disadvantage.

The findings of the report are stark and require serious attention. Labor recognises that. The fact that it took the government three years to introduce into parliament a legislative response to the report, and that it has taken over four years for that response to have reached this point in the Senate, is really quite appalling. To suggest that this government acts with any sort of vigour, speed or commitment on issues of family and work is simply a joke. The government's abysmally slow response to the report and its 46 recommendations is a clear and certain testament to that.

When we couple this with the fact that the government is proposing, via this bill, to implement only three of the report's 12 recommendations requiring reform of the Sex Discrimination Act, we see how limited and belated the government's approach to issues of family and work really is. Labor believes that the workplace is either free from discrimination or it is not; there is no halfway and as such there is no point in settling for half-measures. I have just outlined a couple of the report's findings which clearly recognise that discrimination on the basis of pregnancy, potential pregnancy and breastfeeding are, to this day, serious issues for women in the workplace and for the greater community in general. The bill before us today is a clear

indication that the latter is all that this government is willing to commit to.

We on this side of the chamber, however, argue that as a community we should embrace the findings of the report and that the parliament should act upon the recommendations. It is nothing short of a disgrace, in my opinion, that four years after a comprehensive report has been presented to it the Howard government finally acts on its recommendations by settling for half-measures, implementing only three of the recommendations. To add insult to injury, the three recommendations of the report being implemented by the bill before us extend only as far as to clarify existing provisions of the act. In reality, the effect of this bill can best be described by the Attorney-General's own final comment in his explanatory memorandum, where he states:

The amendments will not expand the operation of the Act.

This bill is totally inadequate and, by virtue of its lack of effect, trivialises the issues concerning pregnancy and breastfeeding in the labour force and in the community. It is simply not good enough.

I would like for a moment to refer to and reiterate some of the facts that have prevailed throughout debate on these issues and this bill. It is figures such as the following which reinforce the fact that there are gross inadequacies in the law today and that there is a great need for us to significantly reform these laws. My colleague the member for Throsby, when speaking during the second reading debate on this bill in the House of Representatives last year, outlined that according to HREOC's annual report the number of women making formal complaints to the commission about discrimination on the grounds of pregnancy soared from 86 in 2000-01 to 212 in 2001-02. Ms George reported to the House that pregnancy discrimi-

nation jumped, in that one year alone, from 16 per cent of sex discrimination cases in 2000-01 to 30 per cent.

Sex Discrimination Commissioner Halliday's report itself provided some anecdotal evidence to highlight some of the realities of discrimination within the work force and the community. The report refers to cases where pregnancies miscarried because women were not allowed to sit down at work, where men were sacked for attending their baby's birth and where women were harassed about their appearance or removed from front desk work. These case studies further highlight the imperative and urgent need we as legislators have to address the issues of discrimination against women—and men, for that matter—on the basis of pregnancy, potential pregnancy or breastfeeding in the workplace and in the greater community. These issues are real and they are pertinent.

My colleague the member for Ballarat mentioned in her speech during the second reading debate in the House of Representatives that, according to a study undertaken by the commission, 54 per cent of women believed that their careers had been affected by taking maternity leave. A further 44.1 per cent said their salaries had stalled, 34 per cent believed their careers had taken a backward step and 29.9 per cent said that they had sacrificed their careers to give birth. These findings, coupled with the findings of the *Pregnant and productive* report, are simply unacceptable in a fair and equitable society such as the one we consider ourselves to be members of.

The federal Sex Discrimination Act reflects Australia's international obligations under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, and the International Labour Organisation's Discrimination (Employment and Occupation) Convention, both

of which denote the importance of a workplace free from discrimination. The federal Sex Discrimination Act is therefore a direct representation of the attitude of the government towards eliminating sex discrimination in this country.

In 2003, the Sex Discrimination Act is in serious need of reform in order for it to reflect societal attitudes in the 21st century. No longer does the act do all it possibly can to protect the rights of women in today's work force. The act has been for some time, and very much remains, inadequate and in serious need of reform. In March 2000, my colleague the member for Jagajaga introduced into the House of Representatives a private member's bill with the same title as the one before us now. That private member's bill proposed to amend the Sex Discrimination Act and the Human Rights and Equal Opportunity Commission Act to ensure that pregnant, potentially pregnant and breastfeeding women are not discriminated against in the work force. We on this side of the chamber recognise the serious issue discrimination in the work force is and the adverse effects it can have on individuals, groups and the community more broadly.

Labor congratulates Susan Halliday on her wide ranging inquiry which led to the *Pregnant and productive* report and we welcome her findings. Labor recognises that 51.3 per cent of new mothers in two-parent families are back at work when the child reaches the age of one or two years. Work, both during pregnancy and after birth, is an issue affecting a great deal of the work force and a great many Australian families. Labor recognises the discrimination that pregnant and post pregnant women suffer in the work force. Therefore, Labor is proposing to amend the bill before us today to give effect to eight of the other report recommendations calling on amendments to the Sex Discrimination Act.

Labor's amendments to this bill would have the effect of empowering the Attorney-General to publish enforceable standards in relation to pregnancy and potential pregnancy—recommendation 1; ensuring the Sex Discrimination Act covers unpaid workers—recommendation 8; removing the exemptions for employment by an instrumentality of the state from the Sex Discrimination Act—recommendation 10; removing the exemptions for educational institutions established for religious purposes in relation to pregnancy and potential pregnancy—recommendation 11; allowing punitive damages to be awarded—recommendation 42; allowing the Sex Discrimination Commissioner to refer discriminatory awards or agreements to the Australian Industrial Relations Commission without the requirement to receive a written complaint—recommendation 19; clarifying that a complaint about a discriminatory advertisement may be made by any person—recommendation 35; and extending the antidiscrimination provision to employees who are in the process of adopting a child—recommendation 39.

While discrimination and harassment on the grounds of pregnancy and potential pregnancy are currently grounds for complaint under the Sex Discrimination Act, Labor note the *Pregnant and productive* report findings which outline that workplace discrimination and harassment on these grounds remain real issues for many women and that clarification of the act is needed in a number of areas. Labor therefore welcome and will be supporting the three amendments to the act contained in the government bill before us. While we will be supporting these amendments, we again reiterate our disappointment with the total inadequacy of this bill. Labor are pushing for a sea change in policy and attitude in the area of work and family. Labor recognise that the changes to the economy and the labour market over the

past couple of decades have led to increased pressures on families. It is a fanciful notion to suggest that these immense pressures on working families will alleviate over time without government intervention. Governments must act.

It is interesting to note that the country's birth rate has fallen dramatically over the past few decades to all-time low levels. In the early 1960s, the rate of fertility stood at 3.5 babies per woman. In 2001, that figure dropped to just 1.7, representing the lowest rate on record. It is down from 1.75 children on average in the year 2000 and much worse than the previous lows of 1.86 and 1.94 recorded in 1991 and 1981, when those figures were last taken. Australia is in very real danger of becoming a baby-free society, a place where children are a private responsibility that must not impinge on a parent's working life. Australia's lack of a system of paid maternity leave is undoubtedly a contributing factor to this decline in the birth rate.

It is rather atrocious that of the 163 signatories to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, some 157 countries have provided paid maternity leave. Australia remains one of only six countries yet to do so. Labor is committed to catching up with the rest of the world and introducing a system of paid maternity leave, a measure consistent with the rights available to families and workers in countries all over the world. The lack of a government bill before the parliament that gives effect to a system of paid maternity leave is a serious concern to us.

Will we wait another four years for the government to acknowledge and act upon Sex Discrimination Commissioner Pru Goward's 2002 proposal for a national paid maternity leave scheme? Let us hope we do not. Commissioner Goward's report states:

Paid maternity leave also recognises the disadvantage experienced by women in paid work when they bear children. Not only are they likely to suffer workplace discrimination because they are pregnant or a mother, they frequently find it difficult to combine their new family responsibilities with their obligations to their paid work. Certainly, their lifetime earnings are likely to suffer, and their retirement incomes would be less than if they had not had a child.

Labor recognise that, and that is why we have argued for some time that a system of paid maternity leave is a necessary policy and one which Australia requires to be in effect today. The government must act on this issue now and do so in totality, not in half-measures—as it has done with the bill before us today. In conclusion, I would like to point out to the Senate a few of the other points made in the *Pregnant and productive* report which I believe pretty well sum up the situation we find ourselves in. The foreword to the report states:

This inquiry, having confirmed that to be granted a human right does not necessarily ensure its realisation, provides us with an opportunity, via the report recommendations, to support Australian women and their families. Women, who are encouraged by society to have children, should be in a position to view the privilege of being able to have a child as just that, a privilege, rather than something they are penalised for.

Moreover:

It is a human right, not a privilege for a woman to work while she is pregnant. The challenge that lies before us on the eve of the 21st Century is to ensure appropriate, safe and fair management of workplace pregnancy.

Again, we have to bear in mind that the report was released in June 1999 under some false premise that the government would deal with the issues and recommendations contained within it with some sort of urgency. It is a sad indictment on this government that we are only now, in September 2003, in a position to enact some of the

change in this regard. What is even worse is that, while the bill will enact three of the report's recommendations, eight other significant yet hardly radical recommendations have been ignored by the government and do not figure at all in this bill. Labor will be supporting the bill before the Senate. However, again—and finally this time—I would like to reiterate my utter disappointment with this bill's inadequacy.

Senator NETTLE (New South Wales) (1.24 p.m.)—The **Sex Discrimination Amendment (Pregnancy and Work) Bill 2002** is deeply disturbing because it fails to make changes needed to protect and support women in the workplace. What is not included in this bill speaks volumes about the government's commitment to developing policies that recognise the many roles that women play, that value caring work and that make women's lives easier. Put simply, the government likes to talk a lot but delivers little. It seems not to understand, or not to care, that the Australian people expect leadership from the national government to help shape more enlightened community attitudes and to enact laws to set community standards.

This bill is an example of the failure of the national leadership under Prime Minister Howard. The Human Rights and Equal Opportunity Commission inquired into discrimination against women in its National Pregnancy and Work Inquiry, reporting to the government a little over four years ago. This bill is designed to respond to that inquiry; yet the government picked up just three of the committee's 12 recommendations to change the Sex Discrimination Act, and not one of the provisions in this bill changes the substance of the legislation. This is quite apparent because the government has made no secret of the fact that this bill does not expand the operation of the act. All these amendments do is clarify the existing legisla-

tion—that is, legislation that the commission found to be inadequate. The amendments clarify the fact that discriminating against women who are breastfeeding is prohibited, but the government missed the opportunity to provide stronger protection, as several states provide, by more substantial amendments. The government has also failed to respond to the commission's call to extend unpaid maternity leave to casual workers employed for more than 12 months, who are covered by the Workplace Relations Act.

The government's delay in addressing the matter of paid parental leave is scandalous. Australia remains just one of two rich, industrialised nations without a national scheme of paid parental leave. The Prime Minister keeps saying that the government does not object to a paid parental leave scheme, but he refuses to commit the government to introducing one. Other cabinet members have expressed open hostility to the concept of a publicly funded national paid leave scheme, describing it as middle-class welfare. The government has argued that these matters are best left to the marketplace for employers and employees to sort out between themselves.

For those workers with bargaining power, such as employees represented by strong trade unions, this approach might work. For example, the National Tertiary Education Union has just secured in-principle agreement from University of Sydney management to introduce 14 weeks paid maternity leave and a further 38 weeks leave at 60 per cent of full-time pay. The entitlement beyond 14 weeks maternity leave may be used by the woman for a phased return to work whilst retaining full-time wages or be redirected to research grants or professional development training. The provisions are subject to the final negotiation of a certified agreement and are similar to the entitlements that the NTEU secured for women employed at the Aus-

tralian Catholic University. The NTEU is a well-resourced union, operating in a largely unionised workplace.

Low paid workers are particularly disadvantaged. They are the least likely of all employees to have paid parental leave. That is why the Greens' congratulations go out to the Liquor, Hospitality and Miscellaneous Workers Union, which has just managed to secure a win for its members with the first paid maternity leave in the hospitality industry. Hundreds of employees of US corporation Starwood Hotels and Resorts working in several capital and regional cities in Australia now have six weeks paid leave as a condition of their new enterprise bargaining agreement. Six weeks, of course, is a long way short of the International Labour Organisation's recommended minimum of 14 weeks, but it is a win for the LHMU. Perhaps that represents the different way in which workers with differing bargaining powers can get entitlements if it is left to the enterprise bargaining scheme.

A quick survey of the state of affairs reveals the inadequacy for most workers of leaving paid parental leave to the marketplace. Paid maternity leave provisions appear in only 3.4 per cent of currently operating certified agreements. Only seven per cent of all current federal certified agreements contain paid maternity leave provisions. The average duration of leave across all current arrangements is just seven weeks. Only 38 per cent of women have access to paid parental leave. Those who do are more likely to be working for large employers or a government or be earning above average wages. Even government employees have varying entitlements.

The current situation is clearly unacceptable, especially when women constitute almost half of the work force. The Greens' conviction that the government needs to play

a central role in improving this situation is echoed by the federal Sex Discrimination Commissioner, Pru Goward, who was reported in the *Weekend Australian* last month as stating:

One of the cruellest half-truths in this whole debate is the market will fix it, that it will happen at the enterprise-bargaining level ... Why cruel? The average amount of paid leave is six weeks and you have to go back to work to get the balance of your money, so it's actually associated with making women who need the money go back earlier.

The Prime Minister, writing last month in *Options*, a Liberal backbencher journal, acknowledged that low-paid, part-time and casual workers were less likely to access paid maternity leave and that some schemes involved short periods of leave. The government's response to these matters, however, was to 'rule out imposing onerous obligations upon employers, particularly in small business'. That is precisely why a public scheme is required—to provide a fair scheme that covers women in various employment situations and especially lower paid workers.

The government's only significant response to date to the growing chorus demanding a national paid parental leave scheme is the baby bonus—a tax equalisation scheme that gives the biggest benefit to the highest paid workers who stay out of the paid work force for up to five years—at a cost to the national budget of \$510 million by 2005-06. Minister Vanstone several weeks ago made a brave call, publicly questioning the benefit of the government's baby bonus. The minister was wrong, though, to suggest that women would benefit more from other measures, such as ongoing support to raise a child, rather than financial support at the time of a birth or adoption.

Australia is a country that is wealthy enough to afford both if we choose to, and we should. There are many changes needed to make it easier for women and men to be

involved in paid work and caring for their children. We need more places and more affordable child care, more investment in work based child care, more flexibility in working time and more support for men to take paid and unpaid leave to care for their children, just to name a few. It is odd, to say the least, to focus on the benefits of ongoing assistance to parents while ignoring a woman's need for financial compensation for loss of income when she leaves paid employment to give birth, to bond with her child, to recover from childbirth and to establish breastfeeding.

The funds allocated to the baby bonus could be redirected to establish a national scheme. The Greens have developed such a proposal that would be effectively revenue neutral. Our scheme would particularly assist low-income earners, casual, part-time, seasonal and contract workers with an established attachment to the work force. Under the Greens' proposal, people would be paid replacement wages up to average weekly earnings but not less than the federal minimum wage for 18 weeks, with a right to a further 34 weeks of unpaid leave. A woman's partner would be able to share her entitlement.

We propose a review of such a scheme within three years with a view to expanding the paid leave period to 26 weeks, as applies currently in the United Kingdom, and unpaid leave to 18 months. All of this is achievable today—if only the government cared enough to bring Australia into step with comparable nations. But it is making it clear through this bill today that it does not.

It is clear that the marketplace will not deliver paid parental leave for the majority of workers—just as enterprise bargaining has not delivered other important provisions to ensure that employees are not required to sacrifice their family and community obliga-

tions in the pursuit of earning a decent living. The Prime Minister recently claimed that all the flexibility anyone could desire was available through signing an individual contract or an Australian workplace agreement. But we know that the inherent power imbalance in the relationship between an employer and an employee means that all workers cannot rely on business to deliver the minimum conditions to make it possible to engage in paid work, to raise a family and to be involved in community life.

The Prime Minister points to a rise in part-time work as a major achievement in accommodating family commitments. He ignores the fact that 22 per cent of part-time workers want to work more. He ignores the fact that two-thirds of part-time jobs are casual jobs, which usually come with few if any entitlements. In fact, four out of every 10 employed mothers have no leave entitlements—that is, no paid leave to care for a sick child or to take a child to medical appointments. Amazingly, the Prime Minister declared in *Options*:

The government's review of policy in each of these areas has led to the conclusion that the current policy mix is about right in providing effective choice for parents.

In the absence of action by the Howard government to address these matters, the ACTU has embarked on a work and family test case, which the Greens support. If successful, the claim will provide significant improvements for workers covered by the five awards involved. Those improvements include the right to return from parental leave to part-time work; allowing employees to buy up to six weeks additional annual leave each year by adjusting their pay, thereby enabling parents to be with their children during school holidays; and extending unpaid maternity leave from 12 months to 24 months.

Of course, the Australian Chamber of Commerce and Industry opposes the test case, arguing that purely creating jobs should be the top priority. But most people do not live to work; they work to live. They deserve a reasonable living, and that means being more than employees; it means being parents, carers, community activists and participants. The government pays lip-service to the importance of family life, the role of women as carers and the raising of children. When it comes to practical support the government goes missing. Unlike the government, the Greens recognise that caring work, including the work of women and men raising children, is a valid occupation. We are committed to practical measures to support people involved in such work, and our paid parental leave scheme is one such measure. It is affordable and it is far superior to the regressive baby bonus, which should be abolished. I foreshadow the Greens' second reading amendment to this legislation.

Senator CROSSIN (Northern Territory) (1.38 p.m.)—I rise this afternoon to provide some comments about the **Sex Discrimination Amendment (Pregnancy and Work) Bill 2002**. Back on 26 August 1998 the Commonwealth Attorney-General, the Hon. Daryl Williams, referred to the Human Rights And Equal Opportunity Commission a national inquiry into discrimination on the grounds of pregnancy, potential pregnancy and the management of pregnancy in the workplace. The inquiry conducted by HREOC found overwhelmingly that discrimination in the workplace on the basis of pregnancy and potential pregnancy was profound and extensive. Evidence received clearly illustrated that there must be a legislative response to the issues raised in the inquiry. Of course, at the time many of us who had dealt with complaints about discrimination based on pregnancy and the issue of pregnancy in the workplace were pleased that such an inquiry had been initi-

ated by HREOC. Many of us were hopeful that the outcomes would be much more substantial than those we are dealing with today. The government has failed to deliver on the outcomes of the report with this bill. This bill does not remedy the problems that pregnant women face in the work force. In fact, it does not even attempt to facilitate the recommendations made by HREOC, despite this government having called for the inquiry initially.

The Sex Discrimination Amendment (Pregnancy and Work) Bill before us represents the government's implementation of only three of the 12 recommendations of the commission. The 12 recommendations were the result of the inquiry conducted by the commission in 1999 which was consequently entitled *Pregnant and productive: it's a right not a privilege to work while pregnant*. The title encapsulates perfectly the issues which women in Australia face as participants in the work force. That report was delivered in June 1999, and it took the government 17 months following the tabling and the finalisation of the report to actually respond to it.

I must place on the record my appreciation of the work that Susan Halliday, the Sex Discrimination Commissioner at that time, did in ensuring that the consultations that were undertaken by HREOC were wide reaching and thorough. She and her commission are to be commended for the work that they put into that report. But it is unfortunate that it has taken this government 17 months following the tabling of that report to even issue a response, that it has taken some four years before we have seen legislation that addressed the concerns in that report and that only three of the 12 recommendations have been addressed. It has taken the government two years to come up with this subsequent bill, which clearly fails to address many of the issues. Unfortunately, the bill before us does not do enough to improve the situation

for women when it comes to discrimination on the grounds of pregnancy in the work force. The government has basically chosen to ignore the vast majority of the legislative changes that were suggested by HREOC.

The Sex Discrimination Act does contain prohibitions on discrimination on the basis of pregnancy or potential pregnancy under section 7. It must be noted, however, that none of the government's amendments to be made by this bill actually change the substance of the legislation. The government's bill does clarify several important issues which have in the past restricted the effectiveness of the Sex Discrimination Act. As a result of submissions taken, HREOC recommended that the Sex Discrimination Act be amended to specifically cover breastfeeding as a ground for unlawful discrimination. The government has chosen, however, to avoid actually creating a new ground of discrimination under the act to address this recommendation. Currently, discrimination and harassment on the grounds of pregnancy and potential pregnancy are grounds for complaint under the Sex Discrimination Act. However, as the HREOC report concludes, there needs to be a more coherent and comprehensive set of provisions included in the act to ensure that breastfeeding, for example, is specifically covered and that women are protected.

In March 2000 the Deputy Leader of the Opposition, Jenny Macklin, introduced a private member's bill that amended the Sex Discrimination Act and the HREOC Act to ensure that pregnant, potentially pregnant and breastfeeding women were not discriminated against in the workplace. In the Senate I subsequently tabled a bill that mirrored the bill that Ms Macklin had tabled in the House of Representatives. This bill was in response to a clear need for legislative change, highlighted in the *Pregnant and productive* report.

The HREOC inquiry conducted by the then Sex Discrimination Commissioner, Susan Halliday, revealed that parents, especially women, were experiencing situations that were absolutely unacceptable, such as women miscarrying because they were not allowed to sit down at work, men being sacked for attending the birth of their babies, women being harassed about their appearance and women being removed from the front desk where they were visible to the public. In one case documented by the commissioner, a woman working in a car factory was denied a chair, despite bleeding and severe pain. Consequently, she collapsed at work when seven months pregnant and her baby was born prematurely with an underdeveloped heart.

It is simply and totally unacceptable and extremely distressing to know that women are enduring such circumstances in their place of work to this very day in a country such as Australia. Even more distressing is the fact that this government is doing very little about it. As stated previously, the bill neglects to incorporate a number of key recommendations made by the HREOC report. Why would you bother to get the Human Rights and Equal Opportunity Commission to conduct a report into pregnancy and the impact of pregnancy in the workplace if, at the end of the day, you were not going to be totally committed to implementing the recommendations that a body such as HREOC found during its consultations.

Their report suggested empowering HREOC to publish enforceable standards in relation to pregnancy and potential pregnancy; allowing referrals by the Sex Discrimination Commissioner to the Industrial Relations Commission, enabling the award of punitive damages as well as compensatory damages, removing the exemption of educational institutions established for religious purposes in relation to pregnancy and poten-

tial pregnancy, ensuring coverage of unpaid workers and removing the exemption of employment by an instrumentality of a state. HREOC's pregnancy and work inquiry, in the foreword of the report, revealed:

Erroneous tactics and exploitative practices are, to this day, being utilised to remove pregnant women from the workplace or deny pregnant, and potentially pregnant women, equal employment opportunity.

The government's delayed and pathetic response to this report is astonishing. There has not been a legitimate attempt to implement the recommendations made by the Sex Discrimination Commissioner. The fact is that women in the work force remain vulnerable to discrimination, and this bill will do little to address that. Hence there has not been a legitimate or, at the very least, sincere attempt by this government to protect people from discrimination based on pregnancy, potential pregnancy, breastfeeding or family responsibilities. At least we can be sure that this government has been consistent in neglecting women. This government has consistently failed to move with the times and keep up with trends relevant to women in the work force.

The issues raised in the *Pregnant and productive* report are important and immediate and must be dealt with. They are serious and, as the report states quite clearly, life threatening in some cases. Recent examples are readily available for a debate such as this. In recent weeks there have been reports of Telstra, for example, sacking a worker who returned from maternity leave and wanted to resume her employment part time. Discriminatory dismissals are a common basis of sex discrimination complaints under the Sex Discrimination Act and remain the most common reason women formalise complaints of discrimination on the ground of pregnancy under the act.

There is an unacceptable culture in Australia and in workplaces today which allows discrimination to continue against women in the work force on the grounds of pregnancy or breastfeeding. It is distressing to realise that many women simply accept that they will be discriminated against. I argue that it is beyond doubt and beyond denial that legislation needs to be enacted to change this culture and protect all women in the work force. Last year, complaints to HREOC of pregnancy related discrimination doubled. Whether the significant increase was the result of an increase in acts of discrimination or simply, and more importantly, an increased awareness of the rights of pregnant and breastfeeding women, it certainly highlights the need for stronger laws to protect pregnant and breastfeeding women from unacceptable treatment. The *Pregnant and productive* report highlighted that, in 1997, 14.7 per cent of all complaints under the Sex Discrimination Act involved discrimination on the grounds of pregnancy. In 1999, after the commencement and publicity of the inquiry, the figure had risen to 17.4 per cent. If nothing else, it demonstrates the need for public education of pregnant women's rights in the workplace.

The inquiry, not surprisingly, found that discrimination that prevents women from entering or moving within the work force continues to operate as a barrier to redress historical workplace gender imbalances. It also became evident to HREOC that there was a significant level of ignorance amongst employers and some employees when it came to dealing with pregnancy issues in the work force. The level of knowledge simply was not at a level to facilitate the complex and confronting problems that employers and employees face in the workplace. The inquiry confirmed that employers and employees are in need of clear, practical guidelines that are educative in nature. Increased educa-

tion to ensure compliance with the Sex Discrimination Act and about how the act interrelates with workplace relations and occupational health and safety requirements also emerged as a priority.

HREOC's main recommendation concerns the immediate need for education, guidance and awareness-raising programs around pregnancy and work. As the *Pregnant and productive* report recognises, the significant increase in the number of women participating in the work force cannot be seen as a separate issue to pregnancy and breastfeeding discrimination. In 1986 women made up 39.6 per cent of the Australian labour force. In 1996 that proportion had grown to 43 per cent. Today that proportion has continued to rise to almost 50 per cent. Some 70 per cent of women in Australia now participate in the work force in some way. Policy must not only reflect this but also promote women's continued participation in the work force as an equal citizen. Of major concern is the acceptance by a considerable number of women of the discrimination that they experience.

A number of submissions to the inquiry suggested that many women simply accept that pregnancy is a personal choice and that they cannot expect to have their cake and eat it too—in other words, they expect to be discriminated against. Women still do not expect to be able to have a family and participate in the work force at whichever level they choose. This was largely attributed to the lack of public awareness and the need for education about what women's rights are, particularly when they are pregnant. As one submission stated:

It is a sad reflection of women's status in Australian society that so many women are prepared to accept this discrimination as part of life.

Internationally, there has been significant recognition of the contribution women make

as work force participants. Generally, this has occurred in the form of legislation aimed at ensuring that women are not disadvantaged in the workplace because they bear or want to have children. The UN Convention on the Elimination of all Forms of Discrimination Against Women, for example, specifically addresses women in the work force and discrimination on the grounds of pregnancy. The International Labour Organisation developed the Maternity Protection Convention, which was the first global standard aimed at protecting women before and after childbirth. The European Union implemented the pregnant workers directive in 1992 which protects potentially pregnant, pregnant and breastfeeding women from discrimination in the work force.

As increasing numbers of women participate in the work force all over the world, it becomes imperative that their rights as workers are protected. It is predicted by the ILO that in just over 10 years 80 per cent of all women in industrialised countries, and 70 per cent globally, will be working outside the home throughout their childbearing years. There must be acknowledgment of the contribution that women make as work force participants and a realisation of basic rights and equal opportunities, in the workplace in particular, which accompany this.

Recently this government has shown its true colours when it comes to women. The Howard government has been all talk and no action—and, in this case, I think actions definitely speak louder than words. Apparently there is a work and family task force in the Department of the Prime Minister and Cabinet coming up with some kind of policy that will accommodate the Prime Minister's personal agenda, but so far nothing concrete has eventuated. This government has done absolutely nothing to assist people in Australia to combine work and family responsibilities and to balance work expectations and

family commitments. The Prime Minister has repeatedly changed his tune on the issue of paid maternity leave. It has become another thought bubble in the cartoon on the Prime Minister's bookshelf. Despite claiming it is still on the agenda, the fact is that this government has failed to deliver any national paid maternity leave scheme comparable to almost every other nation in the world.

We have also seen this government finally acknowledge the prevalence of domestic violence in Indigenous communities—after how many years? However, last budget estimates we revealed that in fact this government had diverted \$10.1 million from the Partnerships Against Domestic Violence program to pay for a fridge magnet. The Howard government was unable to spend this money to stop domestic violence then, so what is the big change now? Now in this bill before us, having called for the inquiry into pregnancy and work, this government has simply decided to completely reject every recommendation made by HREOC bar three. It becomes obvious that the Howard government has no intention of ensuring there is equal opportunity for women in the work force and absolutely no intention of addressing the issues families are currently facing in Australia.

The amendments that the Labor Party are proposing clearly demonstrate our commitment to stamping out discrimination in the workplace. This will be the second time we have attempted to put these amendments through this parliament—once in the bill that Jenny Macklin and I tabled and now through these amendments. Our amendments will strengthen the law to protect women from discrimination when they are pregnant or breastfeeding. Importantly, Labor's amendments include empowering the Attorney-General to publish enforceable standards in relation to pregnancy and potential pregnancy. As recommended by the HREOC re-

port, Labor would also specifically include breastfeeding as a ground for unlawful discrimination. Furthermore, we would ensure that unpaid workers are also covered by the Sex Discrimination Act. This is basically in recognition of the contribution of volunteers in our society and the fact that they are also vulnerable to discrimination.

Labor's amendments are a genuine attempt to implement the recommendations of the *Pregnant and productive* report, unlike this government. If this government were serious about the issue of pregnancy and potential pregnancy discrimination in the work force, there would be no hesitation whatsoever in enacting all 12 of the recommendations of the *Pregnant and productive* report. The truth is that the government never, ever had any intention of implementing the recommendations of the report—all talk and very little action. The recommendations documented in HREOC's *Pregnant and productive* report are the result of community consultation and comprehensive research, which was conducted at the request of this very government. It is imperative that these recommendations be included in the bill and passed in an attempt to stop discrimination on the basis of pregnancy, potential pregnancy and breastfeeding in the workplace for all Australian women.

Senator WEBBER (Western Australia) (1.58 p.m.)—Like my colleagues, I rise to contribute to the debate on the *Sex Discrimination Amendment (Pregnancy and Work) Bill 2002*. It is a pleasure to see you all joining me for this important debate. We have been told that these changes to the sex discrimination legislation form the government's response to the report of the Human Rights and Equal Opportunity Commission of June 1999—a report that was titled, as my colleagues earlier outlined, *Pregnant and productive: it's a right not a privilege to work while pregnant*. We may all wonder

about this whole approach. We have a report presented in June 1999 and now the Senate debating the government's legislative response. It has been four years and two months after the report has been presented, and now we get a debate in the Senate. It has taken 50 months. I suppose there should be little surprise that this legislation is moving with all the speed of a snail on prozac. I say this because, as we all know, the government did not respond to the report until November 2000. That is only 17 months from the time the report was presented. I can accept that 17 months seems like a fairly rapid response, but that is rapid only when compared to 50 months.

This legislation essentially amends the Sex Discrimination Act in three cases, as has been outlined. Therefore, the government's legislative response to the 12 recommendations of the original report that suggested amendments to the sex discrimination legislation has been to act on only three of them—and we in the Senate are the ones who are constantly told by the government that we are obstructing the passage of legislation.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Australian Customs Service: Security

Senator MARK BISHOP (2.00 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. In light of the minister's statement to the Senate on 20 August in which he said, 'We have an increase in border control and scrutiny which this country has never seen before,' how is it that two perfect strangers can enter a high security facility with false IDs, not be recognised, remain on the premises for two hours and leave with two computers on a trolley unchallenged? Given that the minister has announced three separate inquiries into this theft in as many days, who will these reports

be provided to and will any of them be made public?

Senator ELLISON—Senator Bishop should get his facts right for a start. I have not announced three inquiries in as many days. What I have said is that there is an Australian Federal Police investigation into this matter and that there is a Customs internal inquiry. That is an investigation—

Senator Sherry—That makes three.

Senator ELLISON—No. Can I say that these were not announcements which I had initiated. The Australian Federal Police investigation had been in place as a result of their being contacted by the Australian Customs Service, quite properly so. The only inquiry that I announced was the independent one that will be held, as I said, within as many days. That will be done and that will be advised to the parliament.

Senator Mark Bishop—That is four.

Senator ELLISON—That is why Senator Bishop ought to get his facts right. What he does hark back to is that on 20 August, when I answered a question from him in relation to the importation of ammonium nitrate, I outlined to the Senate the extensive border controls which have been introduced by this government. We have introduced as never before an increase in border security. We have seen it with our increased surveillance flights, our sea days being doubled, the 100 per cent X-ray of mail coming into Australia, 70 per cent inspection of air cargo, inspection of passenger baggage, X-ray of containers and having detector dogs. We have increased funding to Customs by around 50 per cent—something that the opposition never did.

Senator Bishop asked how this could happen. That is what the Australian Federal Police are investigating at the moment. We regard this as a breach of security. We have not downplayed this in any way, but we have

said that some of the reports in the media have been misrepresentations. We have not had the theft of thousands of confidential files as alleged. We have not had complaints from the Australian Federal Police or ASIO and we have not had the release of sensitive details relating to Customs. I think it was the CPSU which made that inquiry and we have replied to that. What we have to keep in perspective are those reports which try to sensationalise matters and those which are of a more rational nature. We regard this as a serious matter. The government is mindful that this is a very important issue; there is no question about that. But what I have said is that this does not involve a question of national security. The Attorney-General has said that as well. We have looked at the circumstances of the case.

Senator Sherry—What is on the computers?

Senator ELLISON—The question has also been raised whether in the course of the theft of these two servers anything else was done. We have carried out inquiries and I can tell you that at this stage there is no evidence of any intrusion into the system. In fact, the Australian Federal Police, with the assistance of DSD, who have great forensic skills in this area, in their investigations have not detected any intrusion into the system as yet, nor has Customs. That is something which Customs immediately set about doing in relation to this whole affair. It took remedial action too in relation to the changing of passwords and access words and also notifying other people who may be affected by that. I have announced that there will be an independent inquiry. I said yesterday that it will be—(*Time expired*)

Senator MARK BISHOP—Mr President, I ask a supplementary question. Given that the minister has now confirmed that there are at least three inquiries, can the min-

ister advise whether the intruders carried out any other activities apart from stealing two servers, such as downloading of files? If, as the minister and the Attorney-General contend, this is not a breach of national security, what are you able to tell the Senate about the break-in and investigation? Will the minister now commit to a full statement to the parliament outlining the circumstances of this very serious breach, the findings and outcomes of the investigation and the remedial action to be taken?

Senator ELLISON—I have already announced to the Senate what has been done in relation to any possible intrusion into the system. As I have said, inquiries have been made in relation to this very issue and there has been no evidence at this stage to show any intrusion into the system, whilst the alleged intruders were on the premises or afterwards. In relation to the outcome of any investigation, the Australian Federal Police will go about that in their usual professional manner. In relation to the independent inquiry, I have already covered that.

Fisheries: Border Protection

Senator McGAURAN (2.06 p.m.)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald. Will the minister outline to the Senate steps the government has taken to ensure the protection of Australia's marine resources in our southern oceans and will the minister advise of any international cooperation that Australia has received? Is the minister aware of any alternative policy approaches?

Senator IAN MACDONALD—I thank Senator McGauran for that question. It clearly indicates that the protection of marine resources has been a matter of great interest to Australians in recent times, particularly following the chase of the Uruguayan flag vessel *Viarsa* across the Southern Ocean. Australia has taken an international leader-

ship role to stamp out illegal, unreported and unregulated fishing across the oceans of the world, but particularly in Australia's sovereign waters and, importantly, in the Southern Ocean around Heard and MacDonal Islands. The steps we have taken have been diplomatic, intelligence, police work, catch disposal, tracking, working with NGOs and international forums and, importantly, on-the-water surveillance and enforcement.

Most recently our approach has been demonstrated by the chase of the *Viarsa*. It was first sighted on 7 August and was eventually apprehended by the Australian Fisheries and Customs patrol vessel the *Southern Supporter*, some 21 days later after the longest chase in Australia's maritime history—some 3,900 nautical miles. The chase was through some of the most difficult maritime conditions that exist on this planet: sea state 9 on occasions, 20-metre to 25-metre waves, bitterly cold weather—below zero—icefloes, gale force winds, icebergs; horrific operating conditions.

It is important to acknowledge at this point the efforts of the Australian seamen on board the *Southern Supporter*, the Fisheries officers and the Customs officers. I thank Senator Ellison for making the Customs officers so available. They have all done a marvellous job. I know all Australians will applaud the effort of these magnificent Australians. It makes us all proud to acknowledge what Australians can do. I should also acknowledge the work of the Australian Customs Service, the defence department, the foreign affairs department and my own department, the Department of Agriculture, Fisheries and Forestry, the Australian Fisheries Management Authority and our diplomatic staff around the world. The *Viarsa* and the *Southern Supporter* have been reprovisioned off South Africa and are ready to return to Fremantle. We expect them there early in October.

I was asked about international cooperation. The government is particularly grateful to the governments of the United Kingdom and South Africa. I phoned ministers Morley and Moosa respectively to seek their assistance. The apprehensions occurred with the assistance of the South African tug *John Ross*, the South African supply vessel *Agulhas*, and the British fisheries protection vessel *Dorado*. Our approach to suspected illegal fishing vessels is demonstrated by the lengths to which Australia will go to stamp out illegal fishing.

I was asked if there are any alternative policy approaches. In contrast to the firm and efficient action of the Australian government, Labor's involvement in this affair was one press release from Mr McClelland and Mr Rudd asking if there was a Uruguayan government official on board. This is the lazy approach of the Labor Party. If they had read that day's newspapers they would have seen that there was a Uruguayan officer on board. That lazy policy approach is repeated by Senator O'Brien, whose response is simply to call for a new and unfunded \$600 million bureaucracy, with well-meaning volunteers and with a headquarters in Cairns and Darwin to replace our existing effort. (*Time expired*)

Australian Customs Service: Security

Senator FAULKNER (2.11 p.m.)—My question is directed to Senator Ellison, the Minister for Justice and Customs. Minister, in relation to the break-in at the Sydney Customs building on 27 August, on what basis did you make the statement on Friday, 5 September 2003, repeated again in Senate question time today, that: 'I can confirm this is not a breach of national security'? Why is the minister willing to comment on this operational matter but on no other related operational matters? On what grounds did the minister make such a statement? Did the minister

base this assertion on advice from Customs or the Attorney-General's Department, or other agencies?

Senator ELLISON—These two servers did not contain top secret information or information in relation to matters which affected intelligence agencies. We keep that material somewhere else. These servers were not involved in that sort of activity. The question of national security involves, naturally, matters which go to intelligence agencies. In this case I am advised that these servers were not used for that purpose. They were used for facilitating communication across the Customs network, but not for those areas which would be regarded as intelligence or top secret. Therefore, the advice I have from the Customs Service is that there was not a breach of national security involved.

There is an AFP investigation pending, which I have mentioned. A number of matters under investigation go to the very aspects of who committed this theft, why and under what circumstances. That is a criminal investigation which I have, quite rightly, said we cannot comment on. But where there is a question of national security and that matter can be addressed, it is and should be. That is why it has been addressed at this stage. I said earlier in answer to Senator Bishop that we have no evidence at this stage to show that there has been any intrusion into the Customs system. That is the advice that I have. It is on that basis that the government has said that this has not involved a threat to national security.

Senator FAULKNER—Mr President, I ask a supplementary question. Minister, why is the issue of the functions of these servers not an operational matter? I ask you also whether the investigation of this theft was complete when you made your grand announcement last Friday that the break-in was

not a breach of national security. Have investigators now—let alone when you made your announcement last Friday—established a motive for last week's security breach and theft from the Customs security centre in Sydney? Given what you have said—that inquiries are ongoing—why are these matters not operational matters?

Senator ELLISON—I can say that a number of issues were canvassed in the press, which I have commented on. It would be improper to allow those misrepresentations to remain in the public domain without correction, and that is why there has been comment in relation to the question of what was stolen. There has been an allegation, quite wrongly made, that there were thousands of confidential files taken. That is incorrect. I was obliged to correct that and I have done it. Accordingly there was an obligation to put on the record, because of what has been put in the press, that what was taken were two servers, which did not involve a breach of national security.

Senator Faulkner—Who says?

Senator ELLISON—That is the advice that I have said has been given to me by the Australian Customs Service. We have the Australian Federal Police, assisted by DSD with great forensic capacity, investigating this matter. We have no evidence at this stage to show any intrusion into the Customs system at the time that these offenders were on the premises or after. (*Time expired*)

Health: Commonwealth-State Health Agreements

Senator HUMPHRIES (2.15 p.m.)—My question is to the Minister for Health and Ageing, Senator Patterson. Will the minister update the Senate on the number of states and territories that have accepted the Howard government's record funding as part of the Australian health care agreements?

Senator PATTERSON—I thank Senator Humphries for the question. I am pleased to confirm, although it most probably does not need much confirmation because it was in the newspapers, that all the states and territories signed up to the health care agreements by the deadline, which was 31 August. Mind you, had they actually signed on Friday, it would have meant they did not have to have public servants waiting all weekend for the agreements—but they signed, finally, by 31 August.

In signing, the states and territories will now be eligible to receive a record total of \$42 billion for the next five years—17 per cent over and above inflation. It is \$10 billion more than under the last agreements and, as I said, it equates to real growth of 17 per cent. The extra funding means that New South Wales will get \$3.4 billion; Victoria gets \$2.4 billion; Queensland, \$2.1 billion; Western Australia, \$1 billion; South Australia, \$800 million; Tasmania, \$220 million; the ACT, \$148 million; and the Northern Territory, \$141 million. In addition to receiving the Commonwealth's extra \$10 billion, the states and territories are also receiving growing revenue, courtesy of the goods and services tax, and they have also been receiving a huge windfall from an increase in stamp duties.

The states now, for the first time, have made a five-year funding commitment. Before, the Commonwealth had to commit its five-year funding in advance and, for some states, we were not aware of what they had spent—sometimes up to two years ago—on health. We have now asked the states to do just what the Commonwealth has been asked to do: commit publicly to their funding over the next five years. This five-year guarantee is a major achievement in the new agreements. It means that hospitals and those providing services, including the health ministers, will be able to budget with much more

certainty, and it will give much more certainty to those running public hospitals and to the patients in them.

In signing the new agreements, the states and territories have recommitted to the Medicare principles, specifically the availability of free public hospital treatment for all Australians who seek it, regardless of their insurance details. I have to comment here that there have been a number of times that I have been made aware of where people have gone to a public hospital and have been either cajoled into using their private health insurance or, when they have been sent home, rung and asked if they could help the hospital by being admitted retrospectively as a private patient. There is a sort of double-dipping there, and I have written to some of the ministers from where it is happening most.

The agreements also require a transparent system—a new financial and performance reporting framework. As I said, we were not given details, so the Commonwealth was not aware of how that money was being spent in terms of waiting lists and other issues that need to be addressed in the public hospitals, including patient satisfaction. So there is much more information that is going to be obtainable and much more information that is going to be available to the public. The states are responsible for providing public hospital emergency department services to all patients, regardless of their urgency category, and for providing all public hospital services on the basis of clinical need and within clinically appropriate times.

Now that the agreements have been signed, it is important that the states and territories work with the Australian government to improve the health system in critical areas. We started a reform process at the beginning of last year with nine clinical groups, including clinicians and stakeholders. That went

off the rails in November, when the health ministers failed to discuss the reform issue and wanted to talk about funding. Now we have signed the agreements, I believe we can move forward and discuss the reform agenda, such as streamlining cancer care, improving services and delivery of mental health, improving quality and safety and streamlining the movement of patients from hospitals to home. There is a huge amount to do; signing the agreements is not—(*Time expired*)

Australian Customs Service: Security

Senator FAULKNER (2.20 p.m.)—My question is addressed to Senator Ellison, the Minister for Justice and Customs. Why did the minister publicly reveal the involvement of the Defence Signals Directorate in the investigation into the break-in at the Sydney airport Customs building? What was the nature of their involvement, given that DSD does not have an investigations unit? Hasn't the minister himself compromised the investigation into this break-in by his hurried announcement of DSD's involvement? How does the involvement of DSD fit with the DSD charter that it will not be involved in the investigation of Australian citizens?

Senator ELLISON—I understand the involvement of DSD was made public on Saturday, and not by me. That is the situation. I made a statement on Sunday, after it had been made public. I will say that DSD have a forensic capacity which is second to none, and they are assisting in this investigation because of that capacity. There is no question of the DSD investigating any particular individual; it is a question of forensic assistance in relation to matters which go to information technology. That is the assistance that is being given to the Australian Federal Police. There has been conjecture that the involvement of the DSD is because of the matter involving, in some way, intelligence or oth-

erwise. It is not the reason for the DSD involvement, I am advised; it is because of their forensic capacity and knowledge.

Senator FAULKNER—Mr President, I ask a supplementary question. Minister, are you aware whether advice was sought from the Minister for Defence about the appropriateness of DSD's involvement before that announcement was made publicly? If the break-in did not breach national security, can the minister now explain to the Senate why DSD has been involved?

Senator ELLISON—DSD is involved, as I have said—and I think this is the third time—because of its forensic capacity to assist with computer technology. That is the reason. There is no question of any other involvement, on the advice that I have.

ASIO, ASIS and DSD Committee: Submissions

Senator BARTLETT (2.23 p.m.)—My question is to Senator Hill in his capacity as the Minister representing the Prime Minister and as the Minister for Defence. The minister would be aware of the inquiry being conducted by the Joint Committee on ASIO, ASIS and DSD into the accuracy of intelligence information on the Iraq conflict. Can the minister inform the Senate whether any government agencies, including but not limited to ASIO, ASIS, ONA, DSD and DIO, have prepared submissions for the inquiry? Could he indicate whether any of those submissions have been or will be submitted to ministers or ministers' offices prior to their being provided to the inquiry? Will ministers or their staff be making any changes to those submissions before they are provided to the inquiry?

Senator HILL—My understanding is that some government agencies have put in or are putting in submissions to the inquiry. The normal practice is that those submissions would be put in through ministers. It would

not be at all unusual for ministers to comment to their agencies on the submissions that the agency has prepared—after all, the minister takes ultimate responsibility for the submission. If the honourable senator has more specific issues that he wishes to raise, I will seek to get him a more specific answer.

Senator BARTLETT—Mr President, I ask a supplementary question. Given that the minister has just confirmed that all ministers are able to vet and, if necessary, amend submissions from the intelligence agencies before they are provided to the committee and given that, unlike in the UK, we have no ministers, let alone the Prime Minister, willing to appear before public hearings to explain their actions in relation to intelligence prior to the Iraq war, how can the minister assure the Australian public that we will actually get any accurate or truthful information through this inquiry? In addition, as the minister would be aware of reports of the use by a government senator of classified material in an ONA report written by Mr Andrew Wilkie, is the minister not concerned that classified material from ONA is able to be released to people who are not authorised to have it? Has this particular apparent breach caused the government any concern? Is there any investigation into it? (*Time expired*)

Senator HILL—I would have thought that the honourable senator would have caught up with the public statement made by Senator Sandy Macdonald today in which he said that the allegation made by Laura Tingle in the *Australian Financial Review* is incorrect. I quote: 'I was given absolutely no classified material by the Prime Minister, his office or by any minister or minister's office in regards to Mr Wilkie, nor was I shown any classified material.'

National Security

Senator LUDWIG (2.26 p.m.)—My question is to Senator Ellison, the Minister

for Justice and Customs. Is it the case that the Spanish authorities do not regard the police to police request as sufficiently serious to accede to the request to interview al-Qaeda suspect Abu Dahdah about possible links with al-Qaeda operatives in Australia? When was that information communicated to the minister's office? Did the government make any further representations to Spanish authorities at a more senior level? If so, when were those representations made? What has been the response of the Spanish authorities to any such government to government request?

Senator ELLISON—Senator Ludwig asks me to advise the Senate why the Spanish authorities gave us certain advice. That is something that really is inappropriate. I am unable to advise why the Spanish authorities make any decision. The fact is that mutual assistance works on the basis that it is there for criminal matters. Often when we are dealing with criminal matters internationally we do it on a police to police basis without any requirement for a mutual assistance request. Sometimes a country may require that we go through the channels and we abide by the mutual assistance convention. Sometimes a country does not require that.

It is usual practice for the Australian Federal Police when dealing with international criminal matters to commence their inquiries on a police to police basis. There is absolutely nothing abnormal about that and it makes sense. It is then up to the other country whether they require us to do it formally and engage in the mutual assistance request process. The Spanish authorities advised our liaison officer in London that that was the course they wanted pursued. We made the initial contact. A couple of days after that initial contact—I think on 26 June—we were advised that a mutual assistance request process would have to be gone through. We

abided by that and set in train the work for that to happen.

Senator LUDWIG—Mr President, I ask a supplementary question. Can the minister now tell the Senate when Abu Dahdah will be interviewed by Australian authorities? Which agencies will undertake these interviews?

Senator ELLISON—The request has been made for information and access to Mr Abu Dahdah. That was received by the Spanish authorities on 2 September, as I understand it. We are awaiting a reply. The request, as I understand it, has been made by the Australian Federal Police.

Fisheries: Border Protection

Senator MURPHY (2.29 p.m.)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald. I refer the minister to the AFMA statement that 16 out of 74 commercially fished fish species are now overfished and that virtually all of the 20 major Commonwealth-managed fisheries are being fished in an unsustainable manner. Can the minister inform the Senate of what steps the government is taking to address this very serious problem?

Senator IAN MACDONALD—I thank Senator Murphy for highlighting this report from the Bureau of Rural Sciences, something the government have the bureau do every year so that we can keep an eye on the fisheries to make sure that they are managed sustainably and that those fisheries and their fish stocks will be there forever and a day. These reports are commissioned by the government, undertaken and given to the government exactly for that purpose, Senator Murphy. The fact that the overfished category has gone up by five fisheries this year over last year does concern the government. It is something that we do want to address.

Senator Murphy, as someone who has an understanding of fisheries management, would appreciate that once you learn that a fishery is overfished it takes some time for remedial action to work. In relation to the fisheries that have been determined as overfished in the past, action has been taken. According to my advice, it will be some time—a matter of two, three or four years, depending on the fish stock—before such fisheries are again sustainable, before they lose the overfished categorisation. Certainly with the new fisheries that have been classified this way in the most recent report we will be working very closely on that.

I have to tell Senator Murphy that the industry—the commercial fishing industry and the recreational fisheries—are also concerned at these suggestions of unsustainable fisheries. The commercial fisheries in particular will be working very closely with the Australian Fisheries Management Authority and my department to address the issues and work out just what has to be done. As well we will be calling upon, and working very closely with, the conservation NGOs to get their input, as we already do.

So, Senator Murphy, we are concerned at the reports. We will continue to work with all the relevant stakeholders to address them. We are determined to do that because, as Senator Murphy will know, ecologically sustainable development of the fisheries and the fisheries biosystem, the marine biosystem, is something that we are very determined to make sure stays forever. Our whole approach to fisheries management these days is built on that ecological basis and also on the sustainability of the fish species.

Senator MURPHY—Mr President, I ask a supplementary question. Minister, given that there has been an increase in the number of fish species that are being overfished, isn't it the case that AFMA's policies are failing?

Doesn't it need to take far greater steps to ensure that sustainable fishing of the fisheries is returned, and don't those need to be undertaken in a much more urgent way than is currently the case?

Senator IAN MACDONALD—I do not agree that our fisheries management system has not worked. In fact one fishery—the scallop fishery down your way—that had been classed as overfished came out of that category this time through good management arrangements by the Australian Fisheries Management Authority. We will continue to do that. As I say, it is something we are concerned about. It is something we want to address. We keep a very close eye on it and that is why we continue to get these reports done. We want to be very active not only in our own fisheries but also in the regional fisheries for the highly migratory species. Sometimes—and some of these new fisheries that have been announced fall into this category—the correction of those is not entirely within the Australian government's hands; we have to work through international fisheries agencies. By doing all of those things we are determined to get the fisheries back in stock. (*Time expired*)

National Security

Senator KIRK (2.34 p.m.)—My question is to Senator Ellison, Minister for Justice and Customs. Is the minister aware that according to Abu Dahdah's lawyer, Jacobo Teijelo, other countries such as Belgium have already interviewed his client? Why has it taken so long for the Australian authorities to request an interview, given that the Attorney-General confirmed to the *Herald-Sun* 13 months ago that ASIO was aware of Abu Dahdah's connection with Australia?

Senator ELLISON—The Attorney-General and I put out a comprehensive statement over the weekend indicating the course of events in relation to this matter and

the fact that Mr Abu Dahdah's alleged involvement with Australian contacts has been known for some time in Australia and indeed has been public knowledge—it has been a matter of reporting in the press.

Of course ASIO has been working on this matter for some time now—I think the Attorney-General said since 2000—and particularly post 11 September 2001. This has formed part of a very much wider intelligence-gathering exercise by ASIO and the counter-terrorism inquiries carried out by the Australian Federal Police. I understand that the Attorney-General has now made an announcement that two ASIO agents did travel to Spain earlier in relation to this matter and has made a statement in relation to what was done.

In relation to the Australian Federal Police there has been a total misunderstanding as to the difference between an intelligence-gathering exercise and a criminal investigation. I do not know what Belgium or any other country might be wanting with Mr Abu Dahdah, but I can say from an Australian point of view that since June this year the Australian Federal Police have been conducting a criminal investigation inquiry and have taken appropriate steps to pursue that inquiry.

Senator Ludwig asked me earlier about, and I have outlined, the mutual assistance request. That has been entirely appropriate. It has been made with a view to possible charges being laid and even a prosecution. That is a different process to what ASIO has been doing in relation to intelligence gathering, which has been occurring over some time. The involvement of Mr Abu Dahdah has formed just part of a much wider inquiry into the international operations of al-Qaeda.

As to why other countries have spoken to Mr Abu Dahdah, the government cannot advise the Senate or the Australian people; that

is a matter for those other countries. We have approached this matter with respect to the way it affects Australia, and the Australian Federal Police have been pursuing this since June on the basis of a criminal investigation. It is on that basis that the mutual assistance request is asking for access to Mr Abu Dahdah.

Senator KIRK—Mr President, I ask a supplementary question. Can the minister confirm that the paperwork to interview Abu Dahdah took two months and nine days to complete, from 24 June to 2 September, including a period when it had to be run past the DPP and translated into Spanish by the Attorney-General's Department? Was there any minister to minister contact within that period to hurry the process along? How does the government justify this delay to the Australian people?

Senator ELLISON—The process for a mutual assistance request can be time consuming and can involve a good deal of work in relation to what is required by the mutual assistance convention and our legislation, but of course that is something which has to be followed by our law enforcement agencies. This does not necessarily involve a minister—it did not involve me or any other minister that I am aware of. There are many mutual assistance requests made by our law enforcement authorities which are then processed through the Attorney-General's Department and, in this case, run past the Director of Public Prosecutions, which I understand is not unusual. This process is one that Australia engages in quite frequently in relation to international law enforcement.

Australian Labor Party: Electoral Funding

Senator FERRIS (2.38 p.m.)—My question is to the Special Minister of State, Senator Abetz. Is the minister aware of press reports that ALP slush funds have been seeking

to circumvent the disclosure provisions of the Commonwealth Electoral Act? Is the minister aware that these reports also claim that senior Labor Party MPs have been the beneficiaries of the money from the slush fund? Will the minister outline to the Senate whether the AEC is investigating this matter and whether the government considers it important that funding and disclosure obligations are met?

Senator ABETZ—I thank Senator Ferris for her ongoing interest in electoral matters. I am aware of the press reports to which Senator Ferris refers, but I must say I am not terribly surprised, given Labor's form. It was just in the last sitting period that self-confessed rorter Mike Kaiser was being touted for a key campaigning role, an appointment that I see has at least some Labor Party members outraged, as the rest of the community are. I am aware that very senior Labor figures have been the beneficiaries of hidden funds and have not disclosed them. As a result of this I have asked the Australian Electoral Commission to investigate the failure of the so-called Fair Go Alliance, a secret trade union fund, to lodge a funding and disclosure return.

At the 2001 federal election, the Fair Go Alliance gave at least \$2,000 to an opponent of Mr Tony Abbott; \$3,000 to Labor frontbencher Daryl Melham in Banks, of which Mr Melham has only declared \$1,000; and \$2,000 to the Labor Bass campaign—yet the Fair Go Alliance did not submit any returns until last week, even though it appears to have been in existence since 1998. The member for Throsby, Jennie George, claimed in the *Herald Sun* that she received a donation from the Fair Go Alliance at the last election, but neither she nor the Labor Party have disclosed this \$5,000 donation. Why was this donation kept secret as well?

I also note that the New South Wales public service union claimed the Fair Go Alliance funded radio advertisements and leaflets for state and federal election campaigns, yet until last week the alliance had never submitted a funding and disclosure return. They also claimed it was a New South Wales thing. Why then, if it were just a New South Wales thing, did it contribute \$2,000 to the Tasmanian ALP for the seat of Bass? The union leadership claims the failure to lodge a return was just an oversight, but the union that funded this secret fund—the Public Service Association—actually submitted its own nil return for the 2001 election. Now the Fair Go Alliance says that it gave more than \$54,000 to Labor and other candidates, yet these candidates have only declared a fraction of the amount they actually received from the alliance.

So what you have is this: two unions declare they have not contributed any money to political causes but in reality they have donated tens of thousands of dollars to a front organisation, the Fair Go Alliance, whose address just happens to match that of New South Wales Labor headquarters. The majority of the recipients of this fund also failed to declare what they received, and the Labor Party itself has also failed to declare that it has received anything. The Labor Party and the Fair Go Alliance need to explain why they have declared donations made in 1998 but have not disclosed where the money for those donations came from. There is now a developing pattern. As soon as you disclose these secret funds they say 'It was an administrative error'—like Markson Sparks, like Senator Bolkus and now of course, the Fair Go Alliance. Mr Crean needs to show leadership. He needs to clean up the Labor Party funding scandals. A pattern of behaviour has now been disclosed not only with Centenary House, not only with Mike Kaiser, but with

his own Labor frontbenchers embroiled in the scandals. (*Time expired*)

Australian Customs Service: Security

Senator MARK BISHOP (2.43 p.m.)—My question is to the Minister for Justice and Customs and the Minister representing the Attorney-General, Senator Ellison. In relation to the theft of the computers from the Sydney Customs building, can the minister confirm that security cameras in the Customs area at Sydney airport were not working at the time? Isn't it also true that in March, when the New South Wales Police asked for security camera evidence from the ASIO building of the unprovoked knife attack on a New South Wales police officer, ASIO's external security cameras were also not working? Given the heightened security environment, why on earth were ASIO's security cameras inoperable? Why are Customs's cameras inoperable? Have they been fixed yet? Can the minister assure the Senate that there will be an immediate investigation into the operability of security cameras covering all of Australia's security organisations?

Senator ELLISON—It is funny that on one hand the opposition attacks the government for going into matters it considers operational and then, on the other, it wants a blow by blow description of what took place. The advice I have is that these cameras were working—that they were not inoperable. That is the advice that I have from the Australian Customs Service. Customs use camera surveillance across the board for a variety of purposes—sometimes it is recorded, sometimes it is not. It depends upon the purpose for which the camera is there. I am not going to go into the detail of what evidence we have on hand or what evidence we may or may not have, but I can tell you that the statement by Senator Bishop that these cameras were inoperable is wrong. The advice I have is that they were working. The question

as to what, if any, evidence is on hand is another matter. That is an operational matter which I am not about to signal to any offender that may be involved in the commission of this offence. As soon as this occurred, checks were made across other offices in relation to security measures of Customs offices. That was carried out as soon as this theft was discovered.

Senator Bishop also raised a question about an ASIO building. I am not aware of any incident involving an ASIO building and any camera of ASIO. I will check on that and, if I am able to offer any further advice to the Senate, I will. Senator Bishop's assumption that these cameras were inoperable is one that is wrong, upon the advice that I have from Customs.

Senator MARK BISHOP—Mr President, I ask a supplementary question. The minister said that the cameras were working and not inoperable. The obvious response is: were they switched on? Were they filming? Was there a record of the film and can it be released? Were they operating at the time? Can the minister guarantee that all cameras covering Australian security agency premises are now operable and working and filming 24 hours a day? Isn't this breakdown, not just with Customs but also with ASIO, further evidence of the government's lax and lazy approach to security?

Senator ELLISON—We have just over 220 CCTV cameras at ports around Australia. That is just one aspect of the camera surveillance we have, and I can tell you that they do a very good job in port surveillance. There are many aspects to camera surveillance in Customs. As I have said, the primary line at our airports is involved for a number of purposes. Some have recordings, some do not; some are there for the purposes of 24-hour recording, some are not. I can tell you

that the cameras in this instance were working and were not inoperable.

Immigration: Temporary Protection Visas

Senator BARTLETT (2.48 p.m.)—My question is to the minister representing the immigration minister, Senator Ellison. Is the minister aware that over 100 refugees from Iraq gathered in front of Parliament House this afternoon expressing concern about the ongoing uncertainty with regard to their future on temporary protection visas? Can the minister confirm that there has been no processing of protection visa applications from Iraqi refugees despite the fact that many refugees' original visas expired as long ago as December last year? How long are these refugees expected to be left waiting and suffering in a state of uncertainty about their future, separated from their family and unable to rebuild their lives?

Senator ELLISON—I am unaware that, as stated by Senator Bartlett, Iraqi asylum seekers are in this position. I will seek advice from the minister for immigration on this point, but I am not aware of any different treatment being given to Iraqi asylum seekers than any other person in that position.

Senator BARTLETT—Mr President, I would ask the minister by way of a supplementary question, given that he has to seek detail, if he could ascertain how many Iraqi refugees who were granted temporary protection visas over three years ago have put in an application for a new visa on the expiry of their temporary visa and whether any of those visas have been processed through to finality. How long are they expected to wait? Will they be left in the same situation as those East Timorese asylum seekers who were in Australia when they had to wait over 10 years to find out their fate?

Senator ELLISON—I have information here which states that DIMIA has been handing down decisions on further protection visa

applications since May 2000, with a total of 114 decisions made. Of those, 111 are refusal and three cases are approved due to special circumstances. In relation to what component, if any, would be Iraqi applicants, I would have to take that on notice and advise Senator Bartlett.

Defence: Security Clearances

Senator HOGG (2.50 p.m.)—My question is to Senator Hill, the Minister for Defence. Can the minister confirm that there are currently 25,000 individuals and organisations waiting to have their security clearance applications processed by Defence? Has not the size of the security clearance waiting list doubled since September last year? Why has the government failed to stop the backlog from deteriorating at such an alarming rate? Won't the current security clearance logjam take at least three years to clear? What is the minister actually doing to ensure that the mounting backlog is reduced?

Senator HILL—The backlog largely relates to a change in the rules made a few years ago, which required reassessment more often. As the official said to the committee last week—and this is obviously the source of this question; of course, it is a subject that has been debated at length in estimates—the vast majority of the backlog does not relate to new security applications but to renewals. How are we tackling the very large number of assessments that have to be made? Further personnel have been employed for that purpose, as I think Senator Hogg knows. There is also a consideration on a whole-of-government basis—because it does not simply concern us and we do not just assess those within Defence—as to whether there should be some modification to the methodology that will be permitted. That is being considered at the moment. The issue of the length between assessments is being reconsidered at the moment as well. The issue is

being managed but, as I said, predominantly it was the change in the rules requiring reassessment that has led to such a large tail.

Senator HOGG—Mr President, I ask a supplementary question. Minister, you failed to address the part of my question which went to the size of the backlog and the fact that it has doubled since last September. Minister, hasn't your failure to reduce the backlog caused many staff appointments and promotions in Defence to be significantly delayed? Doesn't your failure to reduce the backlog also mean that many small businesses are unable to apply for valuable contracts because Defence takes so long to provide them with the appropriate level of clearance?

Senator HILL—That is not my advice. My advice in relation to initial applicants is that they are being dealt with expeditiously, so it should not be having any detrimental effect upon contracts. In relation to staff appointments, on the basis of what I have been told, it should not be delaying any staff appointments. Similarly on the basis of promotions; it should not be delaying promotions. I thought some of the figures that were given last week were actually numerically larger than the previous briefing that I have had—

Senator Sherry—That's even worse!

Senator HILL—Yes, I thought so too. I will be obtaining an update, and if I can provide some other useful information to the Senate then I will do so.

Education: Report

Senator EGGLESTON (2.54 p.m.)—My question is to the Minister representing the Minister for Education, Science and Training. Is the minister aware of allegations made in the Senate that the former Secretary to the Department of Education, Science and Training ordered the doctoring of a report and hounded a senior departmental officer from his job? Do these allegations have any

validity? If not, do those who have made them have a responsibility to correct the record?

Senator ALSTON—We have been told for quite a long time that education is one of those defining issues for the next federal election. Quite clearly, it was therefore very important when Dr Nelson tabled a report outlining the way in which we are trying to flex up the higher education system. Of course, that involved an element of restructuring within the department of the way in which research activities are carried out. I am sure that those in this chamber would be very much aware that last month Senator Carr repeatedly alleged that Dr Peter Shergold, who was then the secretary of the department, had personally ordered the doctoring of a report on higher education.

Senator Forshaw interjecting—

Senator ALSTON—Yes, Senator Forshaw was also complicit in this defamatory attack. It went on for some days. It was repeated by others. The fact is that these were very serious allegations that went to the heart of the integrity of the political process, the way in which the bureaucracy fearlessly offers advice to government. They particularly singled out Dr Tom Karmel for special treatment. Senator Carr said that Dr Karmel himself had been made to reapply for his job and did not get it. There was not a skerrick of evidence to support these allegations. Last week, in the course of a hearing in the Senate committee process, the former secretary, Dr Shergold, tabled documents showing that Labor was absolutely wrong in this baseless and scurrilous attack. In fact, he went so far as to table an email from Dr Karmel to the *Sydney Morning Herald* that demonstrated that he had been offered the job that was in question but that he had decided to take an even better one. There was absolutely no substance. In fact, far from hounding him

out, as Senator Carr had suggested, Dr Shergold had pleaded with him to stay in the education department—which of course was headed by Dr Shergold.

Once again, we have completely baseless allegations being made by Senator Carr. It does make you wonder whether the Labor Party have any idea of why they are on the political skids. For Mr Crean to have appointed Senator Carr as his industry spokesman pretty much says it all. It is enough to frighten the pants off business, but it also sends the most appalling messages in general about the political process. It means you have someone who is prepared to thug anyone who disagrees with him. What did we see on the weekend? We saw Mr Bob Carr trailing his coat. So what did the other Carr do? He came out and said the party did not need Bob Carr's intervention. We have gone from the train wreck that Wayne Swan talked about a couple of months ago to a two-car pile-up. The trouble is that this particular Carr—which swerves violently to the left and is clearly in need of very radical surgery—is not prepared to tolerate any other Carrs coming into the political garage because he knows he will get the chop. He will be sent to the political wreckers!

We understand why Senator Carr should be so concerned, but in the short term we believe it is appropriate that he apologise. We know the Baillieu family has been waiting for many years for an apology from Senator Faulkner. It seems to be a characteristic of the left of the ALP that you simply do not apologise, no matter how wrong you are. If you mislead the Senate in the egregious manner that Senator Carr did, the least you could do is take the opportunity after question time to clarify the record and tell Dr Shergold you will not do it again.

National Security Hotline

Senator MACKAY (2.59 p.m.)—My question is to Senator Ellison, the Minister for Justice and Customs and the Minister representing the Attorney-General. Can the minister confirm that the company that manages the *White Pages* for Telstra, Sensis, has publicly stated that the number for the hotline was set up in December 2002, but they only received notification in July this year, seven months later, to insert the National Security Hotline in the 24-hour emergency information page—well after the *White Pages* deadline? Exactly when in July was Sensis notified? Doesn't this statement by Sensis show that Mr Howard's attempt to sheet home the blame to Telstra was yet another brazen attempt to mislead the Australian public?

Senator ELLISON—The question in relation to the hotline has been canvassed over the past two weeks. I can advise that the hotline was established at very short notice by the Attorney-General's Department. In that process an official listing of the number in the *White Pages* was overlooked. That has been the subject of a public statement by the government. There was an assumption made, incorrectly, that it automatically followed that that number would be listed in the *White Pages* both online and in hard copy. There were also discussions at the time with Telstra regarding possible terms under which Internet directory assistance searches could be conducted.

This is a matter which has now been remedied. The Attorney-General has addressed this matter. He made a statement in accordance with that. I think the first rollout will be in November in Hobart in relation to the directory. But 22,000 calls have been made. There has been a comprehensive public campaign. Of course, the opposition has been critical of that. Now it goes the other

way and says that we are not doing enough to publicise it. There have been 22,000 calls and there has been information provided which has been helpful to the authorities.

Senator MACKAY—Mr President, I ask a supplementary question. Who exactly was responsible for making sure that the hotline number was listed in the *White Pages*? Was it the Attorney-General's Department or was it the Department of the Prime Minister and Cabinet which had overall oversight of the national security advertising campaign? Who was responsible for this gross administrative oversight?

Senator ELLISON—The Attorney-General's Department was handling this matter. It has been a matter for them—the hotline and the lodging of the number. That has been made very clear by the Attorney-General. As I say, the program has worked very well—it has worked very well.

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

ANSWERS TO QUESTIONS ON NOTICE

Question No. 1642

Senator ALLISON (Victoria) (3.03 p.m.)—Pursuant to standing order 74(5), I ask the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs for an explanation as to why an answer has not been provided to question on notice No. 1642 dated 21 July.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.03 p.m.)—Normally in these cases, notice is given to the minister concerned in relation to a question that has been outstanding. I am not aware of this and I will take the matter up with the minister for immigration.

Senator ALLISON (Victoria) (3.03 p.m.)—I move:

That the Senate take note of the minister's failure to provide either an answer or an explanation.

I do make the point that my office contacted his office prior to question time and advised him that I would be requesting this explanation. The question goes to alternative forms of accommodation for asylum seekers—that is, alternatives to detention centres. As I said, it was put on notice on 21 July, so there has been plenty of time for the minister to answer. In fact, it was due in the last two sitting weeks. The question comes out of a statement which Mr Ruddock made on 3 December. He said:

Within the mandatory detention framework and consistent with the Migration Act, the government is continuing to take innovative approaches to alternative places of detention that meet the objectives of having people available for processing and, if required, removal.

It was to this end that I commissioned the residential housing trial at Woomera last year. The trial, although very costly, has been a success, and I have agreed to expand the eligibility criteria for children and women who wish to participate in the residential housing trial ...

I think it is fair to say that that decision by the minister came about because of pressure within his own party about children and women who are being effectively jailed in detention centres for having committed no crime whatsoever. It was at least some concession to that pressure—and, I must say, to plenty of pressure from this end of the chamber—because essentially it is a very cruel and a very inhumane way of treating people who have come to this country for whatever reason.

In December, the minister also put out what was called 'Migration series instruction: alternative places of detention'. He instructed departments that this was what needed to happen. In fact, that document says:

Every effort should be made to enable the placement of women and children in a residential housing project as soon as possible.

According to the migration series instruction, those projects include residential housing projects, hospitals, nursing homes, mental health facilities, foster carer homes, hotels, motels and community care facilities.

My question went to the success or otherwise of the progress that has been made on that ministerial undertaking. I asked just how many unlawful non-citizens—to use the minister's language, which I do not like to use, but I will for the purposes of this debate—are currently accommodated in alternative places of detention. We know this to be a very small number indeed, but I think it is fair to ask just how many there are. We asked that data be provided to show gender, age, familial relationship grouping, state, duration in alternative accommodation to date and part- or full-time in alternative accommodation. We also asked what specific places of detention have so far been approved by the minister as alternative accommodation and for details of that, and how many people have lodged expressions of interest in alternative accommodation but which have not been met.

We asked how many people were currently on the so-called discrete list of detainees who volunteered and are eligible to participate in this program but who are still in detention, how many unaccompanied minors of tender years remain in detention, how many unaccompanied minors older than those remain in detention and how many children were placed in foster care whose parent or parents were held in detention. Following up on the minister's statement that every effort should be made to enable the placement of women and children in these places as soon as possible, we asked just what those efforts were. It is our understanding that they are pretty minimal and what-

ever effort that has been taken has been taken on the part of voluntary groups and charity organisations.

We also asked what Commonwealth funding was being provided for those who were placed in alternative accommodation for rent, furniture, food, clothing, footwear, bedding, education, sporting, recreational and leisure activities and religious needs. The answer to that question too is that they rely on donations and the charity, as I said, of organisations that have taken up this cause, and I congratulate them for doing that. They do it for humanitarian reasons and not because the government is funding them to do it. And we asked what was the total cost to the Commonwealth of alternative accommodation in the last month and how that compared with the cost of housing for the same number of people in detention.

Subsequently, a report has been done by Dr Tony Ward of an organisation called Milbur Consulting for the Justice for Asylum Seekers Network, which looked at just that question—the viability of alternative accommodation and how that compares with putting people in the jails that we call detention centres. To start with, let us take that question of the Woomera alternative detention project, which began in August 2001. Six months into the project, according to this report, DIMIA commissioned a review and the following discussion is summarised from that report:

The project enables up to 25 women and children, previously held in the Woomera Immigration Reception and Processing Centre (IRPC), to live in family style accommodation some two kilometres from the IRPC. One participant described “we have our own rooms, we can cook, we don't have to queue up for meals, we can do our own washing and watch our own TVs.”

The project was managed by Australasian Correctional Management Pty Ltd (ACM), which also managed the IRPC. The women and children

lived in three houses, with a fourth house the base for ACM staff and also used for communal activities such as English classes, life skill classes, sewing groups, and private consultations. Husbands, and male children over the age of 12, were not allowed in the project, but families could visit husbands and fathers in the IRPC. This separation of families was participants' major concern about the project.

Special nursing and educational facilities, linked to those at the IRPC, were provided.

So, by all accounts, even though the minister says it was expensive—very costly, in fact—it was still less expensive than housing them in the immigration reception centre. In fact, the report shows that the federal government could save millions of dollars a year and, of course, greatly improve the mental health conditions of the asylum seekers who are in these detention centres. The model was fully costed by Dr Ward of Milbur Consulting, and he found high-security camps such as Baxter were nearly two-thirds more expensive than medium-security hostels and twice as expensive as community housing with case management. He concluded that the government could save more than 18 per cent of current costs if it adopted the proposed model, and that would have meant savings of \$18.76 million for the financial year. For some of us, cost is not the most important factor. If we can demonstrate that not only are people so much worse off in detention centres but also we as taxpayers are worse off, perhaps there is the slim chance that this government will take some notice of that.

Moving people to healthier and cheaper environments, such as community housing with the support of caseworkers, is a sensible change. Mr Mark Purcell of the Catholic Commission for Justice, Development and Peace, in commenting on this report said:

It's better for the taxpayer, better for the asylum seekers and has no impact on the government's border control policies.

He also said:

The Federal government can no longer claim there are no viable and costed alternatives to high security detention camps. There are no more excuses. It is [time] for the government to act.

We do not know whether the government has acted or not. We suspect it has not, but until those questions are answered we are left in the dark.

It is often said that there is a problem with absconding rates if asylum seekers are let out into the community, as it were. This report looked into what goes on in the United Kingdom and the United States and it found that absconding rates are generally low—rates are almost zero where participants have incentives to continue to participate in the assessment process—and that case management by assisting participants to understand their situation helps to keep absconding rates low while also enhancing participants' morale and wellbeing.

The Hotham Mission Asylum Seeker Project has been deemed suitable by the government to take asylum seekers and give them alternative forms of accommodation. It is based in north Melbourne, my home city, and it started this asylum seeker project in early 1997. It uses vacant houses owned by the churches to house asylum seekers with no accommodation, no income, no work rights, no Medicare, no entitlements or any other means of support. It started with two properties and 15 asylum seekers, and the project now works with over 200 asylum seekers in 30 properties. In 2002 the project won a national human rights award for community work. From late 2000 the project has been providing housing and assistance to 50 asylum seekers released early from detention on bridging visas and without any entitlements. They were in three main categories: those released for psychological or medical reasons, those detained for breach-

ing their bridging visa requirements and those released by a Federal Court order.

As I said earlier, we find that the Commonwealth is in fact using these organisations to salve its conscience on women and children in detention centres. But it is not actually hitting its kick; it is not actually providing the funds to do that. The project's total expenses are \$100,000 a year for administration and \$300,000 a year for emergency relief. That is primarily funded through donations and commitments to individual families.

Last week I had one such person in my office who is staying at the Hotham mission, and I saw a broken man. It was an extremely disturbing experience for me to hear the pleas of a person who has no support other than the Hotham mission. His wife and children are in fact in detention in Syria. He has been in detention centres for four years. He is now out in the community, but he has so little support there that he might as well be back where he was in the first place—not that he wishes to be there. I was absolutely struck by the humanitarian tragedy that this man represented in my office. I know that there are hundreds of such people who are being treated this way by the government.

I urge the government to act on finding alternative accommodation. I urge the government to take seriously this question. We are fed up with governments that come up with promises, whether it is to take national action on gambling or it is to relieve this terrible problem of children in detention. We want action that follows up the rhetoric and follows up the commitments that appear to go nowhere. I urge the minister to work quickly not just on answering my questions but on finding alternative forms of accommodation both for the sake of asylum seekers and for the sake of taxpayers in this country. Question agreed to.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

National Security

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.17 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Justice and Customs (Senator Ellison) to questions without notice asked by Senators Bishop, Faulkner, Ludwig, Kirk and Mackay today relating to national security.

Time and time again we hear rhetoric from the Howard government that they are the best placed, the best equipped to protect Australians on national security matters. We are three days away from the anniversary of September 11, and incidents in the last week have cast serious doubt on whether the Howard government have got their act together on national security. Perhaps they believe their own rhetoric that they are keeping Australia in safe hands, but the reality is quite different. The government are not doing the necessary groundwork in these important areas of protecting Australians. What has been exposed over the past week or so is just how seriously incompetent the Howard government are when it comes to matters of national security. We have seen just in the past week three examples of gross incompetence by the Howard government, gross incompetence by the Attorney-General, Mr Daryl Williams—it is a byword of course for Mr Williams—and gross incompetence by Minister Ellison here in the Senate.

Let me go through the examples for the Senate. Example 1 is the Keystone Cops version of national security, where two complete strangers can enter a high-security facility with false IDs, not to be recognised by anybody at all, remain on the premises for two hours and then wheel out on a trolley two computers—and do all this absolutely unchallenged. That is example 1 of incompe-

tence. What about example 2, where an Australian agency—apparently the AFP—only sought a formal interview with the top al-Qaeda suspect Abu Dahdah last week, despite knowing at least 13 months ago that he had made a series of phone calls to two Australians between 1996 and 2001? Then of course we have example 3—it would be funny if it were not so serious—where the Howard government, the Attorney-General and his department are so incompetent that they could not even ensure that the telephone number for the national security hotline was listed in the *White Pages* nationwide. After having spent 20 million taxpayers' dollars on promoting the national security hotline with that farcical fridge magnet, mailed to every household in Australia, they forgot to put the telephone number in the *White Pages*. So much for their slogan 'Be alert, not alarmed'. I am alarmed that the Howard government are not a great deal more alert on these very important issues.

Today in question time we had another serious issue raised about the operability of security cameras in a range of very important security facilities. We know that there is an issue whether the security cameras in the Customs building in Sydney were working—and we have mixed messages from the minister there—but we would also like to know, and we demand answers from the government, whether it is true that in March, when the New South Wales Police asked for security camera evidence from ASIO buildings, including the ASIO building in Sydney, following an unprovoked knife attack on a New South Wales police officer, ASIO's external security cameras were not working. We demand to know whether that is the truth. We want answers from this incompetent government. (*Time expired*)

Senator FERGUSON (South Australia) (3.22 p.m.)—I am not surprised that it took Senator Faulkner a little while to get steamed

up. He was steamed up and then Senator Allison took some quarter of an hour to talk to her motion on a non-response to a question on notice. Senator Faulkner did lose a bit of steam, but he managed to get up near full tilt at the end over his little set piece, prepared long before he came into question time so that he could get maximum amount of exposure. Senator Faulkner, it is a wonderful little set piece, but it does nothing to change the view of the Australian people. You talk about gross incompetence, you talk about border security and you talk about a let-down of the Australian public. Let me tell you, Senator Faulkner, just before you go out of the chamber, that in fact the Australian public will decide who they want running this country when it comes to matters of security and matters of protecting Australians. And they have made that choice three times already. Three times they have had to decide who they want running security matters in Australia, who they want protecting their future. They have decided every time.

Senator Faulkner comes here and uses extreme words like 'gross incompetence' and 'gross areas of wrongdoing'. Senator Faulkner is certainly guilty of a gross miscalculation if he thinks the little set piece he put on here today is going to sway anybody in the Australian public or alter their views on who they think should be running Australia's security. The problem with the senators opposite is that they simply do not listen to the answers that are given to them. They simply did not listen to Senator Ellison explaining to them in detail the answers to all of their questions. They simply refused to listen. They go on with a supplementary question—which often bears no relation to the original question, having not listened to the answer—and they expect the Australian public to think they are sincere about questioning us on matters of security.

Senator Faulkner made much of the fact that the telephone number was left out of the *White Pages*. Had he listened carefully to Senator Ellison's reply, he would have noticed that there were, I think, 22,000 calls to that helpline since it was put there—22,000!

Senator Mark Bishop—In Tasmania?

Senator FERGUSON—No, Senator Bishop, I am quite sure they did not all come from Tasmania. There have been 22,000 calls to the hotline, so people who want to find out the hotline number have always been able to do so, and they do. Senator Faulkner also cited three instances where he said that security had been breached. In fact, for one of those cases, Senator Ellison said, 'Yes, there was a serious breach of security procedures, and that breach in Customs should not have occurred.' You cannot be any more frank than that. The minister said it was a security breach that should not have occurred. But what he did assure you of was that a full investigation of that breach is under way and arrangements are being put in place nationally to further tighten access to Customs premises and facilities. When something like that does happen, and you admit that there was a breach of security procedures, the most important thing that can take place is for you to make sure it is fixed and does not happen again. Senator Ellison has already announced that arrangements are being put in place. He has also announced that there will be an independent review of security—the details are going to be announced very shortly—and that the AFP are receiving full cooperation from Customs in that investigation.

You get to the inaccuracies that are spread around in the media, partly fuelled by Senator Faulkner's comments. The inaccuracies in those reports include the fact that the servers contained thousands of confidential files. Where on earth anybody got that information

from is beyond me and beyond the minister. That was suggested in media reports, but in fact it is simply not the case. Customs has also been advised that the servers did not contain any personal, business related or national security information. So it is important that you listen to the answers. As I said right at the start, when it comes to matters of national security the Australian public will decide who is in the best position to deliver that national security and protection to the Australian community, and they have decided three times already: it is the coalition government. (*Time expired*)

Senator MARK BISHOP (Western Australia) (3.27 p.m.)—Today we have seen the classic Sir Humphrey technique from the Minister for Justice and Customs when you are accountable for a major catastrophe—that is, set up an inquiry, say nothing and hope it all goes away. Let us recap the facts here, just from the *Sydney Morning Herald* report, none of which has been denied by the government: on the evening of 27 August two men, allegedly of Middle-Eastern appearance, dressed as computer technicians and carrying tool bags, entered the Customs cargo processing and intelligence centre in the Charles Ulm building at Sydney international airport. They presented themselves to the security desk as technicians sent by the outsourced contractors EDS, presumably with false ID—and certainly false names and signatures—and were permitted to enter the high security mainframe room. There they spent two hours unimpeded and uninterrupted. After they had satisfied themselves, they departed with two servers on a trolley, unchallenged—easy as pie.

We are now told that the security cameras were not working. Slowly but surely the facts start emerging, dripping out one by one. So the mystery continues. We now also know that the security guards at the desk were Customs officers, so we cannot blame a contrac-

tor. After nine days, the *Sydney Morning Herald* revealed the breach; 12 days after the breach, the minister ordered an inquiry. Why? He either does not know the answers after 12 days or is stalling for time. We are also told that separate investigations are being carried out by the Australian Federal Police—as one would expect after any break into Commonwealth property—and by the Defence Signals Directorate, the top electronic surveillance organisation in this country.

This starts to smell a bit. This is much more than a simple break-in. This is clearly being treated as a major security breach whereby the integrity of the whole system is in jeopardy. Yet the minister plays it all down. There was nothing of security value stored on the stolen servers, he says. Another says they were only communication servers. The staff of Customs are reported as saying there was confidential information stored, and it is hard to imagine anything stored electronically in Customs not having some security element attached to it. The AFP and DSD are not there just to change the passwords. The thieves knew what they wanted, and it was not the *Yellow Pages*. They had two hours to download whatever they wanted and they took two servers containing the most valuable data to use for hacking into later on. This is a major lapse of security, and Customs and their minister have shown that they are the weakest link.

Minister, by all means hold another inquiry, but you already have had 12 days with Australia's top sleuths on the job. Tell us now what you know. Tell us now what was downloaded in two hours. Tell us what other systems, including ASNET, have been compromised. Tell us what was on the stolen servers. Tell us who was responsible for security, including contractors, and the penalties for breach. Tell us whether it was an inside job. Tell us why the security cameras

were not working. Tell us how two perfect strangers got in and tell us you know who they were. How good are the arrangements between Customs and EDS and how good is the system by which ID is given to EDS staff? If EDS have a separate security system for ID, how good is it? How good are the passes? What checks are made and what instructions were the Customs security staff given? Also tell us what this means for all Customs security, including the adequacy of training and processes for their security guards, access obtained to immigration detail from passport control, airport access data and processes, cargo clearance processes, freight manifest security, data and intelligence on narcotics control, information from overseas security agencies and records of current investigations. Most importantly, tell us what information was hacked from linkages to other Customs systems and other agencies.

Minister, the time has come to own up. This cannot be hidden Sir Humphrey-style from the light of day. You already know that it is serious and you ought to tell us. (*Time expired*)

Senator MASON (Queensland) (3.32 p.m.)—Mr Deputy President, you might need to help me here. I understand that the Labor Party is lecturing the Howard government on national security. I always love sermons and homilies from the Labor Party, in particular Senator Faulkner, on issues like national security and economic responsibility—

Senator Ferris—Honesty.

Senator MASON—Honesty, that is right, and political morality and small business. I get a warm feeling when the Labor Party lectures the government on these sorts of issues.

The context of this debate is that the Labor Party did not care whether Saddam Hussein stayed in power or not. That is the con-

text and that is the history of this debate. On issues of national security, the Labor Party, and indeed the broad Left in this country, are a farce—in fact, an embarrassment. How can I forget Senator Brown advising the Prime Minister to fly to Baghdad and have a chat—morning tea, I think it was—with Saddam? I hate to misrepresent Senator Bartlett, but I am not sure what the Democrat policy was—

Senator Bartlett—If you don't know what it was, don't make it up.

Senator MASON—I remember what it was: it was to workshop the issue and have a group hug. That is what it was. The Left has never understood national security nor tyranny nor totalitarianism. I am not saying Senator Ludwig is soft on terrorism; I am simply saying that the Left is naive. That has always been a problem of the Left with issues like this and it remains the problem. This debate has been brought on by the Labor Party while the Labor Party is split on the issue of fighting terrorism and on a commitment to, for example, removing Saddam Hussein from power.

Let me briefly outline what the Labor Party did not do when they were in office. The Labor Party left us a very soft target. Labor underfunded our federal law enforcement and border protection agencies and the flow of drugs into Australia reached record levels under their administration. Of course, it has now come right back and the flow of heroin into this country is at an all-time low. Labor continue to demonstrate that they do not quite understand the challenges and needs of modern law enforcement. At the last election, the 2001 election, instead of guaranteeing more operational resources, what did the Labor Party do? They threatened to shackle police with more bureaucracy and administration and even more reviews. At a time when federal law enforcement and border protection should have been boosted,

what did the Labor Party do? They cut staff numbers by more than 1,000 between 1990 and 1995 right across the Customs organisation. That was the Labor Party's record.

Perhaps even more fundamentally, Labor's continued silence on the issue of border protection speaks volumes because it is hopelessly divided on the issue. You have the conservative part of the Labor Party saying, 'We should perhaps adopt the government's policy holus-bolus,' and the Left of the party, the other half, saying, 'Oh God, we can't do that; it's so unfair.' The Labor Party is split on issues of border protection. They have not even got a view to take to the Australian people on border protection or fighting terrorism. On issues like this the Labor Party are split and divided.

In contrast, the coalition have done this: we have initiated a whole series of legislative changes, improved security at air and sea ports, increased cargo examination rates, introduced new technologies and increased rates of surveillance by Coastwatch and the Customs National Marine Unit. The fundamental problem with the Labor Party on issues of national security is that they are a divided party, and until they can get their act together and come forward with some decent and workable policies to the Australian people they do not deserve to be elected.

Senator LUDWIG (Queensland) (3.37 p.m.)—Today we heard three examples from Senator Faulkner of the Howard government's failure to protect national security, but now there is a fourth we can add. Three times in question time today the Prime Minister, Mr John Howard, was asked what action he would take to investigate the leaking of top-secret national security information to a National Party senator. Twice Mr Howard equivocated in respect of the leaking of top-secret information to a National Party senator straight from the office of ONA; it was an

ONA document. Section 79 of the Crimes Act describes the disclosure, possession or distribution of ONA information as a very serious offence. There is no doubt about that—it is a very serious offence. But it was not until Mr Howard was pressed for a third time that he acceded—‘acceded’ is perhaps the best word to use in respect of this matter—and said he should have ordered an investigation as soon as he became aware. He said he should have ordered it, not that when he became aware he did order it. After careful deliberation, he said that the matter would be investigated. It is not acceptable that the Prime Minister only agreed to consider investigating this matter following sustained questioning on the matter today. That is the fourth example we have heard today of the government’s failure to protect national security.

Another such example is found in the answers by Senator Ellison today. Despite the whole saga of the time lines and the dates Senator Ellison tries to muddy the water with, we find that Mr Abu Dahdah was under investigation, and questioned, by the Spanish authorities for about 13 months. But the Australian authorities had only started to act by 26 June, as we understand it. By 26 June they had started—or at least so Senator Ellison tells us—a process of questioning as to what was going on. It was not until 2 September that some material result came out of Senator Ellison’s office. We then come to the actual request to be able to interview Abu Dahdah.

This is a serious matter. It is not a matter you can easily put in your back pocket and ignore. The Australian Federal Police put out a press release justifying their position. They started a request through the DPP for mutual legal assistance with Spanish authorities concerning Abu Dahdah. The request was not made until 2 September 2003. So there is no sense of urgency coming from the Austra-

lian Federal Police, the Director of Public Prosecutions or the Attorney-General.

A spirited defence was put forward by Senator Ellison on 6 September. Notwithstanding most of his answers, which said he could not talk about the issues because they were operational issues, on 6 September he goes into operational issues and tells us that two people are under surveillance by ASIO and the AFP. One of those is Bilal Khazal, who is also—we now find out—subject to an extradition bid by the Lebanese government for suspects to face terrorist attack charges. But we do not have an extradition treaty with Lebanon.

So we have two problems. We want to be able to help with investigations into terrorism overseas. But we also want to talk to Abu Dahdah about the same character. Heaven help Senator Ellison if he lets the guy go without at least finding out from Abu Dahdah whether he has links, whether he has issues and whether he should be questioned in Australia before Senator Ellison concedes that he should be extradited to Lebanon. Given the problems he has had already, I would not be surprised. (*Time expired*)

Question agreed to.

ASIO, ASIS and DSD Committee: Submissions

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

That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Bartlett today relating to an inquiry by the Parliamentary Joint Committee on ASIO, ASIS and DSD.

The question I asked today goes to the same theme as those that have been debated here this afternoon, which is the competence, integrity and openness of this government. My question specifically went to the inquiry that is currently being conducted by the parlia-

mentary Joint Statutory Committee on ASIO, ASIS and DSD into intelligence surrounding Australia's decision to go to war with Iraq. You do not get much more fundamental than a decision to send Australian troops to war. The Prime Minister said that intelligence on weapons of mass destruction had justified sending Australian troops to war. We have a right, as a Senate, and the Australian people have a right, to know if that intelligence was faulty, if it was exaggerated or if it was tampered with.

Sadly, after events of the last couple of days, including question time today, we know now, even more than ever, that this government is loose with the truth and unwilling to be up-front about the facts. The Democrats have condemned the secrecy surrounding the current inquiry into our intelligence services and the minister's answer today pretty much highlighted why that is. It is an inquiry into whether or not in part our intelligence services had their information altered or modified or, to use the UK phrase, 'sexed up' by any people within the government, by ministers or by people in ministers' offices. Yet any submissions from those very same intelligence agencies have to go through the ministers before they can be provided to the inquiry.

This is an inquiry that has only had one public hearing, with no representatives from any of the intelligence agencies, any government staff, any minister's staff, or any ministers. Contrast that to the UK. Whatever else you might have said about the UK government's decision making in relation to the war in Iraq, very extensive and open parliamentary inquiries were undertaken. Here in Australia we have had one public hearing, with nobody from the government. The only person with any connection with intelligence agencies was Mr Andrew Wilkie, who had to resign his job in order to provide informa-

tion, to be a whistleblower and to get some truth into the open.

And what happens to the one whistleblower? We find that, as shown in Laura Tingle's article in the *Financial Review* today, that whistleblower has details of the one report that he wrote for ONA—top-secret, classified information—provided for government senators, with questions set up to try to discredit this whistleblower before the public inquiry. It is no surprise to read in Laura Tingle's article that that 'has caused considerable disquiet within the intelligence community'. Anything that is said by ministers, by their staff and by agencies before that inquiry—if they do actually appear—will almost certainly be in secret and it will be vetted in advance by the ministers. So much for openness from this government! It is doing what this government always loves to do when anything gets difficult: duck and cover—blame the public servants, as we saw with the children overboard issue. Our defence forces, our intelligence agencies and our Public Service have no capacity to protect themselves from lies told by government ministers.

Again we have the Public Service correspondent for the *Canberra Times*, Verona Burgess, saying that the government's apparent use of ONA reports was upsetting the people in the intelligence community, who are not allowed to speak publicly for themselves yet may find bits of their assessments hung out to dry by ministers. This government's actions are damaging the effectiveness and the confidence of our public sector and our intelligence agencies at a time when our security apparatus is more crucial than ever.

We have seen another example just this morning in a parliamentary hearing into the non-proliferation legislation—a hearing that was initiated by the Democrats. This bill is

supposedly about non-proliferation but now appears likely to be simply a smokescreen to silence, intimidate and prosecute whistleblowers who may release information about nuclear facilities in this country. Most of what we know about flaws in our nuclear processing in this country in the past has come from whistleblowers, yet we have got the government dealing with a whistleblower like Andrew Wilkie by setting him up before a parliamentary inquiry and trashing his reputation from one end of the country to another—and putting all public servants and intelligence officers in a situation where they might be the next person to be fingered for blame whenever the government stuffs up. We have got another piece of legislation, under the guise of non-proliferation, that is being used to increase the penalties on potential whistleblowers in another key area of national security. (*Time expired*)

Question agreed to.

PETITIONS

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

Superannuation Guarantee Legislation

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

The petition of certain citizens of Australia draws to the attention of the Senate the provisions of the Superannuation Guarantee Legislation that exempt some employers with pre-August 1991 superannuation funds from calculating superannuation contributions on the basis of the legislative definition of an employee's earnings for superannuation purposes. This has resulted in many ordinary working Australians who work on a shift basis, including nights and weekends, from having the regular earnings from shift and other allowances included in the calculation of their superannuation contributions.

by **Senator Ludwig** (from 738 citizens).

Education: Student Funding

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

The Petition of the Undersigned shows:

Overwhelming opposition to the cessation of Federal Government Centrelink P.E.S Holiday Payments and Student Supplementary Loans.

Your Petitioners ask/request that the Senate should:

Vigorously oppose the cessation of Centrelink P.E.S Holiday Payments and Student Supplementary Loans.

by **Senator Nettle** (from 120 citizens).

Petitions received.

NOTICES

Presentation

Senator Murray to move on the next day of sitting:

That the State Elections (One Vote, One Value) Bill 2001 [2002] be referred to the Legal and Constitutional References Committee for inquiry and report by 30 October 2003.

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 annual reports tabled by 30 April 2003 be extended to 10 September 2003.

Senator Brandis to move on the next day of sitting:

That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Monday, 13 October 2003, from 4 pm, to take evidence for the committee's inquiry into the Late Payment of Commercial Debts (Interest) Bill 2003.

Senator Tchen to move on the next day of sitting:

That the Standing Committee on Regulations and Ordinances be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 10 September 2003, from 3.30pm, to take evidence for the committee's inquiry into the provisions of the Legislative Instruments Bill 2003 and the Legislative Instruments (Transitional Provisions and Consequential Amendments) Bill 2003.

Senator Heffernan to move on the next day of sitting:

That the time for the presentation of the following reports of the Rural and Regional Affairs and Transport Legislation Committee be extended to 16 September 2003:

- (a) annual reports tabled by 30 April 2003; and
- (b) provisions of the Aviation Transport Security Bill 2003 and a related bill.

Senator Mason to move on the next day of sitting:

That the Joint Standing Committee on Electoral Matters be authorised to hold a public meeting during the sitting of the Senate on Thursday, 18 September 2003, from 9.30 am to 11 am, to take evidence for the committee's inquiry into increasing the minimum representation of the Territories in the House of Representatives.

Senator Payne to move on the next day of sitting:

That the Legal and Constitutional Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 9 September 2003, from 6 pm, to take evidence for the committee's inquiry into the provisions of the Age Discrimination Bill 2003.

Senator Eggleston to move on the next day of sitting:

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts Legislation Committee on the Communications Legislation Amendment Bill (No. 2) 2003 be extended to 11 September 2003.

Senator Allison to move on the next day of sitting:

That the Senate—

- (a) notes that tobacco currently kills 5 million people annually worldwide, half in middle age, and that this global epidemic is predicted to double in the first half of the 21st century, to over 10 million deaths per year; and

- (b) calls on the Government to respond to the recommendations of the 12th World Conference on Tobacco in Finland, held from 3 August to 8 August 2003 by:

- (i) ratifying the Framework Convention on Tobacco Control (FCTC) by January 2005, implementing and enforcing its provisions, and actively involving civil society in this process,
- (ii) contributing resources and funding proportionate to Australia's gross domestic product for the implementation and monitoring of the FCTC,
- (iii) urging the United Nations to include non-communicable diseases and tobacco control as part of its Millennium Development Goals,
- (iv) including a plan for tobacco control as part of Australia's overseas development and poverty reduction agenda,
- (v) not accepting funding or participating in the tobacco industry's youth, social responsibility, voluntary marketing or other programs, and
- (vi) working towards greater coordination and cooperation between all sectors of the tobacco control movement, such as research, prevention, treatment, policy, advocacy, communications, and the world conference organising committee, with a view towards establishing a world association for tobacco control.

Senator Bartlett to move on the next day of sitting:

That the Senate—

- (a) notes the call to the United Nations Conference on Accelerating Entry-Into-Force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) made by prominent Non-Governmental Organisations from around the world, in Vienna on 5 September 2003, including:

A ban on testing is an essential step towards nuclear disarmament because it helps to block

dangerous nuclear competition and new nuclear threats from emerging. However, it must be recognised that technological advances in nuclear weapons research and development mean that a ban on nuclear test explosions by itself cannot prevent qualitative improvements of nuclear arsenals. Efforts to improve nuclear arsenals and to make nuclear weapons more useable in warfare will jeopardise the test-ban and non-proliferation regimes. We call on all states possessing nuclear weapons to halt all qualitative improvements in their nuclear armaments, whether or not these improvements require test explosions;

- (b) supports a comprehensive global ban on nuclear weapon testing;
- (c) notes that the United States is not attending the CTBT conference in 2003 and is planning the development of new nuclear weapons; and
- (d) calls on the Government to urge all nations to commit to the CTBT.

Senator Carr to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for Education, Science and Training (Senator Alston), no later than 3.30 pm on 15 September 2003, the following documents relating to the *National Report on Australia's Higher Education Sector, 2001* ('national report') and the associated supporting research reports to it:

- (a) a copy of the drafts of chapters 4 and 7 of the national report as it was written at:
 - (i) April 2002,
 - (ii) September 2002,
 - (iii) 1 December 2002,
 - (iv) 31 December 2002, and
 - (v) April 2003;
- (b) a copy of the four following reports:
 - (i) P Aungles et al, *HECS and educational opportunities*,
 - (ii) R Fleming and T Karmel, *University participation of persons from non-English speaking backgrounds; Impact of migration patterns*,
 - (iii) M McLachlan and T Karmel, *HECS: The impact of changes*, and
 - (iv) Y Martin and T Karmel, *Expansion in higher education; Effects on access and students quality over the 1990s* as at April 2002;
- (c) any communication between the Secretary of the Department of Education, Science and Training and the head of the Education Information and Analysis Group, the Higher Education Group and/or the Research, Analysis and Evaluation Group, on the methodological quality of the research underpinning the reports mentioned in paragraphs (a) and (b) above;
- (d) briefing advices or notes prepared for the Minister for Education, Science and Training and/or the Secretary of the Department of Education, Science and Training between April 2002 and July 2003, regarding the reports mentioned in paragraphs (a) and (b) above;
- (e) any minutes of meetings held to consider the research, editing, formatting and indexing of the reports mentioned in paragraphs (a) and (b) above;
- (f) any correspondence, including e-mails, directing the change in status of the reports from being 'forthcoming' to becoming 'advice to the Minister';
- (g) records of any communications between Bill Burmeister and any Department of Education, Science and Training officer, or external consultant, on the national report and all four reports mentioned at paragraph (2), from the period when Mr Burmeister was appointed head of the Higher Education Group, until July 2003;
- (h) copies of any other Evaluations and Investigations Programme (EIP) reports

(either prepared internally, or commissioned by the EIP group) related to higher education, that were reclassified after April 2002, as 'advice to the Minister';

- (i) a copy of the invoices and receipts relating to payment to Ray Adams and Associates, for editing work on the national report; and
- (j) a copy of the invoices and receipts relating to the Department of Education, Science and Training in-house printing service JS McMillan, regarding work on the national report.

Senator Nettle to move on the next day of sitting:

That the Senate—

- (a) notes that water has been historically mismanaged in Australia, one of the driest continents in the world, leading to the current crisis facing Australian rivers;
- (b) notes the importance of federal and state governments' ability to regulate the management of Australian water sources to ensure that water is allocated fairly between rural and urban users and for environmental flows; and
- (c) calls on the Federal Government to:
 - (i) instruct the Australian negotiators at the World Trade Organization ministerial in Cancun, Mexico in the week beginning 7 September 2003 to resist any attempts to speed up the liberalisation of water services,
 - (ii) support the right of all countries to regulate their own drinking water services, and
 - (iii) instruct the Australian negotiators to lobby for the removal of drinking water services from the General Agreement on Trade in Services.

Senator Brown to move on Wednesday, 10 September 2003:

That the Senate—

- (a) notes:
 - (i) the current stand-off between Papua New Guinea's Prime Minister (Mr

Somare) and Australia's Minister for Foreign Affairs (Mr Downer) over Australia's aid budget to Papua New Guinea (PNG), and

- (ii) that there is widespread concern in PNG over Australia's 'boomerang aid', whereby some 80 per cent of Australian aid goes straight back to consulting companies, construction companies and individuals; and
- (b) calls on:
- (i) Mr Downer to accept PNG's request that Australia conduct its own review of how Australian aid is given and spent, and
 - (ii) the Australian Government to adopt a new relationship with PNG, one that respects PNG as an equal partner and that does not subordinate PNG's interests to Australia's interests.

COMMITTEES

Economics Legislation Committee

Extension of Time

Senator FERRIS (South Australia) (3.49 p.m.)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:

That the time for the presentation of the report of the committee on the provisions of the Taxation Laws Amendment Bill (No. 7) 2003 be extended to 10 September 2003.

Question agreed to.

Legal and Constitutional Legislation Committee

Meeting

Senator FERRIS (South Australia) (3.49 p.m.)—by leave—At the request of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I move:

That the Legal and Constitutional Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today, from 6.30 pm, to take evidence for the committee's inquiry into the provisions of the Migration Legislation

Amendment (Identification and Authentication) Bill 2003.

Question agreed to.

NOTICES

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 cancellation of the ABC program *Behind the News*, postponed till 10 September 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 10 September 2003.

COMMITTEES

Medicare Committee

Response

Senator McLUCAS (Queensland) (3.50 p.m.)—by leave—At the last sitting, during debate on the extension of the Senate Select Committee of Medicare's reporting date, some comments were made in relation to the Australian Institute for Primary Care that is conducting research for the committee. The committee has received a response from the institute, and I seek leave to incorporate the document in *Hansard*.

Leave granted.

The document read as follows—

La Trobe University
Australian Institute for Primary Care
Faculty of Health Sciences
25 August 2003
Senator Jan McLucas
Chair
Senate Select Committee on Medicare
Parliament House
CANBERRA ACT 2600

Dear Senator McLucas

The Senate has asked the Australian Institute for Primary Care to conduct an analysis of the inflationary effects of the Government's 'A Fairer Medicare Package' and the Opposition proposal.

I have read the debate on the extension of the reporting date for the Select Committee and I write to address concerns expressed by some Government Senators that Professor Duckett, Mr Livingstone and I are not independent and, by implication, therefore cannot provide an objective and professional analysis of the question we have been asked to investigate.

I wish to assure the Committee that none of us has previously conducted an analysis or expressed a view on the specific research question we have been asked to investigate. We have an open mind on these issues and will conduct a professional, independent and objective analysis. As academic and research staff members of La Trobe University, we are committed to conducting excellent research and providing our the best advice possible.

We will be happy to explain, discuss and debate our analysis and conclusions when they are finalized and presented.

Yours sincerely

HAL SWERISSEN

Associate Professor and Director

LEAVE OF ABSENCE

Senator MACKAY (Tasmania) (3.51 p.m.)—by leave—I move:

That leave of absence be granted to Senator Evans for the period 15 September to 18 September 2003, on account of parliamentary business overseas.

Question agreed to.

Senator MACKAY (Tasmania) (3.51 p.m.)—by leave—I move:

That leave of absence be granted to Senator O'Brien for the period 8 September to 17 September 2003, on account of parliamentary business.

Question agreed to.

Senator MACKAY (Tasmania) (3.51 p.m.)—by leave—I move:

That leave of absence be granted to Senator Conroy for the period 8 September to 19 September 2003, on account of ill health of a close relative.

Question agreed to.

IRAQ

Senator BROWN (Tasmania) (3.52 p.m.)—I move:

That the Senate calls on the Government to insist on better protection for United Nations' personnel in Iraq.

Question agreed to.

Senator Brown—Mr Deputy President, I just ask if I heard correctly that the government opposed that motion.

The DEPUTY PRESIDENT—I think your hearing is fairly good, Senator Brown.

Senator Brown—Thank you.

BUDGET

Consideration by Legislation Committees

Additional Information

The DEPUTY PRESIDENT—On behalf of the President, pursuant to standing orders 38 and 166, I present the following document. In accordance with the terms of the standing orders, the publication of the document was authorised.

Employment, Workplace Relations and Education Legislation Committee—Additional information received in respect of the Budget estimates 2003-04 (4 volumes) (presented to the Deputy President on 27 August 2003).

DOCUMENTS

Auditor-General's Reports

Reports Nos 3 and 4 of 2003-04

The DEPUTY PRESIDENT—On behalf of the President, pursuant to standing orders 38 and 166, I present the following documents. In accordance with the terms of the

standing orders, the publication of the documents was authorised.

The list read as follows—

Auditor-General report no. 3 of 2003-04—Business Support Process Audit—Management of Risk and Insurance (presented to the Deputy President on 27 August 2003).

Auditor-General report no. 4 of 2003-04—Performance Audit—Management of the Extension Option Review—Plasma Fractionation Agreement: Department of Health and Ageing (presented to temporary chair of committees, Senator Brandis, on 28 August 2003).

Departmental and Agency Contracts

The DEPUTY PRESIDENT—On behalf of the President, pursuant to standing orders 38 and 166, I present the following documents. In accordance with the terms of the standing orders, the publication of the documents was authorised.

The list read as follows—

Statements of compliance with the continuing order of the Senate of 20 June 2001, as amended on 27 September 2001, relating to lists of contracts are tabled by:

Department of Family and Community Services

Centrelink

Child Support Agency

Social Security Appeals Tribunal

(presented to the Deputy President on 27 August 2003).

Department of Industry, Tourism and Resources

IP Australia

Geoscience Australia

(presented to temporary chair of committees, Senator Brandis, on 28 August 2003).

Department of Immigration and Multicultural and Indigenous Affairs

Migration Review Tribunal

Refugee Review Tribunal

(presented to the Deputy President on 29 August 2003).

Agencies within the Health and Ageing portfolio

(presented to the Deputy President on 29 August 2003).

Department of Finance and Administration

Australian Electoral Commission
Commonwealth Grants Commission
CSS Board
PSS Board
ComSuper

(presented to the Deputy President on 29 August 2003).

Department of Communications, Information Technology and the Arts

National Archives of Australia
National Office for the Information Economy
(presented to the Deputy President on 29 August 2003).

Department of the Treasury

Royal Australian Mint
Australian Bureau of Statistics
Australian Taxation Office
Australian Competition and Consumer Commission
Productivity Commission
Australian Office of Financial Management
National Competition Council
(presented to the Deputy President on 29 August 2003).

Department of the Environment and Heritage

Australian Antarctic Division
Bureau of Meteorology
National Oceans Office
Australian Greenhouse Office
(presented to temporary chair of committees, Senator McLucas, on 3 September 2003).

Indexed Lists of Files

The DEPUTY PRESIDENT—On behalf of the President, pursuant to standing orders

38 and 166, I present the following documents. In accordance with the terms of the standing orders, the publication of the documents was authorised.

The list read as follows—

Statements of compliance with the continuing order of the Senate of 30 May 1996, as amended on 3 December 1998, relating to indexed lists of files are tabled by:

Austrade (presented to temporary chair of committees, Senator Brandis, on 28 August 2003).

Australian Agency for International Development (presented to temporary chair of committees, Senator McLucas, on 3 September 2003).

Comcare (presented to temporary chair of committees, Senator McLucas, on 5 September 2003).

Foreign Affairs: West Papua

The DEPUTY PRESIDENT—On behalf of the President, I present a response from the Charge d'Affaires of the Embassy of the Republic of Indonesia to a resolution of the Senate of 12 August 2003 concerning West Papua.

Senator STOTT DESPOJA (South Australia) (3.54 p.m.)—by leave—I move:

That the Senate take note of the document.

I want to draw the Senate's attention to the motion passed by the Senate on 12 August which urged the Indonesian government to investigate the human rights situation in West Papua, halt the activities of all militia forces in West Papua and bring to justice those responsible for serious crimes committed in Papua, including the killing of Papuan leader Theys Eluay. There is now a great deal of evidence to establish that grave human rights abuses have been committed against the West Papuans over a number of decades. While there is conflicting evidence about the exact number of deaths that have occurred, it is widely accepted that at least 100,000 West Papuans have been murdered by the Indonesian army. In addition to these murders, there

is clear evidence of wrongful imprisonments, torture and general intimidation.

As the motion stated, Theys Eluay was killed in November 2001. He had attended a dinner to observe National Heroes Day at Kopassus headquarters, and his body was found the following morning. Some 20,000 people attended his funeral. An autopsy revealed that his death was probably the result of suffocation. According to the Institute for Human Rights Study and Advocacy, it was a politically motivated assassination involving torture. Earlier this year a Kopassus lieutenant colonel and six soldiers were convicted of that murder. It has also been alleged that Kopassus was responsible for the murder of three schoolteachers at the Freeport mine in August last year.

This history of atrocities committed by the Indonesian military against the West Papuan people stands as a clear warning to this government and to Australians that we should not engage in any joint military activity with Kopassus. The evidence against Kopassus is overwhelming, and its disregard for human rights continues to this day. Australia should have nothing to do with an organisation that so flagrantly violates the rights of innocent citizens. As tensions continue to escalate in West Papua, the violence has continued. We have seen that in recent weeks. Just last week it was reported that seven people had been beaten, resulting in the death of two of them and five in a serious condition in hospital. This incident followed closely the death of three people the previous week in violent clashes in Timika after West Papua was divided into three provinces by the Indonesian government, as senators will know. I might add that this was done contrary to the wishes of many West Papuans.

There is evidence to suggest that a significant militia presence continues in West Papua. A recent ABC radio program reported

that in April and May this year 10 villages were torched in West Papua's central highlands and 20 people were officially listed as killed. The Free Papua Movement blamed the violence on Islamic militia and, in particular, Laskar Jihad.

The Democrats firmly believe that any response to the continued human rights violations in West Papua must not only involve bringing the perpetrators to justice but also go further to address the root causes of the ongoing violence. Rather than simply deploying more and more members of an army whose human rights record is appalling—or highly contentious, at best—the Indonesian government needs to take a very clear and honest look at the reasons why the situation in West Papua is not improving. One of those reasons is that there has never been any recognition—and this is something that the Democrats have raised many times in this place—of the fundamental flaws associated with the 1969 Act of Free Choice, as it is so interestingly titled. The legitimacy of the Act of Free Choice has consistently been challenged by the West Papuan people and many others. In fact, it is frequently referred to by them as the 'Act of No Choice'.

Under the terms of the New York Agreement, which gained the support of the UN Assembly, all West Papuans were to be given the opportunity to vote on their future. Instead—and the history of this is shameful—1,025 people were selected by the Indonesian government to represent an entire population of what was then 800,000 people. Those people voted—under severe duress—to remain a part of Indonesia.

Some of these people have since revealed that they were threatened—for example, people were told that their tongues would be cut out if they voted for independence. As we in this chamber know, article 21 of the Uni-

versal Declaration of Human Rights provides:

The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

If these procedures are considered a minimum standard for the election of governments then it follows that they should also apply to decisions regarding independence—which are, after all, decisions about who should ultimately govern a group of people.

Given the circumstances surrounding the Act of Free Choice, it cannot be said that the West Papuan people have ever been given a genuine opportunity to determine their own future. As such, they have been prevented from exercising a fundamental right under international law. This must be acknowledged by Indonesia and Australia—which, let us not forget, played a fundamental role in the Act of Free Choice—as well as the broader international community.

While the Democrats believe there is a need for such an acknowledgment, we are acutely aware that any attempt to address this past wrong will be fraught with challenges. We are not advocating independence as the solution to all of West Papua's problems, because we realise that they run much deeper than that. But an acknowledgment of past wrongs is a good place to start. Australia, too, must take responsibility for its involvement in past wrongs against the West Papuan people. For example, it is a documented fact that in 1969 Australian government officials boarded a plane at Port Moresby and forcibly removed two prominent pro-independence West Papuans who were travelling to meet with UN officials in New York.

As a relatively powerful neighbour of West Papua—separated by only 200 kilome-

tres—Australia has a responsibility towards the people of West Papua. But our government consistently has taken the wrong approach. Rather than initiating joint exercises with an organisation that has been responsible for many of the human rights abuses in the region, we should be relying on our friendship with Indonesia to encourage it to begin redressing some of those past wrongs. I was pleased to see that the issues surrounding West Papua gained a much higher profile on the recent Pacific Islands Forum agenda. Unfortunately, that forum did not grant observer status to West Papua; however, it did release a communique expressing concern over the human rights situation in West Papua.

I really hope that this is the beginning of a new effort on the part of all nations in the Pacific region to work towards peace and the protection of human rights within West Papua. But our government has taken the wrong approach. I hope that today's response will provide an opportunity once again for our government to reflect on the words, the deeds, the views and the policy of the Republic of Indonesia. This is certainly a sorry part of history in the region. It is a history in which we have played a fundamental role and therefore it is incumbent upon us to play a key role in redressing some of those past wrongs.

Senator BROWN (Tasmania) (4.03 p.m.)—I want to thank Imron Cotan, the Charge d'Affaires from the Indonesian Embassy, for responding to the Senate resolution—all the more so because there have been some important motions passed by the Senate in recent times that our own Prime Minister has not responded to. That said, the seriousness of the Senate's resolution, which I moved and which got support in the Senate, is apparently missed by the response from Indonesia.

Theys Eluay was the leader of the people of West Papua. He went to dinner with Indonesian military personnel last year at their request. What has unfolded since is that, having had dinner and an exchange of pleasantries, he was given a lift home by the military and on the way was murdered by them. In section 5 of his response to the Senate, the charge d'affaires dismissed Theys Eluay's murder case in one sentence and that sentence reads:

On the Theys Eluay murder case, the military personnel involved in Theys's murder have been brought to justice and served the sentence.

He then goes on to talk about another matter and implicates the West Papuans as being villains. In fact, the military personnel got very light sentences indeed—a couple of years—and the murder by the Indonesian military of the leader of the West Papuans is an international scandal, which has been in no way redressed by that process and those sentences.

Can you imagine any other subordinated nation in which the murder of a leader like that would draw such a poor response from the country and the military forces responsible? This has led to enormous tension in West Papua, which I remind senators is—along with Papua New Guinea—our nearest neighbour not just in the north but anywhere in terms of land proximity. The people are very unhappy. There is the problem of a large number of transmigrants—people from elsewhere in Indonesia—who have been sponsored to West Papua, particularly during the Suharto years.

The charge d'affaires says in section 1 of his response that the Indonesian government recognised the grievances and injustices of the people of the Papua province that have long endured, especially during the new order government, and also realised that it needs to be immediately addressed and recti-

fied. He then goes on to talk about the division of West Papua into three provinces, which he says is a good thing for the West Papuans. Well, they do not think so. They see this as a splitting of their country, a further disempowering of them, and that this is an edict from Jakarta—it did not come from the people of West Papua.

He goes on to say that the government now has an allocation of funding arrangements totalling up to 80 per cent of the government's revenue collected from forestry and fisheries as well as 70 per cent of the revenue from oil and gas and mining in the province going back to the province. But the question is: to whom does it go? Is it going to the West Papuan people? What control do they have over the extraction of these resources? If we are going to talk about autonomy and self-government then we have to talk about a people in control of their own resources, their own country and their own political wellbeing. None of that is addressed in this response from Imron Cotan because the Papuan people have not been given those basic rights.

As Senator Stott Despoja said, in 1968 there was a sham act of so-called 'self-determination' in which a thousand West Papuans only—and none of them women—were asked to vote, under very severe threat from the Indonesian military authorities, for or against incorporation into Indonesia, and the incorporation went ahead. It is one of the most shameful plebiscite affairs—if not the most shameful—in the history of the United Nations. At the time our own Prime Minister, Mr Menzies, and the United States government of the day not only stood aside while that happened but also were complicit to a degree.

Nearly half a century later we as neighbours have a very direct obligation, if not interest, in ensuring the political rights of

the West Papuan people. Our government stands on the side of Jakarta. It recognises the incorporation of West Papua into Indonesia. What it should be doing is recognising the right of the West Papuans to a proper plebiscite on the matter through the United Nations. It is not until that is recognised by government and by opposition—that is, future government in Australia—that there will be some light on the very dark history of occupation of West Papua over the last half-century. As the charge d'affaires' letter and the excellent speech by Senator Stott Despoja indicate, there is great tension in West Papua at the moment. It is not simple to analyse that tension but it is on religious lines, racial lines and along very dangerous fault lines unless it is dealt with by people who have in mind the interests of the peaceable transformation of that country to true autonomy.

This is where the Australian government has a role to play. It is disappointing that we are not hearing a response from the Australian government in this matter. Where is the honourable Minister for Foreign Affairs, Alexander Downer, in this regard? He should be offering, as a friend from next-door, the Indonesian government and the West Papuan people all help in mediating a problem which, if it is not dealt with, is simply going to get worse as the West Papuans get to know more about the rest of the world and about the autonomy of similar nations to theirs and want to have just the same thing—their day in the sun.

The matter is not resolved. It is unfortunate that Mr Cotan is not here and able to take part in this debate. I know he would be very frustrated by that. But I applaud him for responding to the resolution and I take the opportunity here of saying that our government, this government, Australia, must do much more to help West Papua in the interests of Indonesia, West Papua and Australia.

Question agreed to.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator EGGLESTON (Western Australia) (4.12 p.m.)—On behalf of the Environment, Communications, Information Technology and the Arts Legislation Committee, I present additional information received by the committee relating to hearings on the additional estimates for 2002-03.

ASSENT

A message from His Excellency the Governor-General was reported, informing the Senate that he had assented to the following law:

Export Control Amendment Act 2003

COMMITTEES

Procedure Committee

Adoption of Report

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.14 p.m.)—I move:

That the recommendation of the Procedure Committee in its second report of 2003 relating to the publication of questions on notice and answers be adopted.

Question agreed to.

SEX DISCRIMINATION AMENDMENT (PREGNANCY AND WORK) BILL 2002

Second Reading

Debate resumed.

Senator WEBBER (Western Australia) (4.14 p.m.)—As I was saying when I commenced my remarks in this debate on the *Sex Discrimination Amendment (Pregnancy and Work) Bill 2002* earlier today, this legislation essentially amends the Sex Discrimination Act in three cases. The government's legislative response to the 12 recommendations of the original report—the report that was tabled some 50 months ago and that suggested

amendments to the sex discrimination legislation—has been to act upon only three of them.

We in the Senate are seen by the government and by some commentators as people who are obstructing the passage of legislation. That is what the government would have the population believe. My response is that you cannot pass that which is not put before you. It should not take 50 months. There is no doubt that this legislation, now it has been presented, will pass quite quickly. There can be no doubt that all of us would want to ensure that pregnancy never forms the grounds for discrimination.

Initially the Prime Minister told us that work and family pressures were barbecue stoppers. Do you remember that? Even more recently, in regard to gay marriages, we got the extraordinary assertion about survival of the species. It would seem that we are all falling into line—or should I say into context?—with the Prime Minister's concern about the survival of the species—not in relation to gay marriages but in relation to the rights of the mother. None of us are against motherhood. Therefore this legislation will pass relatively quickly. That makes even more amazing the government's ponderous response to the original report.

You would think that, if there were concerns about the species and its survival, the government would want us to safeguard with legislation the rights of those who are pregnant. Yet here we have its inadequate response. It is 50 months since the report was tabled. Years after the famous work and family barbecue stopper statement first appeared, the conservatives managed to give us just three changes. It is clear that this government is not serious about the rights of pregnant women. A serious government would have responded in a more urgent manner. A serious government would have dealt more ef-

fectively with the issue of maternity leave, especially paid maternity leave.

The government is not serious about the rights of pregnant women at all. Nor is the Prime Minister serious about the survival of the species. Between June 1999, when the report was presented, and June 2003, a period of four years, an estimated one million babies were born in Australia. Given multiple births and other factors, this does not guarantee that there were a million pregnancies in that same period. However, the difference would not be very significant. What is significant is that none of these pregnancies had the legal protection that will be available once this bill is passed. None of these pregnancies had the legal protection the report recommended they should have had four long years ago. It does not matter how you view it, a million is a very big number.

I know that senators opposite will say that Labor should have fixed this up, since we are now so concerned about protection for pregnant workers. But were we in government when the report was published? Indeed, were we in government when the report was commissioned? No. As was mentioned earlier by other senators, the member for Jagajaga did introduce a private member's bill with the same title as the bill that is now before us. She did so for the very reasons that are outlined by the government for the current bill—that is, to give effect to the recommendations of the report.

There you have it. The ALP can respond to a report by introducing a bill within nine months of the report being published, yet the government takes 17 months just to respond to the report, not to mention taking 50 months to get it to this place for debate. The government and the Prime Minister can run around the country crying their crocodile tears over work and family and the need to protect and value them. They can cry their

crocodile tears over the survival of the species. But what they do not do is act. They do not act on their concern and they do not provide workers and their families with the protection that they need.

What we get from this government is policy and legislation by inertia, moved by the forces of lethargy and sloth. That is just not good enough. By any reasonable measure, 50 months is far too long to wait for a response to this important report. I urge the Senate to support the opposition's amendments and then the ultimate passage of this legislation.

Senator HARRADINE (Tasmania) (4.20 p.m.)—I rise to support the **Sex Discrimination Amendment (Pregnancy and Work) Bill 2002** as far as it goes. I do not support the legislation just because of its acronym—SDA, which is the acronym of a highly regarded organisation which I have had something to do with over the years. Incidentally, the shoppies union made a submission to the 1998 inquiry into pregnancy discrimination. I support the legislation because it does something to address the very real problems faced by women every day in the work force. This legislation would prevent medical information being used against pregnant women in a discriminatory manner, prevent recruiters asking questions about pregnancy or potential pregnancy, and outlaw discrimination against women who are breastfeeding.

This bill comes out of the work of the Human Rights and Equal Opportunity Commission, which, in 1998, undertook an inquiry into pregnancy and potential pregnancy discrimination at work. In 1999, the commission produced its report, *Pregnant and productive: it's a right not a privilege to work while pregnant*. The government responded to those recommendations in the year 2000.

In producing the report *Pregnant and productive*, the human rights commission did great work by uncovering and highlighting a

large number of shocking examples of discrimination against women. Other stories have since been produced. One example of the fact of the situation was the case of media officer Jo Perkich at Crown Casino in Melbourne. She was made redundant three days after telling her employer that she was pregnant. Upon being told about the pregnancy, her employer 'let out a long whistle and told me a few stories about single motherhood and how difficult it is to juggle career and motherhood financially'. Three days later she was told there was not enough work for her, even though the casino was due to open its main building in three months time. She was offered a two-month contract and seven months redundancy pay. But when the contract was cancelled, and she was faced with the burden of being an unemployed single mother, Ms Perkich felt that the only thing she could do was to have an abortion. No woman should be put in that position and certainly no child of a woman should be put in the situation where it is a question of being killed or of your mother having a job.

My second example is Michelle Hogan, who was working for her fiance. When she told him she was expecting their baby, he broke off the relationship and sacked her. She then sought other work through an employment agency where she was told, 'If you want a job, go and get an abortion.' In desperation, she did so the next day. Again, a mother was told to choose between having employment and having a baby. Another example is of Joanne. When Joanne told her boss she was pregnant, she said straight out: 'I'm not giving you maternity leave. You leave when you have your baby; you do not have a job to come back to.' She had worked for the company for 17 years. Finally, after almost taking it to arbitration, they gave her three months leave.

Another worker, Thu Anh Viet Tran, worked in the accounting department of a

university for three years and had never received any negative feedback about her job performance and was even promoted. Yet when she told her employer that she was pregnant, she was told that her work performance had gone down and that she would be having a weekly review of her work and in a few months would find out whether or not she still had a job there. One month after disclosing her pregnancy she received a letter terminating her employment. She took it further and was awarded \$30,000 for lost earnings by the Victorian Civil and Administrative Tribunal. A further example is of a pregnant call centre worker who was forced to clock off for each toilet break she took. This was over a period of two months and led to a reduction in pay. She took the case to court and was awarded her lost earnings and she received an apology from her employer.

The human rights commission made 46 recommendations in the *Pregnant and productive* report. The government has accepted 23 of those recommendations; three of the recommendations accepted are to be implemented in this bill before us. I am rather concerned that the government has chosen not to accept a number of the recommendations by the commission. For example, the government has refused to amend the Workplace Relations Act to extend unpaid maternity leave to casual employees who have been employed for over 12 months. We already know that a great many families face great hardship in making ends meet. You can imagine that a drop in pay from leaving a casual job to give birth can have a substantial impact on the family budget, whether there is another salary coming in or not. This recommendation would not oblige employers to pay a woman while she was on leave. What it would do would be to give a casual employee the assurance there would be a job for her at an appropriate time after she had given birth. Why wouldn't the government support

such a measure? We are told time and time again that there are more workers this month than last month, but are we ever told of the break-up to show the number of casuals and part-time workers? I am concerned that in this case the government has not accepted that recommendation.

Another recommendation rejected by the government was that the Department of Education, Science and Training produce material providing advice and assistance for managing pregnancy at school. I would be cautious about the form of that advice, but if we are talking about assisting young women who are pregnant to have their children and to continue their schooling I think that is a laudable aim. Australian Bureau of Statistics figures show that teenage births were 18 babies per 1,000 women in 2001, accounting for almost 12,000 teenage mums each year. The majority of those women are not married and are of school age so it is a significant issue. If we can help these young women to finish their schooling and, even better, to complete TAFE or university study, then they and their children will have a much better chance of a decent income.

Many senators would have seen the ABC documentary *Plumpton High Babies* about a high school in Sydney which supports single mums through their high school education. It was a difficult job for these women and, unfortunately, many of them could not manage. We need to provide such women with adequate support and resources so that they can manage to finish school. It is of significant benefit to them, but it is also a significant benefit to their children and society as a whole. In my view, this recommendation that the Department of Education, Science and Training take an interest in the area of young school-age mothers was certainly worth pursuing.

The government also failed to accept the recommendation that funding be provided to investigate various maternity leave options. The maternity leave debate has moved on since that recommendation, with the Sex Discrimination Commissioner putting up a maternity leave model for discussion. As I recall it, the Prime Minister has been non-committal about the concept of a broader entitlement to maternity leave. But this is a very important issue, especially for lower income earners, who very much depend on two incomes for a fairly modest lifestyle. Taking time off work without pay could, for example, cut family income by 50 per cent. I think that the government should be supporting a program of maternity leave for all women, but especially for those in lower paid jobs.

In its submission to the human rights commission inquiry, the SDA also highlighted the fact that many families experience financial difficulties as a result of pregnancy. It recommended that the government increase the level of family payments for low-income families, double the current maternity allowance payment and extend eligibility for the parenting allowance. Whilst I am somewhat concerned that the government has not gone further with some of the human rights commission's recommendations, I am happy to support implementation of the three contained in this bill.

Senator KIRK (South Australia) (4.32 p.m.)—I also rise to speak on the **Sex Discrimination Amendment (Pregnancy and Work) Bill 2002**. The bill seeks to clarify several sections of the act that deal with the issues of pregnancy and work. In particular, it makes three amendments: firstly, to clarify that discrimination against breastfeeding women is a ground of sex discrimination; secondly, to clarify the legality or otherwise of questioning candidates about pregnancy or potential pregnancy during job interviews;

and thirdly, to make clear the proper purposes of the use of information obtained in medical examinations.

In 1998 the Attorney-General, Daryl Williams, gave a reference to the Human Rights and Equal Opportunity Commission to enquire into matters relating to pregnancy and work. These three amendments that are contained within this bill today are the sum of the government's response to the Human Rights and Equal Opportunity Commission's report delivered in June 1999, entitled *Pregnant and productive: it's a right not a privilege to work while pregnant*. It is noteworthy that the government took some 17 months to deliver a response in November 2000. The government accepted approximately half of HREOC's recommendations and, of the 12 recommendations for amendments to the Sex Discrimination Act, the government accepted only one-quarter. It is these amendments that are the substance of the bill we are debating here today. When the then sex discrimination commissioner, Susan Halliday, wrote the foreword for the report, she noted that it was 15 years since the Sex Discrimination Act was passed by this parliament. We are now rapidly approaching the 20th anniversary of this legislation.

I make these points because I think it is a very disappointing response from the government. It has been neither timely nor adequate. The government has made very clear that it is pleased that the operation of the Sex Discrimination Act is not expanded by the amendments that this bill makes. Yet the HREOC report found that there was much confusion and much work to be done in the area of pregnancy and work. The existence of legislation is, of course, no guarantee that women will no longer experience sex discrimination. Whilst discrimination and harassment on the grounds of pregnancy and potential pregnancy are grounds for complaint under the Sex Discrimination Act, the

Pregnant and productive report found that workplace discrimination and harassment on these grounds remain real issues for many women, and that clarification of the act is needed in a number of areas. There is still significant ignorance and misunderstanding of antidiscrimination law in the Australian community. It is vital that the government takes a more proactive approach to ensure that the rights and responsibilities of women and their employers are known and respected.

In recent times there have been several high-profile cases of discrimination against pregnant women. In 2001 the All Australia Netball Association decided that women who were pregnant could no longer play in their competitions. At this time, Adelaide Ravens netball player and one of my constituents, Trudy Gardner, was pregnant and was banned from playing in the National Netball League. She subsequently lodged a complaint of sex discrimination with the federal Human Rights and Equal Opportunity Commission and gained an injunction to allow her to continue to play, pending the outcome of her complaint. The complaint was then referred to the Federal Magistrates Court and, in March of this year, the court found that Netball Australia discriminated against Ms Gardner by banning her from playing three games in the 2001 season. The ban was found to have contravened the Sex Discrimination Act.

The initial Netball Australia decision was purportedly made on the basis of fears about the safety of playing netball while pregnant. The right of the unborn child to litigate also played no small part in it. Additional reasons cited by Netball Australia included fear of pregnancy related injuries and the inadequacy of sports injury insurance to cover these. These reasons are fairly typical of those repeatedly trotted out to undermine antidiscrimination law. These reasons create

a moral panic about hard cases which are in fact significant exemptions. They attach priority to other bodies of law that may conflict with the Sex Discrimination Act, such as overseas precedents—for example, those that have arisen in the United States. Above all, they invoke so-called medical reasons with little basis in fact.

The Australian Labor Party created the Sex Discrimination Act, and it remains one of the great legacies of former Labor governments. In an address on the 10th anniversary of the Sex Discrimination Act in Sydney on 29 July 1994, almost 10 years ago now, then Prime Minister Paul Keating said:

The Act's underlying purpose was and remains very simple: to end discrimination on the basis of sex, marital status or pregnancy, and to promote community respect for the principle of the equality of men and women.

It is this underlying principle which I believe has been constantly and consistently undermined by this government and its disturbingly inequitable family policies. Whilst Labor will support them, the amendments to this act that have been introduced are, in the context of the HREOC report I referred to, a very small step. This is why Labor seeks to amend this bill to extend it so that it can adequately address some of the key concerns of the HREOC report.

Labor's amendments would, firstly, empower HREOC to publish enforceable standards in relation to pregnancy and potential pregnancy; secondly, extend coverage to unpaid workers; thirdly, remove the exemption for employment by an instrumentality of a state from the Sex Discrimination Act; fourthly, remove the exemption in relation to pregnancy and potential pregnancy for educational institutions established for religious purposes; fifthly, allow punitive damages to be awarded; sixthly, allow the Sex Discrimination Commissioner to refer discriminatory awards or agreements to the Australian In-

dustrial Relations Commission without the requirement to receive a written complaint; seventhly, clarify that a complaint about a discriminatory advertisement may be made by any person; and, finally, extend the anti-discrimination provisions to employees who are in the process of adopting a child. The fact that the government has left out such important recommendations of the HREOC report shows the extent to which the government has carefully picked and chosen its amendments. This government has not even delivered the bare minimum to ensure that the Sex Discrimination Act offers protection to all Australians regardless of their circumstances.

The act, however, cannot be effective in isolation. It must be backed up, and complemented by, government policy that supports fathers as primary carers and women as workers, and all the diversity that we see in Australian families today. This is no easy task for many families who struggle against a government with a very limited view of who should qualify for support and how. The current government has moved even further away from the small-l liberal origins that its name suggests. On work and family the government's policies have become so narrow as to be tools not of social progression but of social engineering. The government's record on supporting families is, quite frankly, appalling. In all of its policies, the government's preference for single-income families and the assumption that the caring parent is a woman is ubiquitous. Its welfare and tax policies overwhelmingly attempt to mould Australian families into the idealised image held by the Prime Minister.

The baby bonus was unveiled as a centrepiece of the government's work and family policy in the lead-up to the 2001 federal election. So long as the baby bonus remains at the centre of the government's family policy, it is a very hollow policy indeed. The

baby bonus offers the greatest levels of assistance to those who need it the least. It is a scheme which defies notions not only of equity but also of justice. On average, the baby bonus delivers just \$10 a week to a family on an average income, on the condition that one parent remain outside the work force for five years.

The Australian Labor Party, by contrast, is committed to introducing a scheme of paid maternity leave to assist in balancing work and family life. Labor is also committed to a paid maternity leave scheme that is flexible enough to shift the burden of care from women. It has been shown that paid maternity leave encourages women to participate in the labour force and promotes their economic security by enabling them to retain skills and expertise and maintain income. A national paid maternity leave scheme would go some way towards addressing the male-female wage disadvantage and compensate for the period of childbirth and the time shortly afterwards when women take time off work or reduce their labour force activity.

Australia is one of the few countries in the world where paid maternity leave is left up to separate enterprise bargaining or workplace agreements. What we need as a society is to legislate to extend this to all families, not just those with the bargaining power to demand it from their employers. Labor's policy of paid maternity leave, unlike the government's dearth of policy making in the area, will assist in the creation of family-friendly workplaces.

The HREOC report I have been referring to, *Pregnant and productive*, pointed out that the terms of reference for the inquiry did not extend to post-pregnancy issues. This was significant because many of the submissions HREOC received advocated that the issue should be looked at as a continuum—that is, without the artificial divide between preg-

nancy and post-pregnancy, particularly in relation to workplace discrimination. Many of the submissions received indicated that most difficulties are experienced by women after the birth of the child, whilst they are still on leave, and on their return to work. It is at this juncture that opportunistic or inadequately informed employers may take the opportunity to terminate the woman's employment, significantly alter it or even make her position redundant.

Recently the media reported on the case of Anne-Marie, a Telstra employee of nine years standing, who was made redundant on her return from maternity leave. It was reported that her manager had told her that she would be better able to look after sick kids if she took the redundancy and that her skills had dropped off while she was on maternity leave. It is these kinds of attitudes which pervade many Australian workplaces. Some women take their complaints to their unions, some to the Industrial Relations Commission and some to HREOC. Others, however, are unaware of their rights, or they simply accept discrimination against potential pregnancy, pregnancy or post pregnancy. Most women, in fact, accept that having children will be a major hindrance to their career, many putting off having children indefinitely because of the inflexibility of workplaces that are simply unable to adjust to the realities of family life.

In one study a significant 54 per cent of women believed that their careers had been affected by taking maternity leave. Many others say that their salaries have stalled and that their careers have taken a backwards step. Some women have even considered that they sacrificed their careers when they gave birth. I will quote from the Women's Electoral Lobby submission to the *Pregnant and productive* report. It states:

Of great concern ... is the acceptance by a considerable number of women of the discrimination

that they experience. It appears that they accept that pregnancy is a personal choice and you can't have your cake and eat it too. This clearly indicates that there is a need for public education about what women's rights are when they are pregnant. It is a sad reflection of women's status in Australian society that so many women are prepared to accept this discrimination as part of life.

The government's grudging amendments to this act are simply not good enough. What is required is a genuine commitment to policy that will help to effect changes in community attitudes by recognising that with the right support both men and women can be effective parents and workers. The logical follow-on to this is that discrimination because of pregnancy or potential pregnancy is not only illegal but also illogical. It is my belief that this is one of the great challenges of feminism today. We have, broadly speaking, legislation which seeks to counter sex discrimination in the workplace. What we do not have is a commitment from the government to lead the genuine social change.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.48 p.m.)—I thank senators for their contribution to this debate on the *Sex Discrimination Amendment (Pregnancy and Work) Bill 2002*. What we have in the Senate today is a bill which will clarify a number of provisions of the Sex Discrimination Act 1984. These provisions deal with the protection of women from discrimination on the grounds of pregnancy, potential pregnancy or breastfeeding. The bill fulfils the government's commitment to address areas of confusion regarding the scope and operation of the Sex Discrimination Act 1984 which were identified by the Human Rights and Equal Opportunity Commission in its report entitled *Pregnant and productive: it's a right not a privilege to work while pregnant*.

The amendments to the act put forward in this bill will clarify the operation of the provisions of the act relating to the asking of questions about pregnancy or potential pregnancy during job interviews and the use of pregnancy related medical information. This bill will also amend the act to explicitly recognise breastfeeding as a potential ground of unlawful discrimination. The amendments will clarify the obligations of employers in respect of these issues but will avoid imposing onerous burdens on employers which might lead to disincentives to employ women. The amendments will not only help to prevent discrimination against employees but also assist employers to understand laws that impact on their businesses.

There have been a number of comments in relation to this bill. Firstly, I wish to refer to the question of any delay in responding to the report by the Human Rights and Equal Opportunity Commission. Speakers from the opposition, the Greens and the Democrats have referred to delays in the government's response to the HREOC report. For the record, I will say that there have been no undue delays in democratic processes. The Attorney-General requested HREOC to undertake an inquiry into matters relating to pregnancy and work in August 1998. The report was provided to the Attorney-General close to a year later and launched by him in August 1999.

The recommendations in the HREOC report *Pregnant and productive* are wide ranging and do not just include legislative amendments but refer extensively to measures focusing on education, guidance and awareness raising. The government's predecessor to this bill before the Senate today was first introduced into parliament in September 2001 but lapsed with the proroguing of parliament at that time. It was reintroduced in February 2002. The process of democracy sometimes takes time. The bill

passed the other place in February this year and was introduced into this chamber in March with no delay. In the meantime, the HREOC issued *Pregnancy guidelines* in April 2001, and the complementary booklet *Working your way through pregnancy* was distributed by the Department of Employment and Workplace Relations in April 2002. So a good deal of action was undertaken in anticipation of this proposed legislation. The government therefore rejects any question of delay in responding to the HREOC report.

I note that there are a couple of second reading amendments. Firstly, I refer to that foreshadowed by the Greens. Senator Nettle's foreshadowed second reading amendment states:

... the Senate condemns the Howard Government's Baby Bonus, which is an inequitable payment that does nothing to assist parents to maintain their attachment to the workforce, and calls on the Government to abolish the scheme and redirect the funds to a national scheme of paid leave for parents of newborns and adopted children.

The baby bonus complements a range of measures that the government has in place to assist families. It was introduced in response to the government's recognition that families may need further assistance at the time that they have their first child. This is a time, of course, when many families experience for the first time a reduction in their income. The baby bonus provides for a tax break of up to \$2,500 a year each year for a maximum of five years. Mothers who have a child on or after 1 July 2001 are eligible to receive the bonus. This is practical, direct assistance to the cost of raising children. With three children under the age of four, I can only acknowledge this as a very good measure.

It provides a tax offset based on the amount of tax paid by parents before they have the child. This is important. Those parents who have paid a large amount of tax

before they have a child are therefore potentially able to claim back more tax. The baby bonus, however, includes a guaranteed \$500 annual payment for parents with incomes of \$25,000 or less to ensure that low-income families benefit from the measure. This is a measure which has been welcomed. It is one of a range of measures, as I have said, which assist families in this country. It is a positive step and is not one which deserves condemnation. The government, therefore, will oppose the amendment foreshadowed by Senator Nettle for the reasons I have mentioned and others which I will not go into now for the sake of brevity.

Senator Ludwig's amendment on behalf of the opposition calls on the government to:

... support all the legislative amendments and other actions necessary to give effect to the recommendations of the Human Rights and Equal Opportunity Commission in its report *Pregnant and Productive: It's a right not a privilege to work while pregnant*

The government has already provided its response to the recommendations of HREOC. Many of the recommendations in the HREOC report focus on education, guidance and awareness raising. The government considers the most effective means of promoting and protecting the rights of individuals is by means of education and dissemination of information, and it has taken a number of steps to do just that—for example, the *Pregnancy guidelines* produced by HREOC and the complimentary booklet which I mentioned earlier produced by the Department of Employment and Workplace Relations with input from the Attorney-General's Department and the Office of the Status of Women. The government is implementing a number of HREOC recommendations which suggest clarification of the operation of the Sex Discrimination Act. The government considers, however, other recommendations in the HREOC report are unnecessary, as other leg-

islation adequately covers the issues raised. For example, the Workplace Relations Act and the Human Rights and Equal Opportunity Act already provide a number of avenues for the Australian Industrial Relations Commission to remedy or vary unfair awards. So for these reasons we believe that the amendment sought by Senator Ludwig on behalf of the opposition is redundant and, like Senator Nettle's amendment, will not have the support of the government.

This is a very important bill and a very worthwhile bill, especially in achieving equity for women and women who have children. I note that there are a number of amendments scheduled to be moved at the committee stage. I do not believe now is the appropriate time to address those. I will deal with each of those in turn during the committee stage. I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—The question is that Senator Ludwig's amendment be agreed to.

Question agreed to.

Senator NETTLE (New South Wales) (4.57 p.m.)—by leave—I move my second reading amendment, as amended:

At the end of the motion, add “and the Senate condemns the Howard Government's Baby Bonus, which is an inequitable payment that does nothing to assist parents to maintain their attachment to the workforce, and calls on the Government to abolish the scheme and redirect the funds into policies that assist families to balance their work and family responsibilities, including paid parental leave”.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator LUDWIG (Queensland) (4.59 p.m.)—by leave—I move opposition

amendments (1), (2), (6) to (8), (10) to (30), (37) and (38) on sheet 3032:

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

1A Paragraph 3(b)

Omit “or potential pregnancy”, substitute “, potential pregnancy or breastfeeding”.

- (2) Schedule 1, page 3 (after line 3), before item 1, insert:

1B Subsection 4(1) (after the definition of *administrative office*)

Insert:

breastfeeding includes the act of breastfeeding a child, expressing milk, a characteristic that appertains generally to women who are breastfeeding, or a characteristic that is generally imputed to women who are breastfeeding.

- (6) Schedule 1, page 3 (after line 7), after item 1, insert:

1F After section 7

Insert:

7AA Discrimination on the ground of breastfeeding

- (1) For the purposes of this Act, a person (the *discriminator*) discriminates against a woman (the *aggrieved woman*) on the ground that the aggrieved woman is breastfeeding if, because the aggrieved woman is breastfeeding, the discriminator treats the aggrieved woman less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat someone who is not breastfeeding.
- (2) For the purposes of this Act, a person (the *discriminator*) discriminates against a woman (the *aggrieved woman*) on the ground that the aggrieved woman is breastfeeding if the discrimination imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have,

the effect of disadvantaging women who are also breastfeeding.

- (3) This section has effect subject to sections 7B and 7D.

- (7) Schedule 1, page 3 (after line 7), after item 1, insert:

1G Subsection 10(2)

Omit “or potential pregnancy”, substitute “, potential pregnancy or breastfeeding”.

- (8) Schedule 1, page 3 (after line 7), after item 1, insert:

1H Subsection 11(2)

Omit “or potential pregnancy”, substitute “, potential pregnancy or breastfeeding”.

- (10) Schedule 1, page 3 (after line 7), after item 1, insert:

1K Subsection 14(1)

After “potential pregnancy”, insert “or because the person is breastfeeding her child”.

- (11) Schedule 1, page 3 (after line 7), after item 1, insert:

1L Subsection 14(2)

After “potential pregnancy”, insert “or because the employee is breastfeeding her child”.

- (12) Schedule 1, page 3 (after line 7), after item 1, insert:

1M Subsection 15(1)

After “potential pregnancy”, insert “or because the person is breastfeeding”.

- (13) Schedule 1, page 3 (after line 7), after item 1, insert:

1N Subsection 15(2)

After “potential pregnancy”, insert “or because the commission agent is breastfeeding”.

- (14) Schedule 1, page 3 (after line 7), after item 1, insert:

1P Section 16

- After “potential pregnancy”, insert “or because the contract worker is breastfeeding”.
- (15) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1Q Subsections 17(1) and (2)**
After “potential pregnancy” (wherever occurring), insert “or because the person is breastfeeding”.
- (16) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1R Subsection 17(3)**
After “potential pregnancy”, insert “or because the partner is breastfeeding”.
- (17) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1S Section 18**
After “potential pregnancy”, insert “or because the person is breastfeeding”.
- (18) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1T Subsection 19(1)**
After “potential pregnancy”, insert “or because the person is breastfeeding”.
- (19) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1U Subsection 19(2)**
After “potential pregnancy”, insert “or because the member is breastfeeding”.
- (20) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1V Section 20**
After “potential pregnancy”, insert “or because the person is breastfeeding”.
- (21) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1W Subsection 21(1)**
After “potential pregnancy”, insert “or because the person is breastfeeding”.
- (22) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1X Subsection 21(2)**
After “potential pregnancy”, insert “or because the student is breastfeeding”.
- (23) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1Y Subsection 22(1)**
After “potential pregnancy”, insert “or because that other person is breastfeeding her child”.
- (24) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1Z Subsections 23(1) and (2)**
After “potential pregnancy” (wherever occurring), insert “or because that other person is breastfeeding”.
- (25) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1ZA Subsection 24(1)**
After “potential pregnancy”, insert “or because that other person is breastfeeding”.
- (26) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1ZB Subsection 25(1)**
After “potential pregnancy”, insert “or because the person is breastfeeding”.
- (27) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1ZC Subsection 25(2)**
After “potential pregnancy”, insert “or because the member is breastfeeding”.
- (28) Schedule 1, page 3 (after line 7), after item 1, insert:
- 1ZD Section 26**
After “potential pregnancy”, insert “or because that other person is breastfeeding”.
- (29) Schedule 1, item 2, page 3 (line 20), after “pregnancy”, insert “or because that other person is breastfeeding”.
- (30) Schedule 1, item 2, page 3 (line 24), omit “or potentially pregnant”, substitute “, potentially pregnant or breastfeeding”.
- (37) Schedule 1, page 4 (after line 6), at the end of the Schedule, add:

9 Section 39

After “pregnancy”, insert “or because the person is breastfeeding”.

(38) Schedule 1, page 4 (after line 6), at the end of the Schedule, add:

10 Section 48

Omit “or potential pregnancy” (wherever occurring), substitute “, potential pregnancy or breastfeeding”.

Together these amendments effectively add breastfeeding as a ground of discrimination in the [Sex Discrimination Amendment \(Pregnancy and Work\) Bill 2002](#) and include references to breastfeeding in relevant sections of the bill. This implements recommendation 43 of the report *Pregnant and productive: It's a right not a privilege to work while pregnant*, which noted that there was some confusion about whether the act prohibited discrimination against breastfeeding women. The purpose of these amendments is to clear up that doubt. We think that the matter could be made clearer than in schedule 1, item 1, of the government's bill, which might be decipherable by lawyers and courts—not by me—but would be less clear to persons without legal training who are grappling with the bill should it become an act. Therefore, I commend these amendments to the chamber. It would be helpful to have a much clearer system than what is provided, and I think these amendments will make it substantially clearer. I will not add anything further unless it becomes a little bit unclear on the other side. I think the purpose of these amendments is quite clear.

Senator STOTT DESPOJA (South Australia) (5.02 p.m.)—The Australian Democrats will be supporting these amendments. Had the Labor Party not moved them we would have moved very similar amendments to ensure that recommendation 43 of the HREOC report was implemented. As I mentioned in my second reading contribution,

this campaign is one the Democrats have long been associated with—that is, a campaign to ensure that women cannot be discriminated against on the basis of their breastfeeding. On a lighter note, that has seen us involved in such exciting campaigns as Breastfest 2000, where more than 300 women in my home state of South Australia tried to break a Guinness Book of Records title by seeing how many children they could breastfeed at one time. On a serious note, however, it is outrageous that this recommendation is not being clearly and fully implemented in the legislation that is before us today. Therefore, these amendments are appropriate. The amendments seek to clarify the issue and the Democrats support them, commend them, and hope that the government will see sense and support them.

Senator NETTLE (New South Wales) (5.03 p.m.)—The Australian Greens will be supporting these amendments put forward by the opposition, recognising that they implement a recommendation from the HREOC report into this matter. Given that this bill implements only three of the 12 recommendations put forward by HREOC, it is pleasing to have the opportunity to support amendments that seek to add further recommendations to this legislation.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.03 p.m.)—The government opposes these amendments because it does not feel that they are necessary. I note that the intent is to amend item 1 of schedule 1 of the bill which deals with breastfeeding. Subsection 5(1A) states:

To avoid doubt, breastfeeding (including the act of expressing milk) is a characteristic that appertains generally to women.

There was also the matter of recommendation 43 in the HREOC report. The government considers that discrimination on the

grounds of breastfeeding is already covered by the act. If you discriminate against someone because of a characteristic that appertains generally to members of one sex, that is sex discrimination. Breastfeeding is clearly a characteristic that appertains generally to women; it is not something that appertains to men. Discrimination, therefore, on the basis of breastfeeding is considered sex discrimination and we believe it is already covered by the act.

We do not believe that these amendments are necessary. We believe the ground is adequately covered and for this reason the government oppose the amendments sought by the opposition. The bill does give effect to the relevant HREOC recommendation by inserting a provision that will make it clear that breastfeeding is a characteristic that appertains generally to women and, consequently, that gives you the ground for an action for sex discrimination under the act.

Senator LUDWIG (Queensland) (5.05 p.m.)—I hear what the minister says but I still think recommendation 43 is made clearer by the amendments that we have proposed here. The minister has not been able to convince the opposition to not pursue this. The amendments will make it substantively clearer. The Sex Discrimination Act will be easier for the public to read and understand.

Question agreed to.

Senator STOTT DESPOJA (South Australia) (5.06 p.m.)—I move Democrat amendment (1) on sheet 3031:

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

1BA Subsection 4(1) (definition of Commonwealth employee)

Repeal the definition, substitute:

Commonwealth employee, for the purposes of this Act, means a person who:

- (a) holds an office of appointment in the Commonwealth Public Service or is employed in a temporary capacity in a Department; or
- (b) holds a statutory or administrative office; or
- (c) is employed or engaged by a public authority of the Commonwealth; or
- (d) holds an office or is appointed under the *High Court of Australia Act 1979*, the *Federal Court of Australia Act 1976* or *Federal Magistrates Act 1999*; or
- (e) is a member of the Commonwealth Parliament; or
- (f) holds an office or appointment in the Commonwealth Teaching Service or is employed as a temporary employee under the *Commonwealth Teaching Service Act 1972*; or
- (g) is employed under the *Australian Security Intelligence Organisation Act 1979*, the *Commonwealth Electoral Act 1918* or the *Naval Defence Act 1910*; or
- (h) is a member of the Defence Force.

1BB Subsection 4(1) (definition of employment)

Repeal the definition, substitute:

employment includes:

- (a) part-time and temporary employment; and
- (b) employment in a voluntary capacity or for consideration other than direct financial remuneration; and
- (c) work under a contract for services; and
- (d) work as a Commonwealth employee; and
- (e) work under the provisions of the *Social Security Legislation Amendment (Work for the Dole) Act 1997*.

The amendment essentially seeks to implement HREOC recommendations 7 and 8.

The first part of the amendment deals with section 1A and the issue of coverage for federal statutory appointees, judicial office holders and members of parliament. It seeks to provide clarification of coverage and, if need be, extend the provisions of the Sex Discrimination Act to cover these positions formally. The government considers that federal statutory office holders and judicial office holders are already covered by the Sex Discrimination Act. However, HREOC maintains its position that judicial office holders and members of parliament are not covered by the SDA. Statutory officers, such as commissioners of HREOC, appear to be covered by the SDA as Commonwealth employees, which are broadly defined to include someone who holds administrative office. This broad definition may allow statutory officers to make a complaint under the SDA if they were to experience discrimination on the basis of pregnancy or potential pregnancy. However, there is, as I understand it, no precedent. It does not appear that judges would be covered in any way by the SDA if they were to experience discrimination on the grounds of pregnancy or potential pregnancy. As a Commonwealth employee is defined to include someone who holds an administrative office but does not extend to someone holding a federal judicial office, it appears that federal judicial office holders are potentially in a vulnerable position.

Federal members of parliament do not seem to be covered by the SDA either, as they are elected rather than employed. However, employees who work for a federal member of parliament and who are employees of the Commonwealth can lodge a complaint of discrimination against their employer, the Commonwealth, if discriminated against on the basis of pregnancy or potential pregnancy. The intent of federal, state and territory antidiscrimination legislation is, of course, to ensure fair and equal access to all

positions and fair, non-discriminatory treatment. Therefore, we believe it is essential that clarification of the coverage of the SDA for federal statutory appointments, federal judicial appointments and federal members of parliament and their employees is achieved and that all parties to these arrangements are well informed of their situation.

We seek to amend the legislation in relation to section 1B to ensure the coverage of unpaid workers. Unpaid work is not specifically excluded from the SDA. However, unpaid workers may not be covered by the Sex Discrimination Act if they are not considered to be employees and an employment contract does not exist. For an employment contract to exist, like other contracts, it requires a mutual exchange benefit—generally work in exchange for remuneration—and an intention to create a legally binding relationship. A mutual benefit can occur in ways other than through the exchange of work for remuneration—for example, where a person is required to perform a certain amount of work experience to obtain registration by a qualifying board. The benefit exchange can be a period of unpaid work in exchange for proper supervision and experience.

Most speakers during the debate explained that unpaid work is increasing in its incidence with people taking on official and unofficial unpaid internships or work experience in order to obtain the experience needed to enter the work force. Another form of unpaid work is the Work for the Dole scheme. Under the Community Development Employment Projects scheme, the CDEP, which was established for Indigenous people, members of participating communities, organisations or groups forgo individual unemployment benefits for wages paid to the community, with each community deciding on its own programs. Voluntary and unpaid workers make a valuable contribution to the

charitable and non-profit sector. There is no basis for why they should not be protected from discrimination on the basis of pregnancy or potential pregnancy. Again, this relates to recommendation 8 of the HREOC report. I understand that the Labor Party will support the amendment. I seek clarification as to whether that will be after it has been amended by the Labor Party or whether it will be supported in its current form. Either way, I thank them for their support and urge the government to consider the implementation of those recommendations.

Senator CROSSIN (Northern Territory) (5.11 p.m.)—I clarify for Senator Stott Despoja that we do not seek to amend the Democrat amendment. We have opposition amendment (3) which we will now withdraw and not move on the basis that we are supporting the amendment that the Democrats have moved. Democrat amendment (1), which we now support, amends the definition of a Commonwealth employee, as Senator Stott Despoja said, to implement recommendation 7 of the *Pregnant and productive* report that the Attorney-General ensure that the Sex Discrimination Act covers federal statutory appointees, judicial office holders and members of parliament.

It will be interesting to hear an explanation from the government as to exactly why in their response to the report the government accepted this recommendation but have expressed the view that no amendment is necessary. It would be interesting to hear the minister explain why it is that the government would accept the recommendation but fail to support an amendment such as this. This amendment also amends the definition of employment to implement recommendations 8 and 9 of the *Pregnant and productive* report, which were that the Sex Discrimination Act be amended to cover unpaid workers and persons under a federal government scheme of unpaid work. The government's

response to these recommendations was that some unpaid workers might be covered by the act and some might not. Clearly they would say that that inequality is appropriate and that organisations providing employment services are bound by contract not to discriminate on the grounds of pregnancy. We do not believe that that is the case. We believe it is time the Howard government applied a bit of mutual obligation to these organisations, as opposed to simply the unemployed. Therefore, we support this amendment and will seek not to move our opposition amendment (3).

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.13 p.m.)—Recommendation 7 of the HREOC report was:

That the Attorney-General examine the issues of coverage for federal statutory appointees, judicial office holders and Members of Parliament, to provide clarification of coverage and, if necessary, extend the provisions of the Sex Discrimination Act 1984 (Cth) to cover these positions formally.

Certainly the Attorney-General carried out an examination of those issues and that part of the recommendation was accepted. The government considers that the pregnancy and potential pregnancy discrimination provisions of the act already cover federal statutory office holders and judicial office holders. Furthermore, pregnancy and potential pregnancy discrimination against staff of members of parliament is also already covered by the Sex Discrimination Act. The government does not believe that pregnancy should be an obstacle to the participation in the political arena and it strongly supports the right of pregnant women to take part in the political decision-making process of the nation. We say that the current provisions of the act cover those areas which I have mentioned. We do not believe it is appropriate to regulate the political aspects. That is a

unique, discrete area and really is determined in a democratic process. It does not fit in the same category, if you like, as the other positions that I have mentioned.

The second part of the Democrat amendment relating to item 1B deals with the question of unpaid work. The government does not support extending the legislative coverage of unpaid workers under the Sex Discrimination Act. Unpaid workers are not specifically excluded from the Sex Discrimination Act. Unpaid workers may be covered by the act if an employment relationship is found to exist or if they fall within the ambit of the provision relating to discrimination in the provision of goods, services and facilities. The pregnancy guidelines issued by the Human Rights and Equal Opportunity Commission in April 2001 include a discussion of the application of the Sex Discrimination Act to unpaid workers. Again, we believe that is sufficient for the situation. Therefore, the government does not support the amendment moved by the Democrats.

Question agreed to.

Senator STOTT DESPOJA (South Australia) (5.16 p.m.)—I understand that the opposition has withdrawn amendment (3). I move Democrat amendment (2):

- (2) Schedule 1, page 3 (after line 7), after item 1, insert:

1C At the end of section 7A

Add:

- (2) For the purposes of subparagraph (1)(b)(i), but without otherwise limiting that provision, the family responsibilities of an employee include an intention to adopt a child, or the process of adopting a child.

1D Section 13

Repeal the section.

1E Section 38

Repeal the section.

This amendment seeks to implement the recommendations from HREOC reports Nos 39 and 10. The first is in relation to recommendation (39), which deals with section 1C. This seeks to include protection from discrimination of employees who intend to adopt or are in the process of adopting a child. There are currently provisions in the Sex Discrimination Act that provide that discrimination against employees on the basis that they are undertaking fertility treatment such as IVF is prohibited under potential pregnancy antidiscrimination legislation. Thus, if you are undertaking fertility treatment, discrimination against you is prohibited. However, legislative provisions relating to pregnancy discrimination do not seem to cover adoption. While it is unlawful to deny promotional opportunities or to harass or deny employee benefits due to pregnancy, the SDA does not protect an employee who is adopting a child from such treatment. The adoption process can be time consuming. People can require time off work to attend information seminars and lengthy interviews, and there is the need to gather documentation, which is sometimes available only during working hours. There are medical examinations and when a child is born overseas there is the need to travel overseas at short notice. We seek to amend the Sex Discrimination Act to ensure that adoption is covered.

We seek to amend section 1D to remove the exemption of employment by an instrumentality of state. Under section 13 of the Sex Discrimination Act employees of an instrumentality of a state or territory are not covered by this section of the SDA; however, section 26 concerning the administration of Commonwealth laws and programs is not subject to this exemption. An instrumentality of state is defined as a body or authority established for a public purpose by a law of a state and includes technical and further education institutions conducted by a state but

does not include other institutions of tertiary education. Therefore, employees not covered under the SDA include employees in state and territory government departments, authorities, public or government schools, TAFEs, hospitals and local councils. In addition, the SDA may not cover statutory corporations and quasi autonomous state bodies in the public sector. Most of these exempted employees are protected by state and territory legislation.

Due to the wide scope of these exemptions, both a 1992 HREOC review of exemptions and the Australian Law Reform Commission's *Equality before the law: justice for women* report recommended that section 13 be repealed to 'provide the same basic level of protection for the rights of all women whatever state or territory they inhabit'. This amendment would implement recommendation (10) of the more recent HREOC report. I understand that Labor supports those two changes.

I suspect some amendment to section 1E may be forthcoming. Again, I thank the Labor Party for their support. I commend the amendments to the chamber and hope the government will consider this change.

Senator LUDWIG (Queensland) (5.20 p.m.)—I rise to speak in relation to Democrat amendment (2) dealing with adoption. It might be worth noting that the amendment, as the running sheet says, is in conflict with opposition amendments (4), (5), (9) and (34) to (36). I will deal with those shortly but, generally, the opposition supports the amendment moved by Senator Stott Despoja. We will then be seeking to amend that amendment to clarify the position I have now put.

Democrat amendment (2) does implement recommendation (39) of the *Pregnant and productive* report, which was that the Sex Discrimination Act protect employees who

intend to or who are in the process of adopting a child. The Democrat amendment does so by a slightly different mechanism from that proposed in the opposition amendments (4) and (5). It seems that different drafters might have got to the same position there. We are happy to support the Democrat amendment and, accordingly, we will not move our amendments (4) and (5). We therefore leave the Democrat amendment intact in respect of that.

The government's response to this recommendation originally stated that the Attorney-General was examining the broader policy implication of this recommendation and had in fact written to his state and territory counterparts. I would like to give the minister the opportunity to provide a response in respect of that here. We would be interested in hearing what became of this particular position. If not, I am sure we can follow this up afterwards and put it on notice. I would like to glean what actually became of that position. If during this committee stage the minister does not quite know what became of it, then I am sure there will be an opportunity during this debate for the minister to find out.

Democrat amendment (2) also implements recommendation 10, which is that the exemption of employment by a state instrumentality be removed to ensure the same basic level of protection for women in all states. The amendment goes slightly further than opposition amendment (9) by repealing section 13 altogether. But, having compared the two provisions, having had a long look at them and having thought about the Democrat amendment, we are happy to support it and will not move opposition amendment (9). So we will not be moving opposition amendments (4), (5) and (9). We prefer the Democrat position as enunciated by Senator Stott Despoja this evening.

The government's response to this recommendation indicated that the Attorney-General also wrote to his state and territory counterparts about this recommendation. Without going through the process again, I wonder whether the minister could provide an answer to the chamber during this committee stage as to the results of those inquiries. That certainly would be helpful.

Democrat amendment (2) repeals section 38 of the Sex Discrimination Act. This goes further than recommendation 11 of the *Pregnant and productive* report in that it removes altogether the exemption for educational institutions established for religious purposes. Labor would support an amendment which adheres more closely to this recommendation, which we believe is better reflected in opposition amendments (34), (35) and (36). I therefore move an amendment to Democrat amendment (2):

Omit item 1E, substitute:

1E Subsections 38(1) and (2)

Omit “, marital status or pregnancy” (wherever occurring), substitute “or marital status”.

1EA Subsection 38(3)

Omit “or pregnancy”.

1EB At the end of section 38

Add:

- (4) To avoid doubt, in this section, a reference to a person's sex or marital status does not include a reference to pregnancy or potential pregnancy.

I think what we intend to do in respect of that section is quite clear. Senator Stott Despoja might be able to provide an answer to the position I have provided. We believe the Democrat amendment has gone further than the recommendation in the report, and we would prefer through our amendment to bring the bill more in line with that recommendation. If the Democrats were to accede

to that request, we could certainly move forward more expeditiously.

Senator STOTT DESPOJA (South Australia) (5.26 p.m.)—That is our understanding of the Labor Party's intention, and we accept that. We will certainly be supporting any amendment to our amendment. We will support the amendment that Senator Ludwig has moved on behalf of the Labor Party.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.26 p.m.)—As I understand it, the amendment that Senator Ludwig has moved to Democrat amendment (2) does not have an effect on the government's position. We still oppose that amendment, although I can appreciate what the opposition is doing, and I understand that opposition amendments (4), (5) and (9) will be withdrawn. Even if Democrat amendment (2) is passed with amendment, the government still opposes it in its present form or in its amended form.

It would appear that the Democrat amendment is in three parts. Item 1C deals with the intention to adopt a child or the process of adopting a child. Prospective adoption raises broader policy issues than those considered in the HREOC report *Pregnant and productive*. The Attorney-General wrote to his state and territory counterparts drawing their attention to the issues raised in the report and seeking their views on this and other relevant recommendations. The responses that have been received to date from state and territory counterparts indicate no consensus on this issue. Senator Ludwig has asked for information on this, and I have asked the department to provide that information. If necessary, I will have to take that on notice, but I can say that the responses from the states and territories on this have indicated no consensus. The government does not consider it appropriate that the commission's recommendation on this issue

be adopted for the purposes of the current bill.

Similarly with item 1D, which deals with state instrumentalities, the Attorney-General wrote to his state and territory counterparts seeking their views on this and on other relevant recommendations. Again, the responses received indicated varying approaches to the recommendation. Most employees of state and territory instrumentalities enjoy similar protection to that afforded under the Commonwealth Sex Discrimination Act. Further, constitutional implications mean that this recommendation would be complex to implement and the Commonwealth would be limited in its coverage in relation to these employees. But, again, this is a similar issue to the adoption issue in that there is a varying approach taken by the states and territories that makes it very difficult for the Commonwealth in any event.

Item 1E deals with the question of religious practice. This proposed amendment by the Democrats seeks to repeal the exemption in the Sex Discrimination Act which applies to educational institutions established for religious purposes. We believe that there should be an appropriate balance between the Sex Discrimination Act and the right to equal treatment and the right to freedom of religious practice. We believe that the exemption as currently expressed in the Sex Discrimination Act is not open-ended. It applies only to actions taken in good faith to avoid injuring the religious susceptibilities of adherence to the relevant religion or creed—that is, the exemption that we currently give to religious beliefs does have constraints on that; it is not open-ended and that exemption does not apply willy-nilly.

The commission's report, *Article 18—freedom of religion and belief*, recommended that exemptions in the form of those which are contained in section 38 of the Sex Dis-

crimination Act be retained. The government believes that the current exemption for religious beliefs strikes the appropriate balance and that it should not be tinkered with. We certainly do not support any move to repeal that exemption. In relation to the varying approaches by the states and territories, I will take that on notice and I will endeavour to give that information to the committee during the course of this debate. But I can say that on those other two issues there were varying responses received from the states and territories.

Senator STOTT DESPOJA (South Australia) (5.31 p.m.)—I thank the minister and Senator Ludwig for their comments. Having moved the amendment that sought to repeal item 1E, my views on that issue are clear. However, I also think the numbers in the chamber are very clear so, as I have indicated, I will acknowledge the amendment proposed by the Labor Party and accept it.

There are certain exemptions under the Sex Discrimination Act that concern potential conflicts between antidiscrimination provisions and religious beliefs and practices. An exemption applies to the employment of members of staff at educational institutions that are conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed insofar as any discrimination is pursuant to those tenets. The provision in section 38 exempts discrimination on the grounds of sex, marital status and pregnancy. It does not actually exempt potential pregnancy from unlawful discrimination. There are concerns that the provisions are too broad and can be interpreted to result in unfair use to the detriment of pregnant women. Labor's amendment obviously seeks to deal with these issues, but not perhaps in the same arguably dramatic way that the Democrat amendment did. That will be caught up in Labor amendments (34), (35) and (36) which the Democrats will be

supporting. In the meantime, I commend the changed amendments to the committee and I am sorry to hear that the government will not be supporting amendment (2).

The TEMPORARY CHAIRMAN (Senator Kirk)—The question is that the amendment moved by Senator Ludwig to Senator Stott Despoja's proposed amendment be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—The question now is that Democrat amendment (2), as amended, be agreed to.

Question agreed to.

Senator CROSSIN (Northern Territory) (5.33 p.m.)—by leave—I move opposition amendments (31) and (32) on sheet 3032:

(31) Schedule 1, page 3 (after line 34), after item 2, insert:

2A At the end of subsection 27(2)

Add:

; but it is unlawful to discriminate in a recruitment process on the basis of that information.

(32) Schedule 1, page 4 (after line 6), at the end of the Schedule, add:

4 After subsection 27(2)

Insert:

(2A) To avoid doubt, it is unlawful for a person to ask another person a question (whether orally or in writing) in connection with the employment or potential employment of that other person, which might reasonably be understood as intended to elicit information about that person's intentions in relation to pregnancy, potential pregnancy or in relation to meeting that person's family commitments.

The amendments relate to similar situations concerning recruitment and information on employment. Opposition amendment (31) amends subsection 27(2) of the Sex Dis-

crimination Act to clarify that it is unlawful to discriminate in a recruitment process on the basis of medical information concerning pregnancy. This would implement recommendation 37 of the *Pregnant and productive* report, which highlighted the risk that section 27(2) might lead to the inappropriate conclusion that it is not unlawful to discriminate in relation to medical examinations of pregnant women at the recruitment stage. We acknowledge that schedule 1, item 3 of the government's bill inserts a note which attempts to clarify the matter but it does not refer specifically to recruitment and we think that this amendment will provide a solution that is a little better than the government's.

Our amendment (32) inserts a new subsection (2A) after section 27(2) to make it clear that it is unlawful for a person to ask another person a question in connection with employment to elicit information about that person's intention in relation to pregnancy or family commitments. This implements recommendation 36 of the *Pregnant and productive* report, which noted ongoing uncertainty about the rules governing job interviews. We acknowledge that schedule 1, item 2 of the government's bill clarifies the prohibition in section 72(1) of the act and includes asking questions as an example. We submit that our amendment more faithfully implements HREOC's recommendations. It certainly clarifies the situation, which called for a specific prohibition on the asking of inappropriate questions in connection with employment.

Senator STOTT DESPOJA (South Australia) (5.36 p.m.)—For the reasons outlined by Senator Crossin on behalf of the ALP, the Australian Democrats will also be supporting the amendments that are before us.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.36 p.m.)—Opposition amendment (31) stems

from HREOC recommendation 37 which stated that the Attorney-General amend the Sex Discrimination Act to clarify that it is unlawful to discriminate in medical examinations of pregnant women during recruitment processes. We oppose the amendment put forward by the opposition. The government considers that the Sex Discrimination Act already prohibits the use of information gained from medical examinations for a discriminatory purpose.

The *Pregnant and productive* report identified a need for greater clarity in relation to the operation of the Sex Discrimination Act in this regard, and we believe the current bill clarifies that. While medical information may legitimately be required or requested for certain purposes, it may not be used for the purposes of unlawful discrimination. The bill clarifies the operation of section 27(2) of the Sex Discrimination Act by adding an explanatory note stating that information obtained under the subsection may not be used for the purposes of unlawful discrimination. The note also provides an example which clarifies that such information may properly be used for occupational health and safety purposes as long as the use to which it is put does not amount to unlawful discrimination. We believe that that adequately deals with the HREOC recommendation 37.

In relation to opposition amendment (32), which deals with the HREOC recommendation 36, I would remind the committee that the recommendation states that the Attorney-General clarify section 27 of the Sex Discrimination Act by the insertion of a specific provision that prohibits the asking of questions, whether orally or in writing, which might reasonably be understood as intended to elicit information about whether or when a woman intends to become pregnant and/or her intentions in relation to meeting her current or pending family responsibilities. Again, the government considers that section

27 of the Sex Discrimination Act prohibits such questions. The report by HREOC did, however, state that there was a need for greater clarity in relation to this issue.

The government maintains that the current bill meets that requirement by redrafting section 27 to clarify its operation generally and, in relation to questions about pregnancy and potential pregnancy, specifically. The bill clarifies the operation of section 27 in a number of ways. It repeals and restates section 27(1) in language which is easier to understand. An example of the potential operation of this section is also included to assist in its interpretation. The title of section 27 will be changed from 'Application forms and other matters' to 'Requests for information' to better reflect the scope of the provision.

The term 'pending family responsibilities' does not appear in the amendments to section 27 because the inclusion of this term is not necessary to achieve the aims of the relevant HREOC recommendation. Issues concerning pending family responsibilities are sufficiently covered by the concept of 'potential pregnancy'. The proposed amendments to section 27 will clarify the scope of the act in relation to the prohibition against asking questions relating to pregnancy and potential pregnancy in recruitment processes. The proposed amendments are sufficiently broad to prohibit the asking of questions relating to those aspects of pending family responsibilities referred to in HREOC's recommendation. Questions such as, 'Do you intend to have children?' would be an obvious example.

The government considers that the recommendation will be wholly effected by the proposed amendments in their present form. The government's amendments are more comprehensive than that proposed by the opposition. We believe that the government's provisions fully implement the recommenda-

tion by redrafting the entire provision in clear language, restructuring the provisions so that elements of the unlawful discrimination are set out plainly and providing relevant examples of circumstances in which the provision would apply. For these reasons the government will also oppose opposition amendment (32).

Question agreed to.

Senator STOTT DESPOJA (South Australia) (5.41 p.m.)—I move Democrat amendment (3) on sheet 3031 standing in my name:

- (3) Schedule 1, page 4 (after line 6), at the end of the Schedule, add:

4 After section 48

Insert:

48A Pregnancy discrimination standards

- (1) The Minister may formulate standards, to be known as pregnancy discrimination standards.
- (2) Pregnancy discrimination standards will:
 - (a) inform employers, principals of commission agents and contract workers, partnerships and employment agencies of the provisions of the Act and other relevant legislation which apply to discrimination on the ground of pregnancy or potential pregnancy; and
 - (b) inform employees and potential employees of the provisions of the Act and other relevant legislation which apply to discrimination on the ground of pregnancy or potential pregnancy; and
 - (c) assist all parties to understand and fulfil their obligations under the Act and other relevant legislation in relation to pregnancy and potential pregnancy; and
 - (d) assist in the administration of Commonwealth laws and programs

in relation to discrimination on the ground of pregnancy or potential pregnancy.

- (3) Pregnancy discrimination standards formulated in accordance with this section are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

5 After section 48

Insert:

48B Employment advertisements—standing to bring complaints

A complaint in writing alleging that:

- (a) a person has done an act that is unlawful by virtue of paragraph 14(1)(a); and
- (b) that act is constituted by an advertisement;

may be lodged with the Commission by any person, notwithstanding that the complainant is not a person directly affected by the advertisement.

48C Referral of discriminatory awards to the Australian Industrial Relations Commission—own motion

Where the Commissioner has reason to believe that an award or agreement contains a provision or a number of provisions which permit discriminatory acts, the Commissioner may refer the award or agreement to the Australian Industrial Relations Commission.

The amendment seeks to implement recommendations 1, 35 and 19 respectively of the HREOC report. I understand that there will be an ALP amendment to this amendment, particularly dealing with the pregnancy equity standards. My understanding is that Labor favours an enforceability provision. The Democrats think this is a very good idea and we will support any attempts to amend that. Again, that relates to HREOC recommendation 1.

Item 5, section 48B, amends the legislation to make it clear that a complaint about a

discriminatory advertisement may be made under section 14(1)(a) of the act notwithstanding that the complainant is not a person directly affected by the advertisement. Despite the fact that complaints about discriminatory advertising may be made under the Sex Discrimination Act, in practice complaints are rarely made. However it is important that we establish a very clear message that advertising that discriminates or demonstrates an intention to discriminate on the grounds of pregnancy or potential pregnancy is unacceptable. Specifically documenting discriminatory advertising as an offence in the Sex Discrimination Act helps clarify the law for business, industry and others, and sets clear guidelines for recruitment processes. Provisions prohibiting discriminatory advertisements are particularly important in the area of employment. An employer can limit the types of people that might respond to an advertisement for a job vacancy by the wording of that advertisement—that is quite logical.

The section should be amended to allow complaints to be brought in relation to discriminatory advertisements—again, notwithstanding that the complainant is not a person directly affected by the advertisement. For example, this would enable a complainant to be an education institution or, say, a working women's centre, a community legal centre or an employee representative with concerns about a particular job advertisement that appears to exclude or discourage pregnant or potentially pregnant women from applying. This effectively implements recommendation 35 of the HREOC report.

Lastly, in item 5, with respect to section 48C, we seek to amend the SDA so that the Sex Discrimination Commissioner can refer discriminatory awards or agreements to the Australian Industrial Relations Commission on her own initiative without necessarily having to receive a written complaint. Sec-

tion 50A(3) of the SDA currently states that the commissioner need not refer the award or agreement if the commissioner is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance. If the commissioner decides not to refer the award or agreement, the complainant may ask the commissioner to refer the decision to the President of HREOC for review. To date I think the referral power has never been used. HREOC has suggested that because section 50A of the SDA is concerned with a discriminatory provision or effect this may require the AIRC to look at more than the face of the award or agreement and look to whether or not the award or agreement actually has discriminatory effects. So this implements recommendation 19 of the HREOC report. I commend the amendments to the committee and seek advice from Senator Ludwig as to how he wants to proceed by amending my amendment.

Senator LUDWIG (Queensland) (5.45 p.m.)—We support the amendment moved by Senator Stott Despoja, with, as she has foreshadowed, an amendment. I will deal with our amendment before I go to the substantive reasons for supporting the Democrat amendment. I move:

Omit section 48A, substitute:

48A Pregnancy equity standards

- (1) The Minister may formulate standards, to be known as pregnancy equity standards, in relation to the employment of women who are pregnant or potentially pregnant, consistent with and to give effect to the *Sex Discrimination Act 1984*.
- (2) Pregnancy equity standards formulated in accordance with this section are to be laid before each House of the Parliament within 15 sitting days of that House after the pregnancy equity standards are formulated and take

effect only as provided by the following provisions of this section.

- (3) If:
- (a) notice of a motion to amend the pregnancy equity standards is given in either House of the Parliament within 15 sitting days after the pregnancy equity standards have been laid before that House; and
 - (b) the pregnancy equity standards, whether or not as amended, are subsequently approved by that House; and
 - (c) the other House approves the pregnancy equity standards in the form approved by the first-mentioned House;

the pregnancy equity standards take effect in the form so approved from the day on which the second House approves the pregnancy equity standards in that form.

- (4) If no notice of a motion to amend the pregnancy equity standards is given in the House of Representatives or the Senate within 15 sitting days of the particular House after the pregnancy equity standards have been laid before that House, the pregnancy equity standards take effect from the day immediately after that 15th sitting day or, where that day differs in respect of each House, the later of those days.

48AA Unlawful to contravene pregnancy equity standards

It is unlawful for a person to contravene a pregnancy equity standard.

Democrat amendment (3) also seeks to implement recommendations 19 and 35 by conferring standing on any person to complain about a discriminatory advertisement and by empowering the Sex Discrimination Commissioner to refer a discriminatory award or agreement to the Australian Industrial Relations Commission of her own motion. The

same measures are contained in opposition amendment (39) but, having had a look at both of the amendments, we are happy to support the Democrat amendment and not move our own. It seems that we were tracking along the same line but that we took slightly different paths in coming to the same conclusion about it.

The amendment allowing the Sex Discrimination Commissioner to refer discriminatory awards or agreements to the AIRC without the requirement to receive a written complaint is particularly noteworthy. In the past, I have been employed by coalition governments as an industrial inspector. I have found that the first thing that coalition governments do when they get to power is remove general powers and replace them with complaint based powers. In other words, powers are only enlivened if someone makes a complaint. The Liberal coalition government in Queensland did that when they got to power; when they were in power they relied on it.

The reason is quite simple. If a complaint is not made, nothing needs to be done. It seemed to me that they had the view that, if there was no complaint, there was no point in having a general power to enforce; in that instance, the matter would just be allowed to fall by the wayside. I suspect the basis is the same here. If there is no complaint, there is no reason to deal with it. This ensures that we have a more integrated system for the auditing of awards and agreements, but also makes sure that discriminatory industrial instruments do not go unchecked because of a lack of public awareness of the existing mechanism for review.

I have also worked in the sphere of industrial relations commissions, at both state and federal level, under both coalition and Labor governments. During Labor reigns, the commissions were only too happy to have

those sorts of mechanisms to ensure that there was outside scrutiny. However, it has always been my view that coalition governments do not prefer outside scrutiny to ensure that the sorts of matters I have spoken of are dealt with in a fair and equitable manner. This coalition government is no different from that.

It is very disappointing that the government does not want to encourage communication between HREOC and the AIRC. There have been occasions—and I have had to deal with them in the past, in previous employment—when the Industrial Relations Commission has to deal with the issue of which law should apply and whether HREOC would be better placed to deal with a matter before the commission. The amendment will provide a path where commissioners will have a bit more certainty in understanding their responsibilities. HREOC will be able to have dialogue with the AIRC to resolve whether matters might be better dealt with by HREOC, by the AIRC or by both. It is important to ensure that human rights are upheld in the workplace, but it seems that to mention HREOC and the AIRC in the same breath is to incite particularly strange noises from the Howard government. For example, in response to the *Pregnant and productive* report, the Attorney-General said:

The Government is committed to retaining the independence of the Australian Industrial Relations Commission (AIRC) in workplace relations as articulated in the Workplace Relations Act. The Government does not consider it appropriate that this independence be compromised in any way. Therefore, formal links and protocols with the Sex Discrimination Commissioner are not appropriate

It strikes me that either the Attorney-General has not been talking to Mr Abbott in recent times or he has a strange sense of humour—one or the other. I do not think that could be

said about Mr Abbott or his workplace relations legislation.

In my view—and I think in the view of many on this side, and perhaps of many Democrats and the Greens—there is not a government in living memory that has shown less regard for the strength and independence of the Industrial Relations Commission than this government has. Perhaps I could articulate some of the matters it has gone to. It has stripped the commission of its powers to settle disputes and ensure fair bargaining and packed it with employers. The government must have been disappointed at what the president of its main cheer squad, the H.R. Nicholls Society, Ray Evans, told the *Australian Financial Review* on 8 May 2002. I have a lot of interest in industrial relations, and it needs to be said that this government has been very disappointing in that regard. Mr Evans said:

I have a lot of scepticism about the notion, which still has a lot of currency in the Liberal Party, that if you put the right people on the tribunal all will be well ...

I must say that seems to be a matter that this coalition government has a view on across tribunals more generally. That seems to have been their strategy: put the right people on the commission and hope all will be well.

Interestingly, in the context of the bill we are debating, of the Howard government's 16 appointments to the commission, only one has been a woman. Women make up 44 per cent of the work force but the Howard government has only been able to find one woman it thought was suitable to sit on Australia's industrial tribunal. Figures from the Office of the Status of Women indicate that in the last three years alone the percentage of presidential members of the commission who are women has dropped from 30.7 to 21.6. That is an absolutely atrocious record when you look at the modern era. When we have

been progressively accepting women in a range of employment and increasing their representation, this government has been taking it the other way. You can even see by Senator Coonan's recent remarks in the media in relation to the court system that she obviously wishes to take on the Attorney-General about this issue. She sees that this government has not been appointing women who have merit and who can do the job. What it has been doing is favouring the old boy network—perhaps the old school tie in Victoria or New South Wales. But it is a serious matter, and this government should take on board the requirement to address equity.

Democrat amendment (3) seeks to implement recommendation 1 of the *Pregnant and productive* report which says the minister should be empowered to publish enforceable standards in relation to pregnancy and potential pregnancy. However, it is not clear that the pregnancy discrimination standard proposed in the amendment would be enforceable. In that respect it is difficult to know what they would add to the pregnancy guidelines published by the Sex Discrimination Commissioner. We believe opposition amendment (33)—that is the matter I went to first—would implement this recommendation more accurately and would allow enforcement provisions to operate in this area and ensure that matters would be dealt with more clearly.

Other than those brief words I have added to the debate, I will end on the fact that when you look at the workplace relations record of this government and match that with its inability to deal with the appointment of women—Senator Coonan has indicated quite clearly that she has an issue about that she wants to progress with the Attorney-General—it is not surprising that this government, across tribunals, has been stamped in the opposite direction. But I hope

Senator Ellison will be able to take that on board. I am sure that in the areas he looks after he could commit to ensuring that he will not let the side down.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.55 p.m.)—What we have here is Democrat amendment (3) with the opposition's proposed amendment. Again, this is in three parts, dealing firstly with pregnancy discrimination standards that I think relate to recommendation 1 in the HREOC report. The government is clearly of the view that it is important to make people aware of their responsibilities with respect to the protection of individual rights. It believes that the best means of achieving this objective is through education and dissemination of information, rather than through the creation of another legislative regime. It believes that to go further on this is overprescription.

The pregnancy guidelines issued by the commission in April 2001 have made a major contribution to increasing awareness and understanding of the rights and responsibilities of employers and employees regarding pregnancy and potential pregnancy issues in the workplace. These guidelines provide practical guidance in relation to the scope and operation of the Sex Discrimination Act in its application to pregnancy discrimination issues. The guidelines were developed in consultation with employer organisations, unions, government and other stakeholders. The guidelines are complemented by a booklet, as I mentioned earlier. The government believes that strong educative initiatives, such as this and others, are a more effective way of achieving cultural change and improvements in equal opportunity for women than imposing further prescription and legislative sanctions. While legislative action to combat discrimination is clearly fundamental to the effective protection of human rights, the government believes that the most lasting

and effective way to reduce these breaches is by changing attitudes in the community and encouraging tolerance.

The second part of the Democrats' amendment deals with complaints about advertisements, and is providing a new section, 48B, to provide standing for persons not directly affected to lodge complaints about advertisements. The government believes that the most effective means of preventing discrimination in advertising is, again, through education and dissemination of information to employers. The SDA currently prohibits unlawful discrimination in the arrangements made for recruitment purposes, and I touched on that earlier. The guidelines prepared by the Sex Discrimination Commissioner will be the most effective means of ensuring that employers are aware of their obligations not to advertise in a discriminatory manner. The government notes that the commission's report stated that while pregnant and potentially pregnant women are discriminated against in recruitment processes, complaints of discrimination in advertising are rarely made. So what it said there is that the instances of complaints are rare. For that reason and others that have been mentioned, the government will oppose the Democrats' amendment—that is the second part of the amendment.

The final part deals with referrals to the Industrial Relations Commission, and that has been dealt with at length by Senator Ludwig. The government's position is that there is already a variety of provisions in the Workplace Relations Act and the Human Rights and Equal Opportunity Commission Act that provide avenues for the Australian Industrial Relations Commission to remedy or vary any discriminatory provision in an award or certified agreement—that is, there is current legislation in place which allows the AIRC to vary an award or certified agreement which has a discriminatory provi-

sion. The government considers that these protections are comprehensive and that the proposed amendment is not necessary. This protection which is in place in legislation at the moment covers all workers, and that of course includes female workers. For these reasons the government will oppose the Democrats' amendment and the opposition amendment as well.

The TEMPORARY CHAIRMAN (Senator Kirk)—The question is that Senator Ludwig's amendment to Senator Stott Despoja's proposed amendment be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—The question now is that Democrat amendment (3), as amended, be agreed to.

Question agreed to.

Senator CROSSIN (Northern Territory) (6.00 p.m.)—The opposition is withdrawing amendment (39), as we indicated earlier, because we have supported Democrat amendment (3). I move opposition amendment (40):

Page 4 (after line 6), at the end of the bill, add:

Schedule 2—Human Rights and Equal Opportunity Commission Act 1986

1 After paragraph 46PO(4)(d)

Insert:

- (da) where the unlawful discrimination relates to pregnancy or potential pregnancy—an order requiring a respondent to pay to an applicant exemplary or punitive damages;

This amendment empowers the court to award exemplary damages following a finding of discrimination relating to pregnancy or potential pregnancy. This implements recommendation 42 of the *Pregnant and productive* report in which HREOC drew attention to the need to send a clear message about the seriousness of discrimination relat-

ing to pregnancy or potential pregnancy. Quite frankly, the government has responded with quite a deal of humbug about the need to avoid a heavy-handed or punitive approach to sex discrimination. It really backs away from the *Pregnant and productive* report finding that there is a need to send a very clear message about the seriousness of this discrimination and that therefore a punitive approach is needed. We would be more likely to believe the sincerity of this claim if this government and, in particular, the minister for workplace relations were not fanatically pursuing a punitive approach to workplace relations—for example, in the building industry, trying to send trade unionists to the wall. We commend opposition amendment (40) to the Senate.

Senator STOTT DESPOJA (South Australia) (6.02 p.m.)—Mr Temporary Chairman, I was just going to say that the Australian Democrats will support that amendment, but I will expedite proceedings.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.03 p.m.)—For the record, the government opposes this amendment and, again, considers that an educative approach to sex discrimination issues is more effective than a heavy-handed or punitive approach. The Human Rights and Equal Opportunity Act provides ample scope for a court to make appropriate orders in the event of unlawful discrimination. The courts can award general damages for injury to feelings and aggravated damages which reflect the severity of the conduct concerned and its consequences. The government believes that the current situation is adequately covered.

Question agreed to.

Senator CROSSIN (Northern Territory) (6.03 p.m.)—The opposition are not moving our amendment (41) as we have supported the intent of that by supporting Democrat

amendment (3), so there is no need for us to move that amendment now.

Senator STOTT DESPOJA (South Australia) (6.04 p.m.)—by leave—I move Democrat amendments (4) and (5):

- (4) Page 4 (after line 6), at the end of the bill, add:

Schedule 3—Workplace Relations Act 1996

Part 1—Paid maternity leave

1 At the end of Part VIA

Add:

Division 6—Paid maternity leave

170KD Object of Division

- (1) The object of this Division and Schedule 15 is to give effect, or further effect, to:
- (a) Article 11.2(b) of the Convention on the Elimination of All Forms of Discrimination Against Women, 1979; and
 - (b) the Family Responsibilities Convention; and
 - (c) the Workers with Family Responsibilities Recommendation, 1981, which the General Conference of the International Labour Organisation adopted on 23 June 1981 and is also known as Recommendation No. 165;
- by providing for a system of government-funded paid maternity leave that will help employees who take maternity leave from their employment in respect of a child.
- (2) In particular, Schedule 15 gives effect, or further effect, to the Article, Convention and Recommendation by entitling certain employees to up to 14 weeks of maternity payments out of public money when they take maternity leave from their employment in respect of a child.

- (3) This provision is to be implemented in conjunction with Division 5 of this Part and its provision of unpaid parental (defined to include maternity and paternity) leave, so that employees entitled to paid maternity leave receive a maternity payment for 14 weeks of their maternity leave at and around the birth of a child.
- (4) This maternity payment is payable to eligible employees by means of a payment by the Commonwealth to the employers of eligible employees. Employers then make the payment directly to their employees through established payment systems.
- (5) This maternity payment does not affect or reduce any other entitlement that the employee may have under the terms of any other employment agreement, award or law.
- (6) However, this maternity payment is not paid to Commonwealth, State or Territory government employees (who receive other government-funded payments). It is payable to other employees who meet the eligibility requirements.
- (7) The maternity payment is for mothers in recognition of the physical demands of the later stages of pregnancy, birth, recovery from birth, and establishment, where possible, of breast feeding. It is not intended as a transferable payment between employee and spouse except in exceptional circumstances.
- (8) If a person is eligible to receive a maternity payment under this Act and either or both the maternity allowance and the maternity immunisation allowance under the *A New Tax System (Family Assistance) Act 1999*, the person must elect to receive either the payment, or the allowance or allowances, as the case may be.
- (9) A person is not entitled to a maternity payment if the person claims and is paid either or both the maternity allowance and the maternity immunisation allowance under the *A New Tax System (Family Assistance) Act 1999*.
- (10) Schedule 15 establishes minimum entitlements and so is intended to supplement, and not to override, entitlements under other Commonwealth, State and Territory legislation, awards and agreements.
- (11) This maternity payment is to be treated as wage and salary income for the purposes of taxation, superannuation and other relevant laws and agreements.
- (12) The regulations may provide for an analogous system of paid adoption leave.

A170KE Application of Schedule 15

The provisions of Schedule 15 have the force of law, in the same way as if they were set out in this Division.

2 After Schedule 14

Add:

Schedule 15—Paid maternity leave

Section 170KD

Part 1—Preliminary

1 Purpose

The purpose of this Part is to entitle certain employees, particularly mothers, to up to 14 weeks of maternity payments out of public money when they take parental leave from their employment in respect of a child.

2 Overview

- (1) Clauses 1 to 3 are preliminary provisions relating to the maternity payment scheme.
- (2) Clause 4 confers entitlements to maternity payments, primarily on female employees.

- (3) Clause 5 enables those employees to transfer their entitlements to their spouses in certain circumstances.
- (4) Clause 6 describes the process of applying for maternity payments.
- (5) Clauses 7 to 12 relate to the duration, timing and amount of maternity payments.
- (6) Clauses 13 to 21 relate to the administration of the maternity payment scheme.
- (7) This clause is intended only as a guide to the general scheme and effect of this Schedule.
- (b) of a State or Territory, or under an award, order or agreement); and
- (b) that is of a kind analogous to Schedule 14 long paternity leave, or would be of such a kind but for one or more of the following:
- (i) it is paid leave;
- (ii) differences in the rules governing eligibility for it;
- (iii) differences in the period or periods for which it can be taken.

3 Interpretation of this Schedule

- (1) In this Schedule:

continuous service means service (otherwise than as a seasonal employee) under an unbroken contract of employment, and includes a period of leave, or a period of absence, authorised:

- (a) by the employer; or
- (b) by an award or order of a court or tribunal that has power to fix wages and other terms and conditions of employment, or a workplace agreement certified by such a body; or
- (c) by a contract of employment; or
- (d) by this Schedule or another law of the Commonwealth or of a State or a Territory.

long paternity leave means Schedule 14 long paternity leave or any other leave (however described):

- (a) to which an employee is entitled, or that has been applied for by or granted to an employee, in respect of the birth of a child of his spouse, otherwise than under Schedule 14 (for example, under another law of the Commonwealth or

maternity leave means Schedule 14 maternity leave or any other leave (however described):

- (a) to which an employee is entitled, or that has been applied for by or granted to an employee, in respect of her pregnancy or the birth of her child, otherwise than under Schedule 14 (for example, under another law of the Commonwealth or of a State or Territory, or under an award, order or agreement); and
- (b) that is of a kind analogous to Schedule 14 maternity leave, or would be of such a kind but for one or more of the following:
- (i) it is paid leave;
- (ii) it can begin before the estimated date of birth;
- (iii) differences in the rules governing eligibility for it;
- (iv) differences in the period or periods for which it can be taken.

medical certificate means a certificate signed by a registered medical practitioner.

parental leave means maternity leave or paternity leave.

paternity leave means short paternity leave or long paternity leave.

short paternity leave means Schedule 14 short paternity leave or any other leave (however described):

- (a) to which an employee is entitled, or that has been applied for by or granted to an employee, in respect of the birth of a child of his spouse, otherwise than under Schedule 14 (for example, under another law of the Commonwealth or of a State or Territory, or under an award, order or agreement); and
- (b) that is of a kind analogous to Schedule 14 short paternity leave, or would be of such a kind but for one or more of the following:
 - (i) it is paid leave;
 - (ii) differences in the rules governing eligibility for it;
 - (iii) differences in the period or periods for which it can be taken.

Schedule 14 long paternity leave has the meaning given by clause 13 of Schedule 14.

Schedule 14 maternity leave has the meaning given by subclause 3(1) of Schedule 14.

Schedule 14 short paternity leave has the meaning given by clause 13 of Schedule 14.

spouse, in relation to an employee, includes a person who lives with the employee in a marriage-like relationship, although not legally married to the employee.

Multiple employments

- (2) An employee's entitlement to rights and benefits in respect of parental leave must be determined by treating each of the employee's

employments separately, if the employee has more than one employment.

Multiple births

- (3) A person who gives birth to two or more children as a result of one pregnancy and assumes or intends to assume the care of those children must be treated as if the person had given birth to only one child as a result of the pregnancy and had assumed or intended to assume the care of only one of those children.

Part 2—Paid maternity leave

4 Entitlement to maternity payment

- (1) An employee is entitled to a maternity payment under this Schedule if the employee applies in the approved form and:
 - (a) is an eligible employee; or
 - (b) is an eligible spouse.
- (2) An *eligible employee* is a female employee:
 - (a) who is granted maternity leave for the child under section 170KB; and
 - (b) is not employed by a Commonwealth, State or Territory government (including government departments, non-market non-profit institutions that are controlled and mainly financed by government, and corporations and quasi-corporations that are controlled by government).
- (3) An *eligible spouse* is an employee:
 - (a) to whom all or part of an entitlement to a maternity payment is transferred under subclause 5(1); or
 - (b) who succeeds to a maternity payment under subclause 5(3).

5 Entitlement may be transferred to eligible spouse

- (1) An eligible employee (within the meaning of subclause 4(2)) may transfer all or part of her entitlement to a maternity payment in respect of a child to her spouse if:
 - (a) the spouse has been granted parental leave; and
 - (b) the spouse takes parental leave from his or her employment in respect of the child; and
 - (c) exceptional circumstances, as defined by the regulations, make such a transfer necessary (such as the spouse becoming sole guardian of the child to the exclusion of the employee).

Note: As maternity leave recognises the physical demands of the later stages of pregnancy, birth, recovery from birth and establishment, where possible, of breast feeding, the payment is intended for the mother, and is not intended, under normal circumstances, to be transferable from the biological mother to the spouse.

- (2) To the extent that an eligible employee transfers all or part of her entitlement to a maternity payment to her spouse under this clause:
 - (a) references in this Schedule to the employee's entitlement to a maternity payment are references to the eligible spouse's entitlement to a maternity payment; and
 - (b) references in this Schedule to the period of maternity leave are references to the period of parental leave taken by the eligible spouse; and

- (c) the amount of the maternity payment is calculated according to the work circumstances of the eligible spouse; and
 - (d) the entitlement that is transferred is deducted from the transferring employee's entitlement to a maternity payment.
- (3) An eligible spouse succeeds to the maternity leave entitlements of an eligible employee under this clause on the later of:
 - (a) the date of the eligible employee's death or the date when the spouse becomes sole guardian, as the case may be; or
 - (b) the date on which the eligible spouse's bereavement leave in respect of the eligible spouse expires (if any).

6 Applications for maternity payment

- (1) An eligible employee is not entitled to a maternity payment, and an employer is not entitled to a maternity advance, unless the employee makes an application for payment in accordance with this clause.
- (2) The application must:
 - (a) be made before the date on which the employee returns to work or the parental leave otherwise ends; and
 - (b) be made in the manner prescribed in regulations; and
 - (c) specify the matters, and be accompanied by the documents, prescribed in regulations.
- (3) An employer and an employee must comply with any provision in the regulations that requires them to specify matters in, or attach documents to, or sign, an application under this clause or the regulations.

7 Duration of maternity payment

A maternity payment is payable by an employer to an entitled employee:

- (a) for one continuous period not exceeding 14 weeks; or
- (b) if part of the entitlement is transferred under clause 5, for one continuous period per employee, so long as the two continuous periods do not together exceed 14 weeks.

8 Start of maternity payment

A maternity payment is payable by an employer to an entitled employee who is:

- (a) an eligible employee—for a period that begins on the date of commencement of her maternity leave; or
- (b) an eligible spouse—for a period that begins on the date the entitlement is transferred under clause 5.

9 Backdating of maternity payments

The first payment of a maternity payment includes an amount in respect of the period from the start of the period mentioned in clause 8 if the application is approved on or after that date.

10 End of maternity payment

- (1) Subject to clause 7, a maternity payment is payable by an employer to an employee for a period that ends on the earlier of:
 - (a) 14 weeks after the date of the start of his or her maternity payment; or
 - (b) the date on which that employee returns to work or resigns from his or her employment.
- (2) Subclause (1) applies despite the fact that the employee's parental leave may end before that date if:
 - (a) the employee's employment is terminated due to redundancy or dismissal for cause; or

- (b) the employee has a miscarriage or ceases to have the care of the child; or
 - (c) the employee or the child dies.
- (3) However, the period for which a maternity payment is payable to an employee terminates earlier than the date referred to in subclause (1):
- (a) if the employee takes parental leave only from fixed term employment, in which case the payment stops on the date on which fixed term employment ends; or
 - (b) if the employee's spouse succeeds to the maternity payment under subclause 5(3), in which case the payment to the employee stops on the date of succession.

11 Amount of maternity payment

- (1) The rate of maternity payment payable to any employee is the lesser of:
 - (a) the Federal minimum wage as ordered, from time to time, by the Australian Industrial Relations Commission; or
 - (b) 100% of the employee's average weekly earnings (averaged over the 12 months preceding the commencement of parental leave).

Note 1: The Federal minimum wage from May 2002 was \$431.40 per week.

Note 2: As set out in subsection 170KD(9), those who receive a maternity payment are not entitled to receive the maternity allowance and/or the maternity immunisation allowance under the *A New Tax System (Family Assistance) (Administration) Act 1999*.

- (2) If an employee is entitled to receive a maternity payment from more than one employer in respect of a child, the total of those payments cannot exceed the amount mentioned in paragraph (1)(a).
- (3) This maternity payment is to be treated as wage and salary income received by the eligible employee or eligible spouse, as the case may be, for the purposes of taxation, superannuation and other relevant laws and agreements.

12 Amount of payment not affected by other non-statutory entitlements

- (1) An entitlement to a maternity payment under this Schedule is not affected or reduced by any other entitlement that the employee may have under the terms of any employment agreement.

Note: Under paragraph 4(2)(b) of this Schedule, a Commonwealth, State or Territory government employee is not eligible to receive the maternity payment.

- (2) An employer must not, without the agreement of the employee, reduce any other entitlement that the employee may have under the terms of any employment agreement because of the employee's entitlement to a payment under this Schedule.
- (3) An employer who fails to comply with this clause is liable to a penalty imposed by a court of competent jurisdiction under Part VIII of this Act in respect of each employee to whom the purported reduction applies.

13 Employer to be advanced payments out of public money

- (1) Subject to this Act, if an individual is entitled to be paid a maternity payment under this Schedule, the

department must, at such time and in such manner as the Secretary considers appropriate, pay that employer an amount equal to the payment, known as the *maternity advance*.

- (2) Where possible, that maternity advance is to be made before or at the same time as the employer makes a maternity payment to the employee.

14 Method of paying the maternity advance

- (1) A maternity advance is payable on a fortnightly, monthly or lump sum basis, as determined by the regulations.
- (2) Every instalment of the payment must be paid into the employer's Australian bank account specified by the employer for that purpose, unless the Secretary in any particular case otherwise determines.

15 Obligation of employer to notify employee of payment entitlements

Every employer who receives a notice of an employee's wish to take parental leave must, within 21 days after the receipt of the notice, inform the employee of the substance of this Schedule by giving the employee a notice in a form prescribed by the regulations.

16 Obligation to notify early return to work etc.

- (1) An employee must give notice if, during the period for which the employee is receiving a maternity payment under this Schedule:
 - (a) the employee returns to work; or
 - (b) the employee's fixed term employment ends; or
 - (c) the employee resigns from his or her employment.
- (2) The notification must be made in the manner prescribed in the regulations

and specify the matters, and be accompanied by the documents, prescribed in the regulations.

17 Failure to return to work does not affect payment

An employee is not required to refund any maternity payment under this Schedule because the employee does not return to work at the end of his or her parental leave.

18 Obligation to supply information

(1) The Department may, by written notice, request an employee who has applied for a maternity payment, and any employer of that employee, to supply to the Department any information in the possession of the employee or the employer, as the case may be, relating to:

- (a) the employee's entitlement or continued entitlement to a maternity payment under this Schedule; or
- (b) the employer's entitlement or continued entitlement to a maternity advance under this Schedule.

(2) The employee or the employer must comply with a request under this clause within a period of time to be specified by the regulations.

19 Recovery of debts by department

(1) A sum of a maternity advance (an *overpayment*) paid under this Schedule is a debt due to the Department if the sum was:

- (a) paid in respect of an employee in excess of the amount to which the employee is entitled under this Schedule; or
- (b) paid in respect of an employee who has no entitlement to it under this Schedule.

(2) The Department may:

- (a) recover the debt by way of legal proceedings; or

(b) deduct all or part of the debt from any amount payable in respect of that person under this Schedule.

(3) The Department may not recover any maternity advance or part of an advance under this Schedule that was paid as a result of an error not intentionally contributed to by the employer, if the employer:

(a) received the payment in good faith; and

(b) so altered his or her position in reliance on the validity of the payment;

that it would be inequitable to require repayment.

20 Offence to mislead Department

A person commits an offence if, for the purpose of receiving or continuing to receive any payment or entitlement under this Schedule for himself or herself or any other person:

(a) he or she makes any statement knowing it to be false in any material particular; or

(b) he or she does or says anything, or omits to do or say anything, with the intention of misleading or attempting to mislead the Department or any other person concerned in the administration of this Act.

Penalty: 50 penalty units.

21 Regulations

Regulations to implement this Schedule may:

(a) prescribe the manner in which an application for, or other notices relating to, a maternity payment or a maternity advance must be made;

(b) prescribe the information that employees and employers must give in, or the documents that employees or employers must attach to, an application for, or

other notice relating to, a maternity payment or a maternity advance;

- (c) extend the class or classes of persons entitled to a maternity payment or a maternity advance.

Part 2—Other amendments

3 Clause 2 of Schedule 14 (definition of *employee*)

Omit “casual or”.

4 After clause 12 of Schedule 14

Insert:

12A Implementation of reasonable and necessary conditions for working breastfeeding mothers

An employer must ensure that the following reasonable and necessary conditions are met in the workplace for working breastfeeding mothers:

- (a) reasonable breaks from work (but not so as to diminish the length of the working day) to enable a breastfeeding mother to breastfeed a child or express milk;

Note: The ILO recommends two 30 minute breaks in an 8 hour shift in addition to normal breaks.

- (b) provision of suitable and appropriate places for working breastfeeding mothers to breastfeed a child or express milk;
- (c) provision of suitable and appropriate facilities for the storage of breast milk.

5 Clause 2 of Schedule 14 (definition of *continuous service*)

Omit “casual or”.

6 Clause 2 of Schedule 14 (definition of *spouse*)

Omit “of the opposite sex to the employee”.

Schedule 4—Amendment of other Acts
A New Tax System (Family Assistance) (Administration) Act 1999

1 At the end of section 39

Add:

“Normal circumstances” entitlement not effective where individual entitled to and receives maternity payments under the Workplace Relations Act 1996

- (6) A claim for payment of maternity allowance or maternity immunisation allowance is not effective if the claimant is entitled to, or has transferred the entitlement to, a maternity payment in respect of a child under the *Workplace Relations Act 1996*.
- (5) Title, page 1 (lines 1 and 2), omit “**to amend the *Sex Discrimination Act 1984***”, substitute “**relating to pregnancy and work**”.

The amendments relate to paid maternity leave and my attempt to amend the act to implement a national paid maternity leave scheme. They also contain the proposal to which I referred in my second reading amendment, and that is the improved working conditions for breastfeeding mothers. As I outlined in my second reading amendment—and it was certainly an issue touched on by a number of participants in the debate this afternoon—if this government truly wanted to fulfil the needs of Australian women, particularly Australian working women, a great opportunity is here today to implement a national scheme of paid maternity leave. I am aware of the numbers in the chamber at the moment in relation to support for the proposal that I have put forward. Essentially this is an amended version of my paid maternity leave private member’s bill, but I go a little further this time, partly because of the issue that has been a subject of

aspects of this debate, and that is the issue of breastfeeding.

There are three requirements in the amendment that I am moving to ensure that women can successfully combine breastfeeding and being workers. Firstly, lactation breaks enable a mother to express milk or to go and feed her baby. The International Labour Organisation recommends two 30-minute breaks in an eight-hour shift in addition to normal breaks. The other is the flexibility of adding these breaks to the lunch break which would allow a mother to travel to breastfeed her baby. The issue of whether the breaks would be paid or unpaid and whether extra time would be worked is one which could be a matter of negotiation between an employee and an employer. Secondly, in terms of the requirements for a woman to successfully combine breastfeeding with her work, facilities need to be clean and hygienic. There needs to be a private area in which women can express breast milk or breastfeed their babies if, for example, the baby was brought into the workplace. Issues of occupational health and safety may arise if a baby is brought into a workplace. Again, these issues would be a matter for negotiation between an employer and an employee. Lastly, there should be somewhere to store breast milk and related equipment. A refrigerator, freezer, sink and storage facilities would all need to be available.

I have canvassed these issues in the past in this place in relation to proposed amendments to law but also as a key area in which women still fear, or are subject to, discrimination. I hope that the Senate will consider these amendments. I have spoken with relevant parties in the chamber and I understand that the numbers are not necessarily forthcoming but, given that many of the contributors this afternoon spoke very passionately in favour of paid maternity leave, I hope they will see that this is a unique, perhaps a his-

toric, opportunity for us to implement such a scheme.

I am more than aware of the arguments in favour of parental leave and I strongly support those arguments. Senators, I have proposed an efficient scheme that may be an effective first step to seeing that all Australian working women have a basic entitlement at the minimum wage, with the possibility of top-ups negotiated by employers with employees. It seeks to cover all working women. We are aware of the benefits that are already available to women who are not in the work force. This is by no means intended to denigrate those women who are at home; it is just a recognition of the various taxation and other benefits that are already afforded to those women.

This is an opportunity to implement a scheme that is much more efficient and progressive than the baby bonus. Earlier in the debate I supported the second reading amendment proposed by Senator Nettle because, as I outlined in my second reading contribution, the baby bonus is a regressive, inefficient scheme that does not assist a majority of women and does not assist in an equal or fair fashion women who are having babies. It is regressive and expensive. We now have an opportunity for around half the cost of the government's expensive baby bonus to implement a scheme of paid maternity leave.

Senator Ludwig said in his remarks—and I am sure others touched on this as well—that we are one of two OECD countries that do not provide this kind of entitlement for working women. It is an outrage that we do not provide it. We have an opportunity this afternoon to rectify that. I hope that senators will reconsider their positions on the amendments I have moved in relation to a system of paid maternity leave and in relation to breastfeeding and the appropriate

working environment and facilities for women who are breastfeeding or seek to express breast milk.

Senator CROSSIN (Northern Territory) (6.10 p.m.)—We will not be supporting these amendments, but I make it very clear for the record that what they are intended to achieve is something we have supported. I was part of the Senate Employment, Workplace Relations and Education Legislation Committee inquiry into the Democrats' Workplace Relations Amendment (Paid Maternity Leave) Bill 2002. Let there be no doubt about our commitment, if we are elected, to introduce a national scheme of paid maternity leave for Australian working women. But on the basis of the very points we made during that inquiry last year—of which Senator Stott Despoja and the Democrats are aware and which were the subject of a separate report by the Labor Party on that bill—we are not entirely convinced that amending the Workplace Relations Act is the way to do that; nor are we sure that some of these recommendations and amendments are broad enough to cover the range of women who we believe would need to have access to paid maternity leave.

We are committed to supporting the Democrats at some stage in this place on a paid maternity leave scheme for all working women in this country. The details of exactly how that would be extended across Labor Party policy are yet to be released publicly, and our supporting these amendments in any way, shape or form might pre-empt that, for the very reasons that were outlined in our report on Senator Stott Despoja's bill last year through the Senate committee. I will not reiterate them, but those are the reasons for which we are unable to support these amendments to the **Sex Discrimination Amendment (Pregnancy and Work) Bill 2002**. We acknowledge the intent of the amendments. We commend the Democrats

for taking this opportunity to remind the government of its continuing failure to commit to reintroducing paid maternity leave or, indeed, any new policies to help Australians balance their work and family commitments. We stand on our record of publicly supporting paid maternity leave for all Australian working women, whether they be in casual, part-time or full-time employment. But we do not believe that this is the avenue at this point in time through which to achieve that, so we will not be supporting the amendments proposed by the Democrats.

Senator NETTLE (New South Wales) (6.13 p.m.)—Before I make my contribution on these amendments I have something to ask Senator Stott Despoja. On my reading of the amendments it appears that the Democrat proposal in relation to paid parental leave is the same as it was when announced in terms of not providing access to paid leave for women who are casual, self-employed, seasonal or contract workers. I give Senator Stott Despoja the opportunity to correct me if I am wrong in my reading of that.

Senator STOTT DESPOJA (South Australia) (6.14 p.m.)—My understanding is that on those issues it relates to the private member's bill as it currently stands. But, as I indicated in my response to the Senate committee report process, I am more than happy to accept an amendment in relation to that issue if that is the will of the chamber.

Senator NETTLE (New South Wales) (6.14 p.m.)—The Australian Greens will be supporting these amendments moved by Senator Stott Despoja. We do so in the recognition that the proposal being put forward by the Australian Democrats is disappointing in that it does not go far enough to incorporate a paid parental leave scheme in Australia. The Democrats' proposal is for 14 weeks. The Australian Greens recognise that currently in the United Kingdom there are 26

weeks of paid leave available to women. The Australian Democrats propose payments to be made up to a minimum wage. The minimum wage entitlement for this leave scheme allows for replacement wages for 35 to 48 per cent of women in Australia. The Australian Greens propose 18 weeks for paid parental leave, up to average weekly earnings. Having a leave scheme which goes up to average weekly earnings would allow 75 per cent of women to get the replacement wage rather than just the 35 or 48 per cent proposed in the amendments that we are dealing with today.

Another issue in relation to the proposal from Senator Stott Despoja is the opportunity for casual, self-employed, seasonal or contract workers to access this leave. In the leave proposal put forward by the Human Rights and Equal Opportunity Commission and announced by the Sex Discrimination Commissioner, Pru Goward, employees who had worked for 40 of the last 52 weeks or 52 of the last 104 weeks would be able to access the leave entitlement. That would therefore allow those people who were casual, self-employed, seasonal or contract workers on an ongoing basis to be able to access this leave. The Australian Greens believe that is a more appropriate way of encompassing a greater number of women.

The Australian Greens' other concern in relation to the current amendments is that they do not allow for government employees to be covered under the leave scheme proposed. The Australian Greens, in our paid parental leave scheme and in schemes that we support, would like to see all employees able to access that scheme rather than limiting state, Commonwealth and territory employees' access to the scheme. We will be supporting the amendments but we think they fall far short of the international standards and, indeed, standards put forward by the Human Rights and Equal Opportunity

Commission for the way in which we should implement a national paid parental leave scheme in Australia.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.18 p.m.)—The government opposes Democrat amendments (4) and (5). Firstly, in relation to amendment (5), the title is proposed to be amended. The government does not accept that it needs amending in the terms suggested. The bill as proposed by the government is to amend the Sex Discrimination Act 1984 and for related purposes. Therefore, the government opposes the Democrats' proposal to change the title of the act.

More substantially, in relation to amendment (4), the Democrats have included maternity leave as an issue. A bill along similar lines, the *Workplace Relations Amendment (Paid Maternity Leave) Bill 2002*, was introduced into the Senate by Senator Stott Despoja as a private senator's bill on 16 May 2002. The bill was referred to the Senate Employment, Workplace Relations and Education Legislation Committee in September last year. The government committee majority did not support the bill at that time, and the committee made some observations, which I refer the chamber to. I will not go into detail here. The proposed amendment by the Democrats involves the introduction of a significant new government payment delivered through employers. The government believes that, apart from the statements already made in relation to the proposals by Senator Stott Despoja, this is not the place to be dealing with anything of the sort proposed by the Democrats. The proposal is opposed.

Senator STOTT DESPOJA (South Australia) (6.20 p.m.)—I have heard the views of all parties in the chamber. I am not going to delay proceedings because I can see what the will of the chamber is and I am sure we would like to finish this before dinner. I will

just make a couple of comments in response to senators' statements. Fourteen weeks, as many would know, is the ILO standard. While many of us, particularly on this side of the chamber, would like to see an extended period of time, I am working with a standard. When you are dealing with zero weeks, 14 weeks is, I think, a good start.

Similarly, in relation to the percentage of women in the work force who would be covered, I acknowledge the comments of Senator Nettle and similar comments made by Senator Crossin and Senator Ludwig. I do not think we are that far away on this issue. I think our ultimate aim is for a fair parental leave system to be implemented in this country, like in so many other places around the world, but we have to start somewhere. The maximum replacement income under this legislation is 48 per cent. Certainly that is not the ideal, but it is a lot better than what a lot of Australian women are experiencing now, and that is nada—zero per cent, nothing. They do not get paid maternity leave in two-thirds of working environments in Australia today. That is something that by these amendments, obviously, I am hoping to correct instantly.

In relation to the comments by Senator Nettle on the recommendation from the Sex Discrimination Commissioner, I do agree with that recommendation. For those of you who do not know, it is recommendation 5 in Commissioner Goward's report—a very good report, and one that I would have been happy to incorporate. Given that these amendments have been circulating for a long time, I would have been happy to incorporate them earlier and similarly in relation to the coverage of government employees, and that is something maybe we will take on board for next time. But I do not know when the next time will be. We have had legislation, which was not necessarily the ideal but we were happy to go through a Senate commit-

tee process and take on board changes; we have had the Senate committee process; and we have had this debate. When will we actually debate policy and a legislative change that ensures working women have some of the entitlements, if not the same entitlements, of most other women in the OECD?

I do thank senators for their contribution. I particularly thank Senator Crossin for her comments. I am looking forward to seeing the end of the gestation period of the ALP's policy in that area. It sounds like it is private at the moment, but I look forward to seeing it and, indeed, working with her and many others to ensure that one day we do implement a scheme. In the meantime, I can read the numbers. I will accept the will of the chamber but with disappointment.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.23 p.m.)—Before the vote is put and before we complete the committee stage—and not because this bill relates to pregnancy and related matters—the government extends its congratulations to Senator Stott Despoja on her recent marriage.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—The Temporary Chairman extends his congratulations to Senator Stott Despoja, too. The question is that Democrat amendment (4) be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN—The question now is that Democrat amendment (5) be agreed to.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.26 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.26 p.m.)—I move:

That government business order of the day no. 2 (Health Legislation Amendment (Private Health Insurance Reform) Bill 2003) be postponed till a later hour.

Question agreed to.

Sitting suspended from 6.26 p.m. to 7.30 p.m.

MIGRATION AMENDMENT (DURATION OF DETENTION) BILL 2003

Second Reading

Debate resumed from 11 August, on motion by **Senator Abetz**:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (7.30 p.m.)—When the **Migration Amendment (Duration of Detention) Bill 2003** went through the House of Representatives with unnecessary haste in the dying days of the winter sittings Labor indicated that we did not support this bill because of its breadth and its intent. The government wanted to prevent the courts from ordering interlocutory release of people in detention. This is despite the fact that there are very few cases where these interim orders have been granted—and when they have been granted there are very stringent reporting conditions on those released—and this has happened only when credible arguments have been made that the detention has become unlawfully punitive detention.

This bill, as presented to the House, was an unnecessary restriction on the courts in

circumstances where the courts had hardly ever used these powers anyway. Labor did flag at the time that we would be prepared to negotiate with the government a proposal to ensure that criminal deportees and those who have had their visas cancelled on character grounds—section 200 and section 501 persons—were not able to be released on an interim basis. Since that time, Labor have successfully convinced the government to drop its plans in the original bill. Our view has triumphed: the bill in its original form, preventing interlocutory court decisions against all people in detention, was neither fair nor just. We have now come to a negotiated position where people who are in detention under section 200, because of criminal offences or security risks, or people who have had their visas cancelled under the section 501 character test cannot be released at an interlocutory stage by the courts and must wait for final determination. The government has provided examples of the nature of people being held in detention on these grounds, particularly under section 200, and has persuaded us that there are legitimate security and public safety risks which demand a final court determination before release. With the government's amendments moved tonight in the Senate, this will be the full extent of the bill.

Others who are in detention, such as asylum seekers, children and even failed asylum seekers who may have been in immigration detention for extended periods, will continue to be able to apply to the courts for release and the courts will continue to be able to grant interlocutory relief—that is, interim release—pending the final outcome of their cases. Despite our capacity to successfully negotiate on this point, there remain a number of serious concerns of contention between Labor and the government in this area. In the House, Labor moved an amendment to this bill calling for the government to act

immediately to remove all children and their families from behind high-security detention fences and razor wire. The government used its numbers to defeat Labor's second reading amendment. Labor remains committed to this fight to ensure children are urgently moved out of detention and is pleased that this small step, which allows a court to make an interim order for the release of children, has been retained. It is not nearly enough, but Labor will fight each step of the way.

In this context, and given the last few months, the issue of children in detention requires more discussion. Since the end of the last parliamentary sitting, the Minister for Immigration and Multicultural and Indigenous Affairs, Mr Ruddock, has appealed a decision by the Family Court to the High Court, arguing that the Family Court should not have the power to make orders to release children from detention on the basis of the welfare of the children. That jurisdictional question is yet to be heard by the High Court, but the minister is arguing it all the way. In the mean time, the Family Court substantive hearing has occurred and the five children have been released. However, this only happened after the Family Court, in an earlier hearing, rejected an application for interim release. In fact the outcome of this case before the Family Court actually supports the position that Labor has taken in relation to this piece of legislation before us this evening. The fact that the court did not order interim release, or was very cautious about so doing, strengthens Labor's views that the court can be trusted to make such orders only in very limited and carefully assessed circumstances. So why should we tie the court's hands on this? If the minister had his way the Family Court, or any other court, would have absolutely no jurisdiction to make this interim order. In fact the minister thinks the Family Court should have no jurisdiction in these matters, full stop—and he

is going to argue that in the coming months in the High Court. The minister would have us believe that the Family Court is such an irresponsible body that it cannot be trusted with making decisions about children who are under the minister's care in detention centres.

The court has shown itself to be a responsible, considered and highly credible institution, capable of making sensible decisions. The court will, in its deliberations, take into consideration all the relevant facts and come to a decision that it is able to justify in a public and transparent way. It is important to note that the Family Court judge who rejected the initial interim order for release, Justice Strickland, did find that, although in this case he did not believe the children's best interests would be served by temporary release, he did believe there was a case that their continued detention was unlawful. The minister's paranoia about court interventions and interlocutory orders has been shown to be unfounded. This supports Labor's position that courts should not be stripped of the power to intervene in cases where there are justifiable reasons for their intervention and that, where appropriate, courts are able to make sensible and justifiable decisions for interim release of people within detention. It also highlights the minister's unreasonable stance of detaining children at all costs in all circumstances. In fact he seems to be the only person left in Australia who believes that the detention, let alone long-term detention, of children is a good idea.

Labor is fundamentally fearful for the wellbeing of the growing numbers of children who have been in detention for long periods of time. As of 11 August, there were 108 children in Australian detention facilities, including 14 on Christmas Island, and 118 children in detention on Nauru. The vast majority of these children are in high-security detention behind razor wire or elec-

tric fences, with only seven such children in the much vaunted but highly undersubscribed alternative detention centre in Woomera. Because the government insists on effectively holding the fathers and older male children hostage in high-security detention now in Baxter, and only allowing mothers and children out into the alternative low-security housing program in Woomera many miles away, very few families have chosen to take up this option. They cite the problems associated with the 2½-hour drive between the Woomera housing project and the closest detention centre, which is Baxter, as one of the main reasons for not wanting to use this option. For many of the families in even more remote detention facilities such as Port Hedland, Maribyrnong or Villawood, why would they choose to send the mother and children to the desert of Woomera while leaving the father and the older male children hundreds or even thousands of kilometres behind with absolutely no chance of seeing the rest of their family even on short visits?

The whole model is based on a complete lack of evidence that every father or older male child in immigration detention is a security or flight risk and a fallacy that the family bond of people in detention is any weaker than that of other families in Australia. This is why Labor has been arguing for children and their families to be released from high-security detention, where there is no security risk involved, for the sake of the family unit as a whole as well as the sake of children whose future health and wellbeing are being destroyed every minute longer they stay in the inappropriate environment of detention centres built for adults.

By its very nature, this bill demonstrates how inappropriate detention centres are for children by reminding us of the fact that there are people convicted of criminal offences and people of significant security and character risk within these facilities—the

very same facilities that are holding innocent children and teenagers. Our position on the bill was informed by our knowledge that there are some people who have been detained for very long periods indeed, sometimes three, four, five or more years. There is a legitimate argument for some of those people that their detention has become punitive rather than related to their immigration status and for whom an appeal for an interlocutory order for release while their substantive claim is still being processed is warranted.

I am not sure how many people in the Senate or in the general community can comprehend the effect of detention of four or five years on a young child. Some of these children have learnt how to walk, how to talk, how to read and how to play all behind razor wire. Usually they are in the company of loving parents and other family members, but sometimes they are being cared for by people who have been so traumatised by events in their home country and during their journey to Australia that they are extremely distressed, often depressed and sometimes almost dysfunctional with grief and despair at their fate on arrival here.

While Minister Ruddock has made various noises about the needs and interests of innocent children in detention, we have yet to see much more than platitudes on this issue. The minister has the power today and tomorrow—he has had it over the last five years since the large numbers of boat arrivals began—to develop a practical and realistic alternative detention model that acknowledges that high-security detention is not appropriate for the children arriving with their families. We cannot keep waiting.

In fact, only today Senator Allison spoke in this chamber about the minister's lack of action despite his making grand public statements in December last year on the issue of pursuing alternative detention models for

children in immigration detention. We now have only a largely defunct alternative model based at Woomera, despite the fact that the Woomera detention centre has been closed for nearly 12 months and a clear message from families in detention that they are not prepared to enter this facility because of the high price of family separation that it requires. The only families who are still using it seem to be those who believe the only alternative of going back into high-security detention is so untenable that they are prepared to put up with the high cost of potentially permanent separation.

In a civilised Western democracy, we would all agree that detaining someone and depriving them of their liberty is probably the biggest, most significant policy decision that the state—the government—can take against any individual in our society. It would be highly inappropriate to sanction a course of conduct whereby we would wholly rob the court of the jurisdiction to make the determination that someone's detention had become unlawful and put us in a position where people could literally be detained for a lifetime—certainly for some of these children it is their lifetime—and have absolutely no means of having that addressed anywhere.

Under the original form of the bill, it could well have ended up being law that an unaccompanied minor who came here as an unlawful noncitizen at the age of four could still be in detention at the age of 84 because they had nowhere they could go to agitate the case that their detention had moved from being detention under the Migration Act to unlawful punitive detention. That would not be the hallmark of a society with the kinds of values that our society has. Thankfully we have been able to obtain amendments which have been included in the government bill. Labor can now support this bill and ensure that those people who should rightly be given the opportunity to apply for interlocu-

tory orders will be able to do so and those whom we clearly do not think should be easily released into the community are kept in detention until a court finally determines that they should be released or they are returned home.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (7.44 p.m.)—I speak on behalf of the Australian Democrats to the **Migration Amendment (Duration of Detention) Bill 2003**. I have spoken before about the interesting language the government uses to describe some of its legislation. This bill is about ensuring that people in detention continue to have no idea of what the duration of their detention may be. Certainly, the bill as it stands is completely unacceptable to the Australian Democrats. I note what has been said and what has been circulated by way of government amendment, and we are pleased that it significantly reduces the scope of people who will be affected by the content of this legislation. Nonetheless, we do have concerns with the principle underlying the legislation.

There has been a lot of comment, mainly relating to the jurisdiction of the migration area but not solely confined to that, about this government's attempts—particularly this government's—to remove the authority and the jurisdiction of the courts from a range of areas. This trend, if you like, started under the previous Labor government and, of course, the whole mandatory detention regime was put in place by the previous Labor government. As with a few other areas that the Democrats have significant problems with, the coalition government has built on and expanded on the initial precedents and principles that were put in place by the previous Labor government, allowing these sorts of approaches to be taken which attempt to legislate away basic things such as the rule of law and judicial oversight over basic human rights.

The Minister for Immigration and Multicultural and Indigenous Affairs, Mr Rudock, in his second reading speech in the House of Representatives said that the additional subsections contained in this legislation are there to clarify the parliament's intention. I was not around when section 196(3) of the current act was put in place, so I cannot really speak for what the parliament's intention was back then, but I hope that the parliament, and particularly the Senate, takes this opportunity to make clear what its intention is now. I believe our intention as a parliament, as a Senate and as people who should be here to uphold the rule of law and the separation of powers between the executive, the parliament and the courts should be to reaffirm the principle that the courts need some ability to have jurisdiction when they are making decisions—interlocutory injunctions, to use a technical term—as to whether people should be kept imprisoned, which is in effect what detention is, while the court is making its decision. It is not uncommon—in fact it is very common—when there are any judicial proceedings on any number of matters for courts to consider whether somebody that is incarcerated should remain incarcerated while the court makes its decision.

Senator Sherry highlighted the recent case of some children who were released by order of the full bench of the Family Court, even though that matter is, I believe, now going to be the subject of an appeal to the High Court. Basically what it would mean if this bill were to pass as it stands is that any person whom the courts believe should be released from migration detention would nonetheless be required to stay in that detention whilst the government appealed it through every possible avenue. Without going into great detail about why it takes a long time for any sort of appeal to go through every possible avenue, the fact is that it can be and often is a long period of time. The government

makes a lot of noise about how immigration applicants, particularly refugee or protection visa applicants, are tying up the courts and the High Court and slowing everything up. At the same time it is this government and, unfortunately, I would have to say, without breaching whatever standing order it is that reflects on a decision of the Senate, the Senate—which has from time to time agreed to allow amendments to legislation that have restricted avenues of appeal and that have forced appeals to go directly to the High Court and then be remitted downwards and often then to come back upwards again—that cause a lot of the legal logjam. To then turn around and say, 'We should be able to keep people in detention for as long as it takes to get through every step of that process,' simply compounds the error that has been made in the past.

We are talking about detention, and we can do our little bit of sophistry about whether detention equals imprisonment or jailing or whatever, but the fact is that for these people who are detained it really does not matter whether they are in the jail or whether they are in the detention centre they are imprisoned, they are denied freedom, and that is basically what it is all about. Senator Sherry spoke a lot about razor wire and high-security detention, and it was appropriate for him to do so, but of course there are people who are deemed to be in detention who are not behind razor wire. As some senators would know, I have recently been to one of the two camps on Nauru which contains still over 350 people. They do not have razor wire around them. Certainly the one I went to, the larger one, does not have razor wire around it. It has a very small chain fence that would be easy to get through and a front gate that is not even closable, but obviously with security on the front. Whilst razor wire and the like add to the impression of imprisonment, the bigger problem is the lack of free-

dom. When I was on Nauru some of the staff that worked at the facility said to me—quite clearly there are a lot of problems with the facilities at Nauru, do not get me wrong—‘We could be putting these people up in Club Med and the same stresses, depression, mental illnesses, anxiety and suffering would occur.’ It is the lack of freedom that is the clear problem for these people.

Quite frankly, I have a great problem with any piece of legislation that seeks to interfere with the jurisdiction of the courts to determine whether or not people should be free. I think lawmakers, which is what we are, can occasionally underestimate the significance of denying people their freedom. We approach it totally punitively—as payback or as punishment that people require or deserve. Firstly, it always needs to be reiterated that most of the people in immigration detention have not been convicted of anything—indeed, they have not been charged with anything—but, secondly, they have their freedom denied. Most of the people in immigration detention in Australia at the moment have had their freedom denied for a very long time—one year, two years or three years, as Senator Sherry said. Some children have been born in detention centres and others have been in detention centres from a very early age. Spending their formative years in that environment cannot be anything other than damaging to those children. There is an overwhelming weight of evidence that highlights that it is damaging to children to be in that sort of environment for any length of time throughout that childhood phase, yet that is what continually and automatically occurs under our law as it stands. To introduce another law that in any way proposes to increase the chances of children being imprisoned for longer is unacceptable in my view and in the view of the Democrats.

However, as has been mentioned, amendments to this legislation will reduce the

scope of the power the government is attempting to get through this legislation. That is welcomed by the Democrats but is not sufficient in our view. We believe any removal of the jurisdiction of the courts to determine whether or not people should be imprisoned for longer is inappropriate. Imprisonment is a big thing. To remove the ability of courts to determine whether people should stay in that imprisonment I believe is inappropriate. When the amendments are moved in the committee stage, I will highlight some examples of why I think it is still inappropriate even with the reduced scope. But, for the purposes of this particular part of the legislative process, I simply indicate that the Democrats are fundamentally opposed to this legislation and are committed to trying to reduce the length of time that people are in detention, particularly younger people.

As Senator Sherry also pointed out, there are over 100 children—that is, people under the age of 18—detained on Nauru. Senator Sherry said 118. I did not think it was that many, but certainly it is over 100. Fourteen of those children—most under the age of 10 and some under the age of five—have fathers here in Australia on refugee visas. There are nine fathers with 14 kids on Nauru, and all of those fathers have been in Australia for over three years. Their children and their spouses have been in detention offshore—on Christmas Island, on Manus Island and now on Nauru—for nearly two years. As a direct and deliberate result of the temporary visa policy of this government which came into play with the support of the ALP, those children remain separated from their fathers. It was Fathers Day here over the weekend—yesterday, I think.

Senator Sherry—Yesterday.

Senator BARTLETT—Without suggesting that Fathers Day is an inherent custom of Iraqi or Afghani children, nonetheless Fa-

thers Day is about celebrating family, about celebrating bonds between fathers and their kids. Most of the kids I met when I was on Nauru remain separated from their fathers, their fathers who have been here now for over three years. I do not care whatever else the government believes it is achieving with its policies to do with unauthorised arrivals, but any policy that leads to young children being separated from their parents or that leads to spouses being deliberately separated for such long periods of time cannot be justified. Find another way to do what you have to do, but if you are going to damage those kids so much in the process then it cannot be acceptable in my view. I would make the plea, even though it is slightly tangential to this legislation, that the government once again look at ways of bringing those families together other than by forcing all of them to reunite back in the very place where the persecution from which they fled occurred. It has to be emphasised that the people on Nauru do not come under the jurisdiction of this legislation or any legislation in Australia. Of course that is why they have been taken to Nauru—so they are outside any jurisdiction—but the problem of long-term detention and the principle of courts having the final say over whether or not people should continue to be imprisoned remain. That is the principle the Democrats support and that is why we will not support this legislation.

Senator HARRIS (Queensland) (7.59 p.m.)—One Nation supports the efficient and effective removal of unlawful non-citizens from Australia. One Nation supports the **Migration Amendment (Duration of Detention) Bill 2003**. The bill will ensure that a person in an immigration detention centre cannot be released on the basis of ongoing court proceedings and the possible outcomes of those proceedings. All unlawful non-citizens in Australia must be detained and, unless granted permission to remain in the country

through the grant of a visa, they must be removed as soon as practicable.

This mandatory detention policy was set into legislation with bipartisan support in 1992 and endorsed through a major parliamentary inquiry in 1994. Mandatory detention applies to visa overstayers as well as unauthorised arrivals. However, people who arrive illegally or who overstay their visas can apply for refugee status or for a bridging visa. The Migration Act 1958 includes section 196, which provides:

(1) An unlawful non-citizen ... must be kept in immigration detention until he or she is:

- (a) removed from Australia ...
- (b) deported ... or
- (c) granted a visa.

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

In the recent past, the Federal Court has ordered the release of several migration detainees and their release has been argued on the basis of subsection 196(3). There is nothing in the section which expressly or implicitly prevents the full Federal Court from ordering the release on an interlocutory basis of a person who establishes that there is a serious question to be tried regarding the lawfulness of that person's detention.

I want to place very clearly on the record what the interlocutory basis is. It is where the respective lawyers for the parties provide each other with the issues relating to what is being repealed. It can take a considerable time for the legal representatives of both parties to eventually come to a point where the situations that they do not agree on are clearly definable. That is what the interlocutory process is. So resolving the question and establishing whether a person may stay in Australia is a lengthy and protracted process.

The average time for a migration case is up to 540 days. A person may be released into the community for a year and a half under an interlocutory order and all the while there is a cloud over whether that person's character may be of some concern.

This is problematic. For example, a person's visa is cancelled and they go to an immigration detention centre. They are to be permanently excluded from Australia. However, under the loophole in subsection 196(3), they have the right to appeal the cancellation of the visa and drag it out for a year and a half through the courts. But the court is saying, 'Let them back into the community while the interlocutory process occurs.' This raises a very important issue of character concerns. As the Minister for Immigration and Multicultural and Indigenous Affairs, Mr Ruddock, stated in his second reading speech:

... it is essential that the government can determine whether a non-citizen of character concern should be in the Australian community or should be removed from Australia. Without the amendments in this bill, persons of significant character concern may continue to be released into the community until the court finally determines their application. This situation may continue for several months, and it is most undesirable.

So what are the character concerns? Let me detail some information about persons of significant character concern.

Section 501 of the Migration Act 1958 includes a character test to make certain that visa applicants—that is, people seeking to migrate to Australia—and visa holders are of acceptable character. The onus is on visa applicants and holders already in our country to prove that they are of good character. Here are some examples of people who would fail the character test: a person with a significant criminal record; a person who has been incarcerated for 12 months or longer or sentenced to death or life imprisonment; a per-

son sentenced to two or more terms of imprisonment, whether on one or more occasions, where the total of those terms is two years or more; a person acquitted of an offence due to unsound mind or insanity; and, lastly, a person who is likely to engage in criminal conduct, harass, molest, intimidate or stalk another person in Australia, vilify a segment of the Australian community or incite discord in the Australian community or in a segment of that community. These are the sorts of people that could be released by the courts based on interlocutory orders. It is quite obvious that the legal loophole must be closed. The minister has noted that since mid-2002 there have been more than 20 persons released on an interlocutory basis—more than 10 of these have involved persons who were of character concern, including persons with convictions for offences such as rape, armed robbery and drug trafficking. These people while they are released into our community are a threat to the public and to Australia's security.

We have heard a lot from the opposition and some sections of the media about detention centres. Let me put on the record that the people in detention centres are there because they are appealing the decisions of the Migration Review Tribunal or the Refugee Migration Review Tribunal. These are people who have been determined to be here illegally in Australia. If they were to accept the decision of the arbiter and voluntarily leave Australia, they would not be in detention. So the fact that they are in detention is a wilful decision of their own making. It is not society saying, 'We want to lock you up.' Those people themselves are making a conscious decision to access the appeals sections of our criminal process. They go to the Federal Court and the full Federal Court and then they can go up the ladder to the High Court, and they do, and should, stay in detention throughout this period.

These systematic court proceedings are waged at a horrendous cost to the Crown—and that is to you and me, the Australian people. The Australian National Audit Office report No. 32 of 1997-98, *Performance audit: the management of boat people*, gives an indication of what these costs might be. At page 116 it states:

The highest expected cost occurs for a person whose case goes through all the processes in the refugee determination system up to and including the High Court. For such a case, the expected cost is \$270,000 per person.

This is the cost we incur because a person who has been determined to be here illegally then decides to access the full appeal process. This cost is borne by the Australian people, and for every one of those people there is \$270,000 that is not going into our health system, that is not going into our schools and that is not going into facilities for the Australian people. This is a travesty and this is why One Nation definitely supports the government's process. If we were to turn around and do the reverse, then there is absolutely no disincentive for any person not to go through the appeal process. When you consider the cost to the Australian people, that is not acceptable. The costs are quite significant, and so too is the length of time that it takes for a case to be progressed. As I said earlier, it is in excess of 540 days.

In 1999-2000 an average case took 197 days in the Federal Court. I am not saying that they were in the court for 197 days. I am saying that it took 197 days for the process to proceed. If it were appealed to the full Federal Court, that took an additional 149 days. If they then went on to the High Court and accessed the appeals process, it took a further 189 days. So in 1999-2000 the average period was 535 days. In 2001 it dropped slightly to 169 days. But again in 2002, when more than 20-odd people accessed this process, we were back up to 149 days in the Fed-

eral Court, 156 days in the full Federal Court—that is the appeal court—and then 245 days for the appeal to be processed by the High Court, a total of 550 days. This year, 2003, that average is standing at 540 days, and this is unacceptable. These are people who have been through the courts and initially through the assessment process and deemed not to be suitable, or not eligible, to stay within Australia.

I note Labor's proposal for a special committee to review the asylum claims. This would add yet another layer of appeal with more delays and additional cost to the taxpayer. One Nation opposes that scheme. One Nation believes that unlawful noncitizens must have their status resolved before being released into the community. Persons in detention must not be released on an interlocutory basis until their legal appeals are finalised and all necessary documentation is completed. If their claim is found to be lawful and they are allowed into Australia and are not subject to the Migration Act's detention provisions, then we wish them well.

Senator KIRK (South Australia) (8.14 p.m.)—When the **Migration Amendment (Duration of Detention) Bill 2003** went through the House of Representatives with great haste in the final days of the last sitting session, Labor indicated that we would not support the bill because of its scope and purpose. The effect of the bill in its original form was to prevent the courts from ordering the interlocutory release of people in detention. This was despite the fact that there are very few cases where these interim orders have been granted. Where they have been granted, there are usually very stringent reporting conditions on those who are released. It is only when credible arguments have been made that the detention has become unlawful, punitive detention.

When this bill was presented to the House of Representatives, it was an unnecessary restriction on the power of the courts in circumstances where the courts very rarely used the powers in any event. Labor indicated at the time that we would be prepared to negotiate with the government—to negotiate a proposal to ensure that criminal deportees and those who had had their visas cancelled on character grounds under section 200 and section 501 were not able to be released on an interim basis. We were happy to support that as a compromise. Since that time, Labor have successfully convinced the government to withdraw the plans in its original bill, and we now have before us the bill that we are debating here this evening.

As a consequence, Labor's view triumphed. As I said, in its original form the bill would have prevented interlocutory court decisions against all people in detention, which we saw as neither fair nor just. It appears that the government has now accepted that position. A negotiated position has been reached so that people who are in detention under section 200 because of criminal offences, because there is a security risk or because they have had their visa cancelled under section 501 and cannot be released into the community at this interlocutory stage by the courts must await final determination before the courts before they can be released. With the government amendments moved today, this will be the full extent of the bill. It is a much modified bill compared with the one that was before the House of Representatives.

Despite the ALP's success in negotiating this position with the government, there remain a number of most significant issues of disagreement between the opposition and the government. In the House of Representatives, Labor moved an amendment to the bill that called for the government to act immediately to remove all children and their fami-

lies from behind high-security detention fences and razor wire. As we have heard here tonight, the government used its numbers in the House of Representatives to defeat Labor's second reading amendment.

Last month, I and the shadow immigration minister, Nicola Roxon, visited the Baxter detention centre, which is the sole remaining facility in my home state of South Australia. I had been to the Baxter detention centre before; Ms Roxon had not. I visited the Baxter detention centre in August last year before it had opened and before any detainee had set foot in the facility. Since I entered parliament, I have had the opportunity to visit the Baxter detention centre, the Port Hedland detention centre and the once operational, and fortunately now closed, Woomera detention centre in my state of South Australia. My visits to these three centres have certainly made it clear to me that there has to be a better way of detaining people in this country.

The opposition have made clear on numerous occasions that we believe that children should not be behind barbed wire, razor wire or electric fences. We believe that we should not punish the children of asylum seekers who, through no fault of their own, have found themselves on our shores. After all, they are just children. They have a whole life ahead of them. Yet this government chooses to keep them locked up, hidden as though they are some kind of menace to our society.

As I said, I have visited the Baxter detention centre and seen first hand the environment in which we are keeping child asylum seekers. On both occasions that I visited there, I was greatly disturbed and found myself experiencing physical and emotional discomfort when I saw in particular the bars on the windows in the classrooms in the Baxter facility. When I left there, I wondered

what sort of life these children could possibly lead. What sort of childhood are we as a country giving these children?

Today we hear much about the value of safety and security during the early years of a child's life. But, rather than giving the children in these detention centres their childhood, we are locking them up behind razor wire. Putting aside any judgment that people may wish to lay upon the asylum-seeker parents, the essential principle here is that the children have done nothing wrong. They do not deserve to be punished; they do not deserve to be locked away.

A compassionate, caring, modern society, I would think, would ensure the best possible circumstances for a child's upbringing. I would like to believe that Australia is a compassionate and caring society. There is no human rights principle so paramount as the principle of the rights of the child. Australia must embrace its human rights obligations, not only because this is the expectation of the international community but also because we believe in them. We in Australia must surely believe that it is in every child's best interest not to be behind razor wire, not to learn in a classroom with bars on the windows and not to be subjected to imprisonment without cause. Everyone would agree, I think, that children need freedom. I would like to believe that this country values that freedom, encourages that right and sees children as its future. This is what we expect of the rest of the world, and this is what must happen on our own shores.

This is not just an issue about international obligations, statutes or security, even though these things are important. It is an issue about compassion and freedom. It is an issue about Australian values and the Australian fair go. Australia's international reputation on this issue has become tarnished to the extent that last year the then United Nations

High Commissioner for Human Rights, Mrs Mary Robinson, sent a delegation, headed by Justice Bhagwati, to investigate our immigration detention centre. I quote from the report of his mission to Australia:

He felt that he was in front of a great human tragedy. He saw young boys and girls, who instead of breathing the fresh air of freedom, were confined behind spiked iron bars with gates barred and locked preventing them from going out and playing and running in the open fields. He saw gloom on their faces instead of the joy of youth. These children were growing up in an environment which affected their physical and mental growth and many of them were traumatized and led to harm themselves in utter despair.

One would expect that damning comments such as these from an international human rights investigator would refer to far away, more desolate and disadvantaged parts of the world than to Australia in 2003. These damning comments about the conditions in which children are detained have been reiterated in a report released recently by a QC from South Australia, Robyn Layton, and commissioned by the South Australian government. One of Ms Layton's recommendations was to see the release from detention centres of children and their families.

This should not be a party-political issue. In this place one would hope, irrespective of party membership, that members should be able to put aside their differences and what might seem to be electorally popular or unpopular, and support the fundamental human rights of these children. In October last year the member for Sydney, Tanya Plibersek, and I began to compile a document tracking the number of children in detention centres in Australia, Nauru and Papua New Guinea. The first edition of the document came out in October last year and there was one released in April this year. Our investigation demonstrated that in October last year there were no fewer than 309 children in Australian con-

trolled detention centres. As at February 2003 that figure had risen to 336. On any assessment, this number is far too high. For anyone who is interested in a breakdown of more recent figures, they are available on my web site or from me or Ms Plibersek. The reason these numbers are so disturbing is that these children are just children; they are not illegals.

I have had the opportunity to visit the Baxter detention centre, Port Hedland and also the Woomera detention centre, which fortunately has now closed. On my travels up that way I also visited the Woomera Residential Housing Project in my state of South Australia. From my visit there I think there is no question that the Woomera alternative detention trial is a vast improvement on the detention centres proper that I have visited. Most people would be familiar with the trial. Essentially what occurs is that, while being processed for their refugee status, the women and children who are part of the housing project are able to live in what one would call reasonably comfortable surroundings and take care of themselves. The houses are fully equipped and have beautiful gardens, complete with an Aussie Hills hoist in the backyard. People have the freedom to move around within their houses and gardens. It has been shown that there have been very few, if any, disturbances and no escapes from the housing project, and the children have been able to grow up in a peaceful and stable household, as all children should.

We were told in December last year by the minister for immigration that the government had an intention to transfer more children into alternative detention arrangements such as those at the Woomera housing project. Unfortunately, this has not occurred for a number of reasons. One of the problems that has occurred is that, with the closure of the Woomera detention centre, the women and children who were in the housing project

were given the choice of either staying in the housing project and being separated from their husbands and fathers who were being moved from the Woomera centre to Baxter, some 150 kilometres away, or moving with them to the Baxter centre. As a consequence, a number of the women and children made the choice, which is understandable, to move with the husbands and fathers to Baxter so as to avoid the tyranny of distance between the two destinations. During my visit to Baxter I was informed that there are measures in place to establish an alternative housing project in the Port Augusta township, but it is only in its very early stages. It seems that, for the time being, women and children are going to remain in the Baxter detention centre.

It is clear to me that when children are held in detention they experience far too much that they should never have to experience. We know that they witness riots, suicide attempts, hunger strikes and other forms of self harm at a time when they should be witnessing friendship, love, affection and such programs as *Playschool*. On the *Sunday* program in May 2002, reporters interviewed some of the children who have been in detention in Australia, often for years at a time. One of these child detainees named Zainab described the situation as:

... like when you put a bird in a cage and you feed them but you don't let them go.

Another child, Ashgar, said quite simply and shockingly:

I felt like I was in jail, that's all.

The arguments for keeping children out of detention are not only moral, ethical and legal; they are medical and psychological. This government's policy is putting a significant number of innocent children in conditions where they are exposed to severe psychological harm. This is not acceptable and it must be stopped. I referred before to some work that Ms Plibersek and I had done in

relation to this issue. We managed to gather together some of the statistics about child detainees in this country as of late last year. We found that the longest period that a child has been detained in this country was five years, five months and 20 days. As of December 2002, there still remained five unaccompanied minors in detention centres, and at that point there were no auditing arrangements for the provision of schooling in detention centres.

The legislation before us, as I have said, does represent a significant compromise and Labor is able to support it as it is presented. But I also want to refer to the recent case that has arisen in my state of South Australia in relation to the five children who were released from detention a few weeks ago. As has been mentioned here in the chamber tonight, the decision of the Family Court as to whether it has jurisdiction to make decisions in relation to the welfare of children in detention has been appealed by the minister. He has indicated that he wishes to take that matter to the High Court for its determination. I think that is a most unfortunate decision on his part, but we will await the ruling of the High Court on that. In the meantime, on the substantive issue in the Family Court, most people would be aware that the initial decision made by Justice Strickland in the Family Court was not to release the five children into the community. Even though he found that their detention was unlawful, he decided that, at that point, it would not be in their best interests to be released into the community. Subsequently, the full court of the Family Court has reversed this decision and I am pleased to say that the five children in question have now been released into the care of community groups in my home town of Adelaide. They are going to school and living free lives, as children ought to.

If the minister had had his way, the Family Court, or any other court, would have had

absolutely no jurisdiction to make these sorts of orders. It seems that the minister thinks that the Family Court should have no jurisdiction in these matters full stop. He seems to think that the Family Court and I suppose all other courts are irresponsible bodies that cannot be trusted with the power to make decisions about children who are under the minister's care in detention centres.

As I said earlier, the Labor Party are able to support the legislation in its amended form. We are pleased to do so because it is going to have the effect of seeing children—other than the five children who were released recently—being released from high-security detention when no security risk is involved. This of course will be of benefit not only to the children but to the families involved. It is crucial to their health and wellbeing, which would only be destroyed and undermined by continued detention. To sum up: the Labor Party were unable to support the bill in its original form, but in view of the amendments that have been presented we think it is a bill that needs our support. It should ensure that those persons who need not be held behind razor wire in high-security detention can, following an order of the court, be released into the community.

Senator WONG (South Australia) (8.33 p.m.)—I rise to speak only briefly on the **Migration Amendment (Duration of Detention) Bill 2003**, given the government's amendments, but I do want to make a couple of points about the process and the political agenda of the government and the way this bill has been handled. This government obviously thinks it has a pretty good game plan in continuing to try and drum up fear of asylum seekers as a political issue. Just when some very significant allegations regarding cash for visas were aired in the last sitting period of the parliament, we had this urgent bill—surprise, surprise!—rushed through the lower house in the dying days of those last

sittings. The government trumpeted how important it was for the bill to be passed urgently, that it would be a dreadful thing if the bill was not passed, that it would not compromise on the legislation—one would have thought the sky would have fallen in. Frankly, what we have seen is that the government failed to gain any political traction with that approach.

Just maybe, the media and the public are starting to wake up to the game plan. There are only so many card tricks of that sort you can pull. Because you got no political mileage out of it, you have now come up with amendments that are precisely those that our then shadow minister indicated we would be prepared to consider and that were reasonable. These are reasonable amendments. Those that you had proposed were totally unreasonable and were not justified on the basis of the decision which you said the bill sought to address. Nevertheless, you again attempted to make political mileage and play on the fear of ‘the other’.

It is a bit like what happened with the ASIO bill, when we all had to sit here until the dying hours of the morning because you would not compromise on the legislation because it was going to be dreadful and there would be all these terrorists in Australia. But—surprise, surprise!—when you failed to gain political traction on that issue you came to a compromise with the Labor Party, largely and substantively in accordance with the principles and items that we had indicated to you at that time. So I make the point that the clear political agenda of this legislation was, yet again, to try and drum up more fear in the community about asylum seekers—that the courts would somehow release all these dangerous people into our communities. You failed in that agenda and now you have to put up a significantly amended bill because you simply cannot get the political

support to put forward the bill as it originally was.

I will comment very briefly about the original bill. Frankly, it was quite a draconian piece of legislation seeking to prevent the courts from properly considering the circumstances of asylum seekers whose detention may not be lawful and who have a case to argue in respect of that. I understand that the government’s assertion that the legislation was urgent and necessary arose from the VFAD decision. The draconian character of the bill is demonstrated by the provisions of subsections 4 and 5 of section 196 of the bill as it then was, which stated that detention was to continue until a court finally determined that detention was unlawful or the detainee was not an unlawful noncitizen and, moreover, that that rule would apply regardless of whether there was a real likelihood of removal or deportation in the reasonably foreseeable future or of a judgment as to the lawfulness of a decision relating to a visa.

The bill sought to prevent or limit courts from issuing interim orders for the release of migration detainees. As I think the shadow minister’s representative in this chamber, Senator Sherry, has gone through previously, those persons fall essentially into three categories: failed asylum seekers, which was the category that the minister unsuccessfully sought to make political mileage from; criminal deportees; and persons whose visas have been cancelled for character reasons under section 501 of the Migration Act. Any reasonable reading of the decision the minister said required this urgent legislation would, I think, have indicated that this legislation in the form in which it was previously presented was unnecessary.

The authority the VFAD decision essentially stood for was that the Federal Court could order, in appropriate circumstances and if the case had been proved, interim re-

lease from detention of persons who had a case to argue about whether or not their detention was lawful. The chamber may recall that the particular facts of the case were that the asylum seeker in question, having obtained through various legal means a copy of his file as held by the department, could demonstrate that there had been a decision not acted upon to grant a protection visa. It was a case extremely limited on its facts and, frankly, quite a reasonable proposition. I would have thought that even supporters of the government's system of detention could hardly have seen this decision as a nail in its coffin.

As I said at the outset, we are pleased that the government has seen sense—although, for the reasons I have outlined, I do not think it was for any reason of principle—and has limited the application of the amendments to people who are criminal deportees or security risks and people who have had their visas cancelled under section 501. For that reason, the opposition have indicated that we will be supporting the legislation.

Senator HARRADINE (Tasmania) (8.39 p.m.)—I do not think it helps a great deal, if we are looking at bipartisanship in an area, to impute motives to others. I would just like to congratulate the government for seeing sense in respect of this matter and Senator Sherry and the Labor Party for bringing this about as well—for the ability to negotiate important changes to such an extent that even I will be able to vote for the **Migration Amendment (Duration of Detention) Bill 2003**. I thank them for that.

It is clear that these devices—these court actions—will not be possible to implement where there is a failure of the character test. That includes consideration of a number of factors which are listed in the bill, including whether the person has a substantial criminal record; the person's past and present general

conduct and character; and whether, if the person were allowed to remain in Australia, there would be a significant risk that the person would represent a danger to the Australian community. I think that is important.

I would like to raise again the issue of children in detention. I have had the opportunity to go around detention centres, including Woomera and Baxter, and the effect that detention has on children concerns me considerably. I know there is an argument that the parents of the children should not have exposed them to this sort of risk, but in the final analysis we really have responsibility for those children who are living in Australia.

Bear in mind—and it is very interesting indeed—a report by Britain's Chief Inspector of Prisons, Anne Owers, written in October 2002 which was only made public a month or so ago. The report is entitled *An inspection of Dungavel Immigration Removal Centre*. The conclusion Her Majesty's Chief Inspector of Prisons came to is this:

This confirms our view, expressed in other reports, that the detention of children should be an exceptional measure, and should not in any event exceed a very short period—no more than a matter of days. The key principle here is not the precise number of days—whether it is the seven days we proposed for short-term removal centres in England, or the two weeks beyond which even their educational needs cannot be guaranteed, in spite of the better, and improved, facilities at Dungavel. It is that the welfare and development of children is likely to be compromised by detention, however humane the provisions, and that this will increase the longer detention is maintained.

We should have regard to that and to the evidence that has been given to the Human Rights Subcommittee of our Joint Standing Committee on Foreign Affairs, Defence and Trade over a period of time.

Putting children in immigration detention centres is, I believe, completely unacceptable for any period of time. We have to find a solution to this particular problem, and that solution should put the best interests of the children first. There is a good deal of thought being given to this, and I do not want to criticise the Department of Immigration and Multicultural and Indigenous Affairs or officers, because this is something for all of us to approach.

Ironically, the Owers report in England caused a great controversy when it discovered that four children had been held in detention there for over a year. By contrast, as we have heard during the debate, Australia has had many such cases. The case dealt with by the full bench of the Family Court is but one. The children in that case had been held in detention for over 2½ years. A recent media report in August stated that one of the children:

... pictured himself in terms of “sadness, grief and disbelief that he could be perceived as someone bad enough to be incarcerated for such an extensive period”.

The boy had harmed himself and suffered self-doubt and disturbed sleeping patterns. None of us have a monopoly on compassion. But I feel that jointly we should all sit down and see how we can devise another system or another regime which will put the interests of the children at heart and maintain the interests of Australians and Australian taxpayers.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.47 p.m.)—I thank senators for their contribution to this debate. I remind the Senate that the purpose of the **Migration Amendment (Duration of Detention) Bill 2003** is to restate and uphold the intention of section 196 of the Migration Act 1958. Section 196 provides that an unlawful non-citizen must remain in immigration detention until he or she is re-

moved from Australia, deported or granted a visa. Section 196 makes it clear that there is to be no discretion for any person or any court to release an unlawful non-citizen from detention until one of these three events occurs. However, in spite of the clear intention of section 196, a trend has emerged since the middle of 2002 for the Federal Court to order the interlocutory release of persons in immigration detention. This means that unlawful non-citizens must be released into the community before the court has finally determined their application for review.

The bill in its present form amends section 196 of the act to put it beyond doubt that there is no discretion for any person or court to release a person from immigration detention until a court has finally determined that the detention is unlawful or the person is not an unlawful citizen. The bill in its present form, as I said, amends section 196. It does so to apply to all unlawful non-citizens in immigration detention. During debate in the other place the opposition indicated that it would not support the bill in its current form but it would support it if its effect were narrowed. I foreshadow that the government intends to move amendments to the bill so that the bill only applies to unlawful non-citizens who are of character concern. In doing this I also foreshadow that further legislation will be brought in at a later date to deal with the remainder of the issues.

Specifically, the proposed amendments to the bill narrow the application of the bill to persons who have been detained because either their visa has been cancelled on character grounds under section 501 of the act or they are awaiting deportation from Australia under section 200 of the act. That is where their deportation has been ordered because they have certain criminal convictions or because they pose a threat to national security. The amendments will apply to such persons regardless of whether there is a real

likelihood of that person detained being removed from Australia or deported in the reasonably foreseeable future or whether a visa decision relating to the person detained is or may be unlawful.

There have now been more than 20 persons released from immigration detention on the basis of interlocutory orders made by the courts. In about half of these cases, the persons released are of significant character concern. They include persons with convictions for serious offences such as rape, armed robbery and drug trafficking. Many of these persons are in the process of being removed from Australia, and their release would represent a significant threat to the Australian community. Given that the courts have now demonstrated an increased willingness to release persons from immigration detention pending final determination of their case, it is absolutely crucial that the bill is passed, as amended, as a matter of urgency.

The government acknowledges that it is accountable to the Australian public in ensuring the safety of persons within our community. With this in mind, it is essential that the government can determine whether a non-citizen of character concern should be in the Australian community or should be removed from Australia. If the bill is not passed, a person of character concern could be in the community for several months until their court case is finalised. This is a most undesirable consequence. In summary, the amendments contained in this bill will enhance the safety of the Australian community by ensuring that persons of character concern are not released before the courts finally determine their cases. This is a very important bill, and I commend it to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.52 p.m.)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 18 August this year. I seek leave to move government amendments (1) to (4) together.

Leave granted.

Senator ELLISON—I move government amendments (1) to (4) on sheet PA222:

- (1) Schedule 1, item 1, page 3 (lines 7 to 10), omit subsection (4), substitute:
 - (4) Subject to paragraphs (1)(a), (b) and (c), if the person is detained as a result of the cancellation of his or her visa under section 501, the detention is to continue unless a court finally determines that the detention is unlawful, or that the person detained is not an unlawful non-citizen.
 - (4A) Subject to paragraphs (1)(a), (b) and (c), if the person is detained pending his or her deportation under section 200, the detention is to continue unless a court finally determines that the detention is unlawful.
- (2) Schedule 1, item 1, page 3 (line 11), after “subsection (4)”, insert “or (4A)”.
- (3) Schedule 1, item 1, page 3 (after line 17), after subsection (5), insert:
 - (5A) Subsections (4) and (4A) do not affect by implication the continuation of the detention of a person to whom those subsections do not apply.
- (4) Schedule 1, item 2, page 3 (line 26), omit “196(4), (5), (6) and (7)”, substitute “196(4) to (7)”.

The amendments are important in that they somewhat narrow the focus. Firstly, government amendment (1) introduces a new proposed subsection (4). The new proposed subsection provides that, if a person is detained because their visa was cancelled on character grounds under section 501 of the act, their

detention will continue until the final determination of substantive proceedings relating to either the lawfulness of their detention or whether they are an unlawful non-citizen. Government amendment (1), I believe, is a fairly straightforward amendment.

Government amendment (2) introduces a new proposed subsection (4A), which provides that, if a person is detained because they are awaiting deportation from Australia under section 200 of the act, their detention will continue until the final determination of the substantive proceedings relating to the lawfulness of their detention. The amendments retain existing subsection (5) of the bill. Thus the amendments will apply to the two groups of persons I have just described, regardless of whether there is a real likelihood of the person detained being removed from Australia or deported in the reasonably foreseeable future and whether a visa decision relating to the person detained is or may be unlawful.

Government amendment (3) introduces a new proposed subsection (5A). This new proposed subsection ensures that the new proposed subsections (4) and (4A) just mentioned do not affect persons in immigration detention in other circumstances. In other words, persons who are detained not as a result of their visa being cancelled under section 501 or who are awaiting deportation under section 200 will not be affected by the proposed amendments.

These amendments will provide an immediate response to the worrying recent trend for courts to release persons of character concern before the final resolution of the court case. There have now been more than 20 persons released from immigration detention on the basis of interlocutory orders made by courts. In about half of these cases, the persons released are of significant character concern, including persons with convictions

for serious offences such as rape, armed robbery and drug trafficking. As I said earlier, many of these people are in the process of being removed from Australia and their release would represent a significant threat to the Australian community. Given that the courts have now demonstrated an increasing willingness to release prisoners from immigration detention pending final determination of their case, it is absolutely crucial that the bill be passed with these amendments.

The government also wishes to foreshadow that it intends to introduce a new bill to cover the broader concerns in relation to the interlocutory release of all persons from immigration before the final resolution of their court proceedings. The intention of this new bill will be to uphold the principle of mandatory detention of all unlawful non-citizens under the Migration Act. This principle has been part of migration law since its introduction by the Migration Reform Act 1992, which commenced on 1 September 1994.

In moving these four amendments, the government acknowledges that it is accountable to the Australian public for ensuring the safety of persons within our community. With this in mind, it is essential that the government can determine whether or not a non-citizen of character concern should be in the Australian community or should be removed from Australia. If the bill, as amended, is not passed, persons of character concern can be in the community for several months until their court cases are finalised. This is a most undesirable consequence. In summary, the amendments contained in this bill will enhance the safety of the Australian community by ensuring that persons of character concern are not released before the courts finally determine their case. I commend these amendments to the chamber.

Senator BROWN (Tasmania) (8.57 p.m.)—Having voted against the second reading of this bill, I ask the minister this: can he give the committee an example of another piece of legislation in Australia where people who are innocent are arraigned or detained under the same laws as people who are guilty? He talked about people of character concern and he mentioned people who had been convicted of rape, armed robbery and other crimes, but he did not distinguish between them and the people who were entirely blemish-free with regard to such crimes. He made it clear that he wants all, regardless, to be locked up, because of the worry about the unsavoury characters that he mentions. Does the minister know of another law in the Australian statute book where, to detain people whom the government believe should not be abroad in the community, others are detained whom the government has no case against in terms of their safety to the community?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.59 p.m.)—I think Senator Brown misunderstands the operation of section 501 and section 200 of the act. Section 501 deals with people of character concern and section 200 deals with people who are being deported. If I understand Senator Brown correctly, he is saying, ‘Show me another piece of legislation where the presumption of innocence is overridden and someone is treated in the same way in the absence of a conviction.’

Senator Brown—No.

Senator ELLISON—I clearly understood that Senator Brown—he is shaking his head—was saying that by taking this action on detention we are pre-empting any decision in relation to the fact or otherwise of these people being of character concern. Perhaps Senator Brown can correct me there.

Senator BROWN (Tasmania) (9.00 p.m.)—The minister told the committee that there were some 20 people who had been given interlocutory release by the courts and half of these—he did not specify the figure—were people who had been villains and were not safe in the community. I read from that that half of them are not villains and are safe in the community. I ask the minister this: what is the difference in the treatment of the two groups of people? And, if he cannot show a difference in the treatment of the two groups of people, where else in the law has such a situation happened?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.01 p.m.)—As I understand it, there were more than 20 people released from immigration detention. In about half of these cases the persons released were of significant character concern. It is that cohort of people that this bill is designed to deal with. The other half of the cases related to asylum seekers. This bill is designed to deal with those people who are covered by section 501 or section 200. I foreshadowed another bill, which is about to come in, which will deal with the cohort of the other 20-odd people whom I mentioned.

Senator Brown—And treat them in the same way?

Senator ELLISON—The bill that I foreshadowed will deal with them in the same way, as I understand it—but that bill has not yet been introduced. That bill is not before the parliament and I merely foreshadow it. You must remember that that is a very different proposed piece of legislation to what we have here. I do not intend to debate that foreshadowed bill here and now but I merely mention it to distinguish the difference between this bill—dealing with those people who are of character concern under section 501 or subject to deportation under section

200—and the bill dealing with the others. My purpose was merely to highlight the difference, which I think Senator Brown appreciates.

Senator SHERRY (Tasmania) (9.02 p.m.)—I would like to indicate, on behalf of the Labor opposition, that we will be supporting the four amendments. As I indicated in my speech on the second reading on behalf of the Labor opposition, these represent a substantial change to the original legislation that was rushed through the House of Representatives in the dying days of the last sittings when it was almost as though the world would end if we did not pass, post-haste in this Senate chamber, the original bill as presented to the House of Representatives. However, the government has accepted some substantive points that the Labor Party has made, and those are reflected in the four amendments before us this evening. These four amendments ensure that people being deported under section 200 because of criminal offences or security risks or people who have had their visas cancelled under section 501, the character test, cannot be released at an interlocutory stage by the courts. They must await final determination. I have not seen the legislation that the minister has foreshadowed with respect to these 20 persons who have been released at an interlocutory stage by the courts. Obviously we will determine our position when we see the detail of that legislation.

I would like to make a final point about ensuring that, in future, individuals who have committed a criminal offence, are a security risk or fail a character test are maintained in mandatory detention. Senator Harris made the point that everyone should be kept in mandatory detention and that it was dreadful that there was any opportunity for these types of people to be released into the community under any circumstances. We are making sure that they are not going to be

released into the community. I just highlight the point that children are kept in mandatory detention with these undesirable elements—and ‘undesirable elements’ is putting it mildly. It is untenable. I outlined in my speech the impact on children, some of whom have been born behind razor wire and learned to walk and talk behind razor wire. Here we have the continuation of the government policy of keeping some children, and their families, behind razor wire with these undesirable elements whom tonight we are making sure stay behind the razor wire. That is at least in part why the Labor Party’s policy reflects a position that children and their families should not be kept behind razor wire in mandatory detention in these circumstances.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (9.06 p.m.)—The Democrats will not be standing in the way of these amendments to the **Migration Amendment (Duration of Detention) Bill 2003**. They reduce the number of people who will be affected by the scope of the legislation and, given that it is legislation we oppose, obviously the fewer people it applies to the better. The changes are still not sufficient in our view. In our view, the legislation is still inappropriate, and we will continue to oppose it. There are a few components of this issue that I would like to point out now to save doing so at the third reading stage.

The Minister for Justice and Customs has indicated that the bill before the parliament deals only with people about whom there are character or conduct concerns as outlined in section 501 and with people awaiting deportation under section 200, and that there will be a further bill to capture everybody else. In fact, the original bill captures everybody else. These amendments weaken the original bill to deal only with people under sections 501 and 200. Clearly the government have decided they will take what they can get this

time around and will come back again with the original fully strengthened legislation to try to catch all the asylum seekers—and of course they will try to wedge the ALP in the process, which is obviously one of the objectives behind this approach.

If the ALP were not aware of this, I hope that what the minister has just said will make them aware so that they will do some more thinking about it and perhaps make some stronger pronouncements in the community of the principles against this legislation to weaken the government's wedge attempt. Obviously in the political context that is a matter for them, but I certainly hope that in a policy and a legislative context they do not succumb to what is clearly the government's next planned wedge attempt, because we have seen them do that in the past. Whether or not that was to their pain, I do not know, but it was certainly to the ongoing pain of many thousands of refugees who are still suffering today as a consequence.

These amendments water down the legislation. Given that it is bad legislation, I guess I welcome the amendments, but I still do not support the overall legislation. Let me say why in a little more detail. It should be remembered, as Senator Sherry alluded to, that the government rushed this legislation through the House of Representatives. Not only did they do that in, I think, the second last week in June but they then tried to get it rushed through the Senate in the final week of June. The Senate quite rightly said that it would take a bit longer to look at it, to see what the rationale is and whether or not it is appropriate. The outcome has, at least, been somewhat less bad than it would have been.

Once again in the area of migration law we see the government reducing the rights of people, their access to the courts and their access to justice, trying to railroad and rush through their agenda. It is a clear example of

the government's real agenda. Their agenda was and is to try to politically embarrass the Labor Party in particular and to try to do wedge politics out in the community, which has worked for them to date, and in addition to try to address some of the upcoming court cases. There were 'upcoming court cases' that have now been and gone, including the release of five children from detention in South Australia by the full bench of the Family Court. If the Senate had agreed to the government's wish to rush the legislation through unamended back in June, those kids would still be in detention now—the court's power would have been and gone.

That is yet another example of why it is absolutely crucial that the Senate and the Australian public resist any attempts by the Prime Minister to water down the powers of the Senate and that the Senate properly scrutinise legislation and decide for itself as an independent house of parliament what is appropriate to pass, when it is appropriate to consider it, what is an appropriate time frame and whether or not amendments should be made. While I still do not support this legislation as amended, it must be noted that these amendments are—I will not say a step forward—less of a step backwards than would otherwise have occurred.

One of the reasons I think it is a step backwards is that we are still dealing with the fundamental issue of whether or not courts should have jurisdiction over whether people are jailed. We have talked about migration detention. Indeed, the opposition have talked about character and conduct concerns and the fact that these are people who are crooks and undesirables. They may not be shining examples of purity, but it is up to a court to decide whether or not they are a risk to the community. The government is saying that the courts do not have the ability, the wherewithal or the nous to determine whether or not a particular person is a risk to

the community. Our courts determine that in all sorts of areas every day of the week. Sometimes they get it wrong, sure, and it is appropriate to criticise and to comment on that, but to say that they should have no right, no ability and no power to exercise that discretion, that we will mandatorily under any circumstances continue to jail people, is I believe inappropriate.

I point to a couple of examples that I have become aware of over recent years. People say hard cases make bad law, but the whole point is that removing the discretion of the courts in any circumstance means that in those difficult or unique circumstances where people are clearly suffering injustice the courts have no ability to deliver justice. When we talk about character and conduct concerns, it is easy to say that they are bad people. Sure, significant crimes committed by anyone are not to be supported, but there have been a great number of cases over the years where people have been convicted of a crime—assault, drug cultivation or drug use, and they certainly would not be alone in our community in some of those areas—and have served their time. Just the other day the Prime Minister spoke about a well-known Queenslander who is currently imprisoned for longer than some people—me included—feel they should be. He said that when people finish their sentence—they have done the crime, they have done the time—they should be able to get on with their life. But not under the Migration Act: they finish their sentence, they have done their time, the government wants to deport them and they are back in jail. We have seen a number of people who have been jailed ‘awaiting deportation’, to use the words in the act, for longer than they have served for their original sentence. Can you tell me that is justice? Sure, if they are a threat or a danger to the community that is an issue that has to be taken into account, but it is only one issue. The other

issue is that these people who have been found by a court to have done something that deserves a sentence of, say, a year then find themselves remaining in jail for another two or three years.

I will give one example that I am somewhat familiar with, and it is probably appropriate, of a person who came here from Iran. He was a Christian found to be a refugee because of religious persecution in Iran. Whilst that determination was being made, he was in detention. He developed, not unusually, a mental illness in detention—people tend to do that. When he was released he was mentally ill. He assaulted a woman and was convicted of that crime. I am certainly not giving a character reference for this person. He was then released and convicted once again, reoffended and was sentenced. The minister decided that this person should have his protection visa cancelled. Suddenly he was no longer under threat of persecution because of previous reasons—conveniently—and therefore should be deported because he was not a fit and proper character. Any amount of evidence was then provided by this person’s psychiatrist and others saying that his condition was now under control with medical treatment and, with ongoing medical treatment, they were confident that he was no longer a threat to the community. This person was kept in jail for year after year—for about three years. His wife and family are here. Being kept in jail after his sentence was finished did wonders for his mental health, of course, together with the threat of being sent back to Iran to face not only the persecution that our own system found he was fleeing but also the very limited scope for appropriate medical treatment for the condition that he had developed courtesy of the Australian government’s putting him in detention.

I will not go further with what happened to that person, but that is an example where

somebody was imprisoned for a number of years at clear detriment to themselves and with clear indications from many medical experts that he was no longer a threat to the community. That view might finally have been adopted, but that person was nonetheless jailed for a number of years regardless. That is one example of somebody who suffered way in excess of the crime they committed. If legislation like this, even as amended, gets through then any scope for judicial discretion will be removed and we will find yet another area where the only scope for discretion is with the minister. I hasten to add that in areas where the minister has discretion at the moment I am not trying to dissuade him from using it—in fact I regularly try to persuade him to use his discretion for greater good—but I do believe that the courts should also be in that loop.

I am also aware of a person in Townsville—it is not a refugee issue, for a change—who migrated here from Germany when he was a teenager, if not younger. He committed the offence of allowing his property to be used for marijuana growing. Appropriately or otherwise, he was sentenced by the court to a period in jail. This guy was a grandfather. He had kids and grandkids in Australia and his wife was here. He did not speak German anymore, had no family at all back in Germany and had been here 40 or 50 years. The government decided he was not a fit and proper character, that he was Germany's problem—'Let's kick him out.' He served his time and was released for a very short time and had the police knock on his door and drag him back to jail. This legislation would mean he would have no scope to seek freedom regardless of how long he was in there, despite the fact that it was a pretty good bet he was not a threat to the safety of the community. I do not know whether this is positive or negative, but he was eventually let out and prevented from being deported

because he was dying of cancer. So the government decided that he could stay here after all.

These are only a small number of examples, but they are examples of the sorts of people who can be caught up in section 501 or section 200. Another example came to my attention just a couple of weeks ago—I am still investigating it so I do not know the full detail—of a person who came here as a four-year-old from Lebanon. All his family is here; he has no immediate family back in Lebanon. He was convicted of drug offences. When he had finished his sentence, he was whacked back in jail and is fighting deportation. As all of us know, fighting deportation can take a long time—a number of years well in excess of the original sentence.

Again we saw this with a number of Vietnamese. Until there was a memorandum developed between our government and the Vietnamese government, these people were literally in jail indefinitely. Our government wanted to deport them, Vietnam would not take them back; so we just kept them imprisoned indefinitely. Maybe sometimes they are a threat to the community and we need to keep them in there. Sometimes they are not. I think the court should have the discretion to decide that rather than leave it to the minister of the day, whether it is this minister or any minister in the future. It is fundamentally about the rule of law, about the courts having some discretion to deliver justice. I think we need to remember that, despite all the rhetoric that goes back and forwards about law and order, crime, character and conduct, the legal system is about trying to get justice. Sometimes that means discretion. Legislation like this, even as amended, removes that discretion. It keeps people potentially unjustly imprisoned for far many more years than they should be. We have seen examples, some of which I have just outlined, where

that has happened. I do not think we need to increase the chances of it happening further.

Senator BROWN (Tasmania) (9.21 p.m.)—I ask the Minister for Justice and Customs about the point of putting the criminally inclined people, as he has described them, out of Australian society because they are a threat to society back into detention camps where there are men, women and children who have escaped from criminal states, in the main, and who have every right to expect protection under the Australian government's rule, as does any other good person. If these people are, as the minister says, a danger to the Australian community then logically they are a danger to a community inside a detention centre. Can the minister give me an assurance that those people are in some way separated from that community or that that community is protected?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.22 p.m.)—As I understand it, the policy is to segregate these people from others in detention, and that policy is carried out wherever possible.

Senator BROWN (Tasmania) (9.22 p.m.)—I did not ask about a policy; I asked about the minister giving an assurance that it did happen. I take it from his answer that at least on occasions it does not happen. I ask the minister: is that acceptable to him when it is not acceptable in the Australian community?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.22 p.m.)—I did say what the situation was. I said that there was a policy and that, wherever possible, it was pursued. Obviously, there may be some circumstances which do not allow segregation for a period of time, but I can tell the chamber that efforts are always made to address that. It is not a situa-

tion where things are left unaddressed. The policy is that we have to keep them segregated. We endeavour to make sure that that policy is kept and that, if it is not, it is remedied as soon as it can be.

Senator BROWN (Tasmania) (9.23 p.m.)—There is just a failure of application written into what the minister says there—yes, if they can, but if they cannot then whenever or as soon as possible. That is the sort of sloppiness that shows the double-dealing that occurs here: what the minister says cannot be allowed to occur in wider society can be allowed to occur behind the razor wire if it is inconvenient for the government to ensure it does not. I heard what Senator Bartlett had to say about the courts being the proper entity for determining the matter. As he said, they do so every day of the week, and that is their specialty. What is very clear from this debate—and I will not prolong it any longer—is that the government does not have any watertight rules here. It is simply using the subterfuge of an argument to take people who have committed offences in the past out of the community, deprive them of rights and put them back into the camps as a staging post for treating everybody in the same way. The minister said that himself: he could not do it this time, he wanted to get this piece of legislation through, but the next piece of legislation would cover those people who had not been, as he said, a threat to society. They will get treated the same way. There is no logical, humane or ethical discernment in what the government is doing.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.26 p.m.)—I move:

That this bill be now read a third time.

Question put.

The Senate divided. [9.31 p.m.]

(The Deputy President—Senator J.J. Hogg)

Ayes.....	46
Noes.....	10
Majority.....	36

AYES

Abetz, E.	Barnett, G.
Bishop, T.M.	Bolkus, N.
Brandis, G.H.	Buckland, G.
Campbell, G.	Carr, K.J.
Chapman, H.G.P.	Colbeck, R.
Collins, J.M.A.	Cook, P.F.S.
Crossin, P.M.	Denman, K.J.
Eggleston, A.	Ellison, C.M.
Evans, C.V.	Ferguson, A.B.
Ferris, J.M. *	Forshaw, M.G.
Harradine, B.	Harris, L.
Heffernan, W.	Hogg, J.J.
Humphries, G.	Hutchins, S.P.
Johnston, D.	Kirk, L.
Ludwig, J.W.	Lundy, K.A.
Mackay, S.M.	Marshall, G.
Mason, B.J.	McLucas, J.E.
Moore, C.	Payne, M.A.
Ray, R.F.	Santoro, S.
Scullion, N.G.	Sherry, N.J.
Stephens, U.	Tchen, T.
Tierney, J.W.	Watson, J.O.W.
Webber, R.	Wong, P.

NOES

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

* denotes teller

Question agreed to.

Bill read a third time.

BUSINESS**Rearrangement**

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.34 p.m.)—I move:

That government business order of the day no. 4 (the Trade Practices Amendment (Personal Injuries and Death) Bill 2003) be postponed till the next day of sitting.

Question agreed to.

**COMMUNICATIONS LEGISLATION
AMENDMENT BILL (No. 1) 2002****Second Reading**

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

That this bill be now read a second time.

Senator LUNDY (Australian Capital Territory) (9.34 p.m.)—The **Communications Legislation Amendment Bill (No. 1) 2002** contains five schedules, most of which enhance the operations of the Australian Communications Authority Act 1997, the Radio-communications Act 1992, the Telecommunications Act 1997 and the Telecommunications (Consumer Protection and Service Standards) Act 1999. The main provisions of this bill are acceptable and technical enhancements of existing legislation. Four out of the five of the bill's provisions have the full support of Labor. These are schedules 1, 3, 4 and 5.

Schedule 1 of the bill enhances the Australian Communications Authority's ability to make written determinations under the Australian Communications Authority Act 1997. Schedule 3 enables Commonwealth, state and territory law enforcement and anti-corruption bodies to use licensed radio communications devices for covert surveillance to gather evidence in serious criminal and anticorruption investigations. By disallowable instrument, the ACA can exempt certain law enforcement and anticorruption

bodies from the operation of the Radiocommunications Act dealing with unlicensed transmissions, equipment standards and interference emissions. The provisions also expand the objects clause of the Radiocommunications Act to ensure that adequate radio frequency spectrum is set aside for national security, law enforcement and emergency service use or for use by other public and community services.

Schedule 4 abolishes the specially constituted Australian Communications Authority or the SCACA. The SCACA has not served its purpose of considering carrier applications for facilities installation permits. Carriers have used other means to advance these projects, and the SCACA has not considered one application in its four years of operation.

Schedule 5 makes minor amendments to the Telecommunications (Consumer Protection Service Standards) Act 1999 dealing with the key National Relay Service standard, the telephone service for deaf and hearing impaired people, customer guarantee standards and the Telecommunications Industry Ombudsman or TIO. The National Relay Service amendments improve the government's ability to effectively collect NRS levy debts from carriers. The customer service guarantee amendments ensure that revocations or variations of customer service guarantee standards are disallowable instruments. The TIO amendments ensure carriers cannot on-charge consumers for TIO complaint handling fees and give the TIO explicit powers to investigate complaints about charges or fees not directly related to telecommunications carriage services such as early contract termination fees for mobile phone services. These are all worthy and sensible amendments and are supported by Labor. So, in isolation, four of the five amendment schedules are sensible and minor reforms which will improve the operation

and effect of the various communication acts in question.

Labor's key concerns with this bill rest with schedule 2. Schedule 2 amends the Freedom of Information Act 1982 to exempt four agencies—the Australian Broadcasting Authority, or ABA; the Office of Film and Literature Classification, or OFLC; the Classification Board; and the Classification Review Board—from freedom of information, or FOI, requests in relation to certain documents containing material described by the bill as 'offensive Internet content'. In effect, schedule 2 is an attempt by the government to remove FOI scrutiny from government agencies involved in the regulation of offensive Internet content. If this schedule were enacted, there would be no way to access the material on which an agency based a censorship decision in order to challenge the lawfulness or reasonableness of that decision.

It is worth looking at the history of how these sites came to be classified as offensive and the role these agencies have in the process. It relates back to the Howard government's failed online content regulation regime established by the Broadcasting Services Amendment (Online Services) Act 1999. This act gave these four agencies the role of censoring Internet content. The Classification Board of the Office of Film and Literature Classification classifies Internet content and the ABA enforces the classification, for example, by issuing a takedown notice if the material is considered offensive—that is, it is either refused classification or is classified X or R, is hosted in Australia and is not subject to a restricted access regime approved by the ABA.

The obvious glaring issue is that there is nothing the government can do about content hosted overseas that is not subject to Australian law. Labor's sensible position was, and has always been, that there is still a need for

public investment in educating and empowering Internet users. This is the best way to help people manage their Internet content beyond a complaint and take-down process. The online services act and the accompanying rhetoric attempted to deceive Australians concerned about unwanted Internet content. The deception was trying to trick them into believing that the problem was solved. But it was not. But since when has the coalition let the facts get in the way of sensational rhetoric? So schedule 2 of the bill currently before us represents round 2 of the Howard government's attempt to deceive Australians into believing it has solved the problem of unwanted and inappropriate Internet content. I do not think that anything is further from the truth. What we have is a government trying to make out it is doing more and covering up the flaws in the existing regime.

Labor believes that schedule 2 will undermine the level of transparency and accountability of the decision making processes of the stated agencies. It should be remembered that the government's Internet classification decisions are not freely accessible through the OFLC's online classification database in the same way that decisions relating to books, films and games are. In these circumstances, FOI is the only practical means to scrutinise these agencies' decisions beyond the information contained in their annual reports.

So why does the government believe this legislation to be necessary? According to the minister, under the current environment the FOI process would allow people to get information about illegal Internet content from government agencies such as the ABA or the OFLC. Earlier this year the minister made a quite hysterical and laughable assertion that under the current FOI regime:

... the ABA could become a one-stop shop for deviants seeking the most despicable and morally contemptible material.

The idea that FOI could allow people to access and then peddle sites—for example, that could relate to child pornography—is completely absurd. It is a smokescreen being used by the government to try and scare non-government senators—and, I think, the general public—into thinking that a bill that effectively excludes key government agencies from any public scrutiny with regard to their management of offensive Internet content is somehow meritorious. I think it is dishonest and, for the following three reasons, demonstrably untrue.

First, government agencies are already in a position to withhold certain information on offensive Internet sites under the existing arrangements. They may block out, and have blocked out, web addresses or information that will identify the actual Internet location of offensive Internet sites. In June last year the Administrative Appeals Tribunal upheld the ABA's decision not to provide documents sought on the ground that disclosure could reasonably be expected to 'have a substantial adverse effect on the proper and efficient conduct of the operations of the agency'. They found this within the meaning of section 41(1)(d) of the FOI Act and indicated that this outweighed the public interest in disclosing the information.

This independent review tribunal made its call on the merits of the application and decided against providing the documents regarding offensive Internet content. It reached its decision after balancing the potential of disclosure to prejudice the operation of the ABA against the public interest in disclosure. These existing arrangements requiring these agencies and the tribunal to undertake this balancing exercise with regard to the proper level of public disclosure are more appropriate than granting agencies a blanket exemption. It is not unreasonable to require these agencies to justify their refusal to provide

information about their Internet censorship decisions.

The second reason is that the government's claim that these blanket FOI exemptions are necessary rests on the implausible assumption that people would willingly identify themselves to government agencies as seeking, for improper purposes, access to material the possession of which is likely to constitute a criminal offence. People with commonsense would recognise how far-fetched it is to claim that criminals would seek to engage in such illegal activity in full view of the government through the use of the FOI Act.

Finally, the third reason is that there is no evidence that the FOI is being used inappropriately. Questioning in Senate estimates earlier in the year revealed that, between then and the commencement of the online content regime, the ABA and the OFLC had received just one freedom of information request relating to their Internet censorship decisions—only one. Let me put that in perspective. The online content regime has been operating since the year 2000. In this time, over 1,000 decisions regarding Internet content classification, take-down notices and referrals to makers of Internet filters were made by the OFLC and the ABA. That is over 1,000 relevant decisions over three years with just one FOI request, fully resolved without the release of a single URL or Internet address.

So why is the government persisting with this new schedule? It is a question that only the world's worst communications minister could possibly answer, and I hope he will in the course of this debate. If the government has evidence that the FOI Act is being abused, it should produce it. It is certainly not apparent from the single FOI request received so far. The fact is that there has been no evidence that people are using FOI

requests to the OFLC or the ABA as a means of procuring the addresses of offensive or illegal Internet sites for public dissemination or misuse. There is no evidence.

Instead, in the one known case where FOI was used—and it was by an organisation called Electronic Frontiers Australia—the information received was used to expose the cover-up of the legislation. When comparing their FOI information with the government's reports, the EFA found the following:

... discrepancies appear to exist between information released to EFA and Government reports on the operation of the regime. For example, the figures reported in the ABA's first quarter report (issued in April 2000), and the six-month report issued by Senator Alston (on 5 September 2000), do not accord with information released to EFA under FOI. The number of complaints received in January and February do not match, nor does the number of complaints received that resulted in findings of prohibited content hosted in Australia.

The government has made no attempt to justify by evidence or argument that schedule 2 is necessary. Labor believes it is not justified. Senator Alston's cynical scaremongering and wedge politicking on this issue will not stop Labor from opposing this schedule. We do not see it as anything but an attempt to exempt government agencies from being subject to the proper public scrutiny in their roles. Covering up this information would do nothing to prevent sites hosted in Australia from moving offshore and continuing to use the '.au' domain name, but it could prevent people from finding out if the government is aware that this had happened.

Labor is opposed to schedule 2 and will be moving amendments in the committee stage to strike this schedule from the bill. Labor sincerely hopes that senators on the cross-benches will support the amendments and treat the shameless scare campaign being used to justify the amendments with the contempt it deserves.

Senator Alston has occupied some of his time by spreading scurrilous and slanderous misinformation about Labor's opposition to this schedule. In March this year, Senator Alston put out an outrageous press release claiming that Labor supports easier access to child pornography. Nothing could be further from the truth, and Senator Alston knows it. As with his war on the ABC, the truth is no obstacle when Senator Alston tries to score a cheap political point. Whether attacking the independence of the ABC or spreading misinformation about his political opponents, he has taken it to a new low.

What Labor can point out is that earlier this year, following questioning from Senator Kirk, it was revealed that the government has been dragging its heels in ratifying the protocol in relation to the sale of children, which does contain provisions against child pornography. This is clearly inexcusable and exposes the hypocrisy in some of the government's actions.

In summary, schedule 2 of this bill is nothing more than an attempt by the Howard government to cover up the failure of its Internet content regime. It will protect no-one and simply create more government secrecy. Labor believes this schedule should be removed from the bill. As I said in my opening remarks in the committee stage of this debate, we will be supporting all other schedules contained in the bill.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Cook)—Order! It being nearly 9.50 p.m., I propose the question:

That the Senate do now adjourn.

Housing: Affordability

Senator HUMPHRIES (Australian Capital Territory) (9.50 p.m.)—I rise tonight to discuss the question of housing affordability

and to touch on an important related issue—that is, Australia's savings culture. The housing boom is a phenomenon which no Australian can fail to observe at the present time. This housing boom is, in many respects, a result of this government's sound economic management. Rising incomes, low interest rates and economic stability are, of course, good things, but at the same time they have delivered the capacity for Australians to enter into significant debt in order to buy housing, particularly investment properties.

The market, naturally, has reacted to the increased demand for property, and prices have skyrocketed. This has acted as a significant barrier to those seeking to enter the market—something this government is rightly concerned about. Recently, a joint report from the Commonwealth Bank and the Housing Industry Association said that housing affordability is at a lower level than it was when interest rates were 17 per cent. In May, the proportion of loans to first home buyers was at its lowest level since the ABS began measuring it in 1991.

These are concerning trends, and the government should be commended for directing the Productivity Commission to inquire into the affordability and availability of housing for families and individuals wishing to purchase their first home. This inquiry is particularly important because home ownership is bound up with the national ethos. The ability to achieve home ownership continues to be of vital importance in maintaining family and social stability.

The Prime Minister and the Treasurer have wisely put the property boom into broader perspective. They have correctly pointed out that millions of Australians have welcomed the substantial jump in the price of their homes. I for one do not begrudge them this windfall. These people, often termed 'mainstream Australia', have invested

a very significant proportion of their finances in their homes.

The family home is the most significant asset that people ever acquire in their lifetimes—generally speaking—and represents around two-thirds of all household wealth in Australia. I am determined that future generations are not locked out of what Robert Menzies coined ‘the great Australian dream’. Menzies stated that the home represented the tangible expression of the habits of frugality and thrift. In other words, he viewed home ownership as the result of disciplined saving. Tonight, we should reaffirm that philosophy.

In my first speech, earlier this year, I stated that 99½ per cent of Australians’ disposable income is spent and not saved. This figure derives from the household saving ratio published in the national quarterly accounts. Since 1980, household debt to financial institutions has roughly doubled in relation to income, from around 45 per cent of income to more than 90 per cent.

At face value, this seems startling. However, the majority of these debtors have a significant pool of savings they can one day draw on to clear this debt. I refer, of course, to superannuation. Estimates indicate that life insurance and superannuation assets constituted only seven per cent of household wealth in 1960, compared with 22 per cent in 1997. In 1987, 41 per cent of employees had superannuation coverage; today it is well over 90 per cent. Today, Australia’s superannuation assets are worth over 70 per cent of GDP compared with around 20 per cent in the early 1960s.

I am part of the Senate’s inquiry into poverty and financial hardship. At a hearing in Canberra, the Australia Institute’s Clive Hamilton made some interesting remarks. He said we need to distinguish very clearly between genuine hardship and what the Australia Institute calls ‘middle-class whinging’.

He said that the last decade has seen a rapid increase in middle-class expectations of what it takes to have a decent lifestyle and an adequate standard of living. Subsequently, families are going into a large amount of debt in order to fund a lifestyle that the genuinely struggling would regard as luxurious. He said middle-class people were bidding each other out of the housing market because they were willing to commit more of their current and future incomes to paying off a mortgage. This was what he said was driving housing prices up.

Dr Hamilton also touched on the issue of savings, stating that middle-class people were going into debt at unprecedented levels so they could buy the bigger house, the newer kitchen, the second car or the holiday in Europe. On the other hand, he said, low-income earners balance their budgets much more effectively. Whether that is true or not, whether the phenomenon he describes is class based or not, or income based or not, I think we are all obliged to encourage a savings culture by developing policies that encourage additional saving on the part of Australians. I mentioned before that Australia’s compulsory superannuation regime has delivered Australians the ability to pay off large amounts of debt on retirement. I also stated that the property boom has provided a windfall for those already in the market. But what about those people who do not own their own housing and who are on low incomes? In spite of their best endeavours, many of them simply cannot save enough money for an adequate deposit.

That is why, appropriately, governments need to take steps to assist people on low incomes. There are a number of ways in which, beyond what is already being done, this might occur. One option is to abolish taxation of interest earned by savings because savings effectively is deferred consumption that will eventually be taxed any-

way. This government has a very good record when it comes to taxation reform. There is also, it is true to say, an overemphasis in the thinking of many people on retirement savings rather than on long-term savings for other purposes. I believe people should have greater choice in where their superannuation contributions go.

As a Liberal I believe individual choice is of great, if not paramount, importance. I also believe individuals are invariably better judges of how to spend their money than are governments. It may be appropriate for low-income earners in particular to have access to their superannuation contributions for the purpose of raising a housing deposit. Indeed, why should low-income earners be forced to risk their savings in private superannuation funds when housing, in some cases at least, may be a better long-term option? Unlike shares, a house is an asset that can be utilised while it gains value. A system of rebates or taxation concessions designed to bolster the saving of low-income earners might also be worth consideration. Some states of the United States have introduced what they have called individual development accounts, which is money provided by individuals and matched by a number of sources, such as government, financial institutions and local businesses. Admittedly, facilitating a savings culture is a long-term strategy to increase housing affordability. There are other short-term options as well.

In my electorate of the ACT, the median housing price has increased 23.8 per cent in the past year alone to over \$300,000. This has led to calls for the ACT government to influence the supply side of the market—in other words, to release more land and to cut fees, taxes and charges on the construction of new dwellings. In fact, the substantial revenue flowing to states and territories as a result of the GST should be leading eventually to the abolition of various forms of stamp

duty and associated taxes. Unfortunately, we have seen little indication that the state and territory governments are giving this serious consideration.

I think the housing boom will have a soft landing, largely because this government has fostered a historically low inflationary environment and has paid back two-thirds of Labor's debt which has substantially reduced the pressure to raise interest rates. Home ownership is fundamental to Australia's way of life and social stability. I think it is worth quoting the founder of the Liberal Party, Sir Robert Menzies, who, in his famous 'Forgotten People' address in May 1942 had this to say:

The home is the foundation of sanity and sobriety; it is the indispensable condition of continuity; its health determines the health of society as a whole. ... Your advanced socialist may rage against private property while he acquires it; but one of the best instincts in us is that which induces us to have one little piece of earth with a house and a garden which is ours: to which we can withdraw, in which we can be among our friends, into which no stranger may come against our will.

The language may be slightly archaic these days but the sentiment is as sound as ever.

Australian Security Intelligence Organisation

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (9.59 p.m.)—Throughout the debate over ASIO's new powers to gather intelligence about terrorism, the opposition consistently supported a balanced enhancement of ASIO's intelligence-gathering capacity. The Senate—rightly, in the view of the opposition—passed substantial amendments to the recent ASIO bill to strengthen the protection of civil liberties and our democratic values and, at the same time, increase the effectiveness of ASIO in its job to track down terrorists. The challenge was always to get the

balance right. I genuinely believe that the parliament did get the balance right—but only just. The Labor Party believes that there is unfinished business in relation to some matters, including the period of detention. I will come to those particular matters in a moment.

Australia is safer not only because ASIO has more powers to do its job but also because of the safeguards protecting Australians from abuse by the executive or by any agency. While achieving that balance and having those protections in place was always the intention of the opposition, it was clearly never the intention of the Howard government. The government's original legislation was draconian, extraordinarily sloppy and poorly drafted. Only Mr Daryl Williams would have proposed such a bill. The original ASIO bill, brought into the parliament by the Attorney-General, took an extreme position. It was unacceptable to Labor and, not surprisingly, was unacceptable to ordinary Australians. The government played politics with the ASIO bill, trying to label the Labor Party as 'soft on terrorism'. The government wasted almost a year with its wedge gambit: it played politics with Australia's national security.

While the opposition believes that parliament did get the balance right, there are provisions in the new act that should be amended—in particular, the ability of ASIO to detain a person for up to seven days. It must be remembered that people being detained may not have committed an offence; they may only be being held for questioning because they may have information about possible terrorist activity. The opposition believes that ASIO can do its job properly and gather vital intelligence without having to detain anyone for seven days. We believe the time limits for custody should not be such as would turn a questioning regime into a detention regime.

I note the time for questioning which applies to criminal suspects in Commonwealth criminal matters is four hours, with the potential to roll that over with an extension of eight hours. That is four hours plus eight hours of solid questioning. In addition, the Commonwealth Crimes Act envisages for criminal suspects there will be substantial—at times, very substantial—down times. Meal breaks are down times, toilet breaks are down times and breaks for waiting for a lawyer or an interpreter to arrive are down times. It is very common for criminal suspects to be held in a police station under such provisions for one to 1½ days just because of an ongoing four hours plus eight hours questioning regime.

In relation to ASIO's new questioning powers, the opposition welcomed the government's changed approach on this manner and supported the government's proposal for questioning to be conducted, if absolutely necessary, over three separate eight-hour questioning periods. Labor also ensured that the person being questioned would be released before ASIO could begin pursuing a further warrant, breaking the nexus of a rolling detention regime and ensuring these laws could not be used as a device just to keep nonsuspects in detention.

The government proposed that those being questioned could be detained for up to seven days. We argued for that period to be reduced three days, and we proposed amendments to that effect. The opposition believes a three-day period of custody would allow for sufficient rest for the subject during questioning and also allow ASIO to do the relevant crosschecks and analysis. Unfortunately, Labor's amendments were not successful. I do note, of course, that many of Labor's amendments were successful, and as a result the ASIO act certainly contains significant safeguards surrounding the warrant and questioning process. For example, two inde-

pendent senior judges are now involved at key stages of the process and, in a more general sense, basic legal rights that were completely absent from the government's original ASIO bill have now been enshrined in the ASIO act.

As a result of Labor's amendments, the possibility of a 10-year-old child being detained and strip searched in secret has been removed. Further, Labor's insistence that the ASIO bill include a sunset clause means ASIO's new powers will cease to be law in three years time. It remains the opposition's strong view that, if ASIO used its new powers, any information sought would be obtained long before the seven-day period of detention was concluded. We believe three days would not only be satisfactory for ASIO's purposes, it is also the reasonable limit on what should be imposed on a person not suspected of any offence. To that end, we have indicated very clearly that, if a Labor government is elected, we will ensure custody is limited to a maximum of 72 hours under any warrant.

The opposition is also very concerned that the detention of a nonsuspect for seven days rather than a maximum of three days makes ASIO's new powers more likely to be unconstitutional. Under the Constitution, if ASIO detains Australian citizens who have not committed an offence, detention must not be penal or punitive in character. There are exceptions to this rule where the detention is not punitive in character, such as detention due to mental illness or infectious disease.

Justice Gummow recently stated in a High Court judgment, 'The categories of non-punitive, involuntary detention are not closed,' and said that the court could create a new exception relating to national security. As such, it is not possible to say with confidence whether or not the High Court would find that the Constitution has been infringed

by ASIO's new powers. However, the arguments for invalidity are sufficiently strong that a High Court challenge may occur in the event of a detention.

In the view of the opposition and some eminent constitutional lawyers, the case for invalidity is stronger with the maximum detention period being seven days rather than three. In fact, that may well be a determining factor. It would be a tragedy if what was designed as a shield against terrorism were struck down by the High Court at the very time it was needed. This is a further reason why, when elected, Labor will move to amend the ASIO act to limit the maximum period of detention to three rather than seven days.

Political Parties: Donations

Senator MURRAY (Western Australia) (10.09 p.m.)—We all know that politics is a fiercely competitive business. Strong competition in terms of ideas is essential to a healthy democracy. Good political governance and ethical and honest politics are equally vital to a healthy democracy; yet politics has long been considered a dirty, sleazy and dishonest business. Surprisingly, it can also often be seen as anticompetitive.

Political competition is not subject to the Trade Practices Act, but competition law would take a dim view of standard practices in politics. Domination by a duopoly, predatory behaviour, anticompetitive activity, covert intelligence gathering and insider trading are just some characteristics of the political market. Four great protections from a rigged political market are a free, diverse and vigorous press; regular elections with a robust, open and truthful political contest; strong, transparent, independently regulated political parties and practices; and full, timely disclosure of political funding and resources. These protections are not fully developed in Australia.

Contrast the overt, open, up-front antagonism to One Nation of the Minister for Employment and Workplace Relations, Tony Abbott, with the covert nature of the ironically named Australians for Honest Politics. It is the covert that should be the target, not the overt. I agree that Mr Abbott's role is mostly public, known and disclosed. But what about the covert Australians for Honest Politics? The almost universal view of large numbers of the fourth estate seems to be that the end justifies the means—that it is okay to turn a blind eye to a fund hiding secret donors because it helped get rid of Hanson. That is a sad, bad and ultimately dangerous point of view.

It is a fact of life for minor parties that we have to deal with opponents who are better resourced, better connected, better established and more capable of visiting ill upon political rivals. It is also a fact of life that the major parties share a common interest in keeping minor parties minor. The Australian Democrats and One Nation have only one thing in common: they are minor parties that take votes from major parties. Both political parties have in the past been capable of marshalling over a million votes. Both have had their leaders and organisations assailed through a series of well-funded legal cases. A key difference is that private litigants in the civil courts pursued the Democrats—there was never criminal action—whereas One Nation's cases began in the civil courts but ended in the criminal courts.

Using the courts to tie up the resources of smaller parties in protracted, expensive legal action that also generates long-term negative publicity is a strategy that is electorally damaging to those parties. Nevertheless, the law has to guard against improper motives or purposes. Where politicians, political parties or their officials are pursued in the courts, the funding of those legal actions must be fully disclosed. The electorate is entitled to

pass judgment on the use of our legal system for political ends. Justice must not only be done but also be seen to be done. This is impossible if secret donations conceal who is financing the action.

It would seem unwise to automatically assume that the actors in these affairs have other than party political motives. There is some suggestion that the pursuit of One Nation was a moral crusade to draw attention to a defective registration rather than an exercise in competitive party politics with an intention to benefit a registered political party at the expense of another. Because the demise of One Nation or a lower vote for that party would benefit another registered political party, a case could be made that the trust was set up with that intention. The involvement of the same organisers and donors in like activity against another, unrelated, registered political party gives credence to that view.

The Australian Democrats had a similar experience to that of One Nation over seven years in the 1990s. The similarities are remarkable, to the point where at least one activist and one donor so far identified are the same. The action against the Democrats was so spurious that it was dismissed summarily in the Supreme Court of Western Australia, with Master Ng finding: 'The plaintiff's case is so hopeless that it is doomed to fail.' This did not prevent the plaintiffs pushing their case and losing on appeal in the Supreme Court and the High Court. After years of litigation it was only in 2002 that the matter was finally disposed of in favour of the Democrats. In the meantime, political and organisational energies had been used up and financial resources wasted.

The Australian Democrats formed in 1977, 26 years ago. In 1978 a legal entity known as the Australian Democrats WA Division Inc. was formed to offer limited legal

protection in WA to the name Australian Democrats. Thereafter, this incorporated body was allowed to lapse from usage and was inactive. Following their expulsion from the party, a number of persons gained control of this incorporated body, ADWAD Inc., and used it as a launching pad for a legal and political campaign against the Australian Democrats. They misrepresented themselves as the real Australian Democrats to the media. They publicly campaigned against the party. They pursued the party, its leaders and its officials through the courts for years on end. Political damage resulted.

WA Electoral Commission returns show one member of ADWAD Inc. donating over \$160,000 over four years to their incorporated body, whose principal activity seemed to be litigation. You would need to earn at least \$240,000 just to make such a massive private financial contribution. Either that member is exceptionally wealthy and free with his money or he is a front for others. It is hard to come to any other conclusion. WA electoral returns also declare a \$13,500 donation from H. Clough McRae Investments. H. Clough is the same Harold Clough who has reportedly admitted donating to the Australians for Honest Politics. John Samuel was heavily involved in the Australian Democrats ructions and in ADWAD Inc. and has been reported as a prominent activist in the One Nation affair.

More links between John Samuel and Harold Clough were also suggested in an article on 30 August 2003 by Andrew Smith, editor in chief of the *Fremantle Herald*, in writing about the May 1999 local elections in East Fremantle in WA, where he asked whether there was 'a shadowy Liberal Party dirty tricks unit, a "black ops outfit"'. The Australians for Honest Politics fund affair has therefore had the effect of identifying at least three separate instances concerning the Democrats, One Nation and East Fremantle

where there is a coincidence of individuals and strategies. If these coincidences are underpinned by a pattern of behaviour intended to benefit a political party, that would be relevant to the issue of compliance with the act. Frankly, Mr Samuels and Mr Clough are of little interest to me. What does interest me is protecting our political and legal institutions from abuse.

The Democrats have no objection to legal actions against political parties, their officers and politicians being funded for a proper purpose by people other than the litigants themselves. We are, however, concerned that disclosure should be made in all appropriate circumstances. It seems to us that people who make contributions to entities taking legal action against politicians, political parties or their officers should have to disclose that contribution where there is a likelihood or possibility that they may make those contributions for the purpose of benefiting another registered political party. Openness and transparency are essential principles and protections in a democracy. That is the basis of existing disclosure laws in relation to campaign financing.

Legal campaigns against politicians, political parties and their officials should not be able to escape similar disclosure requirements. The electorate is entitled to know who is backing such legal campaigns. Requiring disclosure here is no different in principle to the disclosure required for political donations. Entities created to pursue legal action against politicians, party officers or political parties might well operate wholly, or to a significant extent, for the benefit of one or more unrelated registered political parties. We still do not know the full story about the funding and covert campaigns against the two minor parties. Without disclosure requirements that are comprehensive in scope and rigorously enforced, we will never know. That is just wrong.

Australian Broadcasting Corporation

Senator SANTORO (Queensland) (10.19 p.m.)—Addressing this chamber in June and again in August, I raised the serious issue of the ABC's attitude to criticisms of its reporting. I remain concerned that the ABC issued an edict to its journalists prohibiting them from referring to Australia's service men and women as our troops. The grounds on which the ABC did so were specious. The directive it issued was an insult to our service men and women, who are risking their lives for the sake of Australia. It is still an insult. I called on the ABC board to consider this directive as a matter of urgency and repudiate it and all it stands for. I regret to inform this chamber that there has been no action by the board. I find it difficult to understand how and why the ABC board has failed to act to redress a situation that is plainly unacceptable. It is time for the ABC board to do its job. It must rescind the directive and it must rebuke those responsible for its being implemented in the first place.

I also raised the issue of the bias some ABC programs display in their reporting of current affairs. I want to deal with a particular incident and the ABC's response to that incident, which highlights the seriousness of the problems at the ABC. On 11 March 2003, the ABC reported that Australia had decided to expel an Iraqi diplomat. The decision followed the receipt of information from the US that recommended the diplomat be expelled. On AM Linda Mottram and Leigh Sales said the question about this decision was 'whether or not Australia made the decision independently'. Having posed the question in that way, they then described the US request as an order and, answering their own question, asked 'whether other nations have also obeyed the US order'.

In other words, as far as the ABC is concerned, Australia, rather than being an inde-

pendent nation that takes its own decisions, obeys—and, in this specific case, obeyed—US orders. A listener Henry Ergas, outraged by what had been said, promptly complained to the ABC. The complaint received very short shrift so Mr Ergas took his complaint to the ABC's complaints review executive. We now have the complaints review executive's response. He accepts that the words used 'could have been better chosen'. But does he conclude that the complaint about this reporting was well founded? The answer clearly is no, he does not.

The ABC claims this was a breaking news story and that, since events were unfolding, some inaccuracy in description was understandable. Does this mean that whenever a situation is developing, the ABC's journalists should be free to put any gloss they wish on the facts? And is it not strange that ABC journalists, and notably Linda Mottram, while uncertain as to what the situation was, should have felt it reasonable to describe Australia as following a US order? This is replacement by prejudice of objective reporting and sound analysis.

A second reason the ABC gives is that there are dictionary definitions of 'order' and 'obey' which do not mean 'following a command'. There is another word they might like to look up in the dictionary and it is 'sophistry'. Finally, and perhaps most disgracefully, the ABC says that, while there was no explicit US command:

Given the power imbalance [between Australia and the US], it could be inferred that the [US] request was not a matter of unfettered choice.

In other words, in the ABC's view, it was an order. Australia did not have the unfettered choice of whether or not to comply; therefore, according to the ABC, it complied. We see highlighted all too dramatically both how deeply ingrained is the bias in the ABC's reporting of current affairs and how lacking

in independence and objectivity is the ABC's complaints review process.

Bias has been starkly apparent in recent days in relation to the ABC's coverage of the Hutton inquiry in the UK into the death of Dr David Kelly. Its primary source of comment is former BBC reporter Nigel Jones. Mr Jones had previously stated that the key issue was whether the BBC's allegation that the British Prime Minister's office that had 'sexed up'—that is somebody else's description, Mr President—a claim that Iraq could deploy weapons of mass destruction within 45 minutes was correct. Now that it is clear that this claim was based on intelligence assessments, he has conveniently forgotten he ever said any such thing. Instead, he now tells us the central issue is whether the Ministry of Defence gave Dr Kelly the moral and psychological support Mr Jones believes he deserved once it emerged that Dr Kelly was the source the BBC had referred to. I suggest that this is simply rubbish. Dr Kelly broke the law and breached the confidence of his employers in leaking information to a journalist. He knew that what he was doing was indeed illegal.

But what is extraordinary here is that, in over a dozen interviews with Mr Jones, the ABC's Peter Thompson has not once called him to account. Not once has Mr Thompson suggested that what Dr Kelly did was in any way reprehensible. Not once has Mr Thompson noted that it was illegal and that Dr Kelly would have known this very well. Not once has Mr Thompson put Mr Jones plainly on the spot about his reluctance to criticise the BBC. Not once has he addressed the conflict of interest in turning to a longstanding BBC journalist as the main commentator on a matter in which the BBC's integrity plays a central role. This is all the more remarkable as Mr Thompson is especially aware of conflicts of interest, having himself been involved in a breach of ABC policy in 1999. In

short, the issues I pointed to previously in this chamber remain tonight as acute as they have ever been.

It is not only at these lofty levels that the ABC's news and current affairs presentations seem to find it so easy to collect feet of clay. On Tuesday last week, 612 ABC Brisbane presenter Kirsten Macgregor had a panel of experts on air between 9 a.m. and 10 a.m. discussing the first 100 days in office of the new Labor Lord Mayor of Brisbane. One of them was Marina Vit, the long-time media adviser to former Lord Mayor Jim Soorley. When he quit, so did she and she went to work for media consultancy company CPR. Councillor Tim Quinn took over as lord mayor. He ran straight into the row over flood levels—a major embarrassment about which, as the long-term planning chairman on council, he must have known before it became public. CPR was engaged to assist with managing the flood levels issue. Marina Vit returned to the lord mayor's office to do the necessary work. Then the ABC suggests she go on air as part of a panel to assess the new lord mayor's first 100 days—in an environment in which the work she had been called back to do, on the flood front, would obviously form part of the assessment she would have to make. The ABC was again showing that objectivity and balance are not even on the checklist when someone gets a bright idea. Ms Vit might, on reflection, consider that it was inappropriate for her to appear on such a panel, given the circumstances. The ABC should certainly have known that it was inappropriate to ask her to.

Finally, on funding, the ABC has been waging a campaign to persuade people that the government has starved it of the funds it needs to do its job. Labor spokesman Lindsay Tanner has felt impelled to add to this discordant chorus. He claims the ABC is suffering from 'years of penny pinching under the Howard government'. That is rubbish

and Mr Tanner knows it is rubbish. ABC funding has increased substantially in real terms under this government. Properly calculated, as I have previously outlined in this chamber, ABC funding is now some 17 per cent higher in real terms than it was in 1995-96. Under the Keating government, the ABC's total funding from the Commonwealth was lower in terms of 2001-02 dollars. If Mr Tanner wants to attack those who cut the ABC's budget, he need go no further than his own caucus room. Australians deserve better of their national broadcaster and the ABC can and must deliver better.

Senate adjourned at 10.28 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

Aged Care Act—

Determination under section 44-3—
ACA Ch. 3 No. 36/2003.

Residential Care Subsidy Amendment
Principles 2003 (No. 1).

User Rights Amendment Principles
2003 (No. 1).

Civil Aviation Act—Civil Aviation
Regulations—

Exemptions Nos CASA EX19/2003 and
CASA EX20/2003.

Instruments Nos CASA 353/03-CASA
355/03 and CASA 392/03.

Statutory Rules 2003 No. 232.

Class Rulings CR 2003/41 (Addendum),
CR 2003/42 (Addendum) and CR 2003/69-
CR 2003/79.

Currency Act—Currency (Royal Australian
Mint) Determination 2003 (No. 5).

Customs Act—Regulations—Statutory
Rules 2003 Nos 210 and 227.

Defence Act—Determination under
section—

58B—Defence Determination 2003/24.

58H—Defence Force Remuneration
Tribunal—Determinations Nos 13 and
14 of 2003.

Diplomatic Privileges and Immunities
Act—Diplomatic Privileges and Immu-
nities Regulations—Certificates under
regulation 5A, dated 26 August 2003 [2].

Director of Public Prosecutions Act—
Regulations—Statutory Rules 2003 No.
211.

Extradition Act—Regulations—Statutory
Rules 2003 No. 228.

Family Law Act—Regulations—Statutory
Rules 2003 No. 229.

Goods and Services Tax Ruling GSTR
2003/11.

Health Insurance Act—Declaration—QAA
No. 2/2003.

Income Tax Assessment Act 1936—
Regulations—Statutory Rules 2003 No.
215.

International Organisations (Privileges and
Immunities) Act—Regulations—Statutory
Rules 2003 No. 230.

Migration Act—

Direction under section 499—Direction
No. 33.

Regulations—Statutory Rules 2003 Nos
224 and 231.

National Health Act—Determination
under—

Schedule 1—PHS 10/2003-PHS
15/2003 and PHS 18/2003.

Section 5D—PHS 16/2003 and PHS
17/2003.

National Residue Survey (Excise) Levy
Act—Regulations—Statutory Rules 2003
No. 218.

Patents Act—Regulations—Statutory
Rules 2003 No. 213.

Primary Industries and Energy Research
and Development Act—Regulations—
Statutory Rules 2003 No. 219.

Primary Industries (Customs) Charges Act—Regulations—Statutory Rules 2003 No. 220.

Primary Industries (Excise) Levies Act—Regulations—Statutory Rules 2003 Nos 216, 221 and 225.

Primary Industries Levies and Charges Collection Act—Regulations—Statutory Rules 2003 Nos 209, 217, 222 and 226.

Product Ruling—

PR 2002/110 (Notice of Withdrawal).

PR 2003/21 (Addendum) and PR 2003/52-PR 2003/54.

Taxation Ruling TR 2000/9 (Addendum).

Telecommunications Act—Telecommunications (Standard Form of Agreement Information) Determination 2003.

Trade Marks Act—Regulations—Statutory Rules 2003 No. 214.

Wheat Marketing Act—Regulations—Statutory Rules 2003 No. 223.

Workplace Relations Act—Regulations—Statutory Rules 2003 No. 212.

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 July to 31 December 2002—Statements of compliance—Communications, Information Technology and the Arts portfolio—

Australia Council.

Australian Broadcasting Authority.

Australian Broadcasting Corporation.

Australian Communications Authority.

Australian Film Commission.

Australian Sports Commission.

Australian Sports Drug Agency.

Australian National Maritime Museum.

National Archives of Australia.

National Gallery of Australia.

National Library of Australia.

National Museum of Australia.

National Science and Technology Centre.

ScreenSound Australia.

Special Broadcasting Service.

1 January to 30 June 2003—Statements of compliance—

Australian Taxation Office.

Department of the Prime Minister and Cabinet.

Treasurer's portfolio—

Australian Accounting Standards Board.

Australian Bureau of Statistics.

Australian Competition and Consumer Commission.

Australian Competition Tribunal [nil return].

Australian Office of Financial Management.

Australian Prudential Regulation Authority.

Australian Securities and Investments Commission.

Australian Taxation Office.

Axis Australia.

Companies Auditors and Liquidators Disciplinary Board [nil return].

Corporations and Markets Advisory Committee.

Department of the Treasury, incorporating the Australian Government Actuary.

National Competition Council.

Productivity Commission.

Reserve Bank of Australia.

Royal Australian Mint.
Superannuation Complaints
Tribunal.
Takeovers Panel [nil return].

Departmental and Agency Contracts

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended on 27 September 2001, 18 June and 26 June 2003:

Departmental and agency contracts for 2002-03—Letters of advice—Attorney-General's portfolio—

Administrative Appeals Tribunal.
Australian Crime Commission.
Attorney-General's Department.
Australian Customs Service.
Australian Federal Police.

Australian Transaction Reports and Analysis Centre.

Classification Board and the Classification Review Board [nil return].

CrimTrac.

Family Court of Australia.

Federal Court of Australia.

Federal Magistrates Service.

Human Rights and Equal Opportunity Commission.

Insolvency and Trustee Service Australia.

National Native Title Tribunal.

Office of Film Literature Classification.

Office of Parliamentary Counsel.

Office of the Federal Privacy Commissioner.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Defence: Landing Craft Heavy Fleet**(Question No. 908)**

Senator Chris Evans asked the Minister for Defence, upon notice, on 13 November 2002:

- (1) When was the decision made to have a Life of Type Extension (LOTE) to the Landing Craft Heavy (LCH) fleet.
- (2) Were any options apart from the LOTE considered, for example, was the option of replacement rather than refurbishment considered.
- (3) Were any proposals to replace the LCHs received from Australian small-to medium-sized enterprises; if so, which organisations submitted proposals.
- (4) (a) Why were these proposals rejected; and (b) was the decision made on the basis of cost; if not, what factors led to the decision to refit rather than replace the current fleet.
- (5) Of the proposals submitted: (a) how many had existing units that could be directly evaluated by the Navy; and (b) what were the advantages and disadvantages of the proposed units.
- (6) What was the original budget for the refit of the LCH fleet.
- (7) What were the costs of any other options.
- (8) (a) What has been the cost of the refit to the LCH fleet to date; and (b) what is the complete refit expected to cost.
- (9) When will the refit be delivered.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) The decision was made on 26 October 1998 by the then Capability Forum. Source approval of Tenix as the prime contractor and Tropical Reef (Cairns), as principal subcontractor, was endorsed in early September 1999.
- (2) The options apart from LOTE, considered by the Capability Forum in October 1998, were disposal of the current LCHs without replacement or replace LCHs with a new build.
- (3) Yes. One proposal from Tenix and one from Sea Transport Corporation.
 - (a) Tenix Proposal - Following a review of the LCH LOTE in July 2000; Tenix proposed building three new LCH hulls in Western Australia at a cost of \$5.2 million per hull, based on the current design being provided by the Commonwealth and the re-use of existing LCH equipment. At that point in time cancellation of the LOTE would have resulted in only two LCH completing the LOTE, these were Wewak and Balikpapan.
 - (b) Sea Transport Corporation Proposal - An unsolicited proposal was received from Sea Transport Corporation. The proposal was received in November 2001 when the Commonwealth was deliberating on the cost effectiveness of proceeding with the refit of the last LCH HMAS Brunei due to the state of its hull.
- (4) (a) The Tenix proposal was rejected, as there were a number of unknowns and risks to the Commonwealth in terms of cost uncertainties and supply of Commonwealth equipment. In addition, it is believed the Tenix proposal would have drawn criticism from the major subcontractor, Tropical Reef, who would have a lesser part, if any, to play in such an arrangement. It was also likely to draw criticism from a range of other prospective shipbuilders. Moreover, Tenix proposed to construct the new hulls in Western Australia thus the original premise of undertaking the LOTE in Darwin and/or Cairns to ensure a local base for ongoing support for the LCHs would be defeated.

The Sea Transport Corporation Proposal was rejected on the basis of commercial risk.

(b) Tenix Option - Support Command Australia - Navy estimated that the total indicative cost of the Tenix option would be similar to the cost of new vessels. This, together with sunk costs and the likely industry outcry at a sole source build to Tenix, contributed to making this an unattractive option.

Sea Transport Corporation Option - While cancellation of the sixth LCH LOTE and the charter of a suitable commercial vessel appeared to be cost effective the benefits were outweighed by the risk to Navy's image. A last minute decision to cancel the LOTE and charter a commercial vessel would have drawn considerable political, government and commercial criticism.

(5) Of the proposals submitted:

(a) Tenix had no existing units that could be directly evaluated by the Navy.

A Sea Transport Corporation design was assessed against the present level of amphibious capability provided by the LCH. The outcome of this comparison demonstrated that a suitable charter vessel could be obtained and operated at a slightly lower overall cost than an LCH, however the Sea Transport design would have become a 'orphan craft' noting that five LCHs would have remained in service. A full cost and capability analysis was not possible due to time constraints imposed by operational requirements.

(b) The advantages of the Sea Transport Corporation design was innovative features. The disadvantages were:

(i) the design was more suited to sea transport missions (commercial orientation) as opposed to amphibious assaults (tactical operations);

(ii) the design's level of integration with existing Royal Australian Navy units; and

(iii) lack of commonality of equipment fit with the existing fleet.

(6) \$18.760 million (all figures are expressed in 2002 pricing).

(7) The other option considered to conducting the LOTE was the purchase of replacement LCHs and the cost of this option was \$100 million based on a six ship buy and inclusive of other project costs.

(8) (a) The cost of the refit to the LCH fleet to date is \$37.808 million.

(b) The complete refit is expected to cost \$37.923 million.

(9) The LOTE project was completed 8 November 2002.

**Environment: Energy Grants (Credits) Scheme
(Question No. 1225)**

Senator Brown asked the Minister representing the Treasurer, upon notice, on 27 February 2003:

(1) Will the Treasurer ensure that the Energy Grants Credit Scheme (EGCS), which is to be introduced on 1 July 2003, has a substantial environmental component and that payments under the scheme are made only in respect of vehicles that meet strict environmental standards.

(2) Given that pollution from old diesel trucks is a major problem, particularly in the workplace, and that a growing number of companies are now demanding that delivery vehicles entering warehouse areas comply with Australian Design Rule 80/00 (low emission), with the Truck Industry Council attaching a large logo to all ADR 80/00 trucks identifying them as low emission vehicles): Will the Treasurer ensure that the EGCS supports the use of such vehicles.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator's question:

The Energy Grants (Credits) Scheme Act 2003, which received Royal Assent on 27 June 2003, established the Energy Grants (Credits) Scheme (EGCS) to maintain the benefits that previously existed under the Diesel Fuel Rebate Scheme and the Diesel and Alternative Fuels Grants Scheme. The EGCS commenced on 1 July 2003. The introduction of additional measures to encourage the production of clean fuels was jointly announced by the Treasurer and the Minister for the Environment and Heritage on 14 May 2003. The new measures include incentives to encourage the early production and import of low sulphur premium unleaded petrol and diesel, which will help ensure that Australia's fuels will be among the cleanest in the world.

Telstra: Contractors

(Question No. 1315)

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 24 March 2003:

With respect to question no. 16 taken on notice by Telstra during the Environment, Communications, Information Technology and the Arts References Committee hearing, on 6 December 2002, into the Australian Telecommunications Network:

- (1) Can details be provided of the categories of work which is outsourced to contractors, and the approximate amount of time at which Telstra benchmarks each task.
- (2) How does Telstra ensure quality control over the network repair work done by: (a) contractors; and (b) sub-contractors.
- (3) (a) How long after a job is completed is that work checked; and (b) what is the Telstra company practice for this.
- (4) (a) Who in Telstra checks the work done by contractors on the network; and (b) can details of the process used for this checking be provided.
- (5) (a) What percentage of contractor work is checked; and (b) can figures be provided for daily, weekly and monthly basis of the Telstra company practice for this process.
- (6) (a) How is the quality control of contractor work reported on to Telstra management; and (b) what form does this reporting on quality control take.

Senator Alston—The answer to the honourable senator's question, based on information provided by Telstra, is as follows:

- (1) Categories of Work within the Customer Access Network
 - New Estates
 - Network Extensions (Augmentation)
 - Pre-provisioning and Reactive lead-ins
 - Recoverable Works
 - Network Maintenance (peak-load on occasions, as required)
 - Telephony Installation & Maintenance
 - Broadband Cable Services

Telstra periodically reviews benchmark rates. Typically these reviews occur prior to a 'Request For Tender' being released to industry, when a process change occurs within a task or as part of the introduction of new technologies.

- (2) (a) and (b) Telstra undertakes contract inspections of contracted work in accordance with Australian Standard 1199. The Australian Standard takes an approach based on sampling completed

work. The standard sets out sample sizes based on the volume and type of activity that ensures high levels of statistical validity. A one in ten sampling rate is typical.

- (3) (a) In most cases, quality inspections on completed work are performed between 1-6 weeks after the work is completed.
- (b) The current Telstra practice is to use the sampling methods outlined in the response to part 2 above.
- (4) (a) The inspections are carried out by a combination of Telstra employees (Quality Auditors and Field Contract Officers) and third party independent accredited auditor.
- (b) A Summary of the Product Inspection Process for Capital Works completed by Contractors follows:
 1. Contractor completes work in the field and submits an "As-Built Pack" containing updated plans and Bill of Quantities etc.
 2. Quality Auditors collect As-Built Packs from the Data Management Centre after Telstra databases have been updated (approx 5 to 10 days after field completion).
 3. Auditors combine projects completed in the same geographical area and similar timeframes into batches.
 4. A sample is selected from each batch for inspection. Sample sizes are determined in accordance with AS 1199 – 1998 (eg If a batch contained 90 cable joints, 13 joints would be selected for inspection.)
 5. Auditor inspects the completed activities (eg joints) using a standard checklist and the Technical Standards (Appendices to the ANCC (Access Network Commercial Contractors) contract).
 6. Results are recorded on hard-copy field worksheets which are faxed to the quality office in Adelaide for database entry.
 7. Audit results data are keyed into the Telstra Quality database.
 8. Network Provider Feedback Reports are issued to Contractors, notifying them of any non-conformances.
 9. Contractors respond to the non-conformance reports within 21 days.
 10. Activities with defects identified during previous audits may be re-inspected.
- (5) (a) Approximately 10% of contractor work is checked.
- (b) On a national basis, some 294 activities are checked each day or some 1,470 per week, although this may vary depending on the amount of work completed.
- (6) (a) and (b) Prime contractors provide Telstra with printed monthly operational reports detailing inter alia the results of quality audits, and the status of non-conformance and corrective action reports.

Environment: Natural Heritage Trust

(Question No. 1380)

Senator Allison asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 8 April 2003:

- (1) Can a copy be provided of the National Heritage Trust community plan, which was due for completion in March 2003.
- (2) (a) Can a list be provided of current National Heritage Trust advisory and assessment panels; and
(b) which of these panels have community representation.

- (3) (a) What were the reasons for discontinuing National Heritage Trust funding for the Victorian Grassland Network; and (b) what are the consequences of the closure of this program.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

- (1) I am advised that this question has been withdrawn.
 (2) (a) The Natural Heritage Trust Advisory Committee currently has six members:

Sir James Hardy (Chair)	Professor Hugh Possingham
Dr Roy Green AO	Ms Diane Tarte
Professor Peter Cullen	Mr Bruce Lloyd

The extension of the Natural Heritage Trust utilises Commonwealth convened assessment panels to assess Australian Government Envirofund applications. The most recent assessment was carried out on the Drought Recovery round of the Envirofund. The panel comprised the following members:

Ms Pam Green Cr (Chair)	Prof Geoff McDonald
Mr John Seccombe	Ms Val Wiseman
Mr Alex Arbuthnot	Ms Meredith Roodenrys
Mr John Berger	Mr Alex Campbell
Mr Jim Forwood	Mr Allan Piggott
Mr John Chester	Mr Ian Woods
Mr Graham Yapp	Mr Paul Handscome
Dr Gerry Mayne	Dr Neil McDonald

Under the Bilateral agreements for the Trust Extension Victoria, South Australia and Western Australia have advisory/assessment bodies. These bodies provide advice to the State and Commonwealth on procedures and processes in the development of, and content of, the Regional NRM Plan and Investment Strategies.

Victoria; Independent Advisory Panel

Ms Christine Forster Chair - (Victorian Catchment Council)

Ms Julie Kirkwood - (Environment Victoria)

Mr Ron Hards, - Chair of the Land Management Committee, Victorian Farmers Federation

Allison Teese (dryland farmer)

Mr Gregory Carlson (dryland farmer, member Landcare group)

Mr Noel Harvey - (Municipal Association of Victoria)

Ms Diane James, - Chair Coast Council

Mr Tim Allen - Community

Mr Collon Mullet - Indigenous Community

South Australia; State Assessment Panel

Mr John Berger – Chair - Community

Ms Patsy Mendham – Conservation Council of SA – Community

Mr Bill McIntosh – Soil Conservation Council – Community
Ms Penny Paton – National Parks and Wildlife Council – Community
Mr John Legoe – Local Government Association of SA – Community
Mr Damian Moroney – Coastal Protection Board – Community
Ms Lorraine Rosenberg – SA Fishing Industry Council – Community
Ms Sharon Starick – SA Farmers' Federation – Community
Ms Vicki-Jo Russell – Threatened Species Network – Community
Mr Wayne Cornish – SA Water Resources Council – Community
State Dryland Salinity Committee (position currently vacant) – Community
Ms Leonie Casey – Kungari Assoc Inc – Community
Mr Michael Pearson – Farmer – Community
Mr Roger Wickes – SA Dept Water, Land and Biodiversity – SA Government
Mr Laurie Haegi – SA Dept Environment and Heritage – SA Government
Ms Ros Waldron – Agriculture, Fisheries and Forestry Australia – Commonwealth Government
Mr Peter Creaser – Environment Australia – Commonwealth Government

Western Australia; Western Australian Investment Committee

Mr Rex Edmondson (Community member with skills/knowledge in sustainable agriculture and Community Chairperson)
Ms Rachel Siewart (Community member with skills/knowledge in biodiversity conservation)
Mr Bruce Hamilton (Community member with skills/knowledge in waterways and wetlands management)
Mr John Braid (Community member with skills/knowledge in coastal management and marine conservation)
Mr Bill Mitchell (Community member with skills/knowledge in rangelands management)
Mrs Barbara Morrell (Community member with skills/knowledge in regionally-based natural resource management)
Mr Richard Diggins (Community member nominated by the Commonwealth)
Cr Jan Star (Community member with knowledge of local government NRM issues)
Mr Rob Thomas (Member with knowledge of Indigenous land management issues)
Mr David Hartley (State agency member from the Department of Agriculture)
Mr Gordon Wyre (State agency member from the Department of Conservation and Land Management)
Mr David Nunn (State agency member from the Department of Planning and Infrastructure)
Dr Don McFarlane (State agency member from the Water and Rivers Commission)
Mr Ian Herford (State agency member from the Forest Products Commission)
Mr Ron White (Commonwealth agency member from Agriculture, Fisheries, Forestry - Australia)
Ms Liz Thorburn (Commonwealth agency member from Environment Australia)

QUESTIONS ON NOTICE

- (b) All of these panels include community representatives.
All members of the NHT Advisory Committee are drawn from the community.
The 16 member Envirofund (Drought Round) assessment panel had 12 community representatives and four Commonwealth Government representatives.
The 9 member Victorian Independent Advisory Panel has 6 community representatives and 3 State Government representatives.
The South Australian State Assessment Panel has 13 community representatives and 4 State and Commonwealth Government representatives.
The Western Australian Investment Committee has 9 community members and 8 State and Commonwealth Government representatives.
- (3) (a) "Grassy Ecosystems Network for South Eastern Australia" was funded under the first phase of the Natural Heritage Trust. This project promoted good ideas, strategies and approaches for grassland management across south eastern Australia. The project was of a fixed duration, commencing in 1998 and concluding successfully in September 2002.
- (b) Under new delivery arrangements for the extension of the Natural Heritage Trust regionally significant biodiversity conservation and capacity building activities will be identified through the development and subsequent accreditation of integrated regional natural resource management plans.
- The Commonwealth and the States will jointly invest in these plans.

Environment: Great Barrier Reef Marine Park

(Question No. 1387)

Senator McLucas asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 14 April 2003:

- (1) When was the application from Dectar Pty Ltd for a tourist pontoon development on Moore Reef in the Cairns section of the Great Barrier Reef Marine Park Authority received by the Great Barrier Reef Marine Park Authority.
- (2) When was the proposal referred to the Minister under the Environment Protection and Biodiversity Conservation Act 1999.
- (3) How did the Minister determine that the appropriate method of review was a public environment report.
- (4) How did the Minister determine that the public environment report should be prepared and conducted through the Great Barrier Reef Marine Park Act 1999 and not under the Environment Protection and Biodiversity Conservation Act 1999.
- (5) Are there specified procedures for the environmental assessment of projects requiring permits issued by the authority; if so, what are these procedures.
- (6) Did the authority require an environmental assessment of the application from Dectar Pty Ltd; if so: (a) was Dectar Pty Ltd required to prepare a public environment report for the authority; and (b) when was Dectar Pty Ltd advised of this requirement.
- (7) Has the public environment report been prepared; if so: (a) has the authority received a copy of the report; and (b) can a copy of the report be provided.
- (8) Has the authority completed an initial assessment of the public environment report; if so, can a copy of this assessment be provided.
- (9) What matters have been identified as requiring further information from Dectar Pty Ltd.
- (10) What public consultation is proposed to be undertaken by the authority.

- (11) Can the time for public comment be extended; if so, who can make the decision to extend the time for public consultation and by what authority.
- (12) (a) Will the Minister be providing advice on this matter to the authority once the assessment process is complete; and (b) is the authority required to act on that advice.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

- (1) The Great Barrier Reef Marine Park Authority (the GBRMPA) received the application from Dectar Pty Ltd on 11 November 2001, although preliminary design details on the proposal were not received from the proponent until April 2002.
- (2) The proposal was referred to the Minister under s160 of the Environment Protection and Biodiversity Conservation Act 1999 on 26 July 2002.
- (3) The decision was made by the Minister's delegate in accordance with the provisions of section 87 of the Environment Protection and Biodiversity Conservation Act 1999.
- (4) The delegate was satisfied that the assessment process under the Great Barrier Reef Marine Park Act 1975 would meet the requirements of section 87(4) of the Environment Protection and Biodiversity Conservation Act 1999.
- (5) Assessments of projects requiring permits are undertaken pursuant to the Great Barrier Reef Marine Park Regulations 1983. In particular, Regulation 18(4) sets out the criteria that the GBRMPA must have regard to when deciding whether to grant a permit.
- (6) The GBRMPA has required detailed information to be provided by Dectar Pty Ltd to enable an assessment of the application. (a) Dectar was required to provide the detailed information in the form of a public environment report (PER); (b) Dectar Pty Ltd was advised on 3 September 2002 that a PER was required.
- (7) A public environment report has not been completed for the proposal.
- (8) See response to (7).
- (9) The GBRMPA, in discussing PER content requirements with Dectar Pty Ltd, have identified the following issues:
 - potential impacts on the World Heritage values of the Great Barrier Reef;
 - potential impacts on cultural and heritage values including indigenous values, public amenity values and existing use of the area;
 - impacts of the pontoon installation and operation on benthic and fish communities;
 - pontoon structure, superstructure and engineering details;
 - grey water, sewage and sullage disposal; and
 - framework and intent of the Environmental Management Plans.
- (10) Pursuant to Regulation 20 of the Great Barrier Reef Marine Park Regulations 1983, the draft PER will be made available for public comment for an agreed timeframe of six weeks, or 42 calendar days.
- (11) Pursuant to the Great Barrier Reef Marine Park Regulations 1983, a minimum of 30 calendar days is required for public comment. Once an agreed timeframe has been notified to the proponent, there is no provision for the extension of the public comment period.
- (12) (a) Yes, the Minister will provide advice on this matter to the GBRMPA; (b) The GBRMPA is required to consider the Minister's advice in accordance with section 160(1) of the Environment Protection and Biodiversity Conservation Act 1999.

Health: Karratha Pharmacy
(Question No. 1454)

Senator Mark Bishop asked the Minister for Health and Ageing, upon notice, on 13 May 2003:

- (1) Can the Minister confirm that, following the decision of the Federal Court of *Wood v ACPA*, the Australian Community Pharmacy Authority (ACPA) has rejected an application for the opening of a second pharmacy in Karratha, Western Australia, in line with the provisions of the new rules of the 'Third Community Pharmacy Agreement', which came into effect on 1 July 2002.
- (2) During the period in which the Federal Court was considering the matter prior to 19 December 2002, can the Minister confirm that the ACPA sought to issue an approval for an additional pharmacy in Karratha, even though such a decision was subject to a stay of proceedings.
- (3) (a) What consideration is currently being given by the department to the amendment of the new rules of 1 July 2002; and (b) on how many occasions since 1 July 2002 have discussions been held with the Pharmacy Guild of Australia on the matter.
- (4) Have oral or written representations been made by the Member for Kalgoorlie or by any other Member or Senator from Western Australia to the Minister on revising the new rules; if so, on what dates.
- (5) Is the Minister aware that one of the proponents of the proposed second pharmacy in Karratha advised a meeting of the Roebourne Shire on 16 December 2002, that that proponent was actively working with the Health Insurance Commission to 'fix the legislation'.
- (6) Since 1 July 2002, what representations have been made to the department, the Health Insurance Commission or the ACPA, written or oral, and on what dates, by any party associated with the rejected application for the establishment of a second pharmacy in Karratha.

Senator Patterson—The answer to the honourable senator's question is as follows:

- (1) In February 2003, the Australian Community Pharmacy Authority (ACPA) reconsidered the application in the manner specified by the Federal Court. Applying the Federal Court's decision, the ACPA found that there was insufficient evidence to conclude that the supply of pharmaceutical benefits by the existing pharmacist was substantially inadequate. On that basis the Authority did not recommend the approval of the establishment of a second pharmacy for Karratha.
- (2) The ACPA does not have the power to issue an approval. The ACPA makes a recommendation to a delegated officer within the Health Insurance Commission. The ACPA did not reconsider the matter of an additional pharmacy in Karratha until after the Federal Court decision was handed down. At its meeting on 21 February 2003, the ACPA made a recommendation to the delegate that the application be rejected.
- (3) (a) Rule 6A for relocation of a pharmacy into a rural area in exceptional circumstances, has been under review by my Department in consultation with the Pharmacy Guild of Australia following the Federal Court's decision on 19 December 2002. The Government is committed to ensuring that communities in rural and remote areas of Australia have reasonable access to necessary medicines. On 14 March 2003, the ACPA wrote to the Department and the Pharmacy Guild, drawing attention to deficiencies in the location Rules for exceptional circumstances arising from the Federal Court's findings. In particular, the Authority highlighted its concerns about the emphasis placed on assessing the professional conduct of an existing pharmacist at the expense of determining and addressing perceived community need. Under the terms of the Third Community Pharmacy Agreement, before any Rule can be changed, the Pharmacy Guild must be consulted on any changes to Determinations under subsection 99L(1) of the National Health Act 1953, which set out the Rules and criteria for new pharmacies and pharmacy relocations.

- (b) Since 1 July 2002, discussions concerning Location Rules have been frequent and regular between my Department and the Executive Management of the Pharmacy Guild.
- (4) I have received representations from a number of Members of Parliament and Senators from Western Australia concerning the need for additional pharmacy services in Karratha. I have responded to representations from Senators and Members of Parliament from Western Australia dated 13 and 14 January 2003, 26 February 2003, 10 March 2003, 2 April 2003, and 8 and 10 August 2003.
- (5) I am unaware of the Roebourne Shire meeting of 16 December 2002. I am also unaware that proponents of the proposed second pharmacy in Karratha were working with the Health Insurance Commission to 'fix the legislation'. The Health Insurance Commission has advised that it has not been a party to any discussions concerning "fixing the legislation".
- (6) There have been representations to me, the Department, the ACPA, and the Health Insurance Commission by a number of people to secure access to a second pharmacy for Karratha to ensure that the community has improved access to necessary medicines and pharmaceutical services. I have also received representations from the existing pharmacist in Karratha and people supporting the existing pharmacist.

Forestry: Tasmania
(Question Nos 1468 and 1469)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 15 May 2003:

- (1) Is the Minister aware that logging is being conducted on private property at Black Tier near Woodbury and Bowsden Hill at Lake Tiberias, Tasmania.
- (2) Is the Minister aware that the area in which these logging operations are taking place is suffering serious tree decline.
- (3) (a) How much Commonwealth funding has been given to individuals and agencies in Tasmania to research or combat tree decline in the past decade; and (b) can a list of all projects and recipients be provided.
- (4) Has any Commonwealth funding been spent on the private properties at Black Tier or Bowsden Hill where the logging is taking place; if so: (a) how much; (b) when; and (c) subject to what conditions.
- (5) Is Commonwealth funding related to tree decline specifically, or land and water degradation generally, in Tasmania contingent on the State and/or landholder protecting native vegetation from logging or clearing; if not, why not.
- (6) Does the Minister agree with the Chief Practices Officer of the Forest Practices Board who was quoted in the Mercury, of 27 April 2003, as saying, 'the selective logging that was going on at the two sites would not impact on tree decline' and 'the logging would help the trees to survive by promoting regeneration'.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

- (1) No. The Commonwealth has not received any information about logging in the region identified in Senator Brown's question.
- (2) No. The Commonwealth has not received any advice about logging operations in the specified area that are not being conducted in accordance with the Tasmanian RFA.
- (3) Through the Natural Heritage Trust Bushcare Program, the Commonwealth has provided \$22,458,123 to Tasmania, for a wide range of projects, to contribute to the broad goal of reversing

the long-term decline in the quality and extent of Australia's native vegetation cover. A list of projects for each year, and recipients can be found in the Natural Heritage Community Projects publication (an annual publication inserted in the Natural Heritage – The Journal of the Natural Heritage Trust). Project lists are also included in the Natural Heritage Trust Annual Report each year.

- (4) Our records indicate that no Commonwealth funding has been spent directly on private properties at Black Tier or Bowsden Hill.
- (5) The Commonwealth provides funds, under the Natural Heritage Trust Bushcare Program, to support actions that will contribute to the goal of reversing the long-term decline in the quality and extent of Australia's native vegetation cover. Funding is provided to help protect, enhance and increase native vegetation in the Australian landscape.
- (6) The Minister has not received any information or evidence that would enable him to comment on the Statement of the Chief Practices Officer.

Environment: Natural Heritage Trust

(Question No. 1477)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 22 May 2003:

- (1) How much of the \$250 million promised for the Natural Heritage Trust (NHT) in the 2002-03 Budget has been released by the Commonwealth, apart from the \$50 million so far announced for Envirofund and drought recovery grants.
- (2) Can a breakdown be provided of commitments and/or expenditure for all components of the NHT for each of the 2002-03 and 2003-04 financial years.
- (3) Have any regional resource management plans yet been accredited under the NHT; if so, which ones; if not, when might the first of the 62 regions pass that hurdle.
- (4) Which, if any, of the current NHT support programs, such as the Bushcare Support Program, the Landcare Support Program or the Farm Forestry Support Program, will be continued in the 2003-04 financial year.
- (5) If the continuation of the programs is dependent upon the finalisation of bilateral agreements with the states, are there any contingency plans in place for NHT support workers in the four states that are still dead-locked in negotiations with the Commonwealth, or will these staff be made redundant after June 2003.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

- (1) As at close of business 30 May 2003, year to date expenditure from the Natural Heritage Trust was \$170,047,000. This includes \$24,690,000 of the \$31 million committed to the Envirofund and drought recovery grants.
- (2) Natural Heritage Trust: commitments and expenditure as at 30 May 2003

	2002-03		2003-04
	Commitments	Expenditure	Commitments
	\$'000	\$'000	\$'000
National	\$153,680	\$113,765	\$103,000
Regional	\$65,300	\$31,592	\$127,000
Local - Envirofund	\$31,020	\$24,690	\$20,000
Total NHT	\$250,000	\$170,047	\$250,000

- (3) On 17 April 2003, Senator the Hon Judith Troeth, Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry, and the Victorian Minister for Environment and Water, Mr John Thwaites, jointly announced the accreditation of the first integrated regional natural resource management plan, from the Glenelg-Hopkins region in Victoria. Subsequently, the Western Region Plan in New South Wales has been accredited, as has the Mt Lofty Plan in South Australia.
- (4) Ministers Kemp and Truss released a statement on the future arrangements for facilitators and coordinators on 10 April 2003, including those facilitators who will support Bushcare, Landcare and Farm Forestry programs. A copy of the Ministers' announcement is attached.
- (5) The new model for facilitators and coordinators is not dependent on the finalisation of bilateral agreements. The Commonwealth, States and Territories are discussing the implementation of the announced model in each jurisdiction. Arrangements to bring forward interim regional bids are being implemented in most States and Territories to accommodate local level requirements for facilitators and coordinators. The new arrangements will be implemented from as close as possible to 1 July 2003.

Environment Protection and Biodiversity Conservation Legislation

(Question No. 1489)

Senator Bartlett asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 5 June 2003:

With reference to the Environment Protection and Biodiversity Conservation Act 1999:

- (1) Can a list be provided of the recovery plans that have been made or adopted under Part 13 of the Act for listed threatened species and ecological communities, including information on when each plan was made or adopted.
- (2) How many wildlife conservation plans have been made, or adopted, under Part 13 of the Act for conservation-dependent species, listed migratory species, listed marine species and cetaceans.
- (3) How many permits have been issued under: (a) Part 13, Division 1, of the Act; (b) Part 13, Division 2, of the Act; (c) Part 13, Division 3, of the Act; and (d) Part 13, Division 4, of the Act.
- (4) How many conservation agreements has the Commonwealth entered into under Part 14 of the Act.
- (5) How many management plans has the Commonwealth prepared under section 321 of the Act in relation to World Heritage properties.
- (6) How many management plans has the Commonwealth prepared under section 333 of the Act in relation to Ramsar wetlands.
- (7) Is the Commonwealth proposing to amend the Environment Protection and Biodiversity Conservation Regulations 2000 to ensure that regulatory offences concerning the taking of native fauna and flora in Commonwealth reserves are strict liability offences.
- (8) Can details be provided of the Commonwealth's annual financial contribution to the management of the Wet Tropics World Heritage Area since 1996.
- (9) Can a list be provided of species that have been included on the list of migratory species under section 209 of the Act since 16 July 2000.
- (10) How many nominations for the inclusion of a species on the list of threatened species that is maintained under Part 13 of the Act has the Minister received since 16 July 2000.
- (11) How many assessments of nominations for the inclusion of a species on the list of threatened species has the Threatened Species Scientific Committee completed since 16 July 2000.
- (12) How many assessments of nominations for the inclusion of a species on the list of threatened species has the Threatened Species Scientific Committee submitted to the Minister since 16 July 2000.

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- (13) How many decisions has the Minister made in relation to the amendment of the list of threatened species pursuant to a nomination made under section 191 of the Act since 16 July 2000.
 - (14) How many nominations for the inclusion of an ecological community on the list of threatened ecological communities that is maintained under Part 13 of the Act has the Minister received since 16 July 2000.
 - (15) How many assessments of nominations for the inclusion of an ecological community on the list of threatened ecological communities has the Threatened Species Scientific Committee completed since 16 July 2000.
 - (16) How many assessments of nominations for the inclusion of an ecological community on the list of threatened ecological communities has the Threatened Species Scientific Committee submitted to the Minister since 16 July 2000.
 - (17) How many decisions has the Minister made in relation to the amendment of the list of threatened communities pursuant to a nomination made under section 191 of the Act since 16 July 2000.
 - (18) How many nominations for the inclusion of a process on the list of key threatening processes that is maintained under Part 13 of the Act has the Minister received since 16 July 2000.
 - (19) How many assessments of nominations for the inclusion of a process on the list of key threatening processes has the Threatened Species Scientific Committee completed since 16 July 2000.
 - (20) How many assessments of nominations for the inclusion of a process on the list of key threatening processes has the Threatened Species Scientific Committee submitted to the Minister since 16 July 2000.
 - (21) How many decisions has the Minister made in relation to the amendment of the list of key threatening processes pursuant to a nomination made under section 191 of the Act since 16 July 2000.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

- (1) As of 12 June 2003, 145 recovery plans for listed threatened species and ecological communities have been made or adopted under Part 13 of the Act. See Attachment A for a full list of recovery plans and the date on which each plan was made or adopted.
- (2) As of 12 June 2003, no wildlife conservation plans have been made or adopted under Part 13 of the Act for conservation-dependent species, listed migratory species, listed marine species and cetaceans.
- (3) As of 12 June 2003, the following permits have been issued:
 - (a) Part 13 – Division 1 – Listed threatened species and ecological communities: 31 permits
 - (b) Part 13 – Division 2 – Migratory species: 1 permit
 - (c) Part 13 – Division 3 – Whales and other cetaceans: 22 permits
 - (d) Part 13 – Division 4 – Listed marine species: 32 permits.
- (4) As of 12 June 2003, no conservation agreements have been entered into under Part 14 of the Act.
- (5) No management plans have been prepared under section 321 of the EPBC Act.

All plans and management arrangements for current World Heritage properties are consistent with Australia's obligations under the World Heritage Convention. World Heritage values are fully protected under the EPBC Act as matters of national environmental significance.
- (6) Section 333 of the Act relates to the Commonwealth using its "best endeavours" to ensure a plan is prepared in cooperation with the States and Territories.

As of 12 June 2003, 47 Ramsar sites have management plans (or draft plans) in place, some of which pre-date the Act. The Commonwealth has provided financial assistance for many of these plans. Twelve Ramsar sites have plans that are currently being developed or updated. The Commonwealth is providing input to this process to encourage consistency with the Australian Ramsar Management Principles (ARMPs).

The Commonwealth has assessed 23 plans and provided feedback to the States, Territories and land managers on whether they meet the ARMPs.

- (7) Work is currently underway to identify any necessary amendments to the EPBC Regulations. The question of whether fauna and flora offences in Commonwealth Reserves should be strict liability is being examined as part of this work.
- (8) See Attachment B for details of the Commonwealth's annual financial contribution to the management of the Wet Tropics World Heritage Area since 1996.
- (9) The following website provides a list of species that have been included on the list of migratory species under section 209 of the Act since 16 July 2000: <http://www.ea.gov.au/biodiversity/migratory/list.html>.
In addition to those species, 8 species were included on the list of migratory species under section 209 of the Act on 23 December 2002 (see Attachment C for details).
- (10) As of 12 June 2003, 147 nominations for threatened species have been received since 16 July 2000.
- (11) As of 12 June 2003, the Threatened Species Scientific Committee has completed the assessment of 134 threatened species since 16 July 2000.
- (12) As of 12 June 2003, the Threatened Species Scientific Committee has submitted 83 assessments of threatened species nominations to the Minister since 16 July 2000.
- (13) As of 12 June 2003, the Minister has made 82 decisions in relation to nominations for threatened species since 16 July 2000.
- (14) As of 12 June 2003, 41 nominations for threatened ecological communities have been received since 16 July 2000.
- (15) As of 12 June 2003, the Threatened Species Scientific Committee has completed the assessment of 31 nominations for threatened ecological communities since 16 July 2000.
- (16) As of 12 June 2003, the Threatened Species Scientific Committee has submitted 31 assessments of threatened ecological community nominations to the Minister since 16 July 2000.
- (17) As of 12 June 2003, the Minister has made 29 decisions in relation to nominations for threatened ecological communities since 16 July 2000.
- (18) As of 12 June 2003, 22 nominations for key threatening processes have been received since 16 July 2000.
- (19) As of 12 June 2003, the Threatened Species Scientific Committee has completed the assessment of 20 key threatening process nominations since 16 July 2000.
- (20) As of 12 June 2003, the Threatened Species Scientific Committee has submitted 18 assessments of key threatening processes to the Minister since 16 July 2000.
- (21) As of 12 June 2003, the Minister has made 16 decisions in relation to nominations for key threatening processes since 16 July 2000.

Attachment A - part 1

1. The following recovery plans have been made or adopted under Part 13 of the Act as of 12 June 2003.

Copies of the plans are available on the Environment Australia website at:
<http://www.ea.gov.au/biodiversity/threatened/recovery/list-common.html>

Recovery Plan Title	Date made or adopted
Abba Bell (Darwinia sp. Williamson) Interim Recovery Plan No. 34, 1999-2002	9-Mar-01
Abbott's Booby Recovery Plan (Papasula abbotti) March 1998	16-Jul-00
Recovery Plan for Acacia porcata 1999-2001	9-Mar-01
Albany Cone Bush (Isopogon uncinatus) Interim Recovery Plan - 2001-2003 by Robyn Phillimore and Andrew Brown	26-Mar-02
Recovery Plan for Albatrosses and Giant-Petrels 2001-2005	Oct-01
Species Recovery Plan for Alectryon ramiflorus	16-Jul-00
Recovery Plan for the threatened Alpine Flora - Anemone Buttercup (Ranunculus anemoneus), Feldmark Grass (Erythranthera pumila), Raleigh Sedge (Carex ra-leighii) and Shining Cudweed (Euchiton nitidulus)	26-Mar-02
Recovery Plan for Austromyrtus gonoclada (F. Muell. Ex Benth.) Burret. Angle-stemmed Myrtle	26-Mar-02
Aquatic root mat communities numbers 1-4 of caves of the Leeuwin-Naturaliste Ridge, Interim Recovery Plan, 2000-2003	5-Oct-01
Aquatic root mat communities of caves of the Swan Coastal Plain, Interim Recovery Plan No. 74, 2000-2003	26-Mar-02
Recovery Plan for Zieria adenophora	26-Mar-02
Assemblages of Organic Mound (Tumulus) Springs of the Swan Coastal Plain, Interim Recovery Plan, 2000-2003	5-Oct-01
Recovery Plan for the Bald-tip Beard Orchid Calochilus richiae Nicholls	14-Jul-01
Recovery Plan for the Basalt Greenhood Pterostylis basaltica (Orchidaceae: Pterostylidinae) 2000-2004	9-Mar-01
Bathurst Copper Butterfly (Paralucia spinifera) Draft Recovery Plan Dec 1999	26-Mar-02
Recovery Plan for the Baw Baw Frog (Philoria frosti) 1997-2001, (October 1997);	9-Mar-01
Blue Babe-In-The-Cradle Orchid (Epiblema grandiflorum var. cyaneum ms) Interim Recovery Plan 2000-2003 IRP No. 69	9-Mar-01
Blue Mountains Water Skink (Eulamprus leurensis) Recovery Plan	26-Mar-02
Blunt Wattle (Acacia aprica), Interim Recovery Plan No. 22, 1999-2002	9-Mar-01
Pterostylis sp.15 (Orchidaceae) Botany Bay Bearded Greenhood draft Recovery Plan	26-Mar-02
Recovery Plan for the Bridled Nailtail Wallaby (Onycholgalea fraenata) 1997-2001	14-Jul-01
Burrowing Crayfish Group Recovery Plan 2001-2005	14-Jul-01
Recovery Plan for the Grey Nurse Shark (Carcharias taurus) in Australia	16-Aug-02
Recovery Plan for the Central Rock-rat (Zygomys pedunculatus)	16-Jul-00
Recovery Plan for twelve threatened spider orchids Caladenia R. Br. Taxa of Vic and SA 2000-2004	9-Mar-01
Christmas Island Shrew Recovery Plan (Crocidura attenuata trichura) April 1998	16-Jul-00
Chuditch Recovery Plan - 1992-2001	5-Oct-01
IRP No. 45-Cinnamon Sun Orchid (Thelymitra manginii ms) Interim Recovery Plan 1999-2002 by Robyn Phillimore, Andrew Brown and Val English, November 1999	14-Jul-01

Recovery Plan Title	Date made or adopted
Corangamite Water Skink (<i>Eulamprus tympanum marnieae</i>) National Recovery Plan 1998-2003	9-Mar-01
Corroboree Frog (<i>Pseudophryne corroboree</i>) Recovery Plan, June 1998	14-Jul-01
<i>Corymbia calophylla</i> - <i>Kingia australis</i> woodlands on heavy soil (Swan Coastal Plain Community type 3a -Gibson et al. 1994), Interim Recovery Plan 2000-2003	5-Oct-01
<i>Corymbia calophylla</i> - <i>Xanthorrhoea preissii</i> woodlands and shrublands (Swan Coastal Plain Community type 3c -Gibson et al. 1994), Interim Recovery Plan 2000-2003	5-Oct-01
Cunderin <i>Daviesia</i> (<i>Daviesia cunderdin</i>) Interim Recovery Plan No. 37, 1999-2002	9-Mar-01
Curved-Leaf <i>Grevillea</i> (<i>Grevillea curviloba</i> subsp. <i>curviloba</i>) Interim recovery Plan No. 72. 2000-2003	26-Mar-02
Djoongari (Shark Bay Mouse) Recovery Plan, 1992-2001	26-Mar-02
Dwarf Spider Orchid (<i>Caladenia bryceana</i> subsp. <i>bryceana</i> ms), Interim Recovery Plan No. 39, 1999-2002	9-Mar-01
Recovery Plan for the Eastern Barred Bandicoot <i>Perameles gunnii</i> (mainland sub-species)	9-Mar-01
Eastern Shrublands and woodlands (Swan Coastal Plain Community 20C) Interim Recovery Plan 2000-2003	5-Oct-01
Elegant Spider Orchid (<i>Caladenia elegans</i> ms), Interim Recovery Plan No. 63 2000-2003	9-Mar-01
<i>Epacris hamiltonii</i> Recovery Plan	26-Mar-02
Recovery Plan: Tasmanian Forest <i>Epacrids</i> 1999-2004	9-Mar-01
Recovery Plan for <i>Epacris stuartii</i> 1996-2005	9-Mar-01
Recovery Plan for Threatened Tasmanian Lowland <i>Euphrasia</i> Species 1997-2001	16-Jul-00
Flame Spider-flower (<i>Grevillea kennedyana</i>) Recovery Plan	9-Mar-01
Recovery Plan for the Frankston Spider-orchid (<i>Caladenia robinsonii</i>) 1999-2003	9-Mar-01
Giant <i>Andersonia</i> (<i>Andersonia axilliflora</i>) Interim Recovery Plan No. 30, 1999-2002	9-Mar-01
Gillham's Bell (<i>Darwinia Oxylepis</i>) Interim Recovery Plan - 2001-2003 by Robyn Phillimore, Rebecca Evans and Andrew Brown	26-Mar-02
Gingin Wax (<i>Chamelaucium</i> sp. <i>gingin</i>), Interim Recovery Plan No. 27, 1999-2002	9-Mar-01
Glossy Black-Cockatoo Recovery Plan (<i>Calyptorhynchus lathami halmaturinus</i>), South Australian subspecies 1999-2003	16-Jul-00
Recovery Plan for the Golden-shouldered Parrot (<i>Psephotus chrysopterygius</i>) 1999-2002	16-Jul-00
Recovery Plan for the Goraee Leek Orchid <i>Prasophyllum diversiflorum</i> 2000-2004	9-Mar-01
Recovery Plan for <i>Borya mirabilis</i> Churchill (Grampians Pincushion Lily)	9-Mar-01
Recovery Plan for the Grassland Earless Dragon (<i>Tympanocryptis pinguicolla</i>)	5-Oct-01
Recovery Plan for the Great Desert Skink	26-Mar-02
IRP No. 26 - Green Hill <i>Thomasia</i> (<i>Thomasia</i> sp. Green Hill) Interim Recovery Plan 1999-2002 by Rebecca Evans and Val English, April 1999	14-Jul-01
White Shark (<i>Carcharodon carcharias</i>) Recovery Plan	12-Sep-02
<i>Hakea pulvinifera</i> Recovery Plan	9-Mar-01

Recovery Plan Title	Date made or adopted
Draft Recovery Plan for <i>Pterostylis</i> "Halbury" (Halbury greenhood)	9-Mar-01
Helmeted Honeyeater Recovery Plan 1998-2002 'Teetering on the Verge of Success'	16-Jul-00
Hinged Dragon Orchid (<i>Drakonorchis drakeoides</i> ms), Interim Recovery Plan No. 29, 1999-2002; (now <i>Caladenia drakeoides</i>)	9-Mar-01
IRP No. 54 - Ironstone Grevillea (<i>Grevillea elongata</i>) Interim Recovery Plan 1999-2002 by Robyn Phillimore, Gillian Stack and Val English, January 2000	14-Jul-01
Recovery Plan for the Julia Creek Dunnart (<i>Sminthopsis douglasi</i>) 2000-2004	5-Oct-01
Recovery Plan for cave-dwelling bats, <i>Rhinolophus philippinensis</i> , <i>Hipposideros semoni</i> and <i>Taphozous troungtoni</i> 2001-2005	14-Jul-01
Late Hammer Orchid (<i>Drakaea Confluens</i> ms) Interim Recovery Plan - 2001-2003 by Robyn Phillimore and Andrew Brown	26-Mar-02
Leadbeater's Possum Recovery Plan	16-Jul-00
Phebalium lachnoides Recovery Plan (<i>Leionema lachnoides</i>)	26-Mar-02
Long-footed Potoroo (<i>Potorous longipes</i> Seebeck and Johnston 1980) Recovery Plan	9-Mar-01
Draft Recovery Plan for <i>Pterostylis despectans</i> "Mt Bryan" (Lowly greenhood)	9-Mar-01
Recovery Plan for the Magnificent Broodfrog (<i>Psuedophryne covacevichae</i>) 2000-2004	5-Oct-01
Mahogany glider recovery plan 2000-2004	9-Mar-01
Recovery Plan for the Mala (<i>Lagorchestes hirsutus</i>)	9-Mar-01
IRP No. 43 - Mallee Box (<i>Eucalyptus cuprea</i>) Interim Recovery Plan 1999-2002 by Rebecca Evans, Andrew Brown, and Val English, August 1999	14-Jul-01
National Recovery Plan for the Malleefowl	9-Mar-01
The Mary River Cod Research and Recovery Plan	9-Mar-01
<i>Banksia cuneata</i>	16-Jul-00
IRP No. 51 - McCutcheon's Grevillea (<i>Grevillea maccutcheonii</i>) Interim Recovery Plan 1999-2002 by Robyn Phillimore and Diana Papenfus, December 1999	14-Jul-01
Milky Emu Bush (<i>Eremophila lactea</i>) Interim Recovery Plan No. 38, 1999-2002	9-Mar-01
Montane Heath and Thicket of the South West Botanical Province, above approximately 900m above sea level (Eastern Stirling Range Montane Heath and Thicket Community), Interim Recovery Plan No. 52, 1999-2002	26-Mar-02
Recovery Plan for the Mount Lofty Ranges Southern Emu Wren (<i>Stipiturus malachurus intermedius</i>) 1999-2003	14-Jul-01
Narrow Curved-Leaf Grevillea (<i>Grevillea curviloba</i> subsp. <i>incurva</i>) Interim Recovery Plan 2000-2003 IRP No. 67	26-Mar-02
<i>Barbarea Australis</i> Recovery Plan 1999-2002	16-Jul-00
<i>Allocasuarina portuensis</i> Recovery Plan June 2000	9-Mar-01
Noisy Scrub-Bird Recovery Plan 1996	16-Jul-00
Recovery Plan for the northern bettong <i>Bettongia tropica</i> 2000-2004	14-Jul-01
Recovery Plan for the Northern Hairy-nosed Wombat (<i>Lasiorhinus krefftii</i>) 1998-2002	16-Jul-00

Recovery Plan Title	Date made or adopted
Recovery Plan for the stream-dwelling rainforest frogs of the Eungella region of mid-eastern Queensland 2000-2004	9-Mar-01
Orange-bellied & White-bellied Frogs Recovery Plan - 1995	16-Jul-00
Orange-bellied Parrot (OBP) Recovery Plan: Management Phase 1998-2002	9-Mar-01
Orange-flowered Wattle (<i>Acacia auratiflora</i>), Interim Recovery Plan No. 23 1999-2002	9-Mar-01
Recovery Plan for the Pedder, Swan, Clarence, swamp and saddled galaxias 1999-2004	16-Jul-00
<i>Persoonia mollis</i> subsp <i>maxima</i> Recovery Plan	9-Mar-01
Conservation Research Statement and Species Recovery Plan for <i>Persoonia nutans</i>	5-Oct-01
<i>Phalanx Grevillea</i> (<i>Grevillea dryandroides</i> subsp. <i>dryandroides</i>) Interim Recovery Plan 2000-2003 IRP No. 64	26-Mar-02
<i>Phebalium daviesii</i> Recovery Plan 1996-2004	9-Mar-01
Draft Recovery Plan for <i>Caladenia behrii</i> (Pink-lipped spider orchid)	9-Mar-01
Pinnate-leaved <i>Eremophila</i> (<i>Eremophila pinnatifida</i>) Interim Recovery Plan No. 40, 1999-2001	9-Mar-01
Recovery Plan for the Proserpine rock-wallaby <i>Petrogale persephone</i> 2000-2004	9-Mar-01
Prostrate Flame Flower (<i>Chorizema humile</i>) Interim Recovery Plan No. 31, 1999-2002	9-Mar-01
IRP No. 32 - Pungent <i>Jacksonia</i> (<i>Jacksonia pungens</i> ms) Interim Recovery Plan 1999-2002 by Rebecca Evans and Val English, June 1999	14-Jul-01
Recovery Plan for the Pygmy Bluetongue Lizard (<i>Tiliqua adelaidensis</i>)	14-Jul-01
IRP No. 50 - Quartz-loving <i>Synaphea</i> (<i>Synaphea quartzitica</i>) Interim Recovery Plan 1999-2002 by Gillian Stack and Val English, December 1999	14-Jul-01
Regent Honeyeater Recovery Plan 1999-2003	16-Jul-00
Rose Mallee Recovery Plan 1995	16-Jul-00
Rough Emu Bush (<i>Eremophila scaberula</i>) Interim Recovery Plan No 28, 1999-2001	9-Mar-01
IRP No. 49 - Scaly-leaved Featherflower (<i>Verticordia spicata</i> subsp. <i>squamosa</i>) Interim Recovery Plan 1999-2002 by Robyn Phillimore and Val English, November 1999	14-Jul-01
Scott River <i>Boronia</i> (<i>Boronia exilis</i>) Interim Recovery Plan No. 41, 1999-2002	9-Mar-01
Recovery Plan for the stream-dwelling rainforest frogs of the wet tropics biogeographic region of north-east Queensland 2000-2004	9-Mar-01
Shrubland Association on Southern Swan Coastal Plain Ironstone (Busselton Area) (Southern Ironstone Association) Interim recovery Plan 1999-2002	5-Oct-01
Shrubland and woodlands on Muchea Limestone, Interim Recovery Plan 2000-2003	5-Oct-01
Shrublands and woodlands on Perth to Gingin Ironstone, Interim Recovery Plan 2000-2003	5-Oct-01
<i>Tetratheca gunnii</i> Recovery Plan (Draft) 2001-2005	9-Mar-01
IRP No. 46 - Small-flowered snottygobble (<i>Persoonia micranthera</i>) Interim Recovery Plan 1999-2002 by Rebecca Evans, Sarah Barrett and Andrew Brown, November 1999	14-Jul-01
Somersby Mintbush <i>Prostanthera junonis</i> Recovery Plan	14-Jul-01

Recovery Plan Title	Date made or adopted
Recovery Plan for the southern cassowary <i>Casuarus casuarus johnsonii</i> 2001-2005	5-Oct-01
Recovery Plan for Southern Shepherds Purse (<i>Ballintinia antipoda</i>)	9-Mar-01
Recovery Plan for <i>Agrostis limitanea</i> (Spalding Blown Grass)	9-Mar-01
Spiral Fruited Wattle (<i>Acacia cochlocarpa</i> subsp. <i>cochlocarpa</i> ms), Interim Recovery Plan No 24 1999-2002	9-Mar-01
IRP No. 42 - Split leaved <i>Grevillea</i> (<i>Grevillea althoferorum</i>) Interim Recovery Plan 1999-2002 by Sheila Hamilton-Brown, and Val English, July 1999	14-Jul-01
Spotted Handfish Recovery Plan 1999-2001	16-Jul-00
Spotted Tree Frog Recovery Plan	9-Mar-01
IRP No. 25 - Spreading <i>Grevillea</i> (<i>Grevillea humifusa</i>) Interim Recovery Plan 1999-2002 by Gillian Stack and Val English, April 1999	14-Jul-01
Recovery Plan for <i>Spyridium obcordatum</i> 1991-1993	16-Jul-00
Recovery Plan for Stiff Groundsel (<i>Senecio behrianus</i>)	9-Mar-01
Stirling Range Beard Heath (<i>Leucopogon gnaphalioides</i>) Interim Recovery Plan - 2001-2003 by Robyn Phillimore and Andrew Brown	26-Mar-02
National Recovery Plan for the Striped Legless Lizard (<i>Delma impar</i>); 1999-2003	16-Jul-00
Recovery Plan for the Sunshine Diuris (<i>Diuris fragrantissima</i>) 1998-2002	9-Mar-01
Swift Parrot Recovery Plan 2001-2005	26-Mar-02
Thick-billed Grasswren (Western Subspecies) (<i>Amytornis textilis textilis</i>) Interim Recovery Plan No. 55, 2000-2002	9-Mar-01
IRP No. 33 - Trigwell's <i>Rulingia</i> (<i>Rulingia</i> sp. Trigwell Bridge) Interim Recovery Plan 1999-2002 by Gillian Stack, Rebecca Evans and Val English, July 1999	14-Jul-01
Recovery Plan for the Trout Cod (<i>Maccullochella macquariensis</i>)	9-Mar-01
Recovery Plan for Tumut <i>Grevillea</i> (<i>Grevillea wilkinsonii</i>) July 2000	26-Mar-02
<i>Ranunculus Prasinus</i> Flora Recovery Plan Management Phase 1992-2000	16-Jul-00
Wedge-Tailed Eagle Recovery Plan 1998-2003	16-Jul-00
IRP No.36 - Western Prickly Honeysuckle (<i>Lambertia echinata</i> subsp. <i>occidentalis</i>) Interim Recovery Plan 1999-2002 by Gillian Stack, Rebecca Evans and Val English, July 1999	14-Jul-01
Western Swamp Tortoise Recovery Plan	5-Oct-01
Western Woolly <i>Cyphanthera</i> (<i>Cyphanthera odgersii</i> subsp. <i>occidentalis</i>), Interim Recovery Plan No.21, 1999-2002	16-Jul-00
Recovery Plan for Whipstick <i>Westringia</i> (<i>Westringia crassifolia</i>)	9-Mar-01
Draft Recovery Plan for <i>Caladenia argocalla</i> (White beauty spider orchid)	9-Mar-01
Recovery Plan for <i>Grevillea williamsonii</i> F.Mueller (Williamson's <i>grevillea</i>) 1999 - 2004	9-Mar-01
IRP No.35 - Wing-fruited <i>Lasiopetalum</i> (<i>Lasiopetalum pterocarpum</i> ms) Interim Recovery Plan 1999-2002 by Gillian Stack, and Val English, June 1999	14-Jul-01
Wollemi Pine (<i>Wollemia nobilis</i>) Recovery Plan	16-Jul-00
Wongan Cactus (<i>Daviesia Euphorbioides</i>) Interim Recovery Plan No. 70 2000-2003	26-Mar-02
Wongan Gully Wattle (<i>Acacia pharangites</i>) Interim Recovery Plan No. 20, 1999-2002	16-Jul-00

Recovery Plan Title	Date made or adopted
Wongan Hills Triggerplant Recovery Plan 1995	16-Jul-00
Recovery Plan for Zieria prostrata - December 1998	16-Jul-00

Attachment B

Commonwealth contributions to Wet Tropics World Heritage Management funding 1995-96 to 2002-03

96-97	97-98	98-99	99-00	00-01	01-02	02-03	Total
\$2,965,000	\$3,876,000	\$3,346,000	\$3,752,500	\$3,388,325	\$3,740,000	\$2,718,000	\$23,785,825
Cassowary recovery strategy \$190,000 and Daintree Rescue Program	Daintree Rescue Program	Cassowary recovery strategy	Cassowary recovery strategy				\$3,474,000
\$1,584,000	\$1,500,000	\$100,000	\$100,000				

* Funds in this row represent amounts paid directly to the Wet Tropics Management Authority (WTMA) for baseline funding and supplementary projects.

** Funds in this row were applied to other projects in the World Heritage Area but did not form part of the contributions to the WTMA budget represented in the figures in the row above.

Note: These figures do not include Commonwealth funds that may have been provided directly to Queensland agencies or NGOs (other than above) and applied in the World Heritage Area nor do they include funds provided from Commonwealth agencies other than Environment Australia.

Correct as at 12 June 2003.

Attachment C

The 8 species added to the list of migratory species under section 209 of the Act on 23 December 2002.

Common name	Scientific name
Antarctic minke whale	Balaenoptera bonaerensis
Bryde's whale	Balaenoptera edeni
Fin whale	Balaenoptera physalus
Pygmy right whale	Caperea marginate
Sei whale	Balaenoptera borealis
Sperm whale	Physter macrocephalus
Killer whale	Orcinus orca
Great white shark	Carcharodon carcharias

Defence: Ilyushin Aircraft**(Question No. 1503)**

Senator Chris Evans asked the Minister for Defence, upon notice, on 10 June 2003:

- (1) (a) On how many occasions in the past 5 financial years, has Defence chartered Ilyushin aircraft to transport equipment or Defence personnel; and (b) on each occasion, what was: (i) the date of the charter, (ii) the cost of the charter, (iii) the purpose of the charter; (iv) the company from which the aircraft was chartered, and (v) the equipment that was being transported and/or the group of Defence personnel that was being transported.
- (2) Is Defence aware of any safety concerns regarding the Ilyushin aircraft.

- (3) What steps were taken to ensure that the Ilyushin aircraft chartered by Defence met appropriate safety standards and standards of maintenance.
- (4) Were all of the Ilyushin aircraft chartered by Defence maintained at a standard equivalent to that which the Royal Australian Air Force (RAAF) maintains its fleet of aircraft.
- (5) (a) Does the navigation and safety equipment on board all of the Ilyushin aircraft chartered by Defence meet Australian standards; (b) is the equipment of an equivalent standard to the equipment on Australian commercial aircraft; and (c) is the equipment of an equivalent standard to the equipment on RAAF aircraft.
- (6) Were all of the Ilyushin aircraft chartered by Defence crewed by Australians; if not, what was the nationality of the Ilyushin crews and their standard of accreditation.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) (a) Records prior to 2002 have been archived and would take significant time and resources to research and compile. Since January 2002, Defence has chartered Ilyushin aircraft on four separate occasions, all being the IL-76.

(b) The table below gives detail of these charters:

Date	Cost	Purpose	Company	Equipment being transported
14 - 18 Feb 2002	\$451,467	Deployment of equipment to the Middle East in support of Operation Slipper	Alltrans International	Various Defence equipment
28 Feb - 4 Mar 2002	\$761,403	Deployment of equipment to the Middle East in support of Operation Slipper	Alfa Aerospace	Various Defence equipment
21-24 Mar 2002	\$620,767	Deployment of equipment to Kyrgyzstan in support of Operation Slipper	Alltrans International	Various Defence equipment
May 2002 - Ongoing	Ongoing \$38.3m between May 02 - Jun 03	The regular movement of sustainment stores to the middle East in support of Operations Slipper and Falconer	Adagold Aviation	Various sustainment stores and personnel.

- (2) The Australian Defence Force's (ADF) Directorate of Flying Safety monitors safety issues with Ilyushin 76 aircraft contracted to the Defence Force, as it does for all ADF aircraft. Defence is aware there has been five significant incidents or accidents involving Ilyushin 76 aircraft since the beginning of 2003. Two aircraft were damaged on the ground; one as the result of a typhoon storm and the other by combat action - both not attributed to crew error or defects with the aircraft. Of the other three, two are reported as being lost because of apparent aircrew disorientated in poor weather and details of the third incident, where a number of passengers reportedly fell from the aircraft during a flight in Africa, remain vague.

There has also been a major accident involving another Russian variant aircraft, a YAK 42, in which Spanish peacekeepers died as the result of an accident in Turkey on-route from Afghanistan to Spain. Defence is satisfied with the performance of the current aviation charter broker and the contracted aircraft Ilyushin 76 operator. Nonetheless, to remain confident that the safety of Defence personnel and equipment travelling on chartered aircraft will be maintained, Defence has increased surveillance of all civil registered aircraft contracted to the Defence Force.

A review to determine the risks to Defence personnel and equipment transported on these types of aircraft has been initiated by the Chief of Air Force. Once the review is complete, recommendations for continued Defence use or otherwise, of individual charter operations will be made.

- (3) Defence recognises International Civil Aviation Organisation standards as the minimum standard for charter aircraft. Defence does not comprehensively examine the design management and maintenance programs applied to, or comprehensively audit design and maintenance services conducted on, chartered aircraft. Instead, it relies on the audit and surveillance regime applied by appropriate civil authorities under the International Civil Aviation Organisation requirements.

The Australian Civil Aviation Safety Authority (CASA) provides a degree of additional oversight of operators of aircraft such as Ilyushin 76 aircraft and issue either Australian Air Operators Certificates or Non-Scheduled Flight Clearances following an examination of the aircraft operator. When practical, appropriately competent and experienced Defence staff undertake limited 'ramp inspections' (as per a pre-defined checklist) of such aircraft prior to and at intervals during Defence use. The aim of the inspection is to identify any obvious airworthiness deficiencies or flight safety issues, which would then be brought to the attention of the aircrew prior to flight.

In December 2002 the Chief of the Air Force, in his capacity as the ADF Airworthiness Authority, issued an Airworthiness Directive to provide a process to mitigate risks identified in the charter of all civil registered foreign aircraft. The Directive provides additional oversight to that provided by the International Civil Aviation Organisation and the CASA.

- (4) Both maintenance and design standards for ADF aircraft broadly provide an equivalent level of safety to that for Australian commercial aircraft; with appropriate tailoring of design, maintenance and operational programs for military-unique roles and a more intense operating environment. While being of ex-military design, the Ilyushin 76 chartered by Defence is a civil registered aircraft and is maintained by the aircraft operator to at least International Civil Aviation Organisation standards; the same standard that is applied to other commercial aircraft operators.
- (5) (a) The Australian Civil Aviation Safety Authority (CASA) determines appropriate Australian standards for civil aircraft which fly in Australian airspace. The Ilyushin aircraft chartered by Defence has been issued with a foreign aircraft Air Operators Certificate (AOC) by CASA. Issue of the AOC indicates CASA are satisfied that the Ilyushin aircraft (including navigation and safety equipment) meets an acceptable Australian or equivalent international standard for the role in which it is intended to be operated. Defence contractually require such CASA approvals prior to chartering Ilyushin aircraft and also apply a limited inspection of the aircraft prior to use to provide further confidence that aircraft equipment, including navigation and safety equipment, is suitable for the role and operating environment in which the aircraft is to be used.
- (b) Aircraft operators are obliged to fit and maintain safety and survival equipment in accordance with International Civil Aviation Organisation requirements when carrying passengers. The civil regulator in their country of registration is required to ensure compliance with these standards prior to licensing the operator to carry passengers, cargo or both. Prior to the issue of an Air Operating Certificate or Non-Scheduled Flight Clearance, the CASA ensures that the relevant civil regulatory agency has issued certificates relevant to the task, for example the carriage of passengers. Ramp inspections, when conducted by the CASA and the ADF, also provide an additional level of assurance that standards are being maintained.
- (c) Ilyushin 76 aircraft are required to conform to International Civil Aviation Organisation standards as required by the civil regulator in their country of registration and other countries to which they operate. ADF aircraft generally conform to the civilian standards. However, deviations may be approved due to their unique operating roles and environment.
- (6) No. The nationality of Ilyushin crews is Ukrainian, Russian or Latvian. All crew were accredited to the standard required by the International Civil Aviation Organisation.

Governor-General: Pension
(Question No. 1515)

Senator Sherry asked the Minister representing the Prime Minister, upon notice, on 13 June 2003:

- (1) What was the cost of the arrangements for providing pensions to former Governors-General in the past 5 financial years in both cash and accrual terms.
- (2) What is the estimated or projected cost of these arrangements in the 2002-03 financial year and each of the years over the forward estimate period.
- (3) What is the Commonwealth's current unfunded liability in relation to these arrangements.
- (4) When was the last actuarial review conducted of the long-term cost of these arrangements.
- (5) What is the average effective annual Commonwealth contribution as a percentage of salary represented by these arrangements.
- (6) Are current Governors-General required to make contributions to the Commonwealth as part of their pension arrangements.
- (7) Has the department sought advice in the past 12 months on superannuation surcharge liabilities arising from these arrangements; if so, what was that advice.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator's question:

I am advised as follows:

The figures below reflect the costs of former Governors-General pensions.

(1)

Year	Cash	Accrual	
1997-98	\$393,000	\$393,000	pre – accrual accounting
1998-99	\$377,000	\$4,473,000	first recognition of liability
1999-00	\$434,000	\$2,285,000	revaluation of liability
2000-01	\$424,000	\$424,000	no revaluation
2001-02	\$443,000	\$943,000	revaluation of liability

The variation between cash and accrual within years reflects the additional amount of accrued expense liability for that year. The varied accrual figures across years reflects the variable nature of the liability, for example, 98-99 reflects the initial recognition of the liability, a larger accrual than shown for 99-00, when there was an additional former Governor-General. Where the cash and accrual figures in a given year are the same, no additional accrued expense was recognised.

(2)

Year	Cash	Accrual	
2002-03	\$534,000	\$3,884,000	revaluation of liability
2003-04	\$615,000	\$615,000	
2004-05	\$625,000	\$625,000	
2005-06	\$625,000	\$625,000	
2006-07	\$625,000	\$625,000	

Note: The 2002-03 revaluation of liability included arrangements for the Right Reverend Dr Peter Hollingworth.

- (3) \$6,250,000 based on advice provided by the Australian Government Actuary.
- (4) 30 June 2002.

- (5) The Australian Government Actuary does not carry out costings regarding the effective annual Commonwealth contribution as a percentage of salary.
- (6) No.
- (7) On 19 June 2003 my department sought advice from the Australian Government Actuary regarding the Secretary's responsibilities as Trustee of the Governor-General's Superannuation Scheme in relation to the Right Reverend Dr Hollingworth's superannuation arrangements including the superannuation surcharge.

Education: Higher Education

(Question No. 1552)

Senator McLucas asked the Minister representing the Minister for Education, Science and Training, upon notice, on 18 June 2003:

- (1) Given that page 19 of the Higher Education-Report for the 2003-05 Triennium indicates that the proportion of domestic students from low socio-economic status (SES) backgrounds has declined from 14.7 per cent in 1991 to 14.5 per cent in 2002, while the Minister stated on the SBS Insight program on 22 May 2003 that there has been 'an increase from 19% of the poorest socio-economic status 18-year-olds in Australia in 1989 [to] a decade later ... 25% of the poorest 18-year-olds getting access to higher education': Can the Minister indicate whether the Minister's statement reflects an increase in participation by 18-year-olds from low SES backgrounds and, if so, whether this reflects an even larger decrease in participation by Australians of other ages from low SES backgrounds; and (b) what are the age specific participation rates by Australians from low SES backgrounds.
- (2) (a) What funding, direct or indirect, and in-kind support is provided to the Australian Education Office (AEO) in Washington by: (i) the department, and (ii) Australian universities; (b) what is the role of the AEO and how is it governed; (c) what role does the Government play in the development of the material of the AEO; (d) what role does the Government have in ensuring that the material is accurate and in the interests of Australia and its higher education system; and (e) what recourse does the Government have if it finds that material is inaccurate.
- (3) With reference to the 1998 research by Dr Karmel, published on the department's website, which indicates that approximately 45 per cent of Australians are likely to enrol in a university at some point during their life and that 90 per cent will enrol in tertiary education: (a) Does this research remain valid; and (b) has any further work been undertaken on the subject since 1998.

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

- (1) (a) The Minister's statement on the SBS Insight program on 22 May 2003 did indicate an increase in the proportion of low socio-economic status (SES) 18 year olds in Australia who are participating in higher education. This does not necessarily imply a decrease in the proportion of low-SES Australians of other ages in higher education. The statement refers to the proportion of all 18 year olds who are from a low SES background, not the proportion of all people of low-SES background. The analysis, which was undertaken by the Centre for Economic Policy Research, did not consider other age groups in the Australian population.
- (b) The age specific participation rates of students from low SES backgrounds are:

Age Group	1991	2002
15-19	11.5	16.5
20-24	13.9	13.9
25-29	13.0	12.5

Age Group	1991	2002
30-34	13.3	13.2
35-39	13.1	14.4
40-44	13.5	15.1
45-49	12.4	14.8
50-54	13.2	13.9
55 and over	15.6	13.3
Total	14.7	14.5

Source: Higher Education Statistics Collection.

- (2) (a) (i) The Department provides no operational or ongoing funding to the AEO. For several years DEST has provided modest project funding on a case-by-case basis. The last of these involved providing \$48,000 in October 2002 to fund three specific projects including:
- \$23,000 to develop and distribute three discipline-specific Guides to Postgraduate Study in Australia, aimed at informing the undergraduate community in North America about postgraduate study opportunities in Australia;
 - \$15,000 to increase the quality of the Australian Universities Exhibition Stand at the 2002 NAFSA Convention on international education in the USA; and
 - \$10,000 towards the cost of developing an Academic Links Website to facilitate interaction between Australian and North American academics.
- (a) (ii) Australian universities “own” the AEO in the sense that 36 of them fund it through subscription arrangements. The AEO is a US not-for-profit corporation governed by a Board of Directors which includes a nominee of the Australian Ambassador and several Australian Vice-Chancellors.
- (b) The AEO is governed as described above. The AEO has a dual role of providing services to its member universities, and also of providing generic services to Australian higher education. The former of these roles involves providing a range of informational, promotional and support services. The latter role involves general promotional, liaison and information services about Australian higher education.
- (c) The government does not have a role in the development of AEO materials.
- (d) Providers who are registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) must comply with all requirements of the Education Services for Overseas Students (ESOS) legislation at all times. These requirements include the obligation for registered providers to identify themselves accurately to overseas students by using their registered provider name and unique CRICOS provider code on all written materials. Additionally, registered providers must advertise with integrity and accuracy in order to uphold the reputation of the Australian international education industry. Providers are also required to advertise in a manner which is not deceptive or misleading in its content.
- (e) If DEST receives information that a provider registered on CRICOS is not complying with the ESOS legislation and using inaccurate material in advertising material, the Minister or his Delegate may take action against the provider to ensure compliance with the legislative requirements of the Act. Such action may include cancellation or suspension of the provider’s registration, or imposition of conditions on its registration.
- (3) (a) A paper prepared for the Higher Education at the Crossroads Review, ‘Striving for Quality: Learning, Teaching and Scholarship’, reported that in the year 2000 the probability of a person

participating in higher education was 47 per cent. The probability of a person undertaking tertiary education was not updated and the most recent calculation remains at 90 per cent probability.

- (b) The recalculation of the probability of attending higher education was undertaken in 2001 by Martin and Karmel.

Health: Medical Practitioners Training

(Question No. 1556)

Senator Allison asked the Minister for Health and Ageing, upon notice, on 23 June 2003:

- (1) How many of the current Other Medical Practitioner participants are undertaking training through distance learning or other means that will lead to the fellowship of Royal Australian College of General Practitioners (FRACGP).
- (2) (a) What training schemes are available to these Other Medical Practitioners to achieve FRACGP, (for example, alternative pathways, distance learning, etc); and (b) what is the status of these programs.
- (3) What is the estimated full-time equivalent number of the 1 100 Other Medical Practitioners active in the program.
- (4) Do the numbers of Other Medical Practitioners operating in Queensland include only the Rural Other Medical Practitioner Program or do they include data from the Queensland Country Relieving Program.
- (5) What has been the cost of this program to the department in terms of administration and program costs for each of the following financial years: (a) 2001-02; and (b) 2002-03.

Senator Patterson—The answer to the honourable senator's question is as follows:

- (1) Distance learning is available through the National Consortium for Education in Primary Medical Care (NCEPMC) Alternative Pathway Program route. The Department is not able to provide detailed information about the number of doctors undertaking this pathway as the NCEPMC is an independent concern which considers that this information is commercial-in-confidence.
The Practice Eligible Route requires seven years postgraduate experience including five years general practice experience (or its part time equivalent), and satisfactory completion of the Royal Australian College of General Practitioners (RACGP) assessment process.
The number of Other Medical Practitioners (OMPs) undertaking the Practice Eligible Route is not available as doctors enroll for the RACGP assessment process and do not enroll for the pathway.
- (2) (a) At the present time there are three pathways that lead to the award of Fellowship of the Australian College of General Practitioners (FRACGP). Each of the pathways requires satisfactory completion of the RACGP assessment process including an examination or practice-based assessment.

Doctors can undertake:

- the recognised general practice vocational training program managed by General Practice Education and Training (GPET) Ltd;
- the National Consortium for Education in Primary Medical Care (NCEPMC) alternative training pathway; or
- the practice eligible route.

An examination preparation course is also available to assist doctors to achieve FRACGP. General Practice Education Australia (GPEA) has a six month general practice recognition educational program to help eligible doctors prepare to attain FRACGP.

A limited number of medical practitioners working in remote areas and solo doctor towns can undertake the Pilot Remote Vocational Training Stream (PRVTS) to achieve FRACGP.

- (b) The NCEPMC is not taking new enrolments after June 2003, but will continue to support existing participants on the Program until 31 December 2004.
- (3) At this time a standard report that addresses the above issue is not available.
- (4) The figures only include the Rural Other Medical Practitioner Program.
- (5) Program costs in 2001-02 were \$18.1m. Program costs for 2002-03 are not yet available. Departmental administration costs were approximately \$15,000 in each of those years.

Health: Doctors

(Question No. 1557)

Senator Allison asked the Minister for Health and Ageing, upon notice, on 23 June 2003:

- (1) What is the estimate of the full-time equivalent (FTE) doctors that the 1,285 participating doctors in 2000-01 represent.
- (2) (a) How many of the 1,285 participating doctors were: (i) overseas trained doctors, (ii) temporary visa doctors, or (iii) Australian graduates; and (b) for each of these groups, what is the FTE contribution.
- (3) Are there more recent participation figures available for this program; if so, can a copy of these figures be provided.
- (4) Can the activity and service access data reviewed in the 2001 evaluation and referred to in the briefing paper on the program, be presented in a summary format that would indicate broad trends.
- (5) Can a breakdown be provided, by state and territory, of the number of participating doctors and FTE doctors.
- (6) Does the reference in the briefing paper to Queensland as a dominant user of the program refer only to the RLRP or does it also refer to data from the Queensland Country Relieving Program.
- (7) What has been the cost of this program to the department in terms of administration and program costs for each of the following financial years: (a) 2001-02; and (b) 2003-03.

Senator Patterson—The answer to the honourable senator's question is as follows:

- (1) to (6) At this time a standard report that addresses these questions is not available. The Department is currently undertaking work in this area to ensure accurate reporting.

More recent work suggests that the figures for 2000-01 may be subject to errors due to coding anomalies in the data. The Department is currently undertaking work with the Health Insurance Commission that will generate more accurate reports in the future. No more recent data is therefore available, and will not be available until the coding issues have been resolved.

- (7) The Department funds Rural Workforce Agencies to recruit and retain GPs in rural Australia. A component of this is administering the Rural Locum Relief Program. Funds allocated for administering this program cannot be further broken down. Core funding for Rural Workforce Agencies was:
- (a) \$14,889,600 in 2001-02 (Administered Funds); and
- (b) \$15,410,730 in 2002-03 (Administered Funds).

Social Welfare: Unemployment Benefits

(Question No. 1560)

Senator Harris asked the Minister representing the Minister for Children and Youth Affairs, upon notice, on 19 June 2003:

Can figures for the following categories be provided, on a state by state basis, of males receiving unemployment benefits: (a) married with dependants; (b) in de facto relationships with dependants; (c) separated with dependants; (d) separated without dependants; (e) separated with child support commitments; and (f) separated without child support commitments.

Senator Vanstone—The Minister for Children and Youth Affairs has provided the following answer to the honourable senator's question:

(a) married with children.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
268	14 502	1 095	7 506	2 951	1 313	11 446	3 563

(b) de facto with children.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
121	6 234	1 810	6 099	1 891	1 307	3 197	2 746

(c) separated with children.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
26	578	36	418	230	132	436	182

(d) separated without children.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
642	23 563	1 926	16 993	6 200	2 960	14 580	7 510

(e) separated with child support commitments.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
388	13 783	801	9 602	3 825	1 854	8 572	4 474

(f) separated without child support commitments.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
280	10 358	1 161	7 809	2 605	1 238	6 444	3 218

Data current as at 20 June 2003.

NOTE: Children are defined as those for whom the customer or spouse (for married and de facto only) is receiving FTB.

Health: Approved Medical Deputising Service Program (Question No. 1562)

Senator Allison asked the Minister for Health and Ageing, upon notice, on 20 June 2003:

With reference to the Approved Medical Deputising Service Program:

- (1) What is the estimate of the number of full-time equivalent (FTE) doctors that the approximately 75 participants in November 2002 represent.
- (2) (a) What proportion of these participants were: (i) overseas trained doctors, (ii) temporary visa doctors, or (iii) Australian graduates; and (b) what is the FTE contribution for each group.
- (3) How many 'after hours only' clinics operated by the Approved Medical Deputising Services have program participants providing medical services from these clinics.
- (4) How many doctors and FTE doctors are providing services through these clinics.
- (5) What is the number of Medical Benefits Schedule services provided through these clinics in November 2002 or in any other close period for which the department has collected data.

- (6) (a) Has the internal review of this program been completed; if so, what were its conclusions; and (b) will this program continue past the end of the 2002-03 financial year.
- (7) What has been the cost of this program to the department in terms of administration and program costs for each of the following financial years: (a) 2001-02; and (b) 2002-03.

Senator Patterson—The answer to the honourable senator's question is as follows:

- (1) As of March 2003, 83 doctors were listed on the Approved Medical Deputising Service (AMDS) program, but Medicare billing statistics indicate that only 60 of these doctors were providing services during the March quarter. The estimated full time equivalent (FTE) for these doctors is 33.
- (2) (a) Of the 83 doctors listed on the program at March 2003, 16 were overseas trained doctors who were permanent residents of Australia and the remaining 67 were Australian trained doctors. Doctors who are temporary residents of Australia are not able to participate in the program.
(b) The FTE contribution for each of these groups is not available.
- (3) In March 2003, there were five such clinics.
- (4) In March 2003, there were 27 doctors providing services through these clinics, with the remainder of the doctors providing home visits. The FTE contributions for these doctors is not available.
- (5) For the March quarter 2003, 19,452 Medicare services were delivered through the AMDS program.
- (6) (a) No
(b) Yes
- (7) The administrative costs of the AMDS program for each of these years have been around \$56,000. The program costs for the 2002-03 financial year are around \$4.9 million.

Environment: Mullungdung State Forest
(Question No. 1563)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 20 June 2003:

- (1) Which areas of the Mullungdung State Forest are protected under the Gippsland Regional Forest Agreement (RFA) as part of the comprehensive, adequate and representative (CAR) reserve system.
- (2) Is any part of the Mullungdung State Forest traversed by Basslink; in particular, does any part of the route pass through the Special Protection Zone (SPZ).
- (3) What impact will Basslink have on Mullungdung State Forest, especially the SPZ, including the area and kind of vegetation affected, fragmentation of habitat, weed and pest invasion, and changes to hydrological regimes.
- (4) (a) Does the Basslink route comply with clauses 62 to 67 of the Gippsland RFA; and (b) can an itemised list be provided of how the requirements of each of these clauses have been met.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

- (1) The Gippsland Regional Forest Agreement (RFA) Land Use Map, appended to the Agreement, illustrates the extent of the CAR reserve system and the extent of Special Protection Zones in State Forests, including Mullungdung State Forest.
- (2) The proposed Basslink route would pass through the eastern extremity of the Mullungdung State Forest, which includes a very small section inside the boundary of the Special Protection Zone.

- (3) The clear objective of the selected Basslink route is to avoid Mullungdung State Forest and native vegetation, in order to minimise impacts on habitat and biodiversity. Basslink will have a minimal impact on the Mullungdung State Forest.
- (4) The Basslink route within Victoria is a decision for the Victorian Government. Any Victorian Government decision would need to be consistent with the Gippsland RFA.

Environment: Water Management
(Question No. 1564)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 23 June 2003:

- (1) (a) Does the Minister support the integrated management of surface run-off, river water and groundwater, recognising that these systems are physically interconnected; and (b) will the Minister make this a pre-requisite for water reform through the Council of Australian Governments process.
- (2) What steps are being taken to achieve integrated water management, including protection of the environment and common systems of allocating water so that switching between sources is accounted for.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

- (1) (a) I recognise there are hydrological linkages between surface and groundwater resources and the importance of ensuring all water resources are managed in an integrated way. For this reason the Intergovernmental Agreement for the National Action Plan for Salinity and Water Quality requires that States and Territories implement reforms in relation to "the integrated management of both surface and groundwater systems." This Agreement has been signed by all States and Territories.
(b) The CoAG water reform process addresses a number of institutional arrangements required to ensure efficient and sustainable use of Australia's water resources. This includes a comprehensive system of tradeable water entitlements, allocations to water users and allocation of water to the environment and an integrated catchment management approach to management of water resources. Integrated management of connected water resources is one of a number of elements required to effectively manage and achieve a balance between allocations for productive use and the environment. This issue is being addressed in conjunction with ongoing reforms.
- (2) The 1994 COAG Water Reform Framework commits all governments to the adoption of an integrated catchment management approach to water resource management.

The integrated management of surface and groundwater resources is a matter for the States and Territories who have responsibility for the management and use of water resources. The Commonwealth has sought to ensure that States and Territories address this issue in their jurisdictions through means such as the Intergovernmental Agreement for the National Action Plan for Salinity and Water Quality (see answer to Question 1 above).

On 9 May 2003 the Murray-Darling Basin Ministerial Council agreed to direct the Murray-Darling Basin Commission to establish and progress an assessment of the impacts of groundwater extractions since the adoption of the Cap on water diversions in the Murray-Darling Basin.

House of Representatives: Senior Executive Service
(Question No. 1578)

Senator Carr asked the President of the Senate, upon notice, on 24 June 2003:

Can the President request the Speaker to provide answers to the following questions in respect of the Department of the House of Representatives, noting that these questions have also been asked

of the other parliamentary departments and executive departments and agencies through the estimates process:

- (1) What was the number of senior executive service (SES) staff at each SES band level at 30 June 1996 and at 30 June for each subsequent year, and the number and level of SES staff as at 31 March 2003.
- (2) What were the minimum and maximum salary levels for each SES band, whether determined by Australian Workplace Agreements or otherwise, as at 30 June 1996 and at 30 June in each subsequent year, and at 31 March 2003.
- (3) (a) What was the number of staff with salaries overlapping SES salaries as at 30 June 1996 and at 30 June in each subsequent year, and at 31 March 2003; and
(b) what were the minimum and maximum levels of these salaries.
- (4) (a) How many people are currently employed other than under the Parliamentary Service Act 1999, including under contract arrangements, at salary levels equivalent to the SES; and
(b) what are the minimum and maximum levels of the salaries paid.
- (5) Has the department introduced arrangements whereby SES or other staff who are entitled to a motor vehicle as part of their remuneration are able to cash the vehicle out and have the cashed out amount count as salary for superannuation purposes; if so:
 - (a) when were these arrangements introduced and do they still apply;
 - (b) what was the policy justification for long-term costs of these arrangements; and (c) were any actuarial calculations made of the long-term costs of these arrangements; if so, what were the details of the estimates; if not, why was this not done.

The PRESIDENT—The answer to the honourable senator's question is as follows:

The department has supplied the following information in answer to the questions:

- (1) Number of Senior Executive Service (SES) staff at each SES band level, at the following dates:

Date	SES Band 2	SES Band 1
30 June 1996	2	5
30 June 1997	2	4
30 June 1998	1	4
30 June 1999	1	5
30 June 2000	1	4
30 June 2001	1	3
30 June 2002	1	3
31 March 2003	1	2

- (2) The minimum and maximum salary levels for each SES band, at the following dates were:

Date	SES Band 2	SES Band 1
30 June 1996	\$80,251-99,232	\$66,890-80,510
30 June 1997	\$81,856-101,217	\$68,228-82,120
30 June 1998	\$85,130-105,266	\$70,957-85,405
30 June 1999	\$86,833-107,371	\$72,376-87,113
30 June 2000	\$94,633-115,890	\$80,004-95,337

Date	SES Band 2	SES Band 1
30 June 2001	\$97,945-119,946	\$82,804-98,674
30 June 2002	\$102,355-124,744	\$86,532-102,621
31 March 2003	\$106,449-129,734	\$89,993-106,726

- (3) (a) There were no members of staff with salaries overlapping SES salaries as at 30 June 1996 and at 30 June in each subsequent year, and at 31 March 2003. At two of the dates the salary scales for the classifications of Executive Band 2 and SES Band 1 actually overlapped. However, there were no staff at the Executive Band 2 classification level whose salary overlapped any SES Band 1 member of staff; and (b) The minimum and maximum levels of these salaries and the numbers of staff at the particular classification level where the scales overlapped, were:

Date	Number of staff with their salary scale overlapping SES salaries	Classification level and salary scale
30 June 1996	Nil	Not applicable
30 June 1997	Nil	Not applicable
30 June 1998	21	Executive Band 2 \$63,707-74,642
30 June 1999	19	Executive Band 2 \$64,981-76,135
30 June 2000	Nil	Not applicable
30 June 2001	Nil	Not applicable
30 June 2002	Nil	Not applicable
31 March 2003	Nil	Not applicable

- (4) (a) There are no people currently employed other than under the Parliamentary Service Act 1999, including under contract arrangements, at salary levels equivalent to the SES; and
 (b) The question relating to minimum and maximum levels of the salaries paid is not applicable.
- (5) The department does not have any arrangements whereby SES staff are able to cash their motor vehicle entitlement out for salary that counts for superannuation purposes. SES staff are able to cash their motor vehicle out for additional salary that does not count as salary for superannuation purposes. This arrangement was introduced service-wide, prior to implementation of the Workplace Relations Act 1996 and the associated devolved workplace bargaining arrangements. In this respect, the department has continued the previous provisions. Since the introduction of the option, no SES staff have cashed-out their motor vehicle entitlement. Apart from SES staff, no other staff have an entitlement to a motor vehicle.

**Commonwealth Scientific and Industrial Research Organisation: Staffing
 (Question No. 1591)**

Senator Carr asked the Minister representing the Minister for Education, Science and Training, upon notice, on 27 June 2003:

- (1) Can the Minister confirm that Commonwealth Scientific and Industrial Research Organisation (CSIRO) research divisions are facing cuts of up to 15 per cent in their research budgets as a consequence of the Government refusing to adequately fund CSIRO's Flagship projects.
- (2) Can the Minister also confirm that, anticipating the significant redundancies that will inevitably follow major research budget cuts, divisional managers were instructed not to discuss redundancies

with staff until the completion of the recent estimates hearings of the Employment, Workplace Relations and Education Legislation Committee.

- (3) What decisions were made on the matter of staff redundancies at the CSIRO Executive Management Committee meeting held in late June 2003.
- (4) (a) How many research positions will now be made redundant at CSIRO; and (b) how many research programs have been abandoned or reduced in size.

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

- (1) CSIRO's core research activities, which are conducted across 20 Divisions, will receive increased funding in 2003/04, not decreased funding. Divisions will receive an aggregate increase in appropriation funding in 2003/04 of approximately \$29.5 million (6.05%) over that forecast for 2002/03, of which \$20 million is new money from the Government associated with the implementation of the Flagship initiative. In addition to increased appropriation resources, Divisional research activities will be further expanded as a result of the \$28.7m (10.06%) budgeted increase (over that forecast for 2002/03) in external goods and services revenue.
- (2) In a communication with all CSIRO staff on 2 June, prior to the Budget Estimates hearing, Dr Garrett described the organisation's forward planning process, and announced that "redundancies will occur and are inevitable if we are to maintain our pre-eminent research status and our relevance to stakeholders and customers". He added that "earlier budget projections prepared by Divisions indicated that potential redundancies in 03/04 could be marginally higher than in a 'normal' year. With new recruitments however, bringing on board new skills, I would reiterate that we are planning for an overall net increase in staff levels over the next 12 months."

CSIRO divisional managers were required not to discuss the detailed staffing implications of CSIRO's new Strategic and Organisational Plans, until these plans had been formally approved by the CSIRO Board. This took place at the Board meeting on 17 June. This was in line with the organisation's own approval process which is not related to CSIRO's appearance at Senate Budget Estimates hearings on 4 June.

- (3) At the CSIRO Executive Management Council meeting from 22 – 25 June, the EMC discussed the organisation's Strategic and Operational Plans, which had been approved by the CSIRO Board on 17 June. The EMC discussed the respective roles and responsibilities for the delivery of those plans, and the possible implications for staff. Communication with staff by divisional managers began after this meeting, consistent with the process articulated to CSIRO staff by Dr Garrett on 19 May. The EMC is not a decision-making body, and as such took no formal decisions on the matter of staff redundancies at its meeting.
- (4) (a) As is true for most large, dynamic organisations, CSIRO has a constant turnover of staff at the margins. For 2003/04, CSIRO estimates that approximately 250 research staff will leave the organisation and around the same number again (perhaps a few more) will join the organisation, as it realigns its research priorities.

Estimates are based on financial projections, and will not be able to be finalised until all divisional operational plans have been implemented. However, CSIRO expects the net number of research positions at CSIRO to remain roughly constant over the coming year.

(b) The number of research programs within CSIRO is constantly changing, as new areas of research that are relevant to CSIRO's priorities open up, and effort in less relevant areas is scaled down or stopped.

Education: University Funding
(Question No. 1596)

Senator Crossin asked the Minister representing the Minister for Education, Science and Training, upon notice, on 27 June 2003:

- (1) In the proposed higher education changes, a regional loading of up to 30 per cent is proposed for universities: does this mean that the Northern Territory is to get 30 per cent.
- (2) Is the Northern Territory already receiving a regional loading of approximately 17 per cent; if not: what is the current loading being paid to the Northern Territory University (NTU); if so, does this mean that that the NTU will actually receive only an additional 13 per cent.
- (3) Is this regional loading to be paid based on the number of students enrolled full time; if so, is this full time and on campus; if not, what is this loading based upon.
- (4) Does the loading apply to enrolled students undertaking distance education studies.
- (5) What funding is allocated to universities to cover the costs of distance/external studies.
- (6) Will there be a cap on the number of new Government-subsidised places available to private institutions.
- (7) Can the Minister clarify what the link is between the workplace reforms which might make universities more efficient and the provision of better quality education.
- (8) What is meant by productivity in the university context.
- (9) Does the Government genuinely understand the role of modern day student unions in the provision of additional services and facilities from union fees, and the implications for such services and facilities if union membership is voluntary and fee collections fall dramatically.
- (10) Will additional Government funding be given to provide such services, or will such a decline be allowed to happen as just another lessening of the quality of campus life.
- (11) While not proposed until 2006, the Teaching and Learning package contains the proposition that student evaluation of courses and staff may be placed on Internet for public viewing: (a) can the Minister either confirm or deny this; and (b) if it is confirmed, can the Minister explain the perceived benefits to outcomes.
- (12) (a) What is the proposed composition of the Indigenous Higher Education Advisory Council; (b) how and when will it be established; and (c) how will it be funded.
- (13) Is growth funding being provided for Indigenous employment in higher education.
- (14) Can the Minister explain how universities are expected to cope with the rising costs associated with running courses (of which salaries are the major part) when there is no indexation of funding allowed for in the budget.
- (15) Is it true that such rising costs will put ever increasing pressure on universities to keep on raising fees.
- (16) How can the Minister claim (in 'We can vault the Crossroads' article, the Australian Higher Education Supplement, 4 June 2003) that such a non indexed scheme can 'develop in a way that is sustainable' other than by ever increasing financial contributions from students.
- (17) With reference to the comments made by Peter Karmel, in the Australian of 28 May 2003, that without cost escalation arrangements, in order to cover rising costs the universities will need to use all the additional Commonwealth contributions (if qualified to receive them) or increase HECS by 5 per cent per year, which they can do for only 6 years before reaching the maximum allowable 30 per cent increase: Does the Government agree with this.
- (18) What does the Government propose to do to put in place such arrangements to meet rising costs.

- (19) Given that it has been stated by Peter Karmel and others, that the real cost to students will not be the 28.6 per cent average of course costs claimed by the Government, but closer to 40 per cent, because the Government figures include many costs (such as research and other special purpose funding) which are not related to the costs of teaching undergraduate courses: Can the Minister either confirm or deny that government costs included those not directly related to teaching undergraduate courses, and therefore students will pay more than the average of 28.6 per cent.
- (20) Can the Minister either confirm or deny that the Government appears to be relying on student contributions to redress the shortage of resources in higher education.
- (21) Given that the Australian Vice Chancellors Committee has renewed a call for a review of Youth Allowance student support in order to assist students better financially and allow them to study more and work for some cash a bit less, does the Government intend doing such a review.
- (22) Given that the reform package talks about diversity and flexibility and that the Teaching and Learning funding is to be subject to teaching performance indicators: Will these be a uniformly prescribed set of indicators; if so, how does this fit with diversity and flexibility; if not, then how will they be a fair measure of outcomes towards dividing up the extra funds.
- (23) Given that the Federal Government book subsidy scheme ends next year, this having been introduced to soften the blow of the goods and service tax which will then apply in full, adding 8 per cent to the cost of text books: Will the Government act to prevent this additional impost on students.

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

- (1) Under the proposed changes, universities in the Northern Territory will receive a 30% regional loading for all domestic, internal non-fee paying students. This is the highest band for regional loading and at this point, only universities in the Northern Territory are eligible for this band.
- (2) The Northern Territory does not currently receive a 17% loading for regional funding. There is no direct funding for regional campuses under current arrangements. The 17% loading referred to is extra funding the Northern Territory University (NTU) had received due to its over-funding outside the band normally tolerated. This was allowed because of special factors – its size, location etc. It has no relation to the 30% the NTU will receive under the new arrangements.
- (3) The regional loading, as announced in Backing Australia's Future, will be paid based on the Equivalent Full Time Student Unit (EFTSU), taking into account full-time and part-time students. It will be based on internal load only – that is, on-campus students.
- (4) Regional loading, as announced in Backing Australia's Future, does not apply to distance education students. It only applies to domestic, internal non-fee paying students.
- (5) Under the new funding arrangements distance/external students will be funded like on- campus students under the Commonwealth Grants Scheme.
- (6) The Commonwealth will provide 1,400 places to private institutions in 2005.
- (7) The Government's focus on workplace reform in universities is a commitment to fostering flexible and responsive workplaces. Universities are encouraged to tailor industrial agreements to best suit their needs and the needs of their staff, enabling them to respond quickly and effectively to the changing needs of society, students and staff. This includes being able to make individual arrangements with staff through Australian Workplace Agreements. Flexibility in tailoring workplace arrangements will enable universities to reward existing high performing staff and attract new high quality staff members. This in turn will help to achieve high quality educational outcomes.

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- (8) Productivity in the university context is similar to productivity in any other context. Universities are large, complex organisations. They are encouraged to look at how they operate and whether they can operate more effectively. Examples of ways universities have increased productivity include:
- (a) streamlining workforce planning through the use of pre-retirement contracts for staff approaching retirement age;
 - (b) implementing new information systems or processes to streamline operations and reduce administrative inefficiencies; and
 - (c) using teaching fellowships for post-graduate students to both free up senior academics from part of their teaching loads, allowing them to do other things, and give the teaching fellows the opportunity to gain teaching experience and pursue higher degree qualifications.
- (9) The Government does not consider that the effective provision of student services is dependent on compulsion. Student organisations will be free to recruit members and, if they offer services students want, should not have difficulty attracting a large membership. User-pays systems can efficiently supply a wide array of services. In other words, student services can be provided on the same basis that services are provided by voluntary organisations and commercial enterprises in the rest of the Australian community.
- (10) See answer to (9) above.
- (11) (a) Learning and Teaching Performance Fund allocations will be determined in two stages. As part of the first stage of establishing eligibility for funding, institutions will need to show evidence that systematic student evaluation of teaching and subjects informs probation and promotion decisions for academic positions where the academic has a teaching load or expectation of a teaching load. These results would be made publicly available on the institution's website.
- (b) In an environment of greater specialisation and diversity between institutions, prospective students will need detailed institutional and course information to help them make informed choices. Data on student perceptions of quality of teaching will be important in this process.
- (12) (a) and (b) Decisions have not yet been made on the composition of the Council and how it will be established. We anticipate it will be established before the end of 2003.
- (c) The establishment of the Council in 2003 will be funded from the Higher Education Innovation Programme. An initial \$50,000 has been earmarked for this purpose. Further work of the Council will be funded from allocations made under the proposed higher education legislation.
- (13) Growth funding is not being provided for Indigenous employment in higher education.
- (14) The Higher Education figures included in the Budget have been indexed by the Higher Education Operating Grant index, consistent with the arrangements that have operated since 1995. The Index includes a component for salary costs (75 per cent) and a component for non-salary costs (25 per cent). Salary costs notionally constitute 75 per cent of operating grants. In addition to the current indexation arrangements continuing in the future, the Government's higher education reforms will increase Commonwealth course contributions by 2.5 per cent from 2005, building to a 7.5 per cent (compounded) increase by 2007, in line with the National Governance Protocols of Workplace Relations policies.
- (15) See the answer to (14) above. Universities will set student contribution levels and tuition fees as they see fit.
- (16) See the answer to (14) above.
- (17) No.
- (18) See the answer to (14) above.
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(19) That is not correct. In calculating the average actual student contribution level, the Department of Education, Science and Training (DEST) identifies the total funding available to institutions including student contributions through HECS. Actual student contributions through HECS, taking into account the significant subsidies inherent in the HECS scheme, are then divided by the total funding amount. This provides a figure that identifies the level of actual student contributions as a percentage of the total funding available across the sector.

In addition to operating grant funding, other funds that indirectly support teaching and learning activities are also included in calculating the average student contribution level. In addition to direct Commonwealth funding per student place, the Commonwealth also provides significant funding for equity, quality, research, innovation, workplace reform and capital development. This funding supports a student's learning experience and cannot be excluded from a true calculation of course costs.

(20) That is not correct. The Government's higher education policy provides for a fair and equitable system of student contributions which recognises the substantial private benefits flowing from a university education.

(21) This question does not relate to responsibilities of the portfolio of Education, Science and Training.

(22) The Learning and Teaching Performance Fund will commence in 2006. Allocations will be determined in two stages. In the first stage, institutions will be required to demonstrate a strong strategic commitment to learning and teaching across a range of criteria:

- (a) current institutional learning and teaching plan or strategy;
- (b) systematic support for professional development in learning and teaching for sessional and full-time staff;
- (c) probation and promotion practices that include effectiveness as a teacher;
- (d) systematic student evaluation of teaching and subjects; and
- (e) all such information publicly available on the institution's website.

Once eligibility for funds has been established through the first stage, institutional performance will be assessed using a range of indicators. These indicators will be developed in negotiation with the sector.

(23) The Educational Textbook Subsidy Scheme (ETSS) was introduced in 2000-01, as part of the \$240 million Book Industry Assistance Plan, to alleviate the impact of the GST on the cost of educational textbooks. It is a four year legislated programme of assistance. Under the ETSS the Commonwealth will have provided subsidies to students in excess of \$85 million to alleviate the impact of the GST.

Health: Bulk-Billing

(Question No. 1598)

Senator O'Brien asked the Minister for Health and Ageing, upon notice, on 30 June 2003:

For the quarter ending 31 March in each year from 1995 to 2000, for total un-referred attendances in the following Statistical Local Areas: (a) Latrobe City Council; (b) Bass Coast Shire Council; (c) South Gippsland Shire Council; (d) Baw Baw Shire Council; and (e) Cardinia Shire Council: What was: (i) the percentage of total un-referred attendances that are bulk billed, and (ii) the average patient contribution per service (patient billed services only).

Senator Patterson—The answer to the honourable senator's question is as follows:

- (i) Details of the percentage of non-referred attendances bulk billed in the nominated Statistical Local Areas (SLAs) in the March quarter in each year from 1995 to 2000, are as follows:

Percentage of Non-referred Attendances Bulk Billed						
	March Quarter					
Statistical Local Area	1995	1996	1997	1998	1999	2000
Latrobe City Council	76.2	77.3	78.4	74.4	71.3	71.3
Bass Coast Shire Council	36.6	39.6	41.7	27.8	15.4	15.9
South Gippsland Shire Council	39.2	42.0	40.3	33.8	31.0	35.5
Baw Baw Shire Council	65.4	63.8	55.4	57.7	58.8	52.2
Cardinia Shire Council	63.7	73.4	80.7	82.0	81.4	80.2

- (ii) Details of the average patient contribution per service (patient billed services only), in the nominated Statistical Local Areas and in the March quarter in each year from 1995 to 2000, are as follows:

Average Patient Contribution Per Service (\$)						
	March Quarter					
Statistical Local Area	1995	1996	1997	1998	1999	2000
Latrobe City Council	7.01	7.42	7.98	8.32	8.72	8.75
Bass Coast Shire Council	5.49	5.95	6.58	5.99	5.66	6.23
South Gippsland Shire Council	5.66	5.97	6.61	6.82	6.56	6.79
Baw Baw Shire Council	5.79	6.66	6.08	6.10	6.48	6.98
Cardinia Shire Council	7.65	8.73	9.52	9.76	10.57	10.78

The above statistics only related to non-referred attendances rendered on a 'fee-for-service' basis for which Medicare benefits were processed by the Health Insurance Commission in the respective quarters. Excluded are details of services to public patients in hospital, to Department of Veterans' Affairs patients and some compensation cases.

The statistics were compiled from Medicare data by servicing provider postcode. Where a postcode overlapped SLA boundaries, the statistics were allocated to electorate using statistics from the Census of Population and Housing showing the proportion of the population of each postcode in each SLA. Medicare statistics for some postcodes are not on the Census file and have not been included in the table.

The statistics on the average patient contribution per service only had regard to non-hospital services. It is not possible to compute accurate patient contribution per service statistics for in-patient services. The Commonwealth does not know which patients were privately insured, nor does the Commonwealth have statistics on health fund rebates by broad type of service group on a consistent basis with other Medicare statistics.

Health and Ageing: Public Affairs Unit

(Question No. 1601)

Senator Chris Evans asked the Minister for Health and Ageing, upon notice, on 3 July, 2003:

- (1) For each of the past three financial years as well as for the 2003-04 financial year: (a) what was, or is, the salary of the director of the department's public relations unit; and (b) if the salary changed during this time, in what month and year was each salary increment paid and what did this bring.
- (2) For each of the past three financial years as well as for the 2003-04 financial year: (a) what was, or is, the budget allocation for the department's public relations unit; and (b) was any additional budgetary allocation made to the unit.

Senator Patterson—The answer to the honourable senator's question is as follows:

- (1) (a) The salary for the two positions at Director level in the Department's Public Affairs Unit for each of the past three financial years, as well as for 2003-04, is as follows:

	2000-2001	2001-2002	2002-2003	2003-2004
1.	\$75,886	\$77,783	\$79,783	\$85,699
2.	\$75,886	\$77,783	\$79,783	N/A

Notes: (1) Salary rates are set in accordance with the salary structures set out in the Department's Certified Agreements, including eligibility for increments.

(2) From 1 July 2003, there has been one Director, Public Affairs.

- (b) The following salary changes occurred:

In October 2000, the salary rate rose from \$75,886 to \$77,783, in accordance with salary structures set out in the Department's 2000-02 Certified Agreement, including eligibility for increments.

In November 2002, the salary rose from \$79,728 to \$85,691, in accordance with the salary structures set out in the Department's 4 November, 2002 to 3 July 2004 Certified Agreement, including eligibility for increments and provision for a negotiated allowance.

- (2) (a) For each of the past three financial years, as well as for 2003-04, the allocation for the Public Affairs Unit was as follows:

2000-2001	2001-2002	2002-2003	2003-2004
\$1,774,000	\$1,343,000	\$1,233,000	Not yet decided

(b) The Unit drew on funds from other parts of the Department, by agreement with those Areas, to undertake priority activities that called for communication support for specific periods. The funding was as follows:

2000-2001	2001-2002	2002-2003	2003-2004
\$1,251,000	\$1,875,000	\$1,734,000	Not yet decided

Health: Complementary Health Care

(Question No. 1602)

Senator Allison asked the Minister for Health and Ageing, upon notice, on 7 July 2003:

- (1) What prompted the Government to set up an expert committee to review complementary healthcare.
- (2) Why has the Government refused to allow a representative of the Complementary Healthcare Council to be on that committee.
- (3) With reference to a report that a member of the committee, Professor Alistair MacLennan, has said that the Government should not support the complementary healthcare industry: Can the Minister confirm this statement; if so, should this predisposition not rule Professor MacLennan out as a suitable, unbiased member of the committee.

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- (4) (a) Who on the committee has expertise in regulatory controls to meet appropriate standards of quality, safety and efficacy; and (b) can details of this expertise be provided.
 - (5) (a) Who on the expert committee has expertise on education, training and regulation of complementary healthcare practitioners; and (b) can details of this expertise be provided.
 - (6) (a) Who on the expert committee has expertise on the interaction between complementary and prescribed medicines and the communication of this information to healthcare practitioners; and (b) can details of this expertise be provided.
 - (7) Will consumer representation be included on the expert committee; if so, how will consumer representatives be appointed.
 - (8) Will the committee call for public submissions; if not, why not.
 - (9) By what method will the committee collect evidence.
 - (10) Why was the Pan Pharmaceuticals recall a Level 1 recall.
 - (11) (a) What other options were available; and (b) why were they not taken.
 - (12) Why was it that Pan Pharmaceuticals' products other than Travacalm were recalled.
 - (13) For each of those products recalled, what adverse reactions were reported.
 - (14) Why did the Therapeutic Goods Administration (TGA) not examine all these products before doing a total recall.
 - (15) Why did the TGA not inform the Complementary Healthcare Council so the industry could work with the TGA to test all products in question.
 - (16) Can the Minister confirm that Pan Pharmaceuticals' largest overseas customer, Walmart in America, is still selling Pan Pharmaceuticals' recalled products that they have tested and found to be good quality.
 - (17) Can the Minister confirm that Pan Pharmaceuticals' products are still being sold in Europe, and that in New Zealand they are being sold with approval from the New Zealand Ministry of Health.
 - (18) Given that the number of adverse reactions from complementary medicines was reported by the Australian Adverse Drug Reactions Advisory Committee as averaging only 23 per year compared with 400 000 in 1999-2000 for prescribed drugs, why were prescribed pharmaceuticals not included in the review.
 - (19) Given that, according to the Complementary Healthcare Council, sales of complementary medicines are down 20 to 40 per cent and export sales are down by \$200 million, does the Government intend to compensate small retail businesses for this economic loss and the general decline in consumer confidence.
 - (20) What response has the Government made to the request from the Complementary Healthcare Council for funds to invest in marketing for the industry and positive statements from the Government about complementary medicines.
 - (21) What is the progress on the Government's request to major distributors that claims by small businesses for refunds to consumers on recalled products should be expedited.
 - (22) Is the Government monitoring the financial impact of this recall on small business; if so, what is the impact; if not, why not.

Senator Patterson—The answer to the honourable senator's question is as follows:

- (1) The Government established the Expert Committee on Complementary Medicines in the Health System in response to concerns and questions raised by health professionals, researchers, alternative medicine practitioners and consumer groups after the recent action related to Pan Pharmaceuticals Limited. These included concerns about the reliance consumers can place on

complementary medicines when they are not assessed for efficacy by the Therapeutic Goods Administration (TGA), the lack of qualification and registration requirements for alternative medicine practitioners and the variability across jurisdictions of regulation of these groups.

- (2) The Expert Committee on Complementary Medicines in the Health System is an expert committee, established to advise the Government on the regulatory, health system and industry structures necessary to ensure that the central objectives of the National Health Policy are met in relation to complementary medicines. Members of the committee have been selected on the basis of their expertise in relevant areas of the complementary medicines industry, not as representatives of various stakeholder groups. However, Mr Philip Daffy, who is a consultant to the Complementary Healthcare Council (CHC) of Australia, is a committee member. Membership of the Committee also includes Mr Darin Walters, Chief Executive Officer of Blackmores Ltd, whose Chairman, Mr Marcus Blackmore, AO, is a member of the CHC.
- (3) Professor Alistair McLennan is an expert in complementary medicine epidemiology and the safety and use of complementary medicines within the Australian community, and as such, is an important member of the Expert Committee. I am not able to comment on whether comments purported to have been made by Professor McLennan have been reported accurately.
- (4), (5), (6) and (7) A list of committee members and their areas of expertise is attached.
- (8) and (9) The Committee has decided that public submissions will not be invited. It will draw on its expertise to develop its response. However, members may choose to consult with various stakeholder groups and individuals as they feel necessary to ensure fully informed discussion and debate.
- (10), (11) (a) and (b), (12), and (13) All manufacturers of therapeutic products are required to comply with the Code of Good Manufacturing Practice. The Therapeutic Goods Administration (TGA) conducted a number of audits of the Pan Pharmaceuticals Ltd manufacturing premises, in February and April 2003. These audits revealed serious, widespread deficiencies in the company's manufacturing and quality control procedures, including falsification of documents, systematic and deliberate manipulation of test results, substitution or omission of active ingredients, and inadequate cleaning of equipment between manufacture of different products.

Consequently, neither the safety or the quality of products manufactured by Pan Pharmaceuticals could be assured. The nature of some of the manufacturing breaches meant that some products could contain incorrect amounts of active ingredient and/or potentially harmful contaminants.

The TGA was advised by an Expert Advisory Group that products manufactured under these conditions posed an imminent risk of death, serious illness or serious injury. The Group advised that the multiple failures of GMP identified with the company posed serious risks that would increase over time and could be realised at any time. It was for this reason that the recall was a Class I recall.

- (14) and (15) No amount of testing of the finished product would be adequate to ensure its quality and safety, given the widespread and serious nature of the breaches of manufacturing standards. Although a product could be tested to ensure the presence of stated amounts of ingredients, this would not guarantee that potentially harmful contaminants had not been introduced during its manufacture. It was not possible to identify which contaminants to test for, as every product manufactured by Pan Pharmaceuticals was a possible contaminant for every other product. Nor would testing give any surety that other tablets in the same bottle or other bottles from the same batch would give the same test results.

The Expert Advisory Group advised the TGA that the public health risks were serious and immediate and would grow with time. The Group advised there was an imminent risk of death, serious injury or serious illness. This advice meant the TGA had to take immediate action to cancel

Pan Pharmaceuticals Limited manufacturing licence and order the immediate recall of products manufactured by Pan Pharmaceuticals.

- (16) and (17) The Government cannot comment on the veracity of these claims. The TGA notified all overseas health authorities whose countries had received Pan-manufactured products that the Australian recall had been undertaken. However, any action taken by those countries is a matter for them.
- (18) The committee was established to examine the role of complementary medicines in the health system as a consequence of concerns raised by health professionals, researchers, alternative health practitioners and consumer groups following the recent product recall.
- (19) to (22) These questions are more appropriately addressed to the Minister for Small Business and Tourism.

EXPERT COMMITTEE ON COMPLEMENTARY MEDICINES IN THE HEALTH SYSTEM

NAME	AFFILIATION	EXPERTISE
Dr Michael Bollen (Chair)	Former member of the National Health and Medical Research Council Principal, BMP Healthcare Consulting Pty Ltd	Quality use of medicines, health-care delivery, consumer medicines information and general medical practice
Dr John Aloizos	Chair, Australian Pharmaceutical Advisory Council	Implementation of all aspects of National Medicines Policy and general medical practice
Associate Professor Alan Bensoussan	Centre for Complementary Medicine Research, University of Western Sydney Member, Expert Advisory Panel on Complementary Medicines	Use and evaluation of complementary medicines and therapies in clinical practice; practitioner education and training
Dr Kerry Breen	Chair, NHMRC Australian Health Ethics Committee	Ethical issues associated with the promotion and use of medicines
Professor Terry Campbell	Head of Department Department of Medicine St Vincent's Clinical School Member, Pharmaceutical Benefits Advisory Committee	Clinical pharmacology
Mr Philip Daffy	Consultant to the complementary medicines industry including the Complementary Healthcare Council of Australia	Product development complementary medicines
Dr Paul Dugdale	Chief Health Officer, ACT Department of Health	State and Territory issues associated with practitioner regulation, regulation of dispensed and extemporaneously compounded complementary medicines
Associate Professor John Eden	University of New South Wales, School of Women's and Children's Health	Use of complementary medicines and therapies in medical practice, particularly in women's health
Mr Ross Johnston	Vice President Manufacturing Operations Asia Pacific Wyeth	Quality assurance in the manufacture of complementary, OTC and prescription medicines

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NAME	AFFILIATION	EXPERTISE
Professor Alastair MacLennan	Department of Obstetrics and Gynaecology, University of Adelaide	Complementary medicine epidemiology and safety of complementary medicines
Mr David McLeod	Naturopath, Fellow with the Australian acupuncture and Chinese Medicine Association	Use of complementary medicines in complementary medicine practice; practitioner education and training
Professor Stephen Myers	Director, Australian Centre for Complementary Medicine Education and Research, Southern Cross University/ University of Queensland Member, Complementary Medicines Evaluation Committee	Use and evaluation of complementary medicines in medical practice; practitioner education and training
Mr Anthony Nunan	Principal - Parade Pharmacy; Nunan's Watsonia Pharmacy; Heath's Road Medical Clinic Pharmacy Chairman – Australian Medicines Handbook	Small business issues; quality use of medicines; postgraduate pharmacist education and training; pharmacy
Ms Juliet Seifert	Executive Director, Australian Self-Medication Industry	Quality use of medicines and industry issues, including complementary medicines
Associate Professor Anne Tonkin	Department of Clinical and Experimental Pharmacology University of Adelaide Former Chair, Complementary Medicines Evaluation Committee	Evaluation of efficacy and clinical pharmacology, medical education
Associate Professor Heather Yeatman	Graduate School of Public Health, University of Wollongong Member, Complementary Medicines Evaluation Committee Member, Food Standards Australia New Zealand Board	Consumer issues associated with the use of complementary medicines, food and nutrition
Mr Darin Walters	Chief Executive Officer; Blackmores Ltd	Complementary medicines industry
Professor Bill Webster	Department of Anatomy and Histology, University of Sydney Member, Complementary Medicines Evaluation Committee	Toxicology and the safety of complementary medicines

Health: Medicare Processing Centres

(Question No. 1603)

Senator Allison asked the Minister for Health and Ageing, upon notice, on 8 July 2003:

- (1) Is the Medicare Processing Centre in Brisbane, Queensland, to close with all 113 jobs transferred to New South Wales; if so, what is the rationale for this decision.
- (2) Was a cost-benefit analysis conducted for the proposed move; if so, can a copy be provided.

- (3) What is the cost of redundancy payments that would be necessary for workers in the Brisbane centre.
- (4) Which, if any, other Medicare Processing Centres are to be transferred elsewhere; and (b) can details of these transfers be provided.

Senator Patterson—The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

- (1) No. The Health Insurance Commission (HIC) is not transferring Queensland Medicare jobs to New South Wales. As part of its Business Improvement program, HIC has informed its staff that Medicare processing work would cease to be carried out in the Queensland, South Australia and Tasmania processing centres over the next few years. Under HIC's new structure, there will be significant aggregation of functions taking place. Manual processes will decline with the take-up of online claiming. Therefore, there will be fewer people required to undertake call handling and processing work.
- (2) No Medicare processing jobs in Queensland are being transferred to New South Wales.
- (3) Given that the exact reductions in full-time equivalent positions have not yet been determined for each state, it is not possible to determine the cost of redundancies in Queensland.
- (4) (a) and (b) No Medicare Processing Centres will be transferred from one location to another. Rather, any Medicare work that is not being processed in Medicare branch offices will be aggregated progressively into Contact Centres in New South Wales and Victoria, with a smaller centre in Western Australia handling Medicare calls. Medicare processing work will not be done in processing centres in Queensland, South Australia and Tasmania once online claiming is more broadly used.

Health: Childhood Vaccines

(Question No. 1604)

Senator Allison asked the Minister for Health and Ageing, upon notice, on 8 July 2003:

- (1) Is the Government aware of statements made recently by Dr Thomas Jefferson, a board member of the European research program for improved vaccine safety surveillance, criticising safety studies on childhood vaccines, viz, 'There is some good research, but it is overwhelmed by the bad. The public has been let down because proper studies have not been done.'
- (2) What research into vaccine safety is conducted in Australia.
- (3) Is the Government satisfied that vaccine safety research conducted in Australia and elsewhere is adequate; if so, why.
- (4) (a) Can data be provided on the apparent rise in auto-immune diseases in Australian children; and (b) what research is being carried out as to its cause.
- (5) Under what circumstances are adverse reactions to vaccines required to be reported by health professionals.
- (6) Has the Government considered requiring all health professionals to report adverse reactions to vaccines when they occur; if not, why not.

Senator Patterson—The answer to the honourable senator's question is as follows:

- (1) No.
- (2) Different organisations in Australia have conducted epidemiological research into specific alleged vaccine adverse reactions. In addition, before a vaccine is approved for supply in Australia, the manufacturer must demonstrate the quality, efficacy and safety of the product to the satisfaction of the Therapeutic Goods Administration (TGA) of the Department of Health and Ageing. The TGA

routinely performs post licensure checks on all licensed drugs including vaccines. In addition, the vaccine manufacturers are required to extensively test each 'batch' for quality, potency and safety prior to distribution. Adverse events following administration of vaccine are reported to the Australian Drug Reactions Advisory Committee (ADRAC), whose role it is to survey and respond to acute episodes of drug reactions.

- (3) The Therapeutic Goods Administration (TGA) was established to conduct systematic, independent, scientific, comprehensive and ongoing research into all licensed drugs, including vaccines, for safety and efficacy. Post licensure research of adverse events caused by a registered product is a pre-requisite of continued registration in Australia.
- (4) (a) and (b) The Department has been advised by the National Centre for Immunisation Research and Surveillance of Vaccine Preventable Diseases (NCIRS) that there has been no rise in auto immune diseases in children. With respect to data, auto immune diseases such as lupus, kidney disease, rheumatoid arthritis and rheumatic fever, are not routinely collected through the National Notifiable Disease Surveillance System. However hospital admissions data on diseases such as type 1 diabetes and rheumatic fever is collected and available from the Australian Institute of Health and Welfare.
- (5) An Adverse Event Following Immunisation (AEFI) is notifiable by health professionals under jurisdictional requirements in NSW, WA, QLD and NT to ADRAC via respective Health Departments. In all jurisdictions the NHMRC endorsed Australian Immunisation Handbook (The Handbook) encourages the reporting of AEFIs by health providers and consumers to either the State or Territory health authority or directly to Australian Drug reaction Advisory Committee (ADRAC). There is no time limit on reporting of AEFIs. The Handbook contains information on reporting of AEFIs and extensively defines expected and unexpected AEFIs and their subsequent treatment. The Handbook is provided free of charge to all public, private, educational and professional institutions related to the provision of immunisation or immunisation advice. It is also freely available to interested members of the public.
- (6) AEFIs are notifiable by health professionals under State/Territory requirements in NSW, WA, QLD and NT and is encouraged in all other jurisdictions. All AEFI reports are forwarded to ADRAC who survey and respond to any acute episodes. Commencing in 2002, all AEFI data was forwarded to the National Centre for Immunisation Research and Surveillance (NCIRS) for comprehensive analysis. The first report on AEFIs will be published in the next issue of Communicable Disease Intelligence (CDI).

Health: Food Safety
(Question No. 1605)

Senator Allison asked the Minister for Health and Ageing, upon notice, on 8 July 2003:

What are the implications for Australia of the British Government-commissioned report from the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment Working Group on Phytoestrogens in 2002 and the evaluation of that report by the Scientific Advisory Committee on Nutrition, which states at page 13 that, 'Based on the evidence cited, SACN is in agreement that the use of soy-based infant formulae is of concern. While there is clear evidence of potential risk, there is no evidence that these products confer any health benefit... The issue appears to be one of consumer choice, but there must be an onus on industry to better inform the general public, and secondly through a health professional, parents actually using these products to feed their infants... SACN considered that there is cause for concern about the use of soy-based infant formula. Additionally, there is neither substantive medical need for, nor health benefit arising from, the use of soy-based infant formulae.'

Senator Patterson—The answer to the honourable senator's question is as follows:

Food Standards Australia New Zealand (FSANZ) has reviewed this recent report on phytoestrogens and health by the UK Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment, in response to a request by the Australia and New Zealand Food Regulation Ministerial Council to monitor international and scientific developments on the safety of soy-based infant formula.

FSANZ advised the Ministerial Council in April 2003, that the final conclusions of the UK report do not alter FSANZ's risk assessment of the safety of soy-based infant formula as, although the report noted concern about the use of soy-based infant formula, it provides no conclusive evidence that phytoestrogens in soy-based infant formula adversely affect the health of infants.

This finding is similar to FSANZ's own risk assessment completed in 1999, which concluded that while infants may potentially be exposed to relatively high levels of phytoestrogens, there is no evidence that use of soy-based formula for healthy infants over some 30 years has been associated with any demonstrated harm. This risk assessment, in recognition of the concern about the use of soy-based infant formula, also suggests that it would be prudent to aim to limit the use of soy-based infant formula. Therefore, it is relevant to note that the recently revised National Health and Medical Research Council Dietary Guidelines for Children and Adolescents in Australia, which include the Infant Feeding Guidelines for Health Workers, advise that soy-based infant formula should only be used where medically indicated.

Additionally Standard 2.9.1 - Infant Formula Products of the Australia New Zealand Food Standards Code requires all infant formula products (excluding some special purpose products) to be labelled with the warning statement Breast milk is best for babies. Before you decide to use this product, consult your doctor or health worker for advice.

FSANZ is continuing to monitor developments in relation to the safety of soy-based infant formula and will advise the Ministerial Council of any significant developments.

Defence: Property
(Question No. 1607)

Senator Chris Evans asked the Minister for Defence, upon notice, on 9 July 2003:

With reference to Defence property purchases:

- (1) For each financial year since 1996-97, what were the Budget forecasts of expenditure on Defence property purchases.
- (2) For each financial year since 1996-97, what was the actual expenditure on Defence property purchases.
- (3) For each financial year between 1996-97 and 2001-02 (inclusive), can a list be provided of all property purchased by Defence, indicating: (a) the location (town/suburb, state/territory, postcode); (b) the size of the property; (c) the nature of the property (vacant land, facilities); and (d) the purchase price and seller.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) Forecasts approximated the actual expenditure in each year.
- (2) The following are totals of prices paid for the land and improvements, as agreed to by the owners, excluding legal and valuation costs. Purchases by the Defence Housing Authority are also excluded from these amounts:

Financial Year	\$
1996-97	4,214,050
1997-98	4,556,800
1998-99	3,007,454
1999-2000	5,035,001

Financial Year	\$
2000-2001	992,500
2001-2002	4,012,060

A schedule is attached showing these details.

Town/ Suburb	Address	State/ Terri- tory	Post- code	Size (ha)	Nature	Purchase Price \$	Seller
2001/2002							
Williamtown	16 Steel Street	NSW	2318	88.08	Dairy farm including residence	1,390,000	W and H Redriff
Williamtown	30 Steel Street	NSW	2318	0.7948	Land and residence	180,000	G J Holden
Williamtown	24 Steel Street	NSW	2318	0.07436	Land and residence	170,000	M and B Redriff
Williamtown	4 Steel Street	NSW	2318	0.1012	Land and residence	110,000	L M Cox
Williamtown	8 Steel Street	NSW	2318	0.1109	Land and residence	150,000	D and D Fisher
Williamtown	5 Steel Street	NSW	2318	0.3772	Land and residence	145,000	A S Hartnell
Williamtown	137 Nelson Bay Road	NSW	2318	2.036	Vacant land	125,000	A and D Maas
Williamtown	9/11 Steel Street	NSW	2318	0.13721	Land and residence	125,000	S and V Danko
Williamtown	120 Nelson Bay Road	NSW	2318	5.859	Essentially vacant land	120,000	R Davey
Williamtown	8 Moxey Close	NSW	2318	0.05881	Land and residence	145,000	V Kearns
Williamtown	10 Moxey Close	NSW	2318	0.05881	Land/commercial building (shop)	82,000	D Longmore
Williamtown	37 Slades Road	NSW	2318	0.06131	Land and commercial premises	147,500	R and G Dine
Williamtown	RMB 2540 Steel Street	NSW	2318	20.57	Land and residence	390,000	G and G Foster
Townsville	Lot 5 and access Hervey's Range Road	QLD	4810	0.2199	Vacant land and access	2,500	State of Queensland (J Nicholas as Crown lessee)
Townsville	Hervey's Range Road	QLD	4810	400	Road reserves	5,060	State of Queensland
Shoal Bay	590 Thorngate Road	NT	2315	29.99	Land and buildings	725,000	Joondanna Investments Pty Ltd
Total 2001/2002						4,012,060	
2000/2001							
Amberley	Lots 1-4 being Lincoln, Sewell, Argyle and Dennis Streets	QLD	4306	9.93	Road reserves	30,000	State of Queensland
Weston Creek	Block 11209 in the District of Weston Creek	ACT	2611	0.9837	Vacant land	N/a	Land swap agreement with ACT Government
Ballarat	Lots 2-5, Cnr Sturt Street and Ring Road	VIC	3350	2.51	Vacant land	682,500	Hemco Industries Pty Ltd; and Desmond Hemphill.
Berrimah	Cnr Johnston Avenue and Stuart Highway	NT	828	7.9	Vacant land	280,000	Northern Territory Government

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Town/ Suburb	Address	State/ Terri- tory	Post- code	Size (ha)	Nature	Purchase Price \$	Seller
Total 2000/2001						992,500	
1999/2000							
Williamtown	3 Slades Road	NSW	2318	0.06007	Land and residence	150,000	M Slade
Williamtown	7 Slades Road	NSW	2318	0.1126	Land and residence	102,000	Sonitron Pty Ltd
Williamtown	9 Slades Road	NSW	2318	0.1505	Land and resi- dence/shop	145,000	H & S Properties
Williamtown	10 Slades Road	NSW	2318	2.11	Land and residence and Motel	550,000	S Playford
Williamtown	14 Slades Road	NSW	2318	0.0531	Land and residence	130,000	J O'Farrell and W Wright
Williamtown	33 Slades Road	NSW	2318	0.06956	Land and residence	118,000	D and I Poljanic
Williamtown	39 Slades Road	NSW	2318	0.0607	Land and residence	117,500	J Hainsworth
Williamtown	2 Steel Street	NSW	2318	13.84	Land and residence	250,000	A and P Hawkins
Leeton	Petersham Road	NSW	2705	0.4104	Land with purpose built Army Reserve Depot facility erected on it. Part of a land swap agreement with Leeton Shire Council at nominal considera- tion of \$1.	1	Leeton Shire Council
Amberley	Atlee Street	QLD	4306	0.0971	Vacant land	6,000	State of Queen- sland
Caboolture	Lear Jet Drive	QLD	4510	0.8608	Vacant land	705,000	Barrier Reef Finance and Land Pty Ltd
Caboolture	Lot 28 Concorde Place	QLD	4510	0.5348	Vacant land	935,000	Hildon Proper- ties Pty Ltd
Caboolture	Lot 27 Concorde Place	QLD	4510	0.5444	Vacant land	355,000	Sly Superannua- tion Management Pty Ltd
Coen	Lot 51 Mungkan Street	QLD	4871	0.2023	Vacant land	5,500	State of Queen- sland
Amberley	34 Rosewood Road	QLD	4306	0.1206	Land and residence	131,000	D and M Olley
Inkerman	Port Lorne Road	SA	5550	18.1	Vacant land	13,000	L and D Walker; J Walker; and Australian Secu- rities Commis- sion.
Port Pirie	125-128 Warner- town Road	SA	5540	0.36	Land and buildings	100,000	Telstra
Doveton	43-65 Princes Highway	VIC	3177	4.553	Vacant land	1,200,000	
Bindoon	Part Crown Reserve 29100 at Bindoon WA	WA	6502	45.1916	Vacant land	22,000	WA State Government
Total 1999/2000						5,035,001	

Town/ Suburb	Address	State/ Territory	Post- code	Size (ha)	Nature	Purchase Price \$	Seller
1998/1999							
Williamtown	113 Sandeman Street	NSW	2318	0.087	Land and residence	132,500	J H Padmos
Williamtown	115 Sandeman Street	NSW	2318	0.1246	Land commercial premises and Bakery business	701,454	Wright Bake Pty Ltd & P and D Wright
Williamtown	5 Slades Road	NSW	2318	0.0607	Land and residence	125,000	A and S King
Williamtown	12 Slades Road	NSW	2318	0.07082	Land and residence	118,000	J Anderson and N Hickey
Williamtown	12A Slades Road	NSW	2318	0.05628	Vacant land	45,000	J Anderson and N Hickey
Williamtown	15 Slades Road	NSW	2318	0.0973	Land and residence	112,000	P Carter
Williamtown	16 Slades Road	NSW	2318	0.0645	Land and residence	137,500	R and J Bignall
Williamtown	17 Slades Road	NSW	2318	0.0841	Land and residence	125,000	J and J Banville
Williamtown	18 Slades Road	NSW	2318	0.05185	Land and residence	125,000	N and E Cardow
Williamtown	20 Slades Road	NSW	2318	0.05185	Land and residence	117,500	K Mowle
Williamtown	21 Slades Road	NSW	2318	2.842	Land and residence	341,000	C and B Vemall
Williamtown	29 Slades Road	NSW	2318	0.09141	Land and residence	150,000	M Horacek
Williamtown	31 Slades Road	NSW	2318	0.06956	Land and residence	130,000	R Howard and N Von Eitzen
Williamtown	35 Slades Road	NSW	2318	0.0607	Land and residence	115,000	J Morris
Williamtown	41 Slades Road	NSW	2318	0.0537	Vacant land	see below	R Szekelyhidy
Williamtown	43 Slades Road	NSW	2318	0.2067	Land and residence	212,500	C Evans, M Evans and R Szekelyhidy
Nowra (Yerriyong)	810 Parma Road (Braidwood Road)	NSW	2540	40.94	Vacant land	290,000	E and H Sikes
Normanton	Lot 2 Wurrup Street	QLD	4890	0.4	Vacant land	30,000	Council of the Shire of Carpentaria
Total 1998/99						3,007,454	
1997/1998							
Medowie	19 Pipeclay Creek	NSW	2318	81.12	Land and packing shed/living accommodation and machinery sheds	482,300	M and B Boyd
Nowra (Falls Creek)	506 Parma Road	NSW	2540	17.35	Land and residence, machinery shed and stock yards	390,000	F Stockley
Nowra	439A Braidwood Road	NSW	2540	2.072	Land and residence	190,000	Smith
Nowra	415 Braidwood Road	NSW	2540	13	Land and residence	340,000	Kooij
Nowra	501 Braidwood Road	NSW	2540	24.28	Land and residence	265,000	Ellis
Nowra	545 Braidwood Road	NSW	2540	73.55	Land and residence, machinery shed and other sheds	555,000	H Lovell

Town/ Suburb	Address	State/ Terri- tory	Post- code	Size (ha)	Nature	Purchase Price \$	Seller
Nowra (Falls Creek)	526A Parma Road	NSW	2540	18.9	Land and residence, machinery shed	404,000	S and A Lym- bery
Nowra (Falls Creek)	570 Parma Road	NSW	2540	15.8	Land and residence	379,500	B and M Russell
Irvingdale	"Brymaroo" Irvingdale Road	QLD	4404	121.5	Piggery	400,000	H and H Holt- kamp
Cooktown	Palmer Road	QLD	4871	0.12	Vacant land	55,000	M S Coventry
Townsville	Ashton Street, Garbutt	QLD	4814	1.7	Vacant land	150,000	State of Queen- sland
Darriman	South Gippsland Highway	VIC	3851	353.6	Land and various buildings.	946,000	Australian Mari- time Safety Authority
Total 1997/98						4,556,800	
1996/1997							
Nowra	Sycamore Road	NSW	2540	45.24	Land and residences (two converted ex- navy barracks), machinery sheds and cattle yards	335,000	L W Withers and D W Reynolds
Nowra	439B Braidwood Road	NSW	2540	11.78	Land and residence	236,300	Richardson
Nowra (Falls Creek)	526B Parma Road	NSW	2540	8.73	Land and residence, machinery shed and other sheds	265,000	M Murray
Nowra	25E Sycamore Road	NSW	2540	20	Land and residence and work shed	300,000	S Maddinson
Nowra	25D Sycamore Road	NSW	2540	20	Land and residence and machinery shed	298,000	R Lennon
Dotswood	Argentine Town- ship	QLD	4810	431.315	Vacant land	129,750	State of Queen- sland. Star River Copper Mining Co Ltd
Stony Head	Crown land	TAS	7252	5019	Vacant land	2,650,000	State of Tasma- nia
Total 1996/97						4,214,050	

**Immigration: Asylum Seekers
(Question No. 1615)**

Senator Brown asked the Minister representing the Minister for Immigration and Multi-cultural and Indigenous Affairs, upon notice, on 10 July 2003:

With reference to the transfer of people to asylum-seeker detention in Australia or overseas:

- (1) Are such people handcuffed; if so: (a) how are they handcuffed; and (b) under what conditions and instructions.
- (2) Are people on plane flights allowed to urinate and/or defecate in private; if not, what are the conditions or restrictions.
- (3) Is it true that on some flights, taking some hours, no detainees have used toilet facilities because of the refusal of privacy.

- (4) What is the longest flight, for example, Christmas Island to the mainland, which has been, or is likely to be, undertaken by detainees, in terms of time.

Senator Ellison—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator's question:

- (1) At times, detainees may be restrained during transfers between immigration detention facilities in Australia. Australia does not maintain detention facilities overseas.
 - (a) Restraints, which may be used in these circumstances, include metal handcuffs, plastic flexi-cuffs or cuffing belts.
 - (b) The Detention Services Provider uses restraints as prescribed under section 5(1) of the Migration Act 1958. Restraints are only used if a security assessment of the person being transferred suggests that they may seek to escape, injure or interfere with persons or property, or that they have threatened violence or self-harm.
- (2) If a detainee wishes to access bathroom facilities, a detention officer (of the same gender) may hold the door by cupping their hand around the edge of the door to prevent the detainee from locking the door. This provides the detainee with the maximum amount of privacy. There are obvious duty of care reasons for this, in particular to prevent self-harm.
- (3) Neither the Department of Immigration and Multicultural and Indigenous Affairs nor Australasian Correctional Management Pty Ltd can find any record of such a complaint.
- (4) The length of flights between various destinations in Australia for detainees equate to those experienced by the general travelling public.

Immigration: Offshore Processing

(Question No. 1628)

Senator Brown asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 14 July 2003:

- (1) What was the cost of transporting the group from near Port Hedland to Christmas Island.
- (2) By holding the group on Christmas Island instead of at Port Hedland, what additional costs will be incurred by the Government, legal representatives for the group and any other people or agencies with responsibilities for them.

Senator Ellison—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator's question:

- (1) HMAS *Canberra* was directed by the Government to transfer the unauthorised arrivals from Port Hedland to Christmas Island. As a result the cost of this transfer is a matter for the Department of Defence.

The transfer of the unauthorised arrivals from Port Hedland Harbour to Christmas Island was due to the fact that the Port Hedland Immigration and Reception Processing Centre was unable to provide separation detention for the new arrivals.

The purpose of separation detention is to ensure that new arrivals can be interviewed without coaching by other detainees.

It should also be noted that mainland processing would send the wrong message to people smugglers and could spark a new influx of boat arrivals, which would outweigh any potential saving that mainland processing may offer.

Additionally, the transfer of the unauthorised arrivals to any immigration detention facility would involve a cost to the Commonwealth.

- (2) Potential costs for Christmas Island that may be incurred cannot be calculated. However, previous costs per detainee, per day indicate that the cost of maintaining services for a detainee at the Christmas Island detention facility is approximately \$627.00 per day. This compares to the current daily cost at Baxter detention facility of \$415.00 per day, per detainee.

Under the Immigration Advice and Application Assistance Scheme (IAAAS), the Department of Immigration and Multicultural and Indigenous Affairs provides detainees with publicly-funded application assistance by registered migration agents to assist with the preparation and lodgement of their Protection Visa applications. No additional costs will be borne by the provider in fulfilling this activity for the department.

The cost to other groups or agencies visiting the Christmas Island detention facility, not on official departmental duties, will generally be borne by those groups or agencies as currently happens on mainland Australia.

National Radioactive Waste Repository

(Question No. 1629)

Senator Allison asked the Minister for Finance and Administration, upon notice, on 14 July 2003:

- (1) Is the Federal Government paying for public relations consultants to influence South Australians over the Commonwealth's acquisition of land known as site 40a to locate a national radioactive waste repository.
- (2) Is the consultant firm Michels Warren; if not, then who.
- (3) (a) How were the consultants selected; and (b) was a public tender undertaken.
- (4) Have any of the consultants carried out work for organisations associated with mining, energy or uranium; if so, can details be provided of: (a) the name of the consultant; (b) the name of the organisation; (c) the contract objective; and (d) the length of the job.
- (5) (a) What is the commencement date; and (b) what is the expected duration of the consultancy.
- (6) (a) What is the expected cost of the consultancy; and (b) from which budget will it be funded.
- (7) What objectives does the project brief outline.
- (8) What is the expected program for meetings, media, events, publications, advertising, research etc.
- (9) What are the key messages.
- (10) Will the Minister's office direct the consultants at any time: if not, who will be responsible.
- (11) (a) Will the name of the consultants and the budget for public relations be included in any publications or websites developed as part of the campaign: and (b) why.
- (12) How much has the Commonwealth spent on in house public relations and external consultants for the national radioactive waste repository since 2001.
- (13) How much will the Commonwealth offer the owners of site 40a as compensation for its compulsory acquisition.

Senator Minchin—The answer to the honourable senator's question is as follows:

- (1) The Commonwealth of Australia has employed a consultant to manage the issues around the acquisition of the necessary property interests to establish a national repository for low-level radioactive waste at Site 40a located at Arcoona Station in South Australia.
- (2) Yes. The firm is Michels Warren.
- (3) (a) and (b). A select tender process was used to select the consultant.

- (4) Yes. The names of the organisations were provided to the Department of Finance and Administration on the basis that they would not be made public.
- (5) (a) The commencement date of the consultancy is 4 July 2003. (b) The expected duration of the consultancy is two months, with the possibility of an extension.
- (6) (a) The expected cost of the consultancy is up to \$107, 000. (b) The consultancy will be funded from the budget of the Asset Management Group, Department of Finance and Administration.
- (7) The objectives of the project brief are to facilitate awareness and understanding in the Australian community of the Commonwealth Government's radioactive waste management policies as they relate to the national radioactive waste repository and to offer communication and issues management advice in relation to the establishment of the national radioactive waste repository.
- (8) No fixed programme has been developed at this stage. The consultant has been expected to respond as issues arise.
- (9) The consultant was not given key messages, but is expected to reflect the Commonwealth's views in any material, which is prepared.
- (10) Yes. Michels Warren can perform tasks at the direction of the Project Manager or the Minister's office. The Project Manager for the consultancy is the Branch Manager, Special Claims and Land Policy Branch, Business Services Division, Asset Management Group.
- (11) (a) and (b). No. No website is being built, but any publication will be a Commonwealth publication.
- (12) The Department of Education, Science and Training has spent \$108,137 on external public relations consultants for the national repository since 2001. The only resources expended in house on public relations matters relate to the administration and management of the external public relations consultants.
- (13) The Commonwealth has not assessed any offer at this stage. The Lands Acquisition Act 1989 provides for an offer to be made in response to a claim by former owners. At this stage, none of the former owners of the property interests involved have submitted a claim.

Environment: Grey-Headed Flying Fox
(Question No. 1630)

Senator Allison asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 14 July 2003:

- (1) Do Grey-headed Flying-foxes occur on any Commonwealth land.
- (2) Do Spectacled Flying-foxes occur on any Commonwealth land.
- (3) Has the department prepared, or commenced preparation of, a recovery plan for: (a) the Grey-headed Flying-fox; and (b) the Spectacled Flying fox.
- (4) (a) How many referrals have been received under the Act in relation to culling Grey-headed Flying-foxes; and (b) how many referrals have been received under the Act in relation to culling Grey-headed Flying-foxes since the publication of the 'Administrative Guidelines on Significance - Supplement for the Grey-headed Flying-fox'.
- (5) (a) How many referrals have been received under the Environment Protection and Biodiversity Conservation Act 1999 in relation to culling Spectacled Flying-foxes; and (b) how many referrals have been received under the Act in relation to culling Spectacled Flying-foxes since the publication of the 'Administrative Guidelines on Significance - Supplement for the Spectacled Flying-fox'.
- (6) Has the Minister or the department sought any information on the number of Grey-headed Flying-foxes authorised to be killed under governmental authorisations (however described) issued by the

Queensland, New South Wales and Victorian governments between 1 July 2002 and 30 June 2003; if so, how many Grey-headed Flying-foxes were authorised to be killed; if not, why not.

- (7) Has the Minister or the department sought any information on the number of Grey-headed Flying-foxes killed under governmental authorisations (however described) issued by the Queensland, New South Wales and Victorian governments between 1 July 2002 and 30 June 2003; if so, how many Grey-headed Flying-foxes were authorised to be killed; if not, why not.
- (8) Has the Minister or the department sought any information on the number of Spectacled Flying-foxes authorised to be killed under governmental authorisations (however described) issued by the Queensland Government between 1 July 2002 and 30 June 2003; if so, how many Spectacled Flying-foxes were authorised to be killed; if not, why not.
- (9) Has the Minister or the department sought any information on the number of Spectacled Flying-foxes killed under governmental authorisations (however described) issued by the Queensland Government between 1 July 2002 and 30 June 2003; if so, how many Spectacled Flying-foxes were authorised to be killed; if not, why not.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

- (1) The Government is not aware of any permanent colonies located on Commonwealth land.
- (2) The Government is not aware of any permanent colonies located on Commonwealth land.
- (3) (a) Yes. (b) Yes.
- (4) No referrals have been received under the Environment Protection and Biodiversity Conservation Act 1999 (the Act) in relation to culling Grey-headed Flying-foxes.
- (5) (a) One referral has been received under the Act in relation to culling Spectacled Flying-foxes. (b) No referrals have been received under the Act in relation to culling Spectacled Flying-foxes since the publication of the 'Administrative Guidelines on Significance – Supplement for the Spectacled Flying-fox'.
- (6) The Queensland and New South Wales governments have advised numbers of Grey-headed Flying-foxes authorised to be killed as at 02 May 2003 as follows:

State	Actual numbers of Grey-headed Flying-foxes (individual animals) authorised to be killed
Queensland	215
New South Wales	2340

The Victorian Government has not yet confirmed whether any permits were issued to control flying-foxes during the 2002-2003 fruit season.

- (7) State management agencies have not yet provided data on the actual numbers of Grey-headed Flying-foxes killed under government authorisations issued. It is expected that actual numbers of Grey-headed Flying-foxes killed under permit will be available when State management agencies have completed compilation and analysis of returns from fruit growers.
- (8) The Queensland Government has advised the following data on Queensland government authorisations to kill Spectacled Flying-foxes as at May 2003:

State	Actual numbers of Spectacled Flying-foxes (individual animals) authorised to be killed
Queensland	1018

- (9) The Queensland Government has not yet provided data on the actual numbers of Spectacled Flying-foxes killed under government authorisations issued. It is expected that actual numbers of

Spectacled Flying-foxes killed under permit will be available when the Queensland State management agency has completed compilation and analysis of returns from fruit growers.

Superannuation: Preservation Age

(Question No. 1632)

Senator Brown asked the Minister representing the Treasurer, upon notice, on 16 July 2003:

With reference to the superannuation preservation age:

- (1) Is the Government considering increasing the superannuation preservation age.
- (2) Has the Minister submitted any proposal to Federal Cabinet to increase the superannuation preservation age; if so, what are the details of the proposal, including all options put forward for consideration.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator's question:

- (1) The superannuation preservation age is currently being increased as a result of the Government's decision in 1997 to increase the age from 55 to 60. The Government has established a Demographics Taskforce to consider the impact of changes in the structure and the composition of Australia's population and the issues raised in the Intergenerational Report which was part of last year's Budget. The Taskforce will be considering issues such as maximising labour force participation, superannuation and retirement incomes, and managing government expenditure in areas affected by demographic change.
- (2) It is the practice of successive Governments not to provide details of proposals put to or considered by Cabinet.

Defence: Brighton Army Camp

(Question No. 1633)

Senator Brown asked the Minister for Defence, upon notice, on 16 July 2003:

With reference to the Brighton Defence Estate known as the Brighton Army Camp in Tasmania:

- (1) Since 1990, what repairs, refurbishments, or capital works have taken place, when and at what price.
- (2) (a) How many valuations for the Brighton Camp were sought since 1990 to the present; and, (b) for each valuation: (i) who conducted the assessments, and (ii), what was the land value and the capital value as assessed for the Government.
- (3) Since 1990, has any of the property been sold; if so: (a) what area was sold; (b) for how much; and (c) to whom.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) See attached spreadsheet.
- (2) (a) Three.
 - (b) (i) and (ii)
 - Valuation 1: 30 June 1993
 - Agency: AVO
 - Capital Improved Value (Operating Defence facility): \$3,100,000 (statutory valuation)
 - Site Value: \$230,000 (statutory valuation)
 - Valuation 2: 30 June 1995

Agency: AVO

Capital Improved Value (Operating Defence facility): \$3,000,000 (statutory valuation)

Site Value: \$230,000 (statutory valuation)

Valuation 3: 21 August 2002

Agency: AVO

Market valuation: \$200,000 (accounting for the contamination on the site and the environmental and heritage conditions required of the new owner).

- (3) (a), (b) and (c) No. The Brighton property, comprising 61.7ha, was sold in full to Touma International Pty Ltd in October 2002 with settlement taking place in February 2003. The sale price was \$150,000 inclusive of GST.

Serial	Description	Cost	Comments
	FY 90/91		
1	Construct Armoury	\$47,461.00	Capital
2	Upgrade lighting bldg 434 and ORS Mess	\$4,702.00	
3	General repairs and maintenance and urgent maintenance costs	\$40,000.00	Estimate
4	Supply and erect shed	\$7,350.00	Capital
5	Provide material for self help projects	\$1,908.00	
6	Re roof bldg 520	\$6,221.00	
7	Install vinyl and carpet bldg 301	\$9,379.00	
	TOTAL FY 90/91	\$117,021.00	
	FY 91/92		
1	Install vinyl bldg 43	\$7,650.00	
2	Remove asbestos & External painting bldg 743	\$32,083.00	
3	Repairs to Offr Mess toilets	\$1,700.00	
4	Removal of fire hydrants & Supply fire hoses	\$5,196.00	
5	General repairs and maintenance and urgent maintenance costs	\$38,000.00	Estimate
6	Electrical installation	\$850.00	
7	Supply furniture	\$829.00	
8	Upgrade bldg 429	\$120,700.00	
9	Construct new wash point	\$77,700.00	Capital
10	Cover swimming pool with fill	\$1,980.00	
11	Re roof bldg 434 & 431	\$34,008.00	
12	Repaint bldg 243	\$2,586.00	
13	Removal of pine trees	\$10,670.00	
14	Power supply to wash point	\$955.00	
15	Install freezer/fridge compressors	\$13,520.00	
16	Design new toilet block	\$9,020.00	
17	Upgrades to Messes	\$6,108.00	
18	Replace kitchen equipment and laundry facilities	\$35,932.00	
	TOTAL FY 91/92	\$399,487.00	

Serial	Description	Cost	Comments
	FY 92/93		
1	Upgrade cool rooms and kitchen equipment	\$59,105.00	
2	Install and test electrical services	\$19,929.00	
3	General repairs and maintenance and urgent maintenance costs	\$35,000.00	Estimate
4	Re roof bldgs 514,549,550,535,536,537,409 & 806	\$33,124.00	
5	Internal and external R & M bldg 550	\$6,284.00	
6	Upgrade bldgs 802,807,808 & bldg 829 toilet	\$56,793.00	
7	Upgrade SGTS Mess accommodation	\$94,434.00	
8	Supply steel security cabinets and wardrobes, steamer trays, clothes dryers	\$29,951.00	
9	Replace sub station	\$17,000.00	
10	Re roof, re wire and R & M to bldg 301	\$150,923.00	
11	Toilet upgrades	\$2,348.00	
	TOTAL FY 92/93	\$504,891.00	
	FY 93/94		
1	General repairs and maintenance and urgent maintenance costs	\$35,000.00	Estimate
2	Upgrade bldg 431	\$4,545.00	
3	Construction and repairs - perimeter fence	\$21,083.00	
4	Install roller doors bldg 302	\$3,594.00	
5	Replace HWS	\$1,028.00	
6	Variations to R & M bldg 301	\$6,061.00	
7	Supply computer desks, office & other furniture	\$10,681.00	
8	Re roof and external repaint bldg 432, Re roof bldgs ORS accommodation & 540 - 550 inclusive	\$59,248.00	
9	Upgrade power poles	\$4,587.00	
10	R & M to bldgs 502,515, 540 - 549 inclusive	\$98,664.00	
11	Supply mattresses	\$8,449.00	
12	Replace carpet bldg 432, Carpet to bldgs 540 - 550 inclusive	\$40,706.00	
13	Refurb OFFR mess toilets and showers	\$17,785.00	
	TOTAL FY 93/94	\$311,431.00	
	FY 94/95		
1	General repairs and maintenance and urgent maintenance costs	\$33,000.00	Estimate
2	R & M bldgs 301,520,545	\$3,907.00	
3	Refurbish bldgs 434,438,441,516,538,508,509,510	\$205,384.00	
4	Replace oil heaters with electric heaters	\$6,933.00	
	TOTAL FY 94/95	\$249,224.00	

Serial	Description	Cost	Comments
	FY 95/96		
1	General repairs and maintenance and urgent maintenance costs	\$33,000.00	Estimate
2	Replace signage	\$2,290.00	
3	Refurbish bldgs 418 - 425 inclusive, 434,501, 505-507 inclusive, 535,536,537,520,704	\$411,034.00	
4	Remove asbestos bldg 506	\$2,778.00	
5	Construct boundary fence	\$27,742.00	
6	Repairs to gas storage shed	\$4,105.00	
7	Re roof bldgs 416, 447 - 450 inclusive	\$14,250.00	
8	Internal refurb 416, 447 - 450 inclusive	\$71,427.00	
9	Drainage upgrade	\$100,000.00	
	TOTAL FY 95/96	\$666,626.00	
	FY 96/97		
1	General repairs and maintenance and urgent maintenance costs	\$30,000.00	Estimate
2	Supply materials for Army labour	\$30,792.00	
3	Refurbish bldg 502	\$103,758.00	
4	Removal of tree stumps	\$3,900.00	
5	Repair to store area	\$4,983.00	
6	Refurbish toilet areas	\$42,223.00	
7	Refurbish bldgs 426,427,434,437,440,511,512,813,514	\$217,907.00	
8	Replace ceiling to SGTS Mess	\$7,278.00	
	TOTAL FY 96/97	\$440,841.00	
	FY 97/98		
1	Refurbish buildings 1, 434, 437, 440, 511, 512, 513, 514 and 442	\$152,043.00	Estimate
2	Concrete apron added to Building 501	\$6,518.00	
3	General repairs and maintenance and urgent maintenance costs	\$73,830.00	
4	Refurb Drv Trg Area	\$32,650.00	
5	Removal/refurb rubbish dump	\$4,900.00	
6	Alteration to low voltage supply	\$17,529.00	
	TOTAL FY 97/98	\$287,470.00	
	FY 98/99		
1	Replace power poles	\$3,309	
2	Relocation of bldgs and associated infrastructure works mainly at Pontville	\$24,271	
3	General repairs and maintenance and urgent maintenance costs	\$3,000	
	TOTAL FY 98/99	\$30,580.00	

Serial	Description	Cost	Comments
	FY 99/00		
1	Various accommodation works undertaken to provide accommodation for Kosovar displaced persons. 7 buildings were demolished prior to the KOSOVAR occupation of the camp	\$371,533.00	
	TOTAL FY 99/00	\$371,533.00	
	FY 00/01		
1	General repairs and maintenance and urgent maintenance costs	\$6,133.00	
	TOTAL FY 00/01	\$6,133.00	
	FY 01/02		
1	General repairs and maintenance and urgent maintenance costs	\$1,687.00	
2	Prior to the sale all the kitchen equipment and stainless steel benches were relocated to other Defence establishment in Tasmania. All re-usable furniture and fittings were relocated to other Defence establishments prior to disposal. A total of 20 buildings were relocated to various Defence ranges and establishments and are currently in use.	\$200,000.00	Estimate
	TOTAL FY 01/02	\$201,687.00	
	Property sold October 02		

Defence: Exercises
(Question No. 1635)

Senator Nettle asked the Minister for Defence, upon notice, on 17 July 2003:

- (1) Can the Minister confirm whether military exercises will occur in Shoalwater Bay, Livingstone Shire, Queensland, during 2003; if so; (a) which countries will be involved in these exercises; and (b) what types of weapons will be used during these exercises.
- (2) Will weapons containing depleted uranium be used during military exercises in the Shoalwater Bay area.
- (3) Given that the water in the Livingstone Shire runs into the Pacific Ocean at the site of the Great Barrier Reef: Can the Minister outline what measures are in place to ensure that waste from these weapons does not contaminate the water or land within the Livingstone Shire.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) Yes.
 - (a) Australia, the United States and Singapore.
 - (b) The full range of weapons in the Australian Defence Force inventory, and foreign equivalents, will be used, including light infantry weapons, mortars, anti-armour weapons and missiles,

heavy machine gun, high explosive demolitions, armoured fighting vehicle cannons, artillery, Naval gunfire and air delivered weapons.

- (2) No.
- (3) Not applicable.

Australian Grand Prix: Tobacco Advertising
(Question No. 1643)

Senator Allison asked the Minister for Health and Ageing, upon notice, on 21 July 2003:

With reference to the Australian Grand Prix Corporation's application for exemption from the Tobacco Advertising Prohibition Act 1992, provided in response to an order of the Senate of 14 May 2003:

- (1) What evidence was provided by the application in support of the claim in part 2(a) of the application that 'the 2000 championship was viewed by at least 54 billion people'.
- (2) How is this claim of 54 billion viewers reconciled with the fact that the total world population in 2000 was estimated to be just over 6 billion.
- (3) Given that the applicant indicates in part 3(b) of the application that, 'there is no guarantee that a Grand Prix will be staged at a circuit in one year simply because it was held at that circuit in the previous year': Does the Government understand this to indicate that the Australian Grand Prix Corporation (AGPC) did not have a firm contract to run the event in Melbourne for: (a) 2003 at the time of the 2002 race; and (b) 2004 at the time of the 2003 race.
- (4) What evidence did the applicant provide in support of its claim that 'China, Russia, Bahrain, Lebanon, Turkey, Egypt, Dubai and several other countries are all currently bidding for the rights to host a round of the championship in 2003'.
- (5) Did such evidence indicate that each of these countries could have, in time for the 2003 season: (a) negotiated a contract; and (b) built a race track.
- (6) If no such evidence was provided, how did the Minister satisfy herself as to the veracity of the claim.
- (7) Has an AGPC application been made for an exemption from the Act for the 2003 season; is so, what, if any, were the variations in wording in this application from the previous application.
- (8) Has an exemption been granted for the 2004 Australian Grand Prix in Melbourne; if so, on what conditions.

Senator Patterson—The answer to the honourable senator's question is as follows:

- (1) No evidence was provided in support of this claim.
- (2) The 54 billion viewers is a cumulative total, with an average of 350 million viewers per event over the Championship Series.
- (3) Yes, or if it did, the contract contained a cancellation clause.
- (4) No evidence was provided in support of this claim.
- (5) See (4). The Act does not require the Minister to appraise the probability that a particular foreign country will successfully host the race, only whether it may be lost to Australia.
- (6) See (5).
- (7) I will answer the question on the basis that the Senator is referring to the 2004 season, as the 2003 event has already been held. On that basis, an application for exemption has been made for the 2004 event. The variations in wording from the 2003 application are minor grammatical and chronological changes. There are no changes to the wording relating to the terms of the exemption.

- (8) Yes. The conditions are as set out in the Commonwealth of Australia Special Gazette No. S297 dated Friday 1 August 2003; copy attached.

**Defence: Reform Program Reinvestment
(Question No. 1648)**

Senator Chris Evans asked the Minister for Defence, upon notice, on 23 July 2003:

With reference to table 4.4, Defence Reform Program Reinvestment, on page 120 of the Defence Portfolio Budget Statements 2000-01 which projects how savings achieved under the Defence Reform Program would be reinvested between the 2000-01 and 2003-04 financial years:

- (1) a table, in the same format as the table referred above, be provided which indicates the extent to which this reinvestment has occurred between the 2000-01 and 2002-03 financial years.
- (2) similar projections been made for the 2004-05 to 2006-07 financial years; if so, can these projections be provided.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) The following table sets out the actual reinvestments made against Defence Reform Program (DRP) planning assumptions relevant at the time (the actual reinvestments match the estimates for 2001-02 to 2003-04 contained in the Portfolio Budget Statements 2000-01). These have been funded by the unallocated element of the \$125m administrative savings program, one-off DRP savings, DRP savings as at 30 June 2001, and offsets from elsewhere in the Defence budget.

Defence Reform Program Reinvestment of Savings⁽¹⁾				
Category	2000-01	2001-02	2002-03	2003-04
	\$m	\$m	\$m	\$m
Actual reinvestment of DRP savings				
New capital investment	176	144	145	146
Provision of 50,000 ADF	318	446	554	649
Amphibious capabilities	14	22	22	22
Capability related logistics	172	79	79	79
New capabilities – net personnel and operating costs	110	99	79	73
Defence science capability	16	16	16	16
Pilot training	4	4	4	4
Defence reform transition costs	62	42	32	32
Sub-total actual reinvestment	872	852	931	1,021
Funding source				
Unallocated element of \$125m administrative savings program	-	103	113	123
Cumulative DRP savings as at 30 June 2001	83	-	-	-
Cumulative DRP savings as at 30 June 2001 ⁽²⁾	613	613	613	613
Sub-total funding source	696	716	726	736
Offsets from elsewhere in the Defence Budget	176	136	205	285

Notes:

1. Price basis is the Portfolio Budget Statements 2000-01.
2. The DRP final report identified a number of initiatives that would produce further savings beyond 30 June 2001. These include the Defence Integrated Distribution System, the commercialisation of the recruiting function, and disposal of properties. The savings from these initiatives have not been individually tracked.

- (2) Specific budget adjustments and movements in staffing numbers were not tracked after the DRP was formally closed. The DRP final report, issued in May 2001, provided estimates of financial savings to the end of 2000-01.

Defence: Personnel
(Question No. 1649)

Senator Chris Evans asked the Minister for Defence, upon notice, on 23 July 2003:

With reference to the two tables on page 121 of the Defence Portfolio Budget Statements 2000-01 that project cumulative civilian and military personnel reductions across Defence between the 2000-01 and 2003-04 financial years as a result of the Defence Reform Program:

- (1) Can a table, in the same format as the tables referred to above, be provided which indicates the extent to which these projected personnel reductions occurred between the 2000-01 and 2002-03 financial years.
- (2) Have similar projections been made for the 2004-05 to 2006-07 financial years; if so, can these projections be provided.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) Tables 4.3 and 4.4 on page 272 of the Defence Annual Report 2000-01 provide cumulative Defence Reform Program (DRP) related personnel reductions to the close of the 2000-01 financial year. Actual personnel reductions for the 2001-02 and 2002-03 financial years are not available as the tracking of specific DRP related personnel movements ceased after the DRP was formally closed.
- (2) No. Specific budget adjustments and movements in staffing numbers were not tracked after the DRP was formally closed. The DRP final report, issued in May 2001, provided estimates of financial savings to the end of 2000-01.

Defence: Reform Program Reinvestment
(Question No. 1650)

Senator Chris Evans asked the Minister for Defence, upon notice, on 23 July 2003:

With reference to table 4.3, Defence Reform Program Cumulative Resources Available for Reinvestment by Major Initiative Category, on page 118 of the Defence Portfolio Budget Statements 2000-01 which projects the cumulative savings available for reinvestment as a result of the Defence Reform Program between the 2000-01 and 2003-04 financial years.

- (1) Can a table, in the same format as the table referred to above, be provided which indicates the extent to which these savings were achieved between the 2000-01 and 2002-03 financial years.
- (2) Have similar projections been made for the 2004-05 to 2006-07 financial years; if so, can these projections be provided.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) Table 4.2 on page 271 of the Defence Annual Report 2000-01 provides the cumulative Defence Reform Program (DRP) related savings achieved to the close of the 2000-01 financial year. Savings in the 2001-02 and 2002-03 financial years are not available as the tracking of specific savings measures ceased after the DRP was formally closed.
- (2) No. Specific budget adjustments and movements in staffing numbers were not tracked after the DRP was formally closed. The DRP final report, issued in May 2001, provided estimates of financial savings to the end of 2000-01.

Defence: Property
(Question No. 1654)

Senator Chris Evans asked the Minister for Defence, upon notice, on 23 July 2003:

- (1) How much land is proposed for sale.
- (2) What was this land previously used for.
- (3) How is the sale process to be managed.
- (4) (a) Who is managing the sale on behalf of Defence; and (b) how much are they being paid.
- (5) What are the key dates in the sale process.
- (6) Have any organisations expressed an interest in the site; if so, can a list of the organisations be provided.
- (7) Has the land been valued by either the New South Wales Valuer General or the Australian Valuation Office; if so: (a) on what dates did the valuations occur; and (b) what was the estimated value of the site.
- (8) Is Defence aware of any heritage and/or environmental significance attached to the site.
- (9) Is Defence aware that this land is home to many rare and threatened species, including koalas, bats, frogs and birds.
- (10) Were these issues taken into account prior to the decision being taken to sell the land; if not, why not; if so: (a) on what basis was it decided to sell the land; (b) who took this decision; and (c) when was the decision taken.
- (11) Are there any restrictions on the future use of the land in the sale documentation; if not, why not; if so, can a description of the nature of these restrictions be provided.
- (12) Could the land be used for residential and/or commercial development.
- (13) Does Defence consider that residential and/or commercial development would be an appropriate use of this site.
- (14) Did Defence have any discussions with either the local council or the State Government prior to the decision being taken to sell the land; if not, why not; if so, what was the nature of these discussions.
- (15) Given the environmental and heritage significance of the site, did Defence raise the possibility of gifting the land to the local council or the State Government for preservation as part of the Tomaree National Park; if not, why not.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) The whole of the former Gan Gan Army Camp was sold comprising an area of 97.42 ha, as shown on the title plan (DP599313 and DP841401), and as provided to prospective purchasers during the tendering process.
- (2) A former Army camp used primarily for reserve and cadet training.
- (3) The sale process was conducted through a public open tender process.
- (4) (a) Ray White Real Estate Pty Ltd.
(b) The amount paid to Ray White Real Estate, as per their tender, was 0.9 percent of the property purchase price (exclusive of GST).
- (5) The key dates for the sales process have previously been advised to Government in Parliamentary Question on Notice number 2078.
- (6) Yes.

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- (a) Port Stephens Council expressed interest in acquiring the land in May 1997 and January 2002.
 - (b) The Indigenous Land Corporation on behalf of the Maaingal Aboriginal Heritage Incorporated concerning the possible acquisition of the Gan Gan property in September 1999.
 - (c) Informal interest in the sale in November 1999 by the National Heritage Unit of the NSW National Parks and Wildlife Service, reiterated in a letter dated 22 May 2003 from the Hon Bob Debus, NSW Minister for the Environment.
 - (d) The Ako Kotahitanga Maori Cultural Group concerning their possible acquisition of a surplus building from the Gan Gan property in May 2002.
 - (e) The Port Stephens 4WD Tours company inquired about the possible leasing of the Gan Gan property in May 2002.
 - (f) The Christian Outreach Centre inquired about the possible acquisition of the Gan Gan property in October 2002.
 - (g) A community Group called Hands Off Gan Gan has made various representations to the Government since May 2003 requesting the site be gifted to the community.
- (7) Yes. The Australian Valuation Office has valued the land.
- (a) The last valuation report is dated 7 August 2001.
 - (b) The Australian Valuation Office valued the property at \$1,750,000.00.
- (8) Yes. In preparing this property for the market Defence ensured consultation with relevant State and local Government planning authorities, via an environmental consulting firm, GHD Pty Ltd, to ensure the environmental and heritage values of the site were identified and documented. An assessment of the significant attributes of the property was completed, and, in accordance with Defence practice, this report detailing the heritage aspects and significant flora and fauna on the site was made available to potential purchasers during the tendering process.
- (9) Yes. This information was contained in the GHD Report.
- (10) The decision to dispose of surplus Defence property is made on the basis of capability requirements and force disposition, not potential environmental attributes.
- (a) The former Gan Gan Army camp was identified for disposal in the Defence Efficiency Review report on the basis that these activities could be conducted at Singleton Army Camp.
 - (b) The Commonwealth Government.
 - (c) Firstly in the 1997 Defence Efficiency Review announcement and subsequently reiterated in the context of the 2002/03 Budget.
- (11) No restrictions were imposed upon the purchaser by the contract.
- (12) The decision of future use possibilities for the former Gan Gan site is the responsibility of the local planning authority, the Port Stephens Council. The Commonwealth has no role in this process.
- (13) Defence has no view on the future use(s) of the former Gan Gan Army Camp.
- (14) Yes. Port Stephens Council made an application for priority sale consideration on 18 January 2002. The Council submission had significant deficiencies and Council was requested to revise and resubmit their submission on 8 April 2002. Despite a number of requests to do so, Council did not revise or resubmit their priority sale submission and on 4 October 2002 Council were formally advised that their priority sale consideration was withdrawn and that the site would be sold on the open market.
- The NSW Government has at no stage between when the Gan Gan property was vacated by Defence in May 2000, to the closing of tenders on 30 May 2003, submitted a priority sale

submission to the Commonwealth. The NSW Government is well aware of this process as Defence deals with the NSW Government on a regular basis in the disposal of Defence property.

- (15) No. The disposal of surplus Defence property is carried out in accordance with the Commonwealth Property Disposals Policy as published by the Department of Finance and Administration.

Defence: Professional Service Providers

(Question No. 1656)

Senator Chris Evans asked the Minister for Defence, upon notice, on 23 July 2003:

- (1) Can a list be provided of all Professional Service Providers (PSPs) engaged by the department during the 2001-02 financial year; and (b) what amount was paid to each of these PSPs.
- (2) Can a list be provided of all PSPs engaged by the department during the 2002-03 financial year; and (b) what amount was paid for each of these PSPs.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) See response to Question on Notice W37 part a) of the 2003-04 Budget Estimate Hearings in June 2003.
- (2) See response to Question on Notice W37 part b) of the 2003-04 Budget Estimate Hearings in June 2003.

Budget Estimates Hearing 4-5 June 2003	Portfolio overview and major corporate issues Budget Summary	
Use of Professional Service Providers and Consultants in Defence Question W37	Senator: Evans	ACTION AREA: CFO in consultation with FASDI and HDPE Hansard: N/A

- a. Provide a full list of all PSPs engaged by the Department of Defence during the 2001-02 financial year. Please also indicate the amount paid by Defence for each of these PSPs.
- b. Please provide a list of all PSPs engaged by the Department of Defence during the 2002-03 financial year. Please also indicate the amount paid by Defence for each of these PSPs.
- c. Please provide a full list of all external consultants engaged by the Department of Defence during the 2001-02 financial year. Please also indicate the amount paid by Defence for each of these external consultants.
- d. Please provide a list of all external consultants engaged by the Department of Defence during the 2002-03 financial year. Please also indicate the amount paid by Defence for each of these external consultants.
- e. In the response to Question on Notice 1186, it was indicated that Defence's "current practices in relation to the recording and reporting of consultants and professional services are not satisfactory". What is being done to ensure that the problems in this area are addressed? When will this work be done?
- f. Is PSP expenditure expected to continue to increase? Why? What are the implications of this for the permanent workforce?
- g. Please provide projections of PSP expenditure for 2002-03 and 2003-04.
- h. Is there any information on whether the PSPs in Defence were former Defence employees? If not, why not?
- i. Can a breakdown of what PSPs are doing be provided? For example, accounts, project managers, IT specialists, lawyers, engineers, etc. Please provide this breakdown for every year since 1999-2000.

j. Does Defence keep information on the length of engagement of PSPs? For example, does it know how many of its PSPs have been constantly employed for 6 months/a year/longer? Please provide this information for every year since 1999-2000.

k. Among those PSPs currently engaged, what is largest amount paid to a PSP, and what is the longest a PSP has been constantly employed by Defence?

l. The response to Question on Notice 1186 included a breakdown of PSP contracts let by Defence Groups in 2001-02. Please provide this same table for 1999-2000, 2000-01 and 2002-03.

RESPONSE

a. A list of professional service provider (PSP) contracts let by the Department of Defence by Group in 2001-02, including amounts paid, is attached.

b. Information on PSP contracts let in 2002-03 is being collated and will be available for the 2003-04 Budget supplementary estimates hearing in November.

c. A list of external consultants engaged in 2001-02, and the amounts paid, is reported on pages 268-275 of the Defence Annual Report 2001-02.

d. Information on external consultants for 2002-03 is being collated and will be reported in the Defence Annual Report 2002-03.

e. Defence has completed the following improvements to address problems in relation to the recording and reporting of consultants and professional service providers:

Clearer definitions to classify consultants and PSPs, including contractors, have been issued. The clearer definition for the categorisation of PSPs was drawn from the Australian National Audit Office best practice definitions.

Guidelines for the collection and collation of information within Defence have been revised and upgraded.

A database for the storage and analysis of information has been established. In addition, Defence is currently reviewing its chart of accounts to develop a more efficient way to capture the initial payment data.

f. The growth in PSPs is not expected to continue because of Defence's program of administrative savings.

g. PSP expenditure is projected to be approximately \$200m for 2002-03 and \$185m for 2003-04.

h. Defence does not keep records on whether PSPs in Defence were former Defence employees, nor does it separately identify and record the employment history of PSPs.

i. The list of PSPs provided for 2001-02 (see a) above) includes a description of the purpose for which each PSP was engaged. Information for earlier years is unavailable for the reasons stated in the response to Senate Notice Paper Question No. 1186.

j. See response to h) above.

k. See response to h) above.

l. Defence is unable to provide information for 1999-2000 and 2000-01 for the reasons stated in response to Senate Notice Paper Question No. 1186. For 2002-03 information, see response to b) above.

Attachment to Question W37 - Use of Professional Service Providers and Consultants in Defence

Defence Professional Service Providers 2001-02 by Defence Group

The following list provides details of professional service providers utilised by Defence Groups during 2001-02. Select a Group to show a full list for that Group.

Group	Total
Headquarters Australian Theatre	485,014
Navy	4,801,573
Army	4,495,784
Air Force	9,019,638
Strategic Policy	1,969,969
Intelligence and Security	7,590,153
Vice Chief of the Defence Force	6,578,084
Chief Finance Officer	10,434,669
Defence Science and Technology Organisation	2,466,600
Defence Personnel Executive	42,469,691
Public Affairs and Corporate Communication	1,704,631
Defence Materiel Organisation	62,153,010
Corporate Services and Infrastructure	65,408,863

Defence: Consultants

(Question No. 1657)

Senator Chris Evans asked the Minister for Defence, upon notice, on 23 July 2003:

- (1) Can a list be provided of all external consultants engaged by the department during the 2001-02 financial year; and (b) what amount was paid to each of these external consultants.
- (2) Can a list be provided of all external consultants engaged by the department during the 2002-03 financial year; and (b) what amount was paid to each of these external consultants.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) See response to Question on Notice W37 part c) of the 2003-04 Budget Estimate Hearings in June 2003.
- (2) See response to Question on Notice W37 part d) of the 2003-04 Budget Estimate Hearings in June 2003.

Budget Estimates Hearing 4-5 June 2003	Portfolio overview and major corporate issues	Budget Summary
Use of Professional Service Providers and Consultants in Defence Question W37	Senator: Evans	ACTION AREA: CFO in consultation with FASDI and HDPE Hansard: N/A

- a. Provide a full list of all PSPs engaged by the Department of Defence during the 2001-02 financial year. Please also indicate the amount paid by Defence for each of these PSPs.
- b. Please provide a list of all PSPs engaged by the Department of Defence during the 2002-03 financial year. Please also indicate the amount paid by Defence for each of these PSPs.
- c. Please provide a full list of all external consultants engaged by the Department of Defence during the 2001-02 financial year. Please also indicate the amount paid by Defence for each of these external consultants.
- d. Please provide a list of all external consultants engaged by the Department of Defence during the 2002-03 financial year. Please also indicate the amount paid by Defence for each of these external consultants.
- e. In the response to Question on Notice 1186, it was indicated that Defence's "current practices in relation to the recording and reporting of consultants and professional services are not satisfactory". What is being done to ensure that the problems in this area are addressed? When will this work be done?

- f. Is PSP expenditure expected to continue to increase? Why? What are the implications of this for the permanent workforce?
- g. Please provide projections of PSP expenditure for 2002-03 and 2003-04.
- h. Is there any information on whether the PSPs in Defence were former Defence employees? If not, why not?
- i. Can a breakdown of what PSPs are doing be provided? For example, accounts, project managers, IT specialists, lawyers, engineers, etc. Please provide this breakdown for every year since 1999-2000.
- j. Does Defence keep information on the length of engagement of PSPs? For example, does it know how many of its PSPs have been constantly employed for 6 months/a year/longer? Please provide this information for every year since 1999-2000.
- k. Among those PSPs currently engaged, what is largest amount paid to a PSP, and what is the longest a PSP has been constantly employed by Defence?
- l. The response to Question on Notice 1186 included a breakdown of PSP contracts let by Defence Groups in 2001-02. Please provide this same table for 1999-2000, 2000-01 and 2002-03.

RESPONSE

- a. A list of professional service provider (PSP) contracts let by the Department of Defence by Group in 2001-02, including amounts paid, is attached.
- b. Information on PSP contracts let in 2002-03 is being collated and will be available for the 2003-04 Budget supplementary estimates hearing in November.
- c. A list of external consultants engaged in 2001-02, and the amounts paid, is reported on pages 268-275 of the Defence Annual Report 2001-02.
- d. Information on external consultants for 2002-03 is being collated and will be reported in the Defence Annual Report 2002-03.
- e. Defence has completed the following improvements to address problems in relation to the recording and reporting of consultants and professional service providers:
- Clearer definitions to classify consultants and PSPs, including contractors, have been issued. The clearer definition for the categorisation of PSPs was drawn from the Australian National Audit Office best practice definitions.
 - Guidelines for the collection and collation of information within Defence have been revised and upgraded.
 - A database for the storage and analysis of information has been established. In addition, Defence is currently reviewing its chart of accounts to develop a more efficient way to capture the initial payment data.
- f. The growth in PSPs is not expected to continue because of Defence's program of administrative savings.
- g. PSP expenditure is projected to be approximately \$200m for 2002-03 and \$185m for 2003-04.
- h. Defence does not keep records on whether PSPs in Defence were former Defence employees, nor does it separately identify and record the employment history of PSPs.
- i. The list of PSPs provided for 2001-02 (see a) above) includes a description of the purpose for which each PSP was engaged. Information for earlier years is unavailable for the reasons stated in the response to Senate Notice Paper Question No. 1186.
- j. See response to h) above.
- k. See response to h) above.

1. Defence is unable to provide information for 1999-2000 and 2000-01 for the reasons stated in response to Senate Notice Paper Question No. 1186. For 2002-03 information, see response to b) above.

External Consultants

External consultants investigate assigned problems under limited direction or supervision and provide recommendations or options for improvement. External consultants assist Defence management in decision-making, but do not implement those decisions. Defence contracts consultants for one of the following reasons:

The specialised skills or service required are not available in Defence.

The specialised skills or service are not available in Defence in the time frame in which they are required.

The technology is not available within Defence.

Value for money considerations, when contracting for a consultant, relate not only to cost, but to the experience and previously demonstrated capabilities of the consultant; the location of the consultant and the associated travelling costs; the capacity of the consultant's locally-based resources to provide continuing services at levels likely to be required during the course of the engagement; and the consultant's professional standing and reputation.

The table below summarises Defence use of consultants, on a Group basis.

Table 4.9: Defence Use of Consultants

Group	Number of Consultants		Expenditure \$	
	2001-02	2000-01	2001-02	2000-01
Headquarters Australian Theatre	3	2	60,088	27,889
Navy	10	10	660,308	290,728
Army	2	1	29,028	13,000
Air Force	7	0	288,934	0
Strategic Policy	4	3	238,527	110,668
Intelligence	3	0	31,238	0
Vice Chief of the Defence Force(1)	4	7	298,136	210,451
Chief Finance Officer(2)	5	1	159,358	33,619
Defence Science and Technology Organisation	9	2	130,419	72,068
Defence Personnel Executive	31	13	2,175,762	490,503
Public Affairs and Corporate Communication	1	2	94,000	60,652
Defence Material Organisation	24	18	2,536,238	4,152,823
Corporate Services and Infrastructure (3)	23	10	791,039	444,168
TOTAL	126	69	7,448,663	5,906,569

Notes

1. Formerly Capability Group.

2. Chief Finance Officer data include the Secretary and the Chief of the Defence Force data.

3. Corporate Services and Infrastructure Group data includes the Inspector General's Division data.

The consultants and professional services category in suppliers expenses (see Note 11 in Notes to the Financial Statements) showed a significant increase in 2001-02 (\$280m) compared to 2000-01 (\$182m). The increase reflects increased usage of professional service providers rather than consultants. Professional service providers exercise professional/technical skills, under Defence supervision and guidance, in the delivery of a service. The contract for a professional service provider, generally, does not require

a significant contribution to management decision-making processes, and requires the professional service provider to perform a prescribed task as a result of management decisions.

Breakdown of Defence Use of Consultants in 2001-02

The following list provides detail on all consultancy services utilised by Defence Groups during 2001-02.

Key	
Symbols	Justification
*Consultancy was publicly advertised	1. Specialised skills or service required not available within Defence. 2. Specialised skills or service required not available within time frame. 3. Technology not available within Defence.

Table 4.10: Particulars of Consultancy Contracts

Consultant Name	Purpose	Total Amount Paid \$	Justification
Commander Australian Theatre Brewer, Wal	Security risk review and assessment of current security arrangements in order to identify a suitable upgrade path and scope for future improvements.	11,055	1
Changedrivers Pty Ltd	To examine options for the strategic future of the Australian Defence Force Warfare Centre.	18,411	1
CIT Solutions Pty Ltd*	Australian Defence Force Warfare Centre courses and make recommendations for the way ahead and improvements to the way they are delivered.	30,622	1
Navy Ankie Consulting Pty Ltd	Provide options in building dynamic career models for the Clearance Diving, Combat Systems Operator Mine Warfare, Mine Warfare categories.	27,000	1
Barry Nunn Consulting Pty Ltd	To provide an expert external review of revisions to the Navy's Human Resources Management Plan.	1,950	1
Changedrivers Pty Ltd	Develop a strategy to address the shortfall in Marine Technical Electrical category.	80,182	2
Changedrivers Pty Ltd*	Review of the role of Warrant Officers in the Navy.	41,801	1
Greenbank Consultants	Conduct a review of Training Ship Young Endeavour strategic planning and key performance indicators.	6,000	1
Keystone Corporate Positioning	Advise senior Navy Committees on all aspects of the development of 'Brand Navy' including corporate image, values, logos,	390,550	1

Consultant Name	Purpose	Total Amount Paid \$	Justification
	documentation, marketing and communication.		
Keystone Corporate Positioning	Advise on and evaluate video footage for the most effective communication depicting the essence of 'Brand Navy' for the Chief of Navy Leadership Conference and future communications.	45,000	1
Keystone Corporate Positioning	Advise on and review design and content of the mission and the Chief of Navy's Future Direction Statement.	50,000	1
Keystone Corporate Positioning	Provide advice on 'Brand Navy' implementation, communication and marketing strategy development.	8,400	1
URS Australia Pty Ltd	To provide HMAS Stirling a comprehensive oil spill contingency plan that is in line with the national plan to combat oil pollution and the WA state plan.	9,425	2
Army Auto-Qual Pty Ltd	Provide Quality management review of unit quality system and recommendations on methods to increase effectiveness of current system.	2,215	1
Pyles, David	Detention standards review.	26,813	1
Air Force Ball Services Solutions	Assistance with the design and implementation of the RAAF capability management system.	197,500	1
Clements Human Resource Consultants	Aircraft research and development unit project involving management review and recommendations.	3,800	1
Ocean Internet Pty Ltd	To recommend a database structure	49,840	1
Issa & Associates Architects	A feasibility study to investigate and make recommendations of the suitability of buildings at RAAF Williams for use as classrooms.	10,900	1
Netbridge Systems Integration	Investigate requirements of student IT network and recommending a solution.	5,986	1
Rexport Materials Handling Pty Ltd	To model the ADF pilot system, identifying what constraints exist and what methods could be used to optimise recruitment of pilots.	20,908	3

Consultant Name	Purpose	Total Amount Paid \$	Justification
Strategic Policy			
Boeing Australia Ltd	To develop a concept for the Defence experimentation framework.	92,486	1
Connell Wagner Pty Ltd	Samoa wharf project harbor investigation.	66,662	1
IISM Group Pty Ltd	Critical infrastructure report concentrating on high-level strategic policy relating to Defence infrastructure methodologies.	26,379	1
Mincom Pty Ltd	Total asset visibility study with Thailand. This was an initial scoping study which provided recommendations and costs of such a project. The outcome is yet to be determined and this will rely on Thailand's budgetary commitment to the project.	53,000	1
Intelligence			
Aspect Computing Pty Ltd	Review of existing process software macros for desktop applications including recommendations for improvement.	12,000	2
GK&A Comsec Pty Ltd	Provide a report on the relocation of DIO with recommendations for efficiency.	18,000	2
SPD Consulting	Review of all IT systems security providing recommendations for improvement.	1,238	1
Vice Chief of the Defence Force			
Sigma Consultancy	Provide recommendations and develop policy for enhancement of the ADF Reserves.	133,000	3
SMS Management & Technology	Requirements study to support the Coalition Theatre Logistics Project.	16,461	2
Tenix Defence Pty Ltd	JP 2079 project definition study for the joint synthetic environment and overarching simulation project.	137,940	1
Topley & Associates Pty Ltd	Provide report outlining recommendations for the ADF enhancement program.	10,735	1
Chief Finance Officer (1)			
Barry Nunn Consulting Pty Ltd	To review and make recommendations relating to ADF remuneration arrangements as directed by the Ministers for Defence and Finance.	40,856	1
Cogent Business Solutions	Provide an opinion as to the lease classification of the replacement patrol boat project and provide a solution to enable classification as an operating lease.	22,182	2

Consultant Name	Purpose	Total Amount Paid \$	Justification
Kennedy, P	To review and make recommendations relating to ADF remuneration arrangements as directed by the Ministers for Defence and Finance.	7,620	1
KPMG Corporate Finance	Review a private financing financial model for the High Frequency Modernisation project. The task required the contractor to verify the financial accuracy of a proposal received by Defence to private finance a capability. There were no options put forward by the contractor but the result did assist the decision making process for that particular project.	12,196	1
Uniquist Ltd	The Minister appointed Professor Zimmer in August 2000 to conduct a review of the Australian Defence Force Academy.	76,504	1
Defence Science and Technology Organisation			
APP Strategic Partners	Conduct knowledge management research and advice.	43,182	1
BAe Systems Australia Ltd	Conduct a project definition study for Land Based Submarine Test Facility.	9,628	1
Drack Consulting Pty Ltd	Consultancy and advice on parallel computing infrastructure of computational fluid dynamics.	24,480	1
McLachlan, Dr Anthony	Conduct review into integration/rationalisation of AMRL facilities, including cost benefit analysis of amalgamating two sites.	5,800	2
McLachlan, Dr Anthony	Review AMRL research papers and provide recommendations.	3,780	1
Preston, Dr Peter	Analyse proposals and make recommendations for combat systems research studies.	13,299	1
Preston, Dr Peter	Provide recommendations on the way forward on the Avionics Mission System.	16,220	2
Preston, Dr Peter	Provide recommendations on the way forward on the combat systems research study.	12,375	2
Schofield Science & Technology	Review and recommend options for Maritime Operations Division Sydney's future site disposition.	1,655	2
Defence Personnel Executive			
ACT Community Care	Conduct a study into substance abuse in the ADF.	4,000	2

Consultant Name	Purpose	Total Amount Paid \$	Justification
APP Strategic Partners Pty Ltd	Conduct staff and management consultation sessions for the Defence Employees Certified Agreement and present options.	5,815	1
Benmarco Pty Ltd	Analysis of current single Service reserve command and staff courses.	7,339	2
Changedrivers Pty Ltd	Recommend change options for the process and standing operating procedures implementation of PMKeyS.	15,049	1
Deloitte Touche Tohmatsu	Evaluate the performance of Manpower Defence Recruiting in providing recruiting services to the ADF.	573,863	1
Department Of Veterans' Affairs	To determine the effects of the F-111 fuel tanks on workers.	34,406	1
Emitch Pty Ltd	Develop a strategy for the Defence Force Recruiting Organisation internet recruitment activities.	125,210	1
Innovative Process Group	Review base-line business process and advise on improvements to work processes.	57,682	1
Intime HR Consultants*	Provide analysis for PMKeyS payroll implementation.	247,200	1
Keatsdale Pty Ltd*	Baseline costing and activity review of rationalisation of ADF health services in Sydney and surrounds.	40,779	1
Mastech Asia Pacific Pty Ltd*	Provide analysis and design for PMKeyS payroll implementation	60,676	1
Mcarthur, Morag	Survey and provide advice on first year midshipmen and officer cadets experiences of the ADFA year 1 familiarisation program.	37,091	1
Mcarthur, Morag	Survey, evaluate, report and provide recommendations on ADFA induction	14,700	1
New Focus Pty Ltd	Research and analysis to determine how Army Reserve soldier and officer enrolments can be increased.	3,040	1
New Focus Research Pty Ltd	Provide advice and recommendations on ways of obtaining ethnic community support for recruitment strategies.	107,494	2
Noel Arnold & Associates Pty Ltd	Safety review of Frontline canteens including improvement options.	56,875	2
Pricewaterhouse Coopers	Undertake career path appreciation pilot program, assess 10 one star officers, and present findings and recommendations.	30,836	1
PSI Consulting Pty Ltd	Review and cost common administration services delivered at ADFA and provide recommendations for improvements.	49,000	2
Raytheon Australia Pty Ltd	Provide initial assessments of improvements required for PMKeys reporting framework.	13,300	1

Consultant Name	Purpose	Total Amount Paid \$	Justification
Roberts Weaver Pty Ltd	Investigate and report on the audio visual system at the Australian Defence College and provide recommendations for upgrading the system to meet course requirements.	45,500	1
Sigma Consultancy	Develop and administer a climate survey, provide reports to Head Defence Personnel Executive, Deputy Chief of Army and relevant branch heads on the way forward for organisational improvement.	108,910	1
SMS Management & Technology	Strategic review of the civilian personnel system including options for improvement.	24,170	1
Tanner James Management	Provide advice, options and recommendations on the implementation of the Prince2 methodology for the Defcare program.	4,425	1
Team HR (Australia) Pty Ltd	Training information management system scoping study.	15,252	2
The Empower Group	Review the current tertiary environment and develop an effective strategy to enable the ADF to successfully compete in the Australian graduate market.	50,000	1
Think Plan Reform Pty Ltd	Investigate the 'review of action' function delivered by regional offices and the complaint and resolution agency to identify options for improved service delivery and reporting arrangements.	31,100	1
Unisearch	Study into the effectiveness of current orthopedic standards on ADF recruiting.	11,000	2
Wainwright, GR	Make recommendations on future employment conditions for Reserve members.	137,020	2
Worthington Di Marzio	Provide advice and recommendations on obtaining ethnic community support for recruitment strategies.	168,030	2
Worthington Di Marzio	Conduct market research to evaluate the effectiveness of the Defence Force Recruiting Organisation communications strategy.	96,000	1
Public Affairs and Corporate Communication			
New Focus Research Pty Ltd	Conduct focus group testing and research for the Defence 'brand'.	94,000	1
Defence Material Organisation			
Andersen, Arthur	Develop a flexible remuneration framework and methodology and outline options for the development of remuneration elements that reinforce the achievement of the DMO's people agenda and business plan.	15,096	1

Consultant Name	Purpose	Total Amount Paid \$	Justification
AON Risk Services Australia Ltd	Review and advise on the risk/insurance aspects of the Djimindi alliance agreement for the Lightweight Torpedo project.	13,500	2
AUSCERT	Definition and design study to scope the requirements for the Defence Information Systems Security Incident Response Team.	145,299	1
Bevington Consulting Pty Ltd	Conduct business process review of all Maritime Patrol Systems Program Office.	95,000	1
Brown & Root Services Asia Pacific	Project definition study evaluation for the Heavyweight Torpedo project.	13,915	2
Brown & Root Services Asia Pacific	Project definition study of bulk liquid distribution.	247,298	2
Brown & Root Services Asia Pacific	Scoping study for the truck fire-fighting field requirements.	15,597	2
Clayton Management Pty Ltd	Provide advice on the introduction of best management practice into DMO.	174,920	1
Collin Hastings Milner	Review and report on the Australian Defence Air Traffic System project.	22,813	1
Compucat Research Pty Ltd	Project definition study of the Bunyip net base station.	50,107	1
Convaris Pty Ltd	Review and report on options available for the Collins-class submarine design authority.	12,783	2
CSIRO	Antenna characterisation study on proposed terminals for military satellite communications project network.	45,000	3
Distillery	Requirement study and system design evaluation of the Joint Intelligence Centre Target Analysis Facility as part of the collocated joint headquarters project.	1,268,772	1
Dowse Quality Consulting	Develop strategies for deployment of the Australian Business Excellence Framework in DMO.	2,727	1
Earned Value Performance	Evaluation of the improved project scheduling and status reporting project.	40,000	1
Halliburton KBR	Project definition study on bulk liquid distribution project.	247,298	2
Primed Online	Scoping of the through-life support disciplines project requirements.	5,000	2
Property Concept & Management	Review and advise on the risk/reward aspects of the Djimindi alliance agreement for lightweight torpedo project.	13,612	1
Robson Huntley & Associates	Scoping review to identify the DMO's requirement for logistics systems operator level training and to identify the optimum model for the management and delivery of such training.	55,000	1

Consultant Name	Purpose	Total Amount Paid \$	Justification
Simtars	Review of noise assessment and Boeing F-111 fuel tank spray sealing proposal.	5,229	1
Thomson Marconi Sonar	Project definition study on gap activities relating to the lightweight torpedo project.	482	1
Total Logistics Management Pty Ltd	Project study of Defence vehicle fleet management.	2,000	2
Total Logistics Management Pty Ltd	Scoping study on the supportability test and evaluation manual.	15,329	2
Wizdom Australia Pty Ltd	Provide guidance to Project Executive Board decisions regarding the implementation of Vision 2001 and the integrated materiel support strategy	29,461	1
Corporate Services and Infrastructure(2)			
Acumen Alliance	Investigate current environmental reporting requirements, predict future requirements and link to departmental reporting requirements.	32,603	1
Acumen Alliance	Undertake an analysis addressing energy information systems input gaps and information outputs and address Defence's internal needs for energy data in the long and short term.	3,000	1
Acumen Alliance	To produce a draft environmental reporting template and provide options on what data Defence should be collecting from an environmental and a management perspective.	6,000	1
APA Management Services	Review and report on the range of issues affecting living accommodation for members without dependants including reviewing the costs of various future options, developing business cases to compare options and recommending a way forward.	17,963	2
Changedrivers Pty Ltd	Provide options for the future roles of the base representatives in the Sydney Central and Sydney West regions.	159,613	2
Changedrivesr Pty Ltd	Research and develop strategies to implement Military Personnel Administration Centres across all regions.	18,053	1&3
Corey, Rod	Undertake preliminary work to scope the parameters of any future consultancy for living-in accommodation for ADF members.	8,656	1
Enterprise Knowledge	Review the existing mail system and provide options for improvement.	10,260	1
Environmental Resource Management	To conduct a feasibility study into carbon sinks for Defence.	4,500	1

Consultant Name	Purpose	Total Amount Paid \$	Justification
Gemini Solutions	Review the efficiency and effectiveness of Defence clothing services and provide recommendations to improve the delivery of these services.	12,342	1
Greame Kelleher & Associates Pty	Provide advice on the Booderee Plan of Management and the implications of such a plan for Defence.	4,200	1
Grosvenor Management Consulting	Review and re-engineering of Civilian Personnel Administration Centre.	123,648	1
Neil McLaren Ltd	Provide advice on the best method of providing range danger area information electronically	1,185	2
Niche Strategies Pty Ltd	Research and report on a CSIG communications benchmarking study and communication audit.	27,814	1
PPK Environment & Infrastructure	Provide advice and support for the navy user requirement options team to assist with the identification of suitable sites around Australia for the conduct of Navy underwater training.	2,795	1
PPK Environment & Infrastructure	Phase two of the navy options user requirement involves broad assessment of two sites in NSW that are potentially suitable for live firing associated with mine warfare countermeasures training.	154,783	1
Pricewaterhouse Coopers	Conduct an assessment of the economic impact that RAAF Richmond has on the surrounding region and examine potential options and strategies for attracting alternative aviation-related activities to the base.	20,577	1
Success Factors	Support the conduct of a review of Reserve Legal Officer roles, structure and remuneration, including professional support and advice, providing recommendations and a report.	13,488	1
True Q Pty Ltd	Provide expert advice and guidance on the development of a balanced scorecard-based business planning and quality system.	17,712	2
True Q Pty Ltd	Provide expert advice and guidance on the implementation of a balanced-scorecard based business planning and quality management system.	11,376	1
University of Central Queensland	Conduct a study into the socio-economic impact of Defence (including foreign forces) in the central Queensland region.	100,000	1

Notes

1. Chief Finance Officer data includes the Secretary and the Chief of the Defence Force data.
2. Corporate Services and Infrastructure Group data includes the Inspector General's Division data.

Science: Nanotechnology**(Question No. 1661)**

Senator Nettle asked the Minister representing the Minister for Education, Science and Training, upon notice, on 24 July 2003:

- (1) How much money has been allocated to the nanotechnology (nanoscience) industry per year over the past 5 years.
- (2) By what amount does the Minister estimate this expenditure will increase over the next 5 years.
- (3) What is the nanotechnology industry currently worth to the Australian economy.
- (4) What regulations are in place to govern the research and use of nanotechnology in Australia.
- (5) Are there currently labelling regulations for products developed through the use of nanotechnology; if not, will the Minister be introducing such regulations in the near future.
- (6) Is there a register of products, covering all industries including medical and information technology, which were developed using nanotechnology.
- (7) Will the Minister establish a body to ensure nanotechnology is used in an ethical manner.

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

The Education, Science and Training portfolio is not responsible for the issues raised in parts 1 to 3 or 5 to 7 in the honourable Senator's question. The portfolio is also not responsible for the second element of part 4, regulations in place to govern the use of nanotechnology.

In relation to the first element of part 4, regulations in place to govern research on nanotechnology, the Minister for Education, Science and Training has provided the following answer.

All research funded by the Australian Research Council (ARC), including research in nanotechnology, must comply with the Joint NHMRC/AV-CC Statement and Guidelines on Research Practice, which was issued in May 1997. This Statement and Guidelines provide a comprehensive framework of minimal acceptable standards. It is available through the websites of the ARC, the National Health and Medical Research Council (NHMRC) and the Australian Vice-Chancellors' Committee (AV-CC).

The honourable Senator may also wish to note that all Commonwealth-funded research work involving animals or humans must adhere to relevant codes and guidelines produced by the NHMRC. These include the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes and the National Statement on Ethical Conduct in Research Involving Humans.

Defence: Gan Gan Army Camp**(Question No. 1663)**

Senator Chris Evans asked the Minister for Defence, upon notice, on 28 July 2003:

- (1) When was the Gan Gan Army Camp sold.
- (2) Which organisation purchased the property.
- (3) What was the sale price for the property.
- (4) (a) What was the closing date for expressions of interest; and (b) how many expressions of interest for the property were submitted.

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- (5) (a) When was a preferred buyer selected; and (b) what process was used to select the preferred buyer.
 - (6) What was the date of settlement for the sale.
 - (7) (a) Is it normal for Defence property sales to be settled so quickly; and (b) why did the settlement process for this sale occur so quickly.
 - (8) (a) What is the total value of all Commonwealth-funded building works at the Gan Gan Army Camp site over the past 5 financial years; and (b) can a breakdown of these works be provided.
 - (9) Did the New South Wales Government (either through a New South Wales Minister or a government agency) express any interest in acquiring the Gan Gan Army Camp at any time during the past 5 years; if so, can the details of each expression of interest made be provided.
 - (10) Did Defence respond to any of these expressions of interest; if so, what was Defence's response to each expression of interest.
 - (11) Has there been an environmental evaluation of the Gan Gan Army Camp site at any time in the past 5 financial years; if so, can a copy be provided of each environmental evaluation report written in this period.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) Exchange of contracts took place on 13 June 2003.
- (2) Details of the purchaser are currently considered Commercial-In-Confidence until the title transfer has been registered, as advised in Parliamentary Question on Notice 2078.
- (3) The sale price is considered Commercial-In-Confidence until the title transfer has been registered.
- (4) (a) There was not an expression of interest phase in this process. Tender submissions were sought through an open market tendering process. Tenders were originally scheduled to close on 3.00pm 19 May 2003, but this was subsequently extended until 2.00pm 30 May 2003.
(b) Four tenders were received, three conforming and one non-conforming.
- (5) (a) A tender evaluation board report was submitted to the delegate on 10 June 2003 and subsequently approved on 13 June 2003.
(b) A tender evaluation board was established in accordance with the tender evaluation plan approved on 30 April 2003. The board members met to review and discuss the submissions received and presented recommendations to the delegate on 10 June 2003.
- (6) Friday 27 June 2003.
- (7) (a) The advertised tender documentation provided for a thirty day settlement period. This is a common settlement period.
(b) On this occasion the purchaser varied the settlement period to "On or before 30 June 2003 – Time is of the essence".
- (8) (a) \$29416.38.
(b) The records of expenditure for the Gan Gan Army Camp for the past five financial years are as follows:
FY 1989/99 - \$1303.00;
FY 1999/00 - \$17322.83;
FY 2000/01 - \$7959.55;
FY 2001/02 - \$2107.57; and
FY 2002/03 - \$723.43.

- (9) No. The Department received a letter from the NSW Parks & Wildlife Service (NPWS), of 17 November 1999. The NPWS letter noted a strong interest in the protection of the vegetated lands of Gan Gan Army Camp and urged the Commonwealth to see that the greater portion of the land be set aside for conservation. Acquisition of the site was not mentioned in the NPWS letter.
- (10) Yes. A response was sent to NPWS on 10 December 1999 advising the Commonwealth Government's policy for the disposal of surplus property was on the open market at full market value. The provision for a priority sale to State or Local government was also identified. Further, NPWS were advised that when an environmental consultant was engaged to undertake an assessment of the property, they would meet with NPWS representatives to discuss the property.
- (11) Yes. Defence engaged consulting firm GHD Pty Ltd to manage an environmental assessment of the site prior to its sale. As advised in Parliamentary Question on Notice 2049, in preparing their report GHD corresponded with the Port Stephens Council, Planning NSW, Coastal Council of NSW, Department of Land and Water Conservation, Department of Mineral Resources, National Parks and Wildlife Services, Environment Protection Authority, Roads and Traffic Authority, Hunter Area and Health Service, Environment Australia, Hunter Water Corporation, Energy Australia and Telstra. In their report, GHD advise no response was received from Planning NSW, Hunter Area Health Service and Environment Australia.

None of the respondents to the GHD correspondence indicated an intention to acquire the Gan Gan Army Camp. Copies of correspondence received were included in the GHD report made available to the public, via CD, during the tendering process. A copy of the CD prepared by GHD has been forwarded separately to your office.

Australian Defence Force: Pilot Recruitment

(Question No. 1669)

Senator Chris Evans asked the Minister for Defence, upon notice, on 28 July 2003:

- (1) Has anyone from the Australian Defence Force (ADF), or on behalf of the ADF, been to the Royal New Zealand Air Force (RNZAF) Ohakea Airbase in Wellington, New Zealand, at any time since 1 January 2002 with the express purpose of recruiting pilots from the RNZAF; if so, on what dates did this active recruitment take place.
- (2) Why did the ADF seek to actively recruit pilots from the RNZAF.
- (3) How many pilots have been recruited to the ADF from the RNZAF since 1 January 2002.
- (4) Has the ADF undertaken similar active recruitment exercises for pilots in any other countries; if so: (a) what were these countries; and (b) how many pilots were actively recruited from each of these countries since 1 January 2002.
- (5) What is the immigration status of the pilots that have been recruited from the RNZAF since 1 January 2002.
- (6) Given that the RNZAF pilots were not Australian citizens, or permanent residents of Australia at the time of their enlistment in the ADF, on what basis were they permitted to become members of the ADF.
- (7) How many of the overseas recruits are now: (a) permanent residents of Australia; or (b) Australian citizens.
- (8) Are the RNZAF recruits eligible for veterans' entitlements and military compensation before they become Australian citizens, for instance: (a) while they are on a special category visa; or (b) if they are only permanent residents.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) A small team of Air Force recruitment specialists was sent to New Zealand in July 2001 until April 2002. The team was based in Wellington and visited Ohakea Airbase on one occasion.
- (2) The team did not actively recruit. It was set up as a result of the New Zealand Government's decision to close its Air Combat Force, with the consequent loss of fast-jet opportunities for Royal New Zealand Air Force (RNZAF) pilots. Royal Australian Air Force (RAAF) Personnel Branch staff assisted the RNZAF in planning their drawdown. Some RNZAF pilots expressed an interest in joining the RAAF but their applications were not processed until they were able to provide written confirmation of their termination date from the RNZAF. The team was directed to not actively recruit RNZAF pilots, but to only react to any inquiries initiated by them.
- (3) Five.
- (4) None since 1 January 2002.
- (5) Four of the five pilots are now Australian citizens. The other member joined the RAAF in May 2003 with permanent resident status dating from 29 April 2003. His permanent residency was sponsored under a Labour Agreement between the Department of Immigration and Multicultural and Indigenous Affairs and the RAAF.
- (6) The RNZAF pilots had either permanent resident status or had arrived in Australia before the arrangements for New Zealanders were changed on 26 February 2001. Prior to 26 February 2001, New Zealand residents did not require permanent residency before being eligible for Australian citizenship. RNZAF pilots were routinely posted to Australia as members of the RNZAF flying in support of Naval Air Station Nowra for a number of years.
- (7) (a) One has permanent resident status granted before commissioning; and
(b) Four are now Australian citizens.
- (8) As enlisted members of the ADF, the RNZAF recruits would be covered by the Veterans' Entitlements Act 1986 and/or the Safety, Rehabilitation and Compensation Act 1988 in the event of any injury or illness related to their ADF service. It is not a requirement of either Act that a claimant be an Australian citizen.

Defence: Property

(Question No. 1670)

Senator Chris Evans asked the Minister for Defence, upon notice, on 28 July 2003:

Can a list be provided of all the Defence property sold during the 2002-03 financial year, indicating for each property: (a) the date of sale; (b) the property name and/or address; (c) the type of property (vacant/buildings); (d) the size of the property; (e) the type of sale (auction, request for proposal, advertised price); and (f) the sale price.

Senator Hill—The answer to the honourable senator's question is as follows:

Defence sold property worth some \$616.12 million in 2002-03, inclusive of Goods and Services Tax. Following is a spreadsheet providing details of 2002-03 sales. Noting that the title transfer for some properties has not yet occurred, some details are commercial-in-confidence.

SETTLEMENT DATE	PROPERTY LOCATION	ADDRESS	STATE	POST CODE	DESCRIPTION	AREA (ha)	SALE PRICE (Including GST)	PURCHASER	Type of Sale
01-Jul-02	Townsville	Cnr Duckworth & Dalrymple Sts	QLD	4810	Vacant Land (Lots 1 & 3)	5.79	\$400,000.00	Australia Post	Priority Sale
01-Jul-02	Edinburgh	West Ave	SA	5111	Lot 10 & 11	12.73	\$01,607,881.00	Department of Manufacturing and Trade - SA	Priority Sale
13-Sep-02	Edinburgh	West Ave	SA	5111	Lot 112	2.81	\$339,888.00	Department of Manufacturing and Trade - SA	Priority Sale
18-Sep-02	Edinburgh	West Ave	SA	5111	Lot 117	2.39	\$185,055.00	Department of Manufacturing and Trade - SA	Priority Sale
23-Sep-02	Edinburgh	West Ave	SA	5111	Lot 114	2.02	\$147,898.00	Department of Manufacturing and Trade - SA	Priority Sale
15-Nov-02	Cootamundra	Lot 22 Parker Street	NSW	2590	Training Depot	0.55	\$48,950.00	James & Kerry Girdler	Auction
19-Dec-02	Edinburgh	West Ave	SA	5111	Lot 128	1.69	\$123,297.00	Department of Manufacturing and Trade - SA	Priority Sale
14-Jan-03	Gungahlin	Barton Hwy	ACT	2912	Vacant Land (part RAAF transmitter station)	0.50	\$16,500.00	ACT Govt - Dept Urban Services	Priority Sale

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SETTLEMENT DATE	PROPERTY LOCATION	ADDRESS	STATE	POST CODE	DESCRIPTION	AREA (ha)	SALE PRICE (Including GST)	PURCHASER	Type of Sale
17-Jan-03	Bullsbrook	21 North Ave	WA	6084	Vacant Land	0.73	\$39,000.00	S M Snow & J G Schiewe	Private Treaty
21-Jan-03	Rockbank	Leakes Rd	VIC	3335	Vacant Land (core property)	749.00		C in C	Tender
21-Feb-03	Clarence	Newnes Forest Road	NSW	2790	Former fuel storage depot Newnes Junction'	5.10	\$27,500.00	Lithgow City Council	Priority Sale
26-Feb-03	Sale	Cnr Raymond & York Sts	VIC	3850	Punt Lane Training Depot	0.11	\$198,000.00	Wellington Shire Council	Priority Sale
28-Feb-03	Brighton	Midland Highway	TAS	7030	Barracks	61.70	\$150,040.00	Touma International	Private Treaty
17-Mar-03	Bullsbrook	28 Brearley St	WA	6084	Vacant Land	0.12	\$57,000.00	D. Clifford & MM Rees	Private Treaty
26-Mar-03	Moorebank	Moorebank Ave	NSW	2170	DNSDC	82.90	\$209,143,000.00	Westpac Funds Management Pty Ltd	Tender

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SETTLEMENT DATE	PROPERTY LOCATION	ADDRESS	STATE	POST CODE	DESCRIPTION	AREA (ha)	SALE PRICE (Including GST)	PURCHASER	Type of Sale
02-Apr-03	Holsworthy	Heathcote Road	NSW	2173	Former Playing fields (Kokoda Ovals)	14.09	\$20,130,000.00	Mirvac Homes (NSW) Pty Ltd	Tender
16-Apr-03	Dubbo	Palmer St	NSW	2830	Former RAAF Stores Depot	38.60	\$4,650,000.00	SPV 2 Pty Ltd	Tender
28-Apr-03	Acacia Ridge	79-116 Brookbent Road, Pallara	QLD	4110	Former Comms Station	87.85	\$4,000,000.00	Stockland Development Pty Ltd	Tender
15-May-03	Banyo	Cnr Tufnell and Earnshaw Rds	QLD	4014	Former Stores Depot (Lots 1, 121 to 140, 616)	10.19	\$5,170,000.00	State of Queensland	Priority Sale
16-May-03	Townsville	4 Leichhardt & 6 Oxley Sts, North Ward	QLD	4810	North Ward Training Depot	0.42	\$1,023,000.00	Townsville Resorts Pty Ltd	Tender
21-May-03	Coffs Harbour	100 Duke St,	NSW	2450	Training Depot	0.26	\$286,000.00	City of Coffs Harbour	Priority Sale
26-May-03	Townsville	Cnr Duckworth & Dalrymple Sts	QLD	4810	Vacant Land (Lots 2 & 4)	3.59	\$4,082,000.00	Lancini Properties Pty Ltd	Tender

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SETTLEMENT DATE	PROPERTY LOCATION	ADDRESS	STATE	POST CODE	DESCRIPTION	AREA (ha)	SALE PRICE (Including GST)	PURCHASER	Type of Sale
30-May-03	Coogee	88-102 Moverly Road	NSW	2034	Endeavour House	6.74	\$77,777,000.00	Mirvac Funds Limited	Tender
03-Jun-03	Cairns	14-148 Mann St & Mulgrave Road	QLD	4870	Vacant Land	3.50	\$3,000,000.00	H&S Vision Pty Ltd	Tender
05-Jun-03	Schofields	Symonds Rd	NSW	2762	Former Airfield	8.23	\$3,700,000.00	Medallist Golf Developments	Priority Sale
12-Jun-03	Weston Creek	Kirkpatrick St	ACT	2611	Australian Defence College (Weston Creek Campus - Canberra)	9.01	\$31,693,750.00	Strategic Property Holdings No. 3 Pty Ltd	Tender
16-Jun-03	Bullsbrook	28 Bowman St (lot 87),	WA	6084	Vacant Land	0.07	\$40,000.00	Mr Barrett & Ms Currell	Private Treaty
17-Jun-03	Regents Park	Chisholm Road	NSW	2143	Regents Park (Industrial Portion)	24.37	\$40,865,000.00	RP1 Pty Ltd	Tender
17-Jun-03	Bogan Gate	Beddgerbond Rd	NSW	2876	Fernliegh - part of Bogan Gate Stores Depot	460.00	\$160,000.00	David Lloyd Nock	Priority Sale
18-Jun-03	Banyo	Cnr Tufnell and Earnshaw Rds	QLD	4014	Former Stores Depot (Lot 13)	20.62	\$9,900,000.00	Grosvenor Freeholds Pty Ltd	Tender

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SETTLEMENT DATE	PROPERTY LOCATION	ADDRESS	STATE	POST CODE	DESCRIPTION	AREA (ha)	SALE PRICE (Including GST)	PURCHASER	Type of Sale
19-Jun-03	Darwin River	1030 Reedbeds Rd,	NT	800	Former Quarry	127.50	\$167,200.00	NT Power and Water	Priority Sale
20-Jun-03	Queenscliff	1 Flinders St, Queenscliff	VIC	3225	Crows Nest Barracks	1.43		C in C	Tender
23-Jun-03	Townsville	Duckworth St	QLD	4810	Vacant Land (Lot 7)	2.45	\$715,000.00	Mastrac Pty Ltd	Private Treaty
25-Jun-03	Bondi	59-61 O'Brien St	NSW	2026	Lady Gowrie House	0.33	\$11,780,000.00	Trans Dominion Holdings Pty Ltd	Tender
25-Jun-03	Randwick	Bundock St	NSW	2031	Stage 1A	4.23	\$56,182,500.00	Mirvac Projects Pty Ltd	Tender
26-Jun-03	Pymont	38-42 Pirrama Rd & 5-6 Jones bay Rd	NSW	2009	REVV	0.93	\$29,000,000.00	REVV Investments	Tender
26-Jun-03	Nelson Bay	Nelson Bay Rd	NSW	2315	Former Gan Gan Army Training Camp	79.15	\$2,420,000.00	Dubbo Holdings Pty Ltd	Tender
26-Jun-03	Korumburra	150-160 Mine Rd	VIC	3850	Vacant Land	0.89		C in C	Auction
27-Jun-03	Holsworthy	Cnr Anzac Rd & Moorebank Ave	NSW	2173	Yulong Ovals	25.80	\$40,900,000.00	ING Industrial Custodian Pty Ltd	Tender

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SETTLEMENT DATE	PROPERTY LOCATION	ADDRESS	STATE	POST CODE	DESCRIPTION	AREA (ha)	SALE PRICE (Including GST)	PURCHASER	Type of Sale
27-Jun-03	Melbourne	Somerton Rd	VIC	3225	Former RANAD Somerton Stores Depot	208.00		C in C	Tender
27-Jun-03	Voyager Point	Sirus Rd	NSW	2213	Former East Hills Barracks	15.74	\$17,250,000.00	Defence Housing Authority	Priority Sale
27-Jun-03	MacDonald Park	Cnr Curtis & Andrews Rds	SA	5121	Smithfield Magazine Area	220.00	\$2,449,700.00	Maranello Holdings P/L	Tender
30-Jun-03	Albury	Victoria St	NSW	2640	Former Army Training Depot	1.41	\$1,760,000.00	RVLH P/L	Tender

QUESTIONS ON NOTICE

**Defence: Weston Creek College
(Question No. 1671)**

Senator Chris Evans asked the Minister for Defence, upon notice, on 28 July 2003:

With reference to the sale and leaseback of the Australian Defence College (ADC) at Weston Creek in Canberra:

- (1) When was the property sold.
- (2) What was the sale price.
- (3) When was this sale advertised.
- (4) (a) Who managed the sale process; (b) how much were they paid.
- (5) How was the sale for this property conducted.
- (6) Was there a valuation done on the property prior to sale; if so, what was the result of that valuation.
- (7) Has there been any valuation of the 5.2 hectares of land on which the College is situated; if so, what was the result of this valuation.
- (8) How many bids were received.
- (9) Which organisations submitted bids.
- (10) What was the range of bids for the property.
- (11) Why did Defence choose to accept the winning bid.
- (12) Who took the decision to accept the winning bid; for example, was the decision taken within Defence or by the Minister.
- (13) When was the decision taken.
- (14) What rent for the Australian Defence College will Defence pay in the first year of the lease.
- (15) What rent will be paid in the second and subsequent years of the lease.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) Settlement occurred on 12 June 2003.
- (2) \$31,693,750.00 (GST inclusive).
- (3) 5 March 2003.
- (4) (a) Jones Lang LaSalle was the selling agent and Zoo Instinctively Creative was the advertising agent; (b) \$62,659.42, and \$29,878.13 respectively (excluding GST).
- (5) Open tender and lease-back.
- (6) Yes. The valuation was \$27m.
- (7) Yes, but not a separate valuation. The 5.2ha area was valued at \$3.5m.
- (8) 17.
- (9) The names of the organisations is Commercial-In-Confidence.
- (10) The range of bids is Commercial-in-Confidence.
- (11) All conforming tenders were evaluated against financial and legal risk, and price. Five superior tenders were considered to be equal in risk and the successful tenderer was subsequently chosen on the basis of price.
- (12) Head Infrastructure, within the Department of Defence.
- (13) 2 May 2003.
- (14) \$2,228,640.00.

(15) \$2,295,499.20 escalating by 3% per year. The term of the lease is 20 years.

Defence: Asset Sales

(Question No. 1672)

Senator Chris Evans asked the Minister for Defence, upon notice, on 28 July 2003:

With reference to Defence asset sales and for each financial year since 1996-97:

- (1) What is the total amount of revenue raised by Defence from asset sales.
- (2) What is the amount of revenue from sales that Defence has returned to consolidated revenue.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) The revenues relating to asset sales (including property) over the period 1996-97 to 2001-02 are provided in the Defence Annual Reports relating to those years. Revenues for the 2002-03 will be available when the Defence Annual Report 2002-03 is finalised.
- (2) For returns to consolidated revenues over the period 1996-97 to 2001-02 refer to the response to Parliamentary Question on Notice No. 439 (p 5165 Hansard, 20 August 2003). The forecast return to consolidated revenue from the asset sales program was \$473.5m as stated in the 2003-04 Defence Portfolio Budget Statements. The actual amount of revenue returned will be available when the Defence Annual Report 2002-03 is finalised.

Telstra: Internet Assistance Program

(Question No. 1676)

Senator Brown asked the Minister for Communications, Information Technology and the Arts, upon notice, on 29 July 2003:

- (1) Is the data speed of 19.2 kbps the reasonable minimum speed for dial up connections that is guaranteed under the Internet Assistance Program; if not, what is the minimum speed for dial up connections that is guaranteed under the program; if so: (a) is Telstra required under the program to provide this dial up Internet service, equivalent to 19.2 kbps, over its fixed line network to users regardless of their location in Australia; and (b) is Telstra in breach of its obligations under the program if it only guarantees a telephone service which can achieve a minimum data speed of 2.4 kbps.
- (2) What action will the Minister take to enforce Telstra's compliance with the program.

Senator Alston—The answer to the honourable senator's question is as follows:

- (1) Yes, the Internet Assistance Program (IAP) is aimed at assisting dial-up Internet users achieve a minimum equivalent throughput over Telstra's fixed line network, equivalent to at least 19.2 kbps.
 - (a) Yes, Telstra is generally required to provide the IAP's minimum effective throughput of 19.2 kbps to Internet users regardless of their location in the area to which it applies, that is, in Telstra's Standard Zones and Inner Extended Zones. However, the IAP does not extend to customers in the Outer Extended Zones. Separate arrangements apply to customers in these areas under the Extended Zones Agreement.
 - (b) Yes, Telstra would be in breach of its obligations under the IAP if it did not respond to user requests for assistance to achieve a minimum Internet throughput equivalent of at least 19.2 kbps. Under the Program, users not achieving the minimum Internet throughput can request Telstra's assistance so as to achieve a minimum equivalent throughput of at least 19.2 kbps.

This obligation on Telstra is not affected by the service performance specifications contained in its Standard Form of Agreement (SFOA) for its Public Switched Telephone Service. These specifications state that certain terminal operating conditions are not supported by Telstra, such as data modems and facsimile customer equipment working at data signalling rates greater than 2.4

kbps. It is this 2.4 kbps specification to which the question refers. Telstra's obligations under the IAP are separate to, and not overridden by, the specifications contained in its SFOA.

- (2) Telstra has been complying with the requirements of the Program, so enforcement is not an issue. Anyone considering Telstra is not fulfilling its obligations should bring their complaint forward so it can be investigated.

The Commonwealth could withhold funding if Telstra failed to comply with its obligations under the Deed of Agreement. Telstra must report to the IAP Advisory Panel about complaints it has received in relation to the IAP, which the Advisory Panel considers. The Advisory Panel also provides quarterly reports to the Minister about the IAP's performance.

As part of its response to the Regional Telecommunications Inquiry, the Government is imposing a licence condition on Telstra that will require it to guarantee to all Australians, on request, a minimum throughput over the Telstra fixed line network equivalent to at least 19.2 kbps. The licence condition will also extend the obligations contained in the IAP Deed to customers in the Outer Extended Zones.

The licence condition will enable consumers to complain to the Australian Communications Authority (ACA) if the relevant requirements are not being met.

Employment and Workplace Relations: Job Vacancy Checks

(Question No. 1677)

Senator Jacinta Collins asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 29 July 2003:

With reference to checks etc made by the department on vacancies listed on the Australian JobSearch website (and the media release of the Minister for Employment Services, dated 15 July 2003), and more generally, on the activities of employment agencies and employers offering employment:

- (1) How many random checks has the department made on positions listed on the Australian JobSearch website in each of the following financial years: (a) 2000-01; (b) 2001-02; and (c) 2002-03.
- (2) How many complaints has the department received about positions listed on the website in each of the following financial years: (a) 2000-01; (b) 2001-02; and (c) 2002-03.
- (3) How many complaints has the department investigated about positions listed on the website in each of the following financial years: (a) 2000-01; (b) 2001-02; and (c) 2002-03.
- (4) Can details be provided of the nature of the complaints; for example, the employer failing to confer lawful conditions, agencies exaggerating emoluments, requirements to pay for training before employment can commence, job offers as prostitutes etc.
- (5) Can details be provided of the nature of the inappropriate practices uncovered by random checks; for example, the employer failing to confer lawful conditions, agencies exaggerating emoluments, requirements to pay for training before employment can commence, job offers as prostitutes etc.
- (6) In relation to the matters referred to in (1) to (5) above, has the department come across any activity that may constitute a breach of section 338 of the Workplace Relations Act 1996; if so: (a) can details of the breaches be provided; and (b) did the department inform the relevant prosecutorial authority or authorities of the breaches and if not, why not.
- (7) In relation to the matters referred to in (1) to (5) above, has the department come across any activity that may constitute a breach of section 75AZE of the Trade Practices Act 1974; if so: (a) can details of the breaches be provided; and (b) did the department inform the relevant investigative and/or prosecutorial authority or authorities of the breaches and if not, why not.

- (8) How many complaints has the department received in respect of employment agencies and employers offering employment about alleged unlawful or inappropriate activities in each of the following financial years: (a) 2000-01; (b) 2001-02; and (c) 2002-03.
- (9) How many investigations into alleged unlawful or inappropriate activities has the department carried out in respect of employment agencies and employers offering employment in each of the following financial years: (a) 2000-01; (b) 2001-02; and (c) 2002-03.
- (10) Can details be provided of the nature of the complaints and investigations; for example, the employer failing to confer lawful conditions, agencies exaggerating emoluments, requirements to pay for training before employment can commence, job offers as prostitutes etc.
- (12) In relation to the matters referred to in (8) to (10) above: (a) has the department come across any activity that may constitute a breach of section 338 of the Workplace Relations Act 1996; if so: (i) can details of the breaches be provided, and (ii) did the department inform the relevant prosecutorial authority or authorities of the breaches and if not, why not; and (b) does the department actively police breaches of section 338 of the Workplace Relations Act 1996.
- (13) In relation to the matters referred to in (8) to (10) above: (a) has the department come across any activity that may constitute a breach of section 75AZE of the Trade Practices Act 1974; if so: (a) can details of the breaches be provided; and (b) did the department inform the relevant investigative and/or prosecutorial authority or authorities of the breaches and if not, why not; and (b) does the department actively police breaches of section 75AZE of the Trade Practices Act 1974.

Senator Alston—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

- (1) In the years in question:
 - (a) All positions lodged directly by employers were reviewed prior to display;
 - (b) All positions were electronically filtered for unacceptable language prior to display;
 - (c) All positions were subject to risk based and random monitoring by DEWR officers for compliance with the JobSearch Conditions of Use and, where applicable, Job Network contractual arrangements. The numbers of positions subjected to monitoring is not available.
 - (d) An additional process of random vacancy sampling commenced on 24 February 2003 in preparation for the introduction of the Action Participation Model. From 24 February to 18 July 2003, 7125 positions were checked under the random vacancy sampling process.
- (2) The DEWR Customer Service Line and JobSearch on-line feedback received the following number of vacancy related complaints:-
 - (a) In financial year 2000-01 1612
 - (b) In financial year 2001-02 1018
 - (c) In financial year 2002-03 1129
- (3) All complaints recorded at (2) were followed up by DEWR officers, with the exception of 277 cases where the complainant requested no action.
- (4) Vacancy complaints can be categorised into five (5) chief areas – advertisement details different to actual duties, potential discrimination (for example, age), potentially unlawful or misleading vacancies, incorrect vacancy details (for example contact details were incorrect or the vacancy had closed) and vacancy referral issues (for example job seekers unhappy that they have not been referred to a particular vacancy).
- (5) For vacancies subjected to random checks, the main causes of vacancy removal or modification were insufficient or inaccurate pay information, insufficient vacancy details, closed jobs, jobs that

- potentially discriminate (eg age), formatting of vacancies and non-vacancy advertisements. No breakdown is available of any inappropriate employment practices.
- (6) The department's information systems do not allow it to disaggregate its records about claims received about alleged breaches of the Act by section of the Act.
- (a) Not available
- (b) The department actively investigates all alleged breaches of federal awards, agreements and relevant parts of the Act, including s 338.
- (7) The department's information systems do not allow it to disaggregate any complaints received about alleged breaches of the Trade Practices Act by section of the Act. DEWR complaints management guidelines instruct Customer Service Officers to refer complainants raising allegations that do not relate to the Employment Services market to the relevant authority.
- (8) The DEWR Customer Service Line received the following number of complaints in relation to potentially unlawful or misleading positions:-
- | | |
|---------|----|
| 2000-01 | 15 |
| 2001-02 | 50 |
| 2002-03 | 37 |
- (9) As indicated in questions 3, 6 and 7, such allegations are followed up and where appropriate, the complainant is referred to the relevant agency.
- (10) Refer to question 4 and 5.
- (12) (a) The department's Workplace Relations information systems do not allow it to disaggregate its records about claims received about alleged breaches of the Act by section of the Act.
- (b) Yes, the department actively investigates all alleged breaches of federal awards, agreements and relevant parts of the Act, including s 338.
- (13) Refer to question 7.

Cooperative Research Centre for Greenhouse Gas Technologies
(Question No. 1680)

Senator Brown asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 1 August 2003:

With reference to the answer to question on notice no. 1479 (*Senate Hansard*, 23 June 2003, p.12279):

- (1) (a) How much of the \$11.6 million is included in the \$21.8 million funding for the Cooperative Research Centre for Greenhouse Gas Technologies previously announced; and (b) what is the balance of the \$11.6 million to be used for and where did it come from.
- (2) (a) What is the value of the in-kind support from Geoscience Australia to the centre in the 2003-04 financial year and for each subsequent year; and (b) how much of this is included in the \$11.6 million.
- (3) What is the value of any other in-kind support being provided to the centre by the Government or its agencies, including the Commonwealth Scientific and Industrial Research Organisation, in the 2003-04 financial year and for each subsequent year.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator's question:

- (1) (a) The \$11.6 million includes anticipated funding of \$3.3 million (over four years) that is part of the \$21.8 million funding for the CRC for Greenhouse Gas Technologies. (b) The balance of the

\$11.6 million is the estimated value of in-kind support from Geoscience Australia. Geoscience Australia's involvement in the CRC will cover research into the feasibility of safe, long term and effective large-scale geological storage of carbon dioxide, the demonstration of the effectiveness of large-scale geological storage of carbon dioxide and the development of regional strategies for decreasing carbon dioxide emissions.

- (2) (a) The proposed values of in-kind support from Geoscience Australia to the CRC, subject to final contract negotiations, are as follows:

2003-04	\$1.9 million
2004-05	\$2.2 million
2005-06	\$2.4 million
2006-07	\$2.3 million
2007-08	\$2.3 million
2008-09	\$1.6 million
2009-10	\$1.6 million

Funding over the first four years represents a slight increase on previous estimates, reflecting movements in the market value of in-kind support. (b) Refer to (1)(b).

- (3) The Commonwealth Scientific and Industrial Research Organisation proposes to provide the following in-kind support to the CRC, subject to final contract negotiations:

2003-04	\$1.022 million
2004-05	\$1.128 million
2005-06	\$1.178 million
2006-07	\$1.318 million
2007-08	\$1.348 million
2008-09	\$1.380 million
2009-10	\$1.380 million

The Australian Greenhouse Office proposes to provide the following in-kind support, subject to final contract negotiations:

2003-04	\$0.05 million
2004-05	\$0.05 million
2005-06	\$0.05 million
2006-07	\$0.05 million
2007-08	\$0.05 million
2008-09	\$0.05 million
2009-10	\$0.05 million

Iraq

(Question No. 1686)

Senator Brown asked the Minister for Defence, upon notice, on 1 August 2003:

Further to the answer to question on notice no. 1520:

- (1) Was advice given to the Government, by any Australian agency, that the United States of America (US) or the United Kingdom (UK) were moving to invade Iraq solely because of Iraq's weapons of

mass destruction; if not, in each case, of what other motivation was the Government advised by any Australian agency.

- (2) (a) Who in the Government was made aware of that advice from an Australian agency; (b) from which Australian agency did the advice come from; and (c) who conveyed it to the Government and when.
- (3) Were weapons of mass destruction seen by any Australian agency as the primary motivation for war for the UK or the US; if not, what was the primary motivation.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) Refer to Senate Question on Notice No. 1520 (*Hansard*, 11 August 2003).
- (2) Refer to part (1).
- (3) Refer to part (1).

Area Consultative Committees

(Question No. 1688)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 1 August 2003:

With reference to the Area Consultative Committee Work Principles related to the Ministerial Statement of Priorities:

- (1) What instructions and/or training has the Minister and/or his department provided to Area Consultative Committees in relation to ethical practices.
- (2) Can a copy be provided of any written advice provided to the committees in relation to standards of ethical behaviour; if not, why not.
- (3) What constitutes a 'conflict of interest' in relation to the activities of chairpersons, members and staff of the committees.
- (4) Are chairpersons, members and staff of the committees required to declare any conflict of interest, perceived or actual, in relation to any discussion or decision of their committee; if so, in what form must those declarations be made.
- (5) Does the Minister and/or his department maintain a register of such declarations; if so, in what form is that register maintained.
- (6) Are chairpersons, members and staff of the committees required to excuse themselves from discussions and decisions of their committee when any conflict of interest, perceived or actual, arises.
- (7) What action is the Minister and/or the department empowered to take against chairpersons, members and staff of the committees who fail to uphold required standards of ethical conduct.
- (8) Has the Minister and/or the department had cause to counsel or take other action against chairpersons, members and staff of any of the committees for failing to uphold required standards of ethical conduct, including failures to declare conflicts of interest; if so, can details be provided of these events, including dates, circumstances, action taken and the committee concerned.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (1) and (2) Governance guidance is provided to Area Consultative Committees through the ACC Handbook and the Governance Manual. Each publication addresses professional and ethical behaviour. Executive Officers of ACCs were provided with a workshop on the Governance Manual at their National Conference held in May 2003. Both documents have been provided to all ACCs to guide their internal procedures. These documents have not been publicly released. However, parts

of the handbook relevant to your question are quoted in subsequent answers. Operating as independent organisations, Area Consultative Committees (ACCs) are non-profit incorporated bodies, which are community-based and funded by the Australian Government under the Regional Partnerships Programme. To receive Commonwealth funding, ACCs must be incorporated bodies under the relevant state/territory legislation and meet all the legal obligations that incorporation entails. Neither the department nor portfolio Ministers have the power to formally endorse or veto the individual membership of the Committees. However, the department does advise ACCs of the need for broadly representative membership and on the management of Conflict of Interest issues.

- (3) Section 4 of the handbook entitled Professional Conduct states: "A conflict of interest in respect to Chairs, members and employees of ACCs occurs when there is a situation where a person has a personal interest in a matter, either directly or indirect which will result in a pecuniary or non-pecuniary benefit, which is the subject of a discussion or decision of an ACC. A perception of a conflict of interest is when it could be reasonably concluded that a conflict exists."
- (4) Section 4.1 of the handbook states the requirement: "If a Chair, member or employee of an ACC has a direct or indirect interest in a matter being considered by the ACC, that person must, as soon as possible after the relevant facts have come to the person's knowledge, disclose the nature of the interest to the Chair or the Committee at a meeting of the ACC. Interests of members of immediate family should also be disclosed to the extent that they are known. The disclosure must be recorded in the minutes of the meeting."
- (5) No, neither the Minister nor the Department maintains a register of such declarations, they are recorded in the minutes of the ACC meetings in accordance with their constitutions.
- (6) Section 4.1 of the handbook entitled Conflict of Interest states: "When a Chair, member or employee makes a disclosure of a conflict of interest or a perceived conflict of interest and it is determined by the committee to be an actual conflict of interest a person may neither participate in discussions or take any part in any subsequent decision of the ACC with respect to that matter."
- (7) Section 3 of the handbook entitled Positions within an ACC states: "The Minister may terminate the appointment of a Chair at any time through the provision of written advice." Examples of, but not the extent, on which this can be affected are:
 - A perceived or actual conflict of interest;
 - Concerns regarding the administration or performance of the ACC; or
 - A change in regional Priorities.
- (8) No. DOTARS manages all issues of performance by an ACC and its staff through contract management. The Department also provides comprehensive guidance on operational matters through the handbook. Committees are also obliged to adhere to their Rules of Association under their individual constitutions which, serve to regulate the committee's affairs.

Trade: Imports

(Question No. 1696)

Senator Mark Bishop asked the Minister for Justice and Customs, upon notice, on 1 August 2003:

What is the audit process in place whereby imports from Singapore under the Free Trade Agreement can be assured to comply with the requirement that a minimum of 50 per cent of the value of the product exported to Australia is added in Singapore.

Senator Ellison—The answer to the honourable senator's question is as follows:

Customs compliance activity associated with the Singapore – Australia Free Trade Agreement (SAFTA), is consistent with the general approach Customs takes in managing compliance in a self-regulated import declaration environment.

Customs screens all entries against risk assessment criteria, and has powers to verify transactions in relation to goods under Customs control. Once goods leave Customs control compliance can be monitored under section 214AB of the Customs Act 1901 (the Act). As appropriate to the situation, verification could be conducted through a simple compliance validation check on the documents supporting the entry, a cargo examination of the consignment, or a minor audit focussed on eligibility for concessional treatment of the particular entry.

In cases where risk indicators present in the screening process, during verification checks, or in circumstances where complaints are made by competitors alleging misuse of SAFTA provisions, Customs will undertake research on the particular client, case or allegation using information held by Customs, or commercial documentation specific to the transaction or transactions. Where concerns are sustained, Customs may exercise monitoring powers to conduct compliance audits.

The consent of the owner or service provider is required to exercise monitoring powers. Where consent is refused or where it is reasonably necessary that a Customs monitoring officer have access to premises, Customs can apply for a warrant to exercise monitoring powers and conduct compliance audits.

Where non-compliance is established, any outstanding duty will be called up and in addition, Customs has the discretion to consider a range of sanctions available under the Act. In these proven instances of non-compliance, Customs will frequently increase verification checks to ensure that the importer is complying with all regulatory obligations and is eligible for concessional treatment.

Employment and Workplace Relations: Australian Defence Force Personnel

(Question No. 1700)

Senator Mark Bishop asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 1 August 2003:

- (1) What consultations has the department and the Safety, Rehabilitation and Compensation Commission had with the Department of Defence in the past 12 months with respect to removing the Australian Defence Force from the coverage of the Safety Rehabilitation and Compensation Act 1988.
- (2) Will the new military compensation scheme remove the current arrangements; if so, to what extent.

Senator Alston—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

- (1) The Department of Employment and Workplace Relations (DEWR) has been consulted regularly over the last 12 months by the Department of Defence regarding the development of the proposed Military Rehabilitation and Compensation Scheme and the application of the Safety Rehabilitation and Compensation Act 1988 (SRC Act) to Australian Defence Force (ADF) personnel after the new Scheme is established.

Discussions with representatives from the Department of Defence also took place at the 66th Meeting of the Safety Rehabilitation and Compensation Commission (SRCC) on 28 April 2003.

- (2) The proposed Military Rehabilitation and Compensation Scheme will provide new arrangements for ADF personnel who are injured or killed after its commencement. Until the new Scheme commences, ADF personnel will continue to be covered by current provisions under the SRC Act. Details of how consequential and transitional amendments might operate to achieve this are currently being discussed by DEWR and the Departments of Defence and Veterans' Affairs.

Foreign Affairs: North Korea
(Question No. 1756)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 12 August 2003:

- (1) (a) What assistance with nuclear technology has Australia provided in the past decade to North Korea; (b) how much was provided in each year; and (c) for what purpose.
- (2) (a) What criteria determine the countries which receive nuclear technology assistance; and (b) what prevents the assistance from contributing to military use.
- (3) Is the nuclear technology provided to North Korea by Australia being used to develop nuclear weapons.

Senator Hill—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator's question:

- (1) (a) (b) and (c) Australia has not provided any assistance with nuclear technology to the Democratic People's Republic of Korea (DPRK - North Korea).

The Australian Safeguards and Non-Proliferation Office (ASNO) has provided training on nuclear safeguards, and the physical protection of nuclear facilities (e.g. to protect against theft or sabotage) to DPRK personnel at various times since 1986. This training has been conducted with the assistance and support of the International Atomic Energy Agency (IAEA). The training is outlined in ASNO's Annual Reports.

- (2) (a) Member States of the IAEA, of which Australia is one, contribute to and have access to nuclear technical assistance which is primarily delivered through the IAEA's Technical Cooperation (TC) Program. The IAEA has a mandate to "seek to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world.....and..... ensure, so far as it is able, that assistance provided by it or at its request or under its supervision or control is not used in such a way as to further any military purpose." The TC Program is focused on the exploitation of safe nuclear technologies to meet sustainable development goals and to improve the quality of life of all peoples. Assistance is provided in a wide range of peaceful nuclear applications including medicine, industry and agriculture. Project proposals prepared by the IAEA Member States are submitted to the IAEA's TC Department, where they are reviewed and technically assessed to ensure that they comply with the various TC criteria. Details of the TC Program can be found at <http://www-tc.iaea.org/tcweb/tcprogramme/default.asp>.
- (b) By its nature technical assistance in nuclear applications provided by Australia and other IAEA Member States under IAEA auspices does not contribute to any military use of nuclear technology.
- (3) See (1) (a).

Taxation: Greenhouse Gas Emissions
(Question No. 1757)

Senator Brown asked the Minister representing the Treasurer, upon notice, on 12 August 2003:

- (1) Have any analyses been conducted in relation to a national carbon tax or greenhouse gas emissions trading system; if so, can the following information be provided: (a) the dates the analyses were conducted; (b) who did the work; and (c) where copies of these analyses can be obtained.

- (2) (a) What meetings have been held between government and industry to discuss carbon taxes or emissions trading this year; (b) who attended the meetings; (b) when were the meetings held; and (c) what was discussed.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator's question:

- (1) The Treasury portfolio has produced the following analyses which concern, either wholly or in part, a national carbon tax or greenhouse gas emissions trading system:

Substantive discussion and commentary

Date: 2001

Consultancy Report: Pezzey, J.C.V. and Lambie, N.R. 2001, Computable general equilibrium models for evaluating domestic greenhouse policies in Australia: A comparative analysis, Report to the Productivity Commission, AusInfo, Canberra.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date: 1999

Productivity Commission 1999, The Environmental Performance of Commercial Buildings, Research Report, AusInfo, Canberra.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date 1998

Industry Commission 1998, Micro Reform —Impacts on Firms: Aluminium Case Study, Research Paper, AusInfo, Canberra, March.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date : 1997

Cornwell, A., Travis, J. and Gunasekera, D. 1997, Framework for Greenhouse Emission Trading in Australia, Industry Commission Staff Research Paper, AGPS, Canberra, December.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date: 1997

Industry Commission 1997, Submission to the ICESD on the National Greenhouse Strategy, AGPS, Canberra.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date: 1997

Industry Commission 1997, Role of Economic Instruments in Managing the Environment, Staff Research Paper, Industry Commission, Melbourne, July.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date: 1995

Bureau of Industry Economics 1995, Greenhouse Gas Abatement and Burden Sharing: An Analysis of Efficiency and Equity Issues for Australia, BIE Research Report, March 1995.

Available from: the Productivity Commission.

Date: 1994

Bureau of Industry Economics 1994, Economic Impact of Reducing Greenhouse Gas Emissions in Australia: a Survey of Recent Studies, BIE Occasional Paper, December 1994.

Available from: the Productivity Commission.

Date: 1992

Bureau of Industry Economics 1992, Comments on Various Estimates of the Cost of Meeting Greenhouse Gas Emission Targets, BIE Other Publication, August 1992.

Available from: the Productivity Commission.

Date: 1991

Industry Commission 1991, Costs and Benefits of Reducing Greenhouse Gas Emissions, Report No. 15, AGPS, Canberra.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Brief discussion and commentary

Date: 2000

Report: Productivity Commission 2000, Microeconomic Reform and the Environment, Workshop Proceedings, AusInfo, Canberra.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date: 1997

Industry Commission (ed.) 1997 Industry Economics Conference, Conference Proceedings, 10–11 July, AGPS, Canberra.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date: 1996

Bureau of Industry Economics 1996, Prospects for Australian Industry Involvement in Greenhouse Gas Abatement Overseas, BIE Report, June 1996.

Available from: the Productivity Commission.

Date: 1992

Industry Commission 1992, Stabilising Carbon Dioxide Emissions, IC Information Paper, February 1992.

Available from: the Productivity Commission.

Mentioned in passing

Date: 2002

Murtough, G., Aretino, B. and Matysek, A. 2002, Creating Markets for Ecosystem Services, Productivity Commission Staff Research Paper, AusInfo, Canberra.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date : 2001

Murtough, G., Appels, D., Matysek, A. and Lovell, C. A. K. 2001, Greenhouse Gas Emissions and the Productivity Growth of Electricity Generators, Productivity Commission Staff Research Paper, AusInfo, Canberra.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date: 1999

Productivity Commission 1999, Implementation of Ecologically Sustainable Development by Commonwealth Departments and Agencies, Report No. 5, AusInfo, Canberra.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

Date: 1996

Bureau of Industry Economics 1996, Energy Efficiency and Greenhouse Gas Abatement - The Role of Co-Operative Agreements in Australia, BIE Report, April 1996.

Available from: the Productivity Commission.

Date: 1994

Industry Commission 1994, General Equilibrium Models and Policy Advice in Australia, IC Information Paper, June 1994.

Available from: the Productivity Commission.

Date: 1994

Bureau of Industry Economics 1994, Energy Labelling and Standards: Implications for Economic Efficiency and Greenhouse Gas Emissions: A Case Study of Motors and Drives, BIE Research Report, May 1994.

Available from: the Productivity Commission.

Date 1990

Industry Commission 1990, Interim Report on Paper Recycling, Report No. 2, AGPS, Canberra.

Available from: the Productivity Commission or <http://www.pc.gov.au/publications/index.php>

- (2) Treasury officers meet with industry periodically and greenhouse issues are sometimes mentioned.

Environment: Renewable Energy

(Question No. 1762)

Senator Brown asked the Minister representing the Treasurer, upon notice, on 12 August 2003:

In relation to the Mandatory Renewable Energy Target (MRET) scheme:

- (1) What analyses of MRET have been conducted by the department or its agencies; please include in the answer: (a) a description of each analysis; (b) when it was carried out; (c) by whom; and (d) its conclusions.
- (2) Has any assessment been undertaken of the economic, environmental and social benefits of different MRET targets in 2010; if so, what were the conclusions.
- (3) What information or analysis has been obtained on levels of renewable energy targets internationally and the benefits derived from them.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator's question:

I am advised by Treasury that no analyses of MRET have been conducted by the portfolio. I understand that the Minister representing the Minister for the Environment and Heritage and the Minister representing the Minister for Industry, Tourism and Resources are responding to those matters relevant to their portfolio responsibilities.

Resources: Petroleum

(Question No. 1768)

Senator Brown asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 12 August 2003:

What planning or risk assessment is the Commonwealth undertaking to address Australia's vulnerability to potential near-term declines in petroleum supplies?

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator's question:

The Department of Industry, Tourism and Resources has been managing an APEC study that makes some predictions about future supply and demand of petroleum products for 2002, 2006 and 2012 in light of changing fuel standards, regional refinery capacity and investment strategies. I would caution

that this modelling was conducted before the recent closure of the Port Stanvac refinery and that it was based on some assumptions regarding future refinery investment required to meet new fuel standards, but in broad terms, the preliminary results of the study show that Australia currently has excess refining capacity and is essentially self-sufficient in all finished products.

However, the Department of Industry, Tourism and Resources has responsibility for administering the Liquid Fuel Emergency Act 1984, and through the National Oil Supplies Emergency Committee (NOSEC), has developed a National Liquid Fuel Emergency Operational Response Plan and drafted an Inter-Governmental Agreement for management of a national fuel crisis. NOSEC is the main executive channel through which the Commonwealth and State and Territory Governments, in cooperation with industry, formulate their overall management response to a major liquid fuels supply emergency. NOSEC conducted a simulation exercise on 18 June 2003 to test these draft arrangements and is currently revising policy in accordance with outcomes from the simulation.