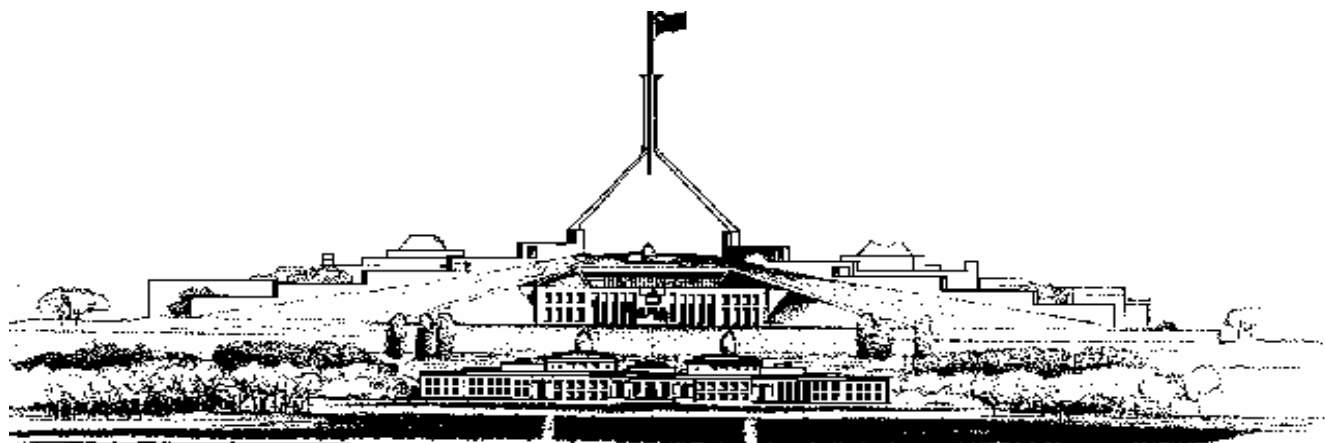




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



SENATE

Official Hansard

No. 7, 2004

WEDNESDAY, 16 JUNE 2004

FORTIETH PARLIAMENT
FIRST SESSION—EIGHTH PERIOD

BY AUTHORITY OF THE SENATE

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Wednesday, 16 June 2004

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

TAX LAWS AMENDMENT (2004 MEASURES No. 2) BILL 2004

Second Reading

Debate resumed from 15 June, on motion by **Senator Troeth**:

That this bill be now read a second time

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (9.31 a.m.)—I had almost concluded my summing-up on the **Tax Laws Amendment (2004 Measures No. 2) Bill 2004** when we ran out of time yesterday. I had made a certain response to a question that Senator Murray had asked. In conclusion, the FBT laws will also be changed to permit the continuity of fringe benefit tax treatment for non-remote housing benefits where the administration and payment of FBT is devolved by state or territory governments to an agency. This will reduce compliance costs for those governments. The bill will encourage those who have come from overseas to transfer their foreign pension entitlements to Australia. The change will enable a taxpayer who is transferring their overseas superannuation to an Australian-complying superannuation fund to elect to have part of the transfer treated as a taxable contribution in the Australian superannuation fund. By doing so, the fund, rather than the individual taxpayer, will pay the relevant tax arising on the transfer. Tax will be paid at the concessional superannuation fund rate rather than, first of all, the individual having to be aware and take the initiative and pay at the individual's marginal rate.

This change will overcome the difficulties currently experienced by individuals who are

faced with a tax liability but who do not have recourse to funds to pay the liability, due to the benefits being preserved in the Australian fund until retirement. This change, combined with the fact that the tax will now be payable at the concessional superannuation fund rate, will encourage the transfer of overseas superannuation into Australian funds in appropriate cases.

Lastly, the bill amends the alienation of personal services income provisions to clarify when the Commissioner of Taxation may take a determination that the alienation provisions do not apply to a taxpayer. Technical defects in the current law may give rise to unintended outcomes. The amendments will ensure that the law operates according to the original policy intention. I thank my colleagues Senators Sherry and Murray for their support for this bill, and I commend it to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

NEW INTERNATIONAL TAX ARRANGEMENTS BILL 2003

Second Reading

Debate resumed from 8 March, on motion by **Senator Ellison**:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (9.34 a.m.)—The Labor Party will be supporting the **New International Tax Arrangements Bill 2003**. After much posturing from the Liberal-National Party government, the Labor Party have finally been able to piece together a reconciliation of the very confused measures that relate to this piece of legislation. We have been able to carry out a reconciliation of the 2003 budget measure: the review of international taxation arrangements. The

budget measure referred to an unspecified set of review of international taxation arrangements measures, and the component of the costs that would be associated with the two new double tax agreements—DTA—for the United Kingdom and Mexico that were unclear. It was not until the two DTAs were being ratified by parliament that it was clarified that the budget measure referred to an unspecified set of RITA measures and the UK DTA only. The budget estimate of the cost of these international tax measures was \$270 million over the budget year 2003-04 and the three forward estimate years. This raised concerns about the budget estimate, because the direct cost of the UK DTA was \$280 million over those four years. The cost of this bill over the four years was a further \$62.5 million.

The government then introduced into the other place another tranche of RITA measures—the [New International Tax Arrangements \(Participation Exemption and Other Measures\) Bill 2004](#)—which had a cost of \$105 million over four years. The total direct cost of the original \$270 million RITA budget measures had reached \$447.5 million—that is almost half a billion dollars, a very considerable sum of money. The government had advised that there was another tranche of measures to come. Labor senators referred this bill to a committee to obtain a full reconciliation with the original budget estimate of the measures.

The only explanation for this absence of information was that the cost of the further measures may change before they are introduced into parliament, and requests from my colleague in the other house Mr Cox to the Treasurer's office for some clarification on these matters were to no avail. It is not unreasonable that the cost might change, but it is also not unreasonable for the parliament to be told about it, particularly when the cost of

the original budget measures appears to have blown out by some 65 per cent.

As a result of the Senate committee's consideration of this bill, the following further information has been obtained from Treasury. The cost of the remaining RITA 2003 budget measures will not exceed \$50 million over the four years, taking the total direct cost to some \$497.5 million. The costing of the original RITA budget measures also included an offset, which was the government's decision to defer the implementation of an earlier decision to provide franking credits for foreign dividend withholding tax. The original decision to provide franking credits for foreign dividend withholding tax was made in November 1999, and the estimates of its costs were \$340 million in 2002-03, \$190 million in 2003-04 and \$200 million in 2004-05.

If all those listening to this debate find this a bit hard to follow, I would not be surprised. Actually delving into the detail of what is in the forward estimates and what was in previous budgets in respect of these measures has been incredibly difficult and incredibly complicated. I have to say, 'Thank goodness for Senate committees,' because they are able to get Treasury to front up and provide some detailed answers. One of the problems we have—and we have this with other budget measures—is that when a measure is announced you then have to try to track forward some years to find out what happens to the measure in terms of both savings and expenditure. This is not easy to do because often it is not easy to find the information in following budgets and it is certainly not easy to track forward in successive years to see what is exactly happening. The only way to get this sort of information is to directly question the officers concerned—and there is no criticism of the officers; I do not blame them—and you might get an answer, but you do not always get one, at a later time through

the Senate estimates and/or the legislation committee process.

While all these numbers do not coincide with the whole of the current budget and forward estimates period, they do indicate a very substantial offset within that period for 2003-04 and 2004-05, which totals some \$390 million. So while the likely cost of that measure might have changed, it is safe to conclude on the basis of the information provided by Treasury that the total direct cost of the RITA measures in the 2003 budget will be less than the \$270 million estimate contained in the 2003 budget.

It is interesting to note that we are here today to amend the CFC and the FIF rules, which were first introduced by a Labor government. The member for Hotham introduced the legislation in the other place to enact the controlled foreign companies rule on 13 September 1990. Once again, we have an example of a Labor government introducing important reforms that strengthen the integrity of our tax system, which ensured that individuals could leave income offshore to earn passive income in an attempt to avoid or defer taxation in Australia. The CFC rules passed by this parliament in 1992 further strengthened this regime.

It is now 12 years on and times have changed. Labor welcomes the reforms included in this bill as a minimalist reflection of those changes. Since 1988, Australian investment overseas has grown by some 500 per cent. Foreign investment in Australia has grown by over 400 per cent. Increased investment inflows and outflows from Australia and the importance of these flows to Australia's economic prosperity have precipitated the government's review of international taxation arrangements. In a globalised world economy it is crucial that our international taxation arrangements are internationally competitive and that they do not,

through their complexity, discourage overseas investment by Australians or by foreigners in Australia.

This is not to say that Labor would ever support the reopening of the loopholes that existed before the CFC and the FIF rules were introduced. All Australian workers who pay the correct amount of tax deserve a government that ensures that wealthy Australians do the same. The Board of Taxation review of international taxation made a number of recommendations, and this bill represents the first of three tranches of legislation to implement the government's response, which was announced in the 2003-04 budget. Schedule 1 in the bill amends the foreign investment fund rules to exempt superannuation funds from the FIF rules, increases the FIF balance portfolio exemption thresholds from five to 10 per cent and removes the management of funds from the FIF definition of 'non-eligible business activities'.

Superannuation funds face significant compliance costs in adhering to the FIF rules. To comprehend why eligible superannuation funds should be exempted from the FIF rules it is crucial to understand what the FIF rules aim to achieve. They are not a revenue-raising tool but an important anti-avoidance mechanism. They aim to discourage taxpayers from leaving money offshore in order to defer or avoid paying tax. The major advantage from tax deferral comes from the timing of the tax point and bringing the money back to Australia when the taxpayer has a lower marginal tax rate. Eligible superannuation funds which have a tax rate of 15 per cent on earnings do not face the same incentives to defer paying tax. Excluding complying superannuation funds and unit trusts which invest on their behalf from the FIF rules would therefore not create significant risks to the integrity of the tax system and would reduce the compliance costs faced by these superannuation funds. These

amendments will benefit all Australians by reducing the administrative costs on superannuation funds. I would hope that that in turn will flow on to lower fees and charges. We will be making a follow-through examination of this in some detail at a future date.

The balanced portfolio exemption exempts taxpayers from the FIF rules where less than five per cent of all a taxpayer's interests in FIFs are not exempted from the FIF rules. This recognises that taxpayers with a portfolio of investments may sometimes hold non-exempt FIF interests but that their intention is not to minimise or defer tax. The balanced portfolio exemption ensures that taxpayers in this situation who are of low concern in relation to tax integrity are not caught up in the FIF system. However, these taxpayers still need to determine whether or not they are exempt from the FIF system. The proposed amendment would increase the balanced portfolio exemption from five per cent to 10 per cent. This recognises the changing nature of overseas investment. However—given the extensive exemptions applying in the FIF rules and the fact that this will do nothing to reduce the compliance costs faced by business—Labor, while not opposing the measure, considers that further investigation is necessary and will be referring this measure to the Senate Economics Committee.

The last measure in schedule 1 will remove funds management from the definition of non-eligible business entities. Currently, funds management is considered to be a non-eligible business activity and is therefore subject to the FIF rules. However, these businesses are providing an active service to their clients, and it is inappropriate that they be covered by the FIF rules, which are intrinsically about taxing non-active income. Therefore, it is not consistent with the intent of the FIF rules to treat these activities as non-eligible.

Schedule 2 of the bill will exempt public and certain other unit trusts from withholding tax on widely held debentures. When foreign investors purchase widely held debentures directly or through a foreign funds manager, no withholding tax is payable. If they use an Australian funds manager, withholding tax applies. This rate varies, depending on the foreigner's country of origin, from five per cent to 10 per cent. This inconsistent tax treatment is seen as a major disincentive for foreigners to invest in widely held debentures through Australian funds managers. Without this disincentive Australian funds managers would have a natural advantage over foreign funds managers due to their generally superior local knowledge. Providing this exemption will provide consistent tax treatment of widely held debentures obtained by foreigners directly and through Australian funds managers. As such, it will increase employment and income generated by the Australian funds management sector, and should contribute significantly to increasing Australia's role as a major financial centre.

Schedule 3 will specifically list the categories of attributable income of controlled foreign companies in broad exemption listed countries. Currently, the CFC rules work by covering all income and then exempting certain income. This involves a costly compliance process as taxpayers determine whether income is exempt from the CFC rules or not. This amendment would simply list in regulation the CFC income which is taxable—that is, it would take taxpayers directly to the end point, significantly reducing compliance costs.

Schedule 4 of this bill ensures that double taxation does not occur with respect to royalty payments. When a company pays a royalty payment to a foreign company, withholding tax applies. A portion of that payment is taxed in Australia—for example, a

royalty on intellectual property. The transfer pricing rules ensure that related companies cannot use transactions between themselves to move profits around and avoid or minimise tax. The transfer pricing rules deny a tax deduction to a company for a royalty paid to a related company, thus removing the ability of the company paying the royalty to minimise tax. If withholding tax applies to a royalty payment and a deduction is also denied then the payment is effectively being taxed twice. This is punitive and it is also inefficient. This amendment would ensure that, where the transfer pricing rules deny a tax deduction, the withholding rules do not apply. Thus, the payment would effectively be taxed only once, as it should be.

The Labor Party will be supporting the bill. But, as I said in my opening remarks, our concern is that trying to track through the net costs and implications was difficult. It was only through the Senate estimates and legislative committee processes that we were able to obtain vital information. Frankly, that information should be provided on an ongoing basis in the detail required to consider what are, I have to say, very complex arrangements. Any taxation arrangement tends to be complex, but that is particularly true in the international area. These are very complex arrangements and there are some proposed changes, but the Labor Party supports the measures.

Senator MURRAY (Western Australia) (9.51 a.m.)—The **New International Tax Arrangements Bill 2003** is a business bill. I suppose you could describe it as that. It reduces the taxation compliance obligations on companies, super funds and managed funds investing offshore. The bill went through committee. It is the first tranche of legislation that was announced in last year's budget in this area. It apparently has a revenue impact of around \$67 million over three years.

The bill covers four areas. Schedule 1 will reduce the compliance obligations on superannuation entities with fixed managed trusts that invest offshore. Schedule 2 allows eligible unit trusts to offer debentures that will be exempt from interest withholding tax in the same manner that applies to companies. Schedule 3 improves the application of controlled foreign companies' rules, but only with respect to broad exemption listed countries. Broad exemption listed countries are similarly taxed countries like the United Kingdom, the United States, Japan, France and Germany where investment cannot be considered part of any tax avoidance purpose—which might be fanciful in some respects, I guess. Finally, schedule 4 prevents the double taxation of royalties subject to withholding tax.

On 9 May 2003 journalist Allesandra Fabro, who does a lot of work in this area, wrote in the *Financial Review* that business looked to reforms as a step that would lower the cost of capital for Australian multinationals and reduce the incentive for them to move offshore. She also noted:

A number of surveys in recent years have decried Australia's international tax regime as onerous and discouraging to offshore investment.

This is an opportunity to state the long history of cooperation that the Senate has shown to improving the way in which companies and super funds and managed funds can interact internationally. Over time the Democrats, Labor, when they were in government and in opposition, and the coalition, in opposition and in government, have combined in common cause to advance our competitiveness and the ease with which we interact internationally.

We are one of the world's big trading countries. We are a country that looks across our borders for much of the creation of national wealth and jobs, and the Senate has

been well aware of that. I make this remark because there is the view in some quarters of the business community that the Senate is difficult in these matters because it wishes to review them. The Senate wishes to review them because it needs to be sure of the revenue consequences of any measure before it. Indeed, the committee said that two issues really were at the front of its mind on its examination: the impact of revenue of the balanced portfolio exemptions under the FIF rules and the overall cost of measures implemented in response to the Board of Taxation report. It is very important that we understand the consequences to revenue of the measures we adopt. Even though notionally there is a cost to this, the Labor Party, ourselves and the government recognise that the benefits have not been quantified but are quite apparent to anyone who understands the background of these things—that is, just making it a little easier to do business on an equitable basis. The Labor Party's reference to the committee—it was they who referred the bill to the committee—was a good one. Their exploration of the revenue matters during estimates and in the committee were productive and helpful, and the remarks about the importance of that process deserve to be emphasised and supported by me.

This is the first of a number of efforts the government is making in the international tax arena. In May 2002, the Treasurer issued a press release announcing a review by the Board of Taxation of four areas of international taxation arrangements—the dividend imputation system; treatment of foreign source income; foreign source income rules that comprise principally the controlled foreign corporations, CFC, foreign investments fund, FIF, and foreign tax credit exemption rules; the overall treatment of conduit income; and high level aspects of double tax agreement to policy and processes. In all those areas you have highly technical, ex-

tremely complex and very difficult matters for Treasury to consult on and to liaise on internationally and domestically. My general impression is that the opposition, the Democrats and the coalition can be well satisfied with the effort that Treasury puts into getting those things properly examined and assessed, both domestically and internationally.

The nature of these things is such that the community cannot engage in any real sense, and it is right, therefore, that it is only through the Senate committee and estimates processes that the community interest can be protected, from an accountability perspective, with regard to the need for its parliamentary representatives to be sure we are not just giving a nice little leeway to business to make some money without being properly accountable for their revenue and taxes to the people as represented in the parliament. In the end, no evidence was presented to the Senate committee to oppose the bill. The bill received strong support from the Business Council for Tax Reform, from the BCA, from the Taxation Institute and from ASFA and IFSA. It is not because the bill is only 13 more tax pages that the Democrats will support it; we do think it is useful legislation.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (9.59 a.m.)—I formally record my thanks to both Senator Sherry and Senator Murray for their efforts in respect of the first of three tranches in the government's push to review and reform international tax arrangements. I now sum up the **New International Tax Arrangements Bill 2003**, which is the first tranche. In the 2003 budget, the government announced the outcome of a review of international tax arrangements and foreshadowed over 30 initiatives designed to modernise and improve the international competitiveness of our tax system. The bill, which is the second instalment of international tax review legislation, addresses issues

facing the superannuation and managed fund industries. With over \$500 billion invested in superannuation, which for most Australians represents their second largest asset after the family home, the government wishes to ensure that fund members get the best possible returns.

A substantial part of superannuation fund assets is in foreign investments. Superannuation funds invest around \$90 billion offshore, most of which is in foreign shares. Much of this investment is conducted through Australian managed funds, which operate through trust structures. The reforms in this bill will improve the international competitiveness of Australian superannuation funds and managed funds and will improve returns to their investors. Increasing to 10 per cent the threshold for the balanced portfolio exemption under the foreign investment fund rules will reduce the compliance costs of Australian managed funds.

Due to increased globalisation and the growth of the financial services sector, the five per cent threshold is simply no longer sufficient to allow Australian investors to achieve offshore portfolio diversification. Currently, fund managers may sell down interests in non-exempt FIFs to five per cent at year end and reacquire them at the beginning of the new income year, involving, as you would appreciate, significant transaction costs. Investors will now be better able to diversify their offshore investment portfolios. The measures in this bill will give Australian investors increased opportunities from international investment.

The bill also removes unnecessary tax costs on our superannuation funds in relation to their offshore investments. Because superannuation funds currently have a low tax rate, their investment decisions are unlikely to be biased towards the kinds of offshore investment vehicles that the foreign invest-

ment fund rules are designed to target. Fund management services and expertise is an active business. It is not the kind of passive asset holding that the foreign investment fund rules are designed to address. The bill will therefore sensibly remove management of funds from the list of non-eligible activities so that investment in a company principally engaged in funds management should no longer be taxed under the foreign investment fund rules. The bill also removes an anomaly and reduces compliance costs for managed funds by extending to widely held unit trusts the interest-withholding tax exemptions currently available to companies.

Finally, the bill also modifies the controlled foreign company rules and implements a measure to prevent the double taxation of royalties in transfer-pricing situations. By sharpening the focus of the foreign investment fund regime, the government's intention is to strip away unnecessary compliance costs currently imposed on managed funds and superannuation funds. These unnecessary costs result in lower returns to Australian investors and make Australian managed funds less competitive with foreign competitors. The government is satisfied that these costs can be reduced without compromising the integrity of the regime as a whole.

During this discussion, the activities of the Senate Economics Legislation Committee were mentioned. I also wish to place on record that I welcome the findings of the Senate Economics Legislation Committee report on the bill, which recommends that the Senate ultimately pass the bill. I thank the committee for its report and for the efforts of its members. I understand from Senator Sherry's remarks that, through the Senate committee process and with the cooperation of Treasury officials, the costing has been unpacked and has now satisfied concerns.

I place on record that the 2003-04 Budget Paper No. 2 showed a net aggregate costing for all the FIF measures of \$270 million over the forward estimates and stated that the costing included the new tax treaty with the UK and savings from not proceeding with a measure, which was announced following the Ralph review, to provide franking credits for foreign dividend withholding tax. I understand that the questioning process has enabled some unpacking of the costing. The costs of the measures contained in this bill are not substantial, but costings have been provided for each component part of the review of international tax arrangements when each part is finalised. The committee has certainly played a role in that.

Senator Murray alluded to the work of Treasury officials. I should also record this, because it does not often happen that the consultation process works so extremely well. Treasury's interface with business and their provision of very significant feedback to the government has worked extremely well in the development of these policy responses and legislation. Obviously, it works much better if you can have a policy direction from the government and then have the detail and finetuning built from the ground up. You always end up, in very complex situations, involving in some respects for people who are not close to it mind-bogglingly complex matters where some of the difficulties are identified before the legislation gets to a stage where it is being debated. Involving industry at a much earlier stage in the policy development process I think has really paid dividends.

Certainly it is difficult to think of a better way to develop complex tax legislation. I formally thank Treasury for their sustained efforts and I also note the strong business support for the bill. It again demonstrates that the government has listened and has been responsive to legitimate calls from in-

dustry for specific tax reforms to remove unnecessary impediments to business. This cannot be described as some concession to the big end of town. It is absolutely critical when you operate in a global environment that you have a competitive tax system able to be responsive to the needs as identified by business and that the measures in this bill ultimately flow through as assistance for those who have investments in superannuation funds.

I thank the business community, which has played a valuable and constructive role in helping to develop the law through the consultation arrangements. I am very gratified that the Senate, through my colleagues Senators Sherry and Murray, can see the big picture as well as the detail in respect of these bills. I do thank them for their support, and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

CORPORATIONS (FEES) AMENDMENT BILL (No. 2) 2003 CORPORATE LAW ECONOMIC REFORM PROGRAM (AUDIT REFORM AND CORPORATE DISCLOSURE) BILL 2003

Second Reading

Debate resumed from 1 March, on motion by **Senator Ian Campbell**:

That these bills be now read a second time.

(Quorum formed)

Senator CONROY (Victoria) (10.10 a.m.)—I rise to speak on the Corporations (Fees) Amendment Bill (No. 2) 2003 and the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003. In Labor's view, parliament needs

to strengthen the corporate governance regulatory framework to ensure that Australia's capital markets remain efficient, fair and transparent. The CLERP 9 bill goes some way to strengthening the framework; however, it does not go far enough. Labor takes the view that the CLERP 9 bill fails to sufficiently hold boards accountable and fails to sufficiently empower shareholders. Labor welcomes the government's decision to adopt a number of Labor's proposals, which include giving shareholders a non-binding vote on the remuneration report; expanding the disclosure requirements for executives, from the top five executives to the top 10 executives within the corporate group; recognising the need to amend the disclosure obligations in section 300A on executive remuneration; and requiring the auditor to attend and answer questions at the AGM. These were all Labor proposals, and the Labor Party welcomes the government's getting on board.

Whilst these reforms are needed, they do not go far enough. Obscene salary packages to executives, massive termination payments in spite of poor performance and the perceived failure of audit committees have outraged shareholders, employees and retirees. It was clear from the inquiry of the Joint Committee on Corporations and Financial Services that we needed to toughen up the CLERP 9 bill. To toughen up the framework, Labor will move a number of amendments to the bill. Labor's amendments do not contain any surprises; the government has known about them for months. In October 2003, we released our first discussion paper on CLERP 9 and indicated the issues that Labor believed should form part of the bill. Since then we have tested our proposals through the joint parliamentary committee's inquiry on CLERP 9. We received widespread support for many of our amendments from a variety of groups, including the Australian Share-

holders Association, the Australian Council of Super Investors and Corporate Governance International.

After completing the inquiry on 30 May, we released *Labor's guide to the CLERP 9 amendments*. This guide sets out Labor's proposed amendments to the bill. Since then we have released the text of our draft amendments. In the same week we released our guide to the CLERP 9 amendments. We released the text of the draft amendments to allow further consultation. We again received widespread support for releasing the text of these amendments. Before discussing our key reforms, it is important to note that our reforms are based on transparency, accountability and disclosure. If the government votes against Labor's amendments, it will be voting against better transparency in relation to the Financial Reporting Council, enhanced accountability in relation to audit, enhanced transparency in relation to executive remuneration, increased accountability of directors and better disclosure in relation to proxy voting by fund managers and trustees of super funds. If the government chooses to vote against Labor's reforms, which empower shareholders, it will be voting against reforms that will increase shareholder activism. Anyone who owns shares, anyone with superannuation and anyone who has been outraged by obscene salary packages will welcome Labor's amendments.

The explanatory memorandum states that the underlying objective of the bill is to improve the operation of the market by promoting transparency, accountability and shareholder activism. The CLERP 9 bill fails to sufficiently empower shareholders and fails to sufficiently hold boards accountable. Accordingly, Labor will be moving a raft of amendments to increase shareholder activism and to increase the accountability of boards. The role of shareholders in holding companies accountable has not been fully appreci-

ated until the last few years. Many Australian boards have acted in their own self-interest, not in the interests of their shareholders. This highlights the disconnect between shareholders and the company. This disconnect arises from the imbalance in the relationship between shareholders and the board of directors. An article in the *Harvard Business Review* accurately diagnosed the cause of the problem. It stated:

When shareholders fail to engage, either in setting direction or holding board members accountable for their behaviour, an important link in the governance system is missing. In this context, a director's allegiance shifts from its proper base—the shareholders—to the nearby boardroom, where fellow directors and management fill the void.

This redirection of a director's allegiance from the shareholders to other directors and management has created an environment in which shareholders' interests have taken second place to boardroom ego.

This issue is also prevalent in Australian boardrooms. In his report on HIH, Justice Owen said, 'Shareholder apathy can play a part in undesirable corporate governance.' If shareholders as owners are unwilling or unable to exercise their powers or to make themselves heard, directors and management will lack guidance or constraint from those whose interests they are supposed to serve. In order to hold directors accountable, shareholders need to be empowered. Labor will be moving a raft of amendments to empower shareholders. Our amendments will require shareholder approval, non-binding, where a director chairs more than one top 300 listed company. We will require disclosure of information about directors prior to their being elected, such as their relationships with the company and other directors. We will require disclosure of the qualifications of company secretaries. We will amend section 250A(4) to ensure that the voting intentions of share-

holders are carried out and amend section 251AA to require disclosure of resolutions withdrawn prior to AGMs. These amendments are not political and should not be controversial. Most of these amendments are based on disclosure; they give shareholders more information.

The explanatory memorandum notes that one of the bill's objectives is to promote shareholder activism; however, the CLERP 9 bill fails to sufficiently empower shareholders. Shareholder activism in Australia is at a much lower level than in the US or the UK. With proxy voting levels in Australia at 44 per cent and with proxy voting levels in the UK reaching 55 per cent and around 80 per cent in the USA, Australia has a long way to go to reach the levels of shareholder activism which exist in other jurisdictions. Over half of the Australian adult population now invest in the share market, either directly or indirectly. Considering that most Australians have an exposure to the share market via their superannuation, shareholder activism and corporate governance are of immense importance. Labor takes the view that the exercise of ownership rights by all shareholders, including institutional investors, should be facilitated by government and supported by the regulatory framework. Recently 43 per cent of shareholders in the Walt Disney Company in the US recorded a no-confidence vote in the chairman, Mr Michael Eisner. As a result of this vote Mr Eisner has stepped down as chairman of Disney.

Shareholder activism is no longer confined to the US. It is a global movement that Australian companies are now grappling with. Recently the US has introduced new requirements in relation to its mutual funds. Under the rules, mutual funds will be required to disclose their voting records. Just last week I visited the SEC and had a long discussion with them about this. I asked them if they got as much resistance as I am

finding to this in Australia and they said, 'Absolutely.' This was something that the funds management industry in the US fought tooth and nail, and it is no different here. The only difference is that in the US they stood up to those vested interests but here the government, as usual if it has a choice between backing the board or backing shareholders, backs the board.

I hope the government will accept these amendments. I hope the Democrats and the minor parties will accept these amendments. I hope commonsense will prevail and we can move to world's best practice, as they have adopted in the US on this issue. As I said, this is a global movement. It is happening all around the world. Australia should be taking a lead. Labor believes that Australia is being left behind now in relation to shareholder activism. The OECD *Principles of corporate governance*, which was released earlier this year, call for disclosure of how institutional investors exercise their ownership rights. The OECD report says:

For institutions acting in a fiduciary capacity, such as pension funds, collective investment schemes and some activities of insurance companies, the right to vote can be considered part of the value of the investment being undertaken on behalf of their clients. Failure to exercise the ownership rights could result in a loss to the investor who should therefore be made aware of the policy to be followed by the institutional investors.

So, in accordance with these OECD principles, Labor believes that fund managers in Australia should disclose their voting records and voting policies. This disclosure obligation is not onerous. Companies can simply disclose their voting records and voting policies on their web sites.

Let me describe Labor's amendments. There has been a fair degree of misinformation on these even though we circulated our amendments two to three weeks ago and first

raised this as an issue over two years ago. Let me be perfectly clear. Labor's amendments are as follows. Where a fund manager votes, we require the fund manager to disclose their voting policy and voting records. Where the fund manager does not vote, they are not required to disclose a voting record. In relation to trustees of super funds, we require them to vote on material resolutions and to disclose their voting records and voting policies. In our view, material resolutions would include matters such as remuneration and election of directors to the board. We have said that material resolutions will be disclosed in the regulations. Labor welcomes the government's decision to adopt Labor policy and reinstate a register for the disclosure of beneficial ownership. However, we believe that disclosure of substantial shareholders in the annual report can also be improved.

The CLERP 9 bill inserts a new requirement on financial services licensees to manage their conflicts of interest. In our view, this is not sufficient. The Australian Securities and Investments Commission's 2003 surveillance report on the independence of research analysts found that significant improvement was needed in some areas. In relation to conflicts of interest, ASIC said:

We did observe some systemic weaknesses in the ability of entities to adequately identify, manage and disclose conflicts of interest.

ASIC also found that investment banks had ignored industry guidelines. During the committee hearing, one of the issues raised was whether the requirements in the bill and ASIC's policy paper were sufficient. Of particular importance is whether specific obligations should be imposed in relation to research analysts. ASIC's original submission to Treasury on CLERP 9 took a robust view in relation to the types of conflicts which needed to be disclosed and those which

needed to be prohibited. In November 2002, ASIC's view was:

The work of analysts is sufficiently influential to warrant special safeguards to ensure that direct and indirect users of reports can be reasonably confident that integrity is not flawed by conflicts.

Labor endorses these comments. ASIC's original CLERP 9 submission also raised concerns about whether disclosure was sufficient in relation to certain conflicts. It said:

... at a fundamental level, the Act needs to prohibit certain activities of analysts where conflicts cannot be effectively managed, and disclosure of such conflicts is not sufficient to mitigate consumer or market integrity risk.

ASIC recommends that the following activities are prohibited: trading by an analyst or researcher in products that are the subject of a current research report within a set period and trading by an analyst or its individual researchers against a recommendation or opinion contained in a current research report. Labor will move amendments to implement ASIC's original recommendations. Accordingly, Labor members endorse the following amendments: prohibiting trading by an analyst or researcher in products that are the subject of a current research report within a set time frame; prohibiting trading by an analyst or researcher against a recommendation or opinion contained in a current research report; and publishing any reports for a period after the analyst firm has acted in an IPO for the company that is the subject of the report—establishing quiet periods. The Labor members also believe that the government should mandate written disclosure in analysts' reports of any conflict of interest of the analyst and require companies to disclose information provided during briefings to analysts. The Australian Shareholders Association advised the committee that they endorsed Labor's proposals to require the disclosure of information provided during analysts' briefings.

Executive remuneration was one of the most contested issues discussed during the JPC hearing. The payment of obscene salary packages and massive termination payments—often in the light of poor corporate performance—has resulted in an uproar by shareholders, employees and retirees. The community is outraged that there appears to be one rule for corporate executives and another rule for the rest of the work force. The link between payment and performance appears to have been severed. In addition, many people feel as though the payments to directors and executives do not correspond with community expectations. In 1998 Labor, with the Democrats, inserted section 300A into the act. This section required the disclosure of information about the remuneration of directors and executives in the annual report for all listed companies. This was a major step towards increasing the transparency surrounding executive remuneration. Unfortunately, the spirit of this section has not been followed by some companies, particularly in relation to the disclosure of options. Let me make that point again. On something like 24 to 28 June 1998—sometimes I get the dates wrong; Senator Murray corrects me regularly on this—

Senator Murray—The 25th.

Senator CONROY—Thank you, Senator Murray. It is now six years later, almost to the day, and we have not been able to get companies to actually comply with the law. If another area of the law were ignored for six years, there would normally be an outcry from the government of the day. But not from this government. Further reform is urgently required. The CLERP 9 bill makes some changes in relation to executive remuneration but it fails to go far enough. The following do not need to be disclosed under the regulations and therefore will not form part of the remuneration report that this government is putting forward: company policy

on duration of contracts; notice periods; and termination payments. There is the question of whether the director or executive has entered into an equity value protection scheme. That is a hedging instrument which ensures that the value of the equity remains fixed regardless of changing market values. People may say, 'What happened to this idea that you wanted management's interests aligned with the shareholders' interests?' The whole point of giving management equity and options is to tie them together so that poor performance by management affected the people in management themselves. But a few clever spivs have worked it out: 'We don't have to be part of this risk. We can get these schemes and put them in place. It doesn't matter if we perform poorly and the share price goes down: we have a locked-in profit.' You would have to say that this completely severs the link between shareholders and management.

Labor does not think that is good enough. Many companies who do this do not tell their shareholders they have done it. You may ask: why is that? It is no surprise. When management decide they want to sever the link that they have used as an excuse to get equity and options, they do not want to tell their shareholders. What does Labor say? Labor says, 'You have to tell your shareholders. If you sever the link between shareholders and management on performance and equity, you at least have to do the decent thing and tell your shareholders.' This legislation has ignored that, but our amendments will put that decency into it. These bills aim to increase transparency, but the government has turned its back on transparency. When it comes to a battle between a board and a shareholder, it will back the board. It will back its mates on the boards of this country every time. Accordingly, we suggest the government should pass Labor's amendments, which enhance the disclosure obligations of companies in

relation to executive remuneration. (*Time expired*)

Senator MURRAY (Western Australia) (10.30 a.m.)—The Corporations (Fees) Amendment Bill (No. 2) 2003 and the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003 represent a red-letter day for corporations in Australia and for the coalition government. For a government which has long felt that it is better to leave the market to itself, this set of bills represents a realisation and an acceptance that self-regulation has not been working and that the market would benefit by greater changes to corporate legislation to ensure that corporate governance standards are lifted and improved.

I listened to Senator Conroy's remarks and I am aware with his recounting of history that once again, as over these last eight years, the minister at the table, Senator Ian Campbell, Senator Conroy and I will be here determining the future direction of these bills and these initiatives. It is a great credit to the continuing process of review by the Senate, by the parliament and by the government itself that we are able to advance the cause of introducing far greater morality and far better behaviour in the corporate world without interfering with its competitiveness, its innovation, its enterprise, its contribution to creating jobs and its contribution to the national wealth.

The bills are known as CLERP 9 and are the latest in a series of reforms to corporate law. These bills and provisions will be supported by us, subject to the amendments we hope can be achieved through a combination of government reactions to the committee report and the determination of the detailed amendments put by Labor and by the Democrats. I want to say at the outset that the Senate is deeply indebted to the Parliamentary Joint Committee on Corporations and

Financial Services, which is chaired by Senator Grant Chapman, and to its secretariat for two reports which make a considerable contribution to understanding the initiatives. The reports make many recommendations which I hope the government has been able to rapidly respond to. I have not yet seen any circulated amendments, but I am sure they are going to come before us.

I want to delve into the bills by first repeating a philosophical view I have—which I have spelt out in my minority reports and supplementary remarks to the committee's reports—that neither the government nor the committee have yet grasped the most important nettle of all: reforming the way in which boards and directors operate. We should recognise that the legislation does not really disturb the fundamental relationship between shareholders, executives, directors and the auditor. The Democrats believe that, at its very core, existing company law is inadequate in terms of corporate governance, that the board and directors are central to the relationship between shareholders and company, and that the board and directors are largely not addressed through the CLERP process.

Directors' duties are very wide on operational management matters, but poor corporate governance and ethics can create situations where major conflicts of interest, mismanagement, impropriety and even corruption can go unchecked. Fundamental to the Democrat philosophy is a belief that many of the political principles that apply to popular democracies can transfer across to shareholder democracies. At its heart, the principle of limited liability is also founded on the principle of corporate democracy—shareholders democratically, by right of their shareholding, have the right to determine how companies operate.

Well-founded concepts such as the separation of powers, accountability and democratic process have as valuable a role to play in the corporate world as they do in political life. Corporate democracy is the key to corporate governance. At the heart of democracy is the restraint of power, the notion of checks and balances and the regular testing of popular support. In discussing corporate governance, our political and constitutional language is a helpful tool: best practice regular elections, compulsory voting, representative bodies, independent institutions and people, appointments on merit, the separation of powers, transparency, accountability and full disclosure.

The Democrats believe that one solution is for the current responsibilities of a board to be split between the main board and the governance board. The main board would continue to be elected by shareholding and would concentrate on strategic, business and operational issues. It would contain executive and non-executive directors and, because of its election method, would continue to have a bias towards the dominant or large shareholders.

A small corporate governance board would be composed of non-executive independent directors—perhaps three. It would have a limited remit and would call and chair shareholder meetings, propose changes to the company constitution, resolve conflicts of interests, determine the remuneration of directors and executive management, appoint auditors and other advisors such as valuers, and manage the process of electing directors. To protect the interests of all shareholders, not just the dominant shareholders, voting rights would be determined democratically by numbers rather than by power based on the number of shares held. In other words, it would be determined by shareholder not shareholding. Because of its election method,

it would have a bias towards all shareholders rather than just the large shareholders.

This separation of powers seems a difficult concept for the traditional business community to fully appreciate at present. It has worked well in our broader political democracy. The Democrats have sought through the committee process, through our consultations with business and through advocacy in the Senate to get people to respond to and understand these philosophical beliefs which should underpin the way in which boards, directors and companies operate. Because we have not yet got that understanding through, we will not attempt amendments to create a governance board at this stage. The idea does need to be better understood first. But, in our view, you cannot approach corporate governance and corporate law without questioning the basic underpinning of corporate law in this country. We think that there needs to be a shift in the way in which these matters are addressed.

Turning to executive remuneration, which will take up a fair bit of time in this debate, we think it is a matter of great public and private interest. Executive remuneration does lie at the heart of investor confidence and faith in the credibility of corporations in the share market. It is a matter of great public interest because the extravagant greed of too many directors and executives has not only caused a justifiable public outcry but also contributed to major company failures and market shocks. It is a matter of great private interest because too many shareholders have been robbed by the siphoning off of their funds through board-approved salary and retirement package rackets. At the heart of this matter is a series of connected failures.

Neither board practice nor the law prohibits arrangements where there is a conflict of interest. Those who benefit from devising clever, concealed and costly salary bonus or

option packages that benefit the executive and director mates on the board are quite often the same people who approve those packages. They are even sometimes ticked off at the shareholder level by the chairman holding proxies that he exercises at his absolute discretion. It is a travesty in law if ever there was one. If ever there was a single reason to require institutional investors to exercise a compulsory vote, the corrupt use of discretionary proxies is it. The myth out there that executives do not influence these matters is just that—a myth. One in five directors is an executive and those people exercise a great deal of power.

The nature of this debate reflects the fact that there has been disagreement between the government and the non-government side of the Senate. Last year the Democrats and Labor introduced amendments to ensure the disclosure of remuneration packages at the time of contract, to require companies to disclose accruing retirement benefits to executives and directors, to strengthen shareholder power to veto directors' retirement payouts and to force companies to reveal in graph form increases in executive salaries compared to share prices. The government did not accept those amendments at that time. You cannot divorce board delinquency in authorising unjustified remuneration packages from some company constitutions and board behaviour that allows or fosters poor director election processes and the patronage of mates. This cosy world delivers supporting structures of mutual self-interest and aggrandisement. Therefore, the accompaniment to good remuneration practice and good remuneration committees has to be best practice director election processes, maximum independence and ethical systems to prevent the conflicts of interests and collegiate conspiracy where corporate insiders enrich themselves at the expense of shareholders.

I want to turn to auditor independence. A considerable part of the CLERP 9 reform changes relate to the role of the auditor and auditor independence. The Joint Committee of Public Accounts and Audit in report 391, *Review of independent auditing by registered company auditors*, in August 2002 concluded with this recommendation:

The Committee considers that Section 324 of the *Corporations Act 2001* would be the appropriate section of the Act to incorporate a general statement on the independence of the auditor.

It is notable that the Corporations Act and the bill still lack definitions or clear criteria for independence. While the bill does not have a definition of auditor independence, it does impose a general independence requirement on auditors. This requirement is not met if a conflict of interest situation exists in relation to an audited body at a particular time and at that time the auditor knows but does not take reasonable steps to ensure the conflict of interest ceases to exist. It seems convoluted but you could say that, in the bill, the definition of 'Conflict of interest situation' in setting a general standard of auditor independence is really the bill's definition of what constitutes auditor independence. A conflict of interest situation exists, according to the bill, when:

(a) the auditor, or a professional member of the audit team, is not capable of exercising objective and impartial judgment in relation to the conduct of the audit of the audited body; or

(b) a reasonable person, with full knowledge of all relevant facts and circumstances, would conclude that the auditor, or a professional member of the audit team, is not capable of exercising objective and impartial judgment in relation to the conduct of the audit of the audited body.

The Joint Committee of Public Accounts and Audit in report 391—and I should mention that I sit on that committee as well—did pick up the essence of the auditor independence

argument at pages 6 to 7, in paragraphs 1.23 to 1.30. At paragraph 1.30 it said:

For each of these stakeholders, the Committee has explored a number of mechanisms to enhance independence. However, a core set of mechanisms and criteria in each of the following areas, are common to enhancing the independence of each group:

- appointment;
- security of tenure;
- termination; and
- remuneration.

At paragraph 5.5 of chapter 5, the committee report quotes what it describes as the comprehensive definition provided in 'the ICAA and CPAA *Professional Statement F.1—Professional Independence*'. That definition covers independence of mind and independence in appearance. While these are essential ingredients of a definition of auditor independence, they are incomplete. What is missing is the vital third part of the definition: independence in fact. Full independence is only possible when the method of appointment is objective, on merit and not subject to patronage, favour or inducements; remuneration is sufficient, profitable and secure for a reasonable period and not hostage to other services or retainers; tenure is reasonable and secure; and objective, fair and consistent separation or contract-ending mechanisms exist. Without these elements in place, full independence is not possible—apart from for the very strong, the very virtuous or the very uncommercial.

I will turn to remuneration briefly. The Democrats believe that an independent auditor is vital for an effective audit, but to quote Charles Macek, the Chairman of the Financial Reporting Council, as reported in the May 2004 *CFO Magazine*:

Where does your obligation, where does your loyalty lie? It's going to lie with whoever is paying our salary. It's just human nature.

The greatest weakness is the method of appointment. Intertwined with any discussion on the appointment of auditors is the relatively new institution of the audit committee. The audit committee has been held out as a guarantee of probity and good process. It is nothing of the sort. The problem starts and ends with the board. I will repeat what I said in my minority report in the committee's part 1 report for CLERP 9—that is, that the board is the central institution in the relationship between shareholders and the company, stakeholders generally and auditors specifically. It is self-evident that many boards, directors and companies operate to high standards, but it is the task of legislators to attend to those who do not and to appraise the public interest.

Companies have such an effect on our society that serious weaknesses in corporations law must be attended to. A major weakness lies in director election processes. Regrettably, the election of directors is often either deliberately or effectively rigged in favour of dominant shareholder interests. I am told that 52 per cent of ASX corporations have a dominant shareholder and many of the rest have a few dominant shareholders. Such dominant shareholders frequently control the boards of our companies through their voting power. That means many or most directors are directly placed by or under the patronage of a dominant shareholder or shareholders who will quite naturally seek to ensure that their interests are put first. This dominance and patronage over many directors is reinforced by company constitutions and board behaviour that allow or foster poor director election processes.

This dominance and patronage of the dominant shareholders is reinforced by the absence of compulsory voting by institutional investors, by their voting apathy, by their giving proxies to the chair or, worst of all, by the often disgraceful way in which

proxies are voted at the chair's discretion. The only way to diminish dominant shareholder voting power is to dilute it. The greater the vote and the more thoughtful the vote exercised, the lower will be the real power of the dominant shareholders. These are public companies but they are sometimes treated as private fiefdoms ruled by oligarchs who are openly contemptuous of their often small fellow shareholders. This combination of methods and practices minimising votes effectively results in the shareholders at large being unable to prevent a dominant shareholder dominating the board. Under our system non-executive directors are not much protection either because many are far from independent. This is because they have often been appointed under the dominant shareholders' patronage, a patronage reinforced by the conformity imposed by the board collegiality rule. It all ends up being very neat and cosy for the dominant shareholder.

Here is a likely scenario. The directors under the patronage of or subject to the dominant shareholders appoint the director members of the audit committee who are also under the patronage or subject to the dominant shareholders and are therefore highly likely to act in the interests of the dominant shareholders. The subordinate or patronised audit committee recommends which auditor should be appointed. The board in turn forwards that appointment to the shareholders, who duly elect the auditor. The selected auditor is obviously going to be one the board can work with. Unscrupulous boards might flavour the auditor appointments with some nice non-audit service goodies—a practice so common and so repellent to independence that Sarbanes-Oxley has pretty much ruled it out. The audit committee dutifully conveys to the auditor the wishes and interests of the dominant shareholders and, later on perhaps, the auditor is rewarded by a seat on the board—under pa-

tronage, of course. Then the whole cycle starts again. A company cannot proceed on that basis.

Senator WEBBER (Western Australia) (10.51 a.m.)—As has been mentioned, the *Corporations (Fees) Amendment Bill (No. 2) 2003* and the *Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003* are designed to give effect to CLERP 9. Corporate reform is a vital area that goes to this country's economic wellbeing, both now and into the future. These bills are about ensuring that the regulation of the marketplace is relevant and up to date and that the regulatory mechanisms that government imposes on the marketplace to protect its citizens are able to deal with the level of risk that exists. I believe that all senators would agree that unfettered markets do not operate in the best interests of our fellow Australians. Australians understand that transparency and a preparedness to share information with all is the best protection they can have from the unscrupulous and devious people who exist in any society. When the unscrupulous and devious are operating major companies, effective regulation is even more important. We have seen over the years that the unscrupulous and devious can wreak economic hardship way beyond their own company and in fact affect the whole economy. No-one would doubt that the excesses that were reported in the HIH Royal Commission should not have taken place. They took place because effective regulation did not exist.

It is incumbent on all governments to ensure that companies have to abide by minimum standards. The regulation of the marketplace has, at its heart, information. With information available, suppliers, regulators, shareholders and consumers can make informed decisions within the marketplace. Without information, everyone is at risk. It is much more difficult to behave like an Enron

or an HIH when information is readily available and regulation is effective and timely.

There has to be a balance in the marketplace. Going all the way back to the South Sea Bubble in the 18th century, investors have been at risk from an unregulated market place. Nowadays, with an increasing number of Australians also being shareholders, the risk from the unscrupulous and devious operating in companies is increased. Australians who have saved and who have funds available to invest need to be able to make informed decisions based on publicly available information. Nothing is more important in this process than the audit process. If the audit processes are flawed, investors are placed at risk. No-one would invest in a company where there was any doubt about the integrity of the audit.

However, there is also the future to consider in this discussion. With over nine million Australians now having superannuation, regulation is more important than ever before. The future wellbeing of those nine million Australians is dependent on having decent and effective corporate governance. If our companies are allowed to operate as an Enron or HIH, the retirement futures of those nine million Australians are at risk. With so much of their future tied up in investments in companies through shareholdings held by the superannuation funds, we must ensure that now and into the future our corporate sector is well governed and effectively regulated. Having said that, it is important to note that the ALP has clear points of difference with the government's approach to these bills.

As Senator Conroy has outlined, there are a number of key changes that the ALP intends to move to these bills. Firstly, there is the issue of executive remuneration packages. Every time the ALP has raised this issue Senator Coonan, in particular, has launched into a rant about how we on this

side are all suffering from some kind of income envy. The government's simplistic response to this ALP policy demonstrates how out of touch they are with the concerns of their fellow Australians—indeed, with their fellow shareholders.

Those opposite believe that Australians think it is reasonable that large numbers of executives get these massive packages, and yet their performance does not match the money. For example, in a recent survey conducted by the *Business Review Weekly*, the 20 highest paid CEOs had seen shareholder value increase in just five cases. The average Australians—many of whom now receive some kind of bonus or performance component in their take-home pay—know that unless they meet their performance targets they miss out on the money. Australians find it hard to understand how it is that 15 out of the 20 highest paid CEOs can underperform yet still receive their full package. Rather than being about income envy, what the ALP policy is all about is transparency and performance. We do not argue that all people should receive the same. Rather, we argue that all should be treated equally.

One of the problems with executive remuneration is that the information is not available and shareholders have little or no say in the process. That is simply not good enough. Perhaps this could be put down to the government's hands-off attitude to the big end of town. If the government's mates in the corporate sector could not hand out the big packages, who would be buying the tickets to their fundraisers, one may ask. One wonders whose advice the government would take. Let me quote from *Hansard*, 16 February 2004:

The government has, on many occasions, noted the importance of a co-regulatory approach and has looked to the ASX Corporate Governance Council as a source of best practice guidelines.

Those words were spoken by the Treasurer on these bills in other place. So, the government would contend that they are taking the advice of the ASX Corporate Governance Council to ensure that community expectations are being met. However, it is interesting to note that those guidelines say that companies should not provide options, bonus payments or retirement benefits to non-executives. One would, therefore, think that if that is what they are saying in their guidelines the government should include them in the legislation. If you accept the argument that the market moves too quickly for the legislation and that the ASX Corporate Governance guidelines should be used more generally, then the argument extends to the proposition that every time the legislation is amended it should take the guidelines as a given. This would assist in ensuring that the legislation closely follows the practices recommended by the ASX. By putting into the legislation these disclosure arrangements we get the best arrangement. As things change, the regulations can be amended. To put up a process that is not as strong as the ASX guidelines seems like a cop-out.

Another area of concern is that the disclosure regime that will accompany these bills regarding executive remuneration is not well known. It is important to all Australians that there are clear and precise processes in place for the disclosure of executive packages. Shareholders need to be able to be assured that all the information used by the executives to determine these packages is also available to them.

Another amendment which the ALP is strongly committed to is to ban the practice of non-recourse loans to directors and other executives. Currently, only loans above a certain amount—in this case, \$100,000—need to be disclosed. Why do we have a system that allows directors and other executives to use company funds as their personal

piggy bank? Surely if you or I wanted to buy shares in a company we would have to source the money through normal commercial practice. Why should directors and executives not have to go through the same process as you or me? Again, it is not a case of income envy, but rather another argument about equality and transparency for all—the same treatment regardless of your position.

The next area where Labor disagrees with the government is that of termination payments. You can see the government's approach in this particular section of the bills. Section 200B of the bill prevents a payment being made in connection with retirement from a board or managerial office, unless shareholder approval is first obtained. That is a good point; that is fair enough. But the government, in sections 200F, 200G and 200H, then provides exceptions to that rule. That is clever stuff and, as is normal for this government, too clever by half. How can you make a rule and then make a whole bunch of exemptions? This government has done it yet again.

Labor believes that the thresholds for these approvals are again set at too high a level: one set of rules for most people, yet another set for people at a certain level and, of course, exemptions for people at the top end of town. Again, this is about equality of treatment. The largest corporate collapse in our history, HIH, was the subject of a royal commission. The royal commission made, as is normal, a number of recommendations to address the deficiencies that it identified. What happened to the recommendations of the royal commission? These bills do in fact give force to some of Justice Owen's recommendations. However, they do not give force to all of his recommendations.

The Labor Party will give force to all of Justice Owen's recommendations from the HIH Royal Commission. One key recom-

mendation was that there be a four-year period before a company's auditor or audit partners would be able to join the client. Based on the HIH example, this is a sensible course of action and one that the government has not seen fit to give credence to. Secondly, the royal commission recommended that auditors would not be able to provide non-audit services which would compromise the independent role expected of company auditors. These measures, recommended as a result of identified deficiencies, should in my view be implemented. Yet again, the government has failed to do so.

The ALP also requires that auditors provide more information than is currently the case. This concept of an audit opinion, as part of the company's annual report, would allow shareholders and potential investors to be clear about all advice provided from the auditors to the company—again reinforcing my opening position about the clear and precise provision of information to all.

Labor is also of the view that more needs to be done to strengthen analyst independence and enhance the disclosure requirements so that potential investors can place more credence on such information. Labor is committed to increasing the power and role of shareholders. Labor would require more extensive disclosure and would ensure that shareholders have an increased say in the operation of the company they choose to invest in. But there is always a balance to be struck between the rights of companies and those that they deal with. However, that balance should always weigh up risk. Unless shareholders and investors are confident that the company is operating within the law and that sufficient information is available, then the current changes do not go far enough. Rather than listen to Minister Coonan rant about income envy, the Labor Party is interested in the effective corporate regulation to

protect our fellow Australians and their investment in their future wellbeing.

Question agreed to.

Bills read a second time.

Ordered that the consideration of these bills in Committee of the Whole be made an order of the day for a later hour.

BUSINESS

Rearrangement

Senator KEMP (Victoria—Minister for the Arts and Sport) (11.05 a.m.)—I move:

That intervening business be postponed until after consideration of government business order of the day No. 5, the Parliamentary Superannuation Bill 2004 and related bill.

Question agreed to.

(*Quorum formed*)

PARLIAMENTARY SUPERANNUATION BILL 2004

PARLIAMENTARY SUPERANNUATION AND OTHER ENTITLEMENTS LEGISLATION AMENDMENT BILL 2004

Second Reading

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

That these bills be now read a second time.

Senator SHERRY (Tasmania) (11.08 a.m.)—The legislation we are debating is fairly monumental legislation, and there is certainly a great deal of interest in it in the community. The *Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004* closes the existing Parliamentary Contributory Superannuation Scheme to new parliamentarians, and the *Parliamentary Superannuation Bill 2004* establishes a new superannuation scheme for all members and senators elected at or after the next general federal election. Labor will support these two bills, but not without reminding the Liberal-National Party govern-

ment that, had the Labor Party not announced on 9 February its intention to close the existing parliamentary superannuation scheme, we would not be here today debating these bills. Following the announcement by the Leader of the Labor Party, Mr Latham, that we intended to close the parliamentary superannuation scheme, it took the Liberal-National Party government just two days to execute one of the most monumental backflips we have seen in Australian politics in recent times. It was described aptly by a notable political commentator, Mr Dennis Shanahan, who writes for the *Australian*. He said:

It's a backflip of the order that would do the Howard family's bedtime story character, Mr Flip-Flop, proud.

We saw one of the most vitriolic internal conflicts ever faced by a Liberal-National Party government. It was a conflict that almost turned into a parliamentary revolt not on one occasion but on two occasions, as I understand it, when the Prime Minister, Mr Howard, announced that he was adopting Labor's policy to close the existing superannuation scheme for parliamentarians and replace it with a scheme that better reflects the current community standard. This was a decision by a Liberal government which was truly policy on the run, a reaction that resulted in a reversal of grand proportions.

In the days following Mr Latham's announcement, and prior to the Prime Minister making his announcement, several of the Prime Minister's parliamentary colleagues rushed out to the media to voice support for the existing parliamentary superannuation scheme and to oppose its closure. The Prime Minister was quickly on the defence and he stated:

... a lot of people out in the community think anything in relation to Members of Parliament and anybody in elected office is unmeritorious. I have to say that the salaries paid to senior ministers

compared with the responsibilities of people in the private sector are way below what is received in the private sector.

That was said in defence of the politicians' superannuation scheme. Then the Treasurer, Mr Costello, weighed in and said:

... by changing the super scheme, do you think you will get better MPs? We ought to do things that will get us better MPs in Australia, but I don't think this is one of the things—

that is, closing the PCSS—

that will do it.

As we subsequently discovered on this occasion, Mr Costello really got hung out to dry on the issue. We also had the Minister for Health and Ageing, Mr Abbott, adding his perspective. He said:

I don't think what politicians are paid overall is unreasonable.

That was said in defence of the politicians' superannuation scheme. Senator Boswell, the Leader of the National Party in the Senate—I am glad to see his colleague Senator McGauran is here—could not resist the temptation to put his very unique stamp on the debate in relation to politicians' superannuation. He stated about Labor's policy:

It reeks of Hansonism. In the worst possible way, it is populist.

That was the contribution of Senator Boswell from the National Party. What could be more populist than a government changing its mind almost overnight—in two days—and a Liberal government collapsing in the face of public support for the Mark Latham led Labor initiative? The Prime Minister has been in parliament for over 30 years and this was the first time we learned that the Prime Minister had anything approaching concern about closing the existing parliamentary superannuation scheme. Let us face it: the Prime Minister had no intention of closing down the out-of-date—and, we have argued, overly generous in a contemporary and

community context—Parliamentary Contributory Superannuation Scheme until it posed a risk to his own government. The government's decision to close the scheme was nothing more than knee-jerk politics in the hope that jumping on the bandwagon would somehow assist a tired and fading government that has run out of ideas and initiatives.

Senator Kemp—Live in hope; that's what you said last time, Nick.

Senator SHERRY—Senator Kemp is actively interjecting. He was the Assistant Treasurer responsible for superannuation. We never saw Senator Kemp coming up with an initiative like this on behalf of the Liberal Party. He did not have the leadership, the fortitude or the bravery to confront his own colleagues. He presented nothing in terms of leadership on this issue during his couple of years as Assistant Treasurer responsible for superannuation.

I turn to a little bit of history. The existing parliamentary scheme was set up in 1948 by the Labor government of Mr Ben Chifley. The reasons given for the establishment of a scheme for parliamentarians were an acknowledgement that at that time entering parliamentary service often meant a reduction in parliamentarians' opportunities to re-establish careers and the loss of a potential superannuation payout from an employer when the parliamentarian left that employer prior to retirement age. The scheme acknowledged that some sort of compensation was needed to encourage people of higher calibre to enter parliament. As Ben Chifley stated in the second reading speech to the bill in 1948:

In its general purpose the scheme aims to meet the situation, long recognised by members of all parties, that men or women who serve in parliament often sacrifice opportunities to provide against the day when their parliamentary careers come to an end.

He pointed out that most of those who were likely to benefit from the introduction of the retiring allowance were 'not drawn from the wealthy classes' and had 'no substantial private means'. Let us turn to the situation today, which is very different from some 50 years ago. Members in 1948 were generally older when they entered parliament and, on losing their seats, their age would often prevent them obtaining further employment. Many were in occupations that would be very difficult to return to if they lost their seats. It is unlike the situation today, where generally, although not exclusively, people who leave parliament can return to the work force in some form.

In addition, people whose careers had been in the trades and semiskilled labour force were unlikely to have accrued assets that could support them and their families in their post-parliamentary lives. When the scheme was initially established it was nowhere near as generous as the current scheme. In fact, it was only about a quarter of the level of benefit of the current fund. It was recognised that the nature of parliamentary service—a service that could be ended by a vote of the electors—was somewhat different from employment in the wider community, which was largely permanent in nature. The then deputy leader of the opposition, Queensland Liberal senator the Hon. Neil O'Sullivan, stated during the debate:

People in private industry, occupying positions carrying salaries equal to the allowances of honourable senators, cannot be sacked overnight without due compensation.

... ..

I am willing to share with the Government the responsibility for the introduction of a pension scheme.

So there was bipartisan support for the introduction of the scheme in 1948. But, as I have indicated, Australia has changed dramatically since that time, particularly with respect to

superannuation. One little footnote of history that is often missed in this debate is that the Chifley Labor government established national superannuation for all Australian workers at that time. That was a funded national superannuation system that would have provided a higher retirement income than the current age pension system. On its election in 1951, the Menzies Liberal government ceased funding the national superannuation scheme that was to cover the broader Australian work force. I put that into context. Back in 1948, the Labor government focused not just on politicians; it focused on the entire community in terms of superannuation.

Superannuation is now universal, as a consequence of Labor's visionary move to introduce compulsory superannuation, known as the superannuation guarantee. It started with an initial three per cent in 1987 and rose to the present nine per cent in 2002-03. I remind the Senate and those listening that the current Liberal government vehemently opposed, from opposition, the establishment of superannuation coverage for most Australian workers. Until 15 years ago only the relatively privileged—mainly males and, certainly, people who worked for large employers on middle to high incomes—had access to superannuation. Today some 88 per cent of employees have superannuation, thanks to the Australian Labor Party.

Today's parliamentarians generally enter parliament at a younger age and, more often than not, have some professional qualifications. On leaving parliament, many former members are snapped up by both private industry and the public sector in a variety of roles. Others can more easily re-enter their former professions. Unlike the circumstances of 1948, today—again, thanks to a Labor government—if you leave an employer to enter parliament and you have a superannua-

tion entitlement, you maintain that entitlement through vesting. That was not a situation that existed in 1948.

Few former parliamentarians today are left with limited means and work opportunities. Certainly, at 50 you can return to the law today far more easily than you could have returned to driving a train in Chifley's era. Today the general work force is more transient. Suddenly departing the parliament at an election is no longer so different from being made redundant or being required to change employment in the private sector. That is the circumstance that affects most of the Australian work force today. As I have said, superannuation is not lost if a person leaves one employer for another or, more specifically, to enter parliament.

As a result of the changes I have outlined, there has been a growing cynicism about the generosity of the existing parliamentary superannuation scheme. That is understandable. Today's community standard for superannuation is nine per cent. That is the established minimum and, for the overwhelming majority of the work force, it is the level of superannuation contribution from their employer. It is understandable that the community has developed a concern and cynicism about the fact that parliamentarians have a defined benefit superannuation fund significantly in excess of the benefits that the community enjoys—some seven times the level of benefit of most Australians. Of course, the fund is also paid for with the Australian community's taxes.

It is now the appropriate time to change the situation, and Labor supports the legislation but with one important qualification. There has been, and no doubt will be, argument as to whether the scheme should be closed down completely and retrospectively—even to existing members. The existing scheme is a defined benefits scheme.

That is, it provides a guaranteed level for a lump sum combined with a pension regardless of the performance of the fund, earning rates and fees and charges. Again this differs dramatically from the overwhelming situation that confronts the Australian work force. They are generally in what is known as an accumulation fund where they are subject to market rates of return—they have certainly had some negative returns in recent times—which gives no guarantee of a final savings figure and is subject to fees and charges. Defined benefit funds do not have that feature.

Defined benefit funds are not just confined to politicians. In the past there has been widespread coverage of parts of the Australian work force, in both the private sector and particularly in the public sector, by defined benefit funds. However, they have been declining rapidly in recent years for a variety of reasons, not least because they are costly to run. They have higher contribution levels. There has been a very clear trend towards the closure of what is known as DB—defined benefit—funds. It is important to note that when a defined benefit fund is closed it is closed to new members but not to existing members. In other words, it is not retrospectively closed to existing members. The closure of the schemes retrospectively generates rights to substantial compensation by the members because of the impact a retrospective closure would bring.

Whilst we cannot obtain accurate statistics, we do know that there are certainly hundreds of thousands of Australians in the work force who are in a defined benefit fund that has been closed, across both the private and public sectors. Most state governments have closed their defined benefit funds. Regulations have passed this parliament to close the Commonwealth Public Service defined benefit fund. But the funds have not been closed retrospectively, with existing members being required to leave the existing

defined benefit fund. The new fund applies to new employees.

That brings me to the argument that has been advanced in favour of retrospective closure of the existing scheme. The argument is that you cannot have two classes of employees; you cannot have one group of parliamentarians under an old defined benefit fund that is more generous than the new fund, which pays a lower level contribution to new parliamentarians. That is not a unique situation. As I have said, there are hundreds of thousands of workers in both the private and the public sectors in old defined benefit funds working side by side—often doing the same job—with employees who are in new accumulation funds with a lower benefit. It is not an unusual situation. Allowing the existing scheme to remain for current members and former members recognises this clear legal and practical principle.

Labor have some concerns about the level of generosity at the top end of the current parliamentary scheme. It is very generous to ministers and to other officeholders. It is an acknowledged fact that most defined benefit funds, whatever their nature, have a capping provision; they do not have an unlimited benefit at the top end. Labor acknowledge this fact and we will be moving an amendment to cap the amount in the current scheme for a number of officeholders' and ministers' allowances that are included in the calculation—in other words, to increase the retirement benefits under the existing scheme. It is a small number of people. The capping measure that we will be moving as an amendment caps the upper limit to the current cabinet ministers' additional loadings. The Parliamentary Contribution Superannuation Scheme uses these allowances—it is a complex formula—to calculate retirement benefits, but we believe there should be a cap at the upper level.

I note the leadership exercised by Mark Latham on this issue. He has been very insistent that, if he is elected Prime Minister of Australia, the cap will apply to him. His benefit will be lowered to below that which he would otherwise obtain under the current scheme. Labor does not see that the role of ministers and other officeholders should be completely ignored, but it does believe that some of the more senior officeholders are, with respect to superannuation, overcompensated. So we will be moving a capping amendment at the committee stage, which will mean that the allowance for the Prime Minister, for example, which is currently set at 160 per cent, is capped at 72.5 per cent. If Mark Latham is elected Prime Minister, that would mean a loss for him of some half a million dollars to \$1.9 million, if it was in a lump sum, depending on how long he lives and how long he serves as Prime Minister. That cap will be applied to all future prime ministers, deputy prime ministers, treasurers, Senate leaders, leaders of the House, Speakers of the House and Presidents of the Senate. (*Time expired*)

Senator CHERRY (Queensland) (11.28 a.m.)—The Australian Democrats have long campaigned for the reform of the Parliamentary Contributory Superannuation Scheme. We go back quite a long way. Indeed, in 1996 we successfully won a reference to the Senate Select Committee on Superannuation—and I acknowledge the chairman of that committee, Senator Watson, and the then deputy chair, Senator Sherry, are both in the chamber at the moment. The committee investigated the parliamentary superannuation scheme in 1997 and reported in September of that year, and it is worth acknowledging its unanimous conclusion:

The Committee considers that change to the Parliamentary Contributory Superannuation Scheme is desirable. The scheme is now out of step with superannuation practice in the wider community.

There is convincing evidence that it is excessively generous to a small group of retiring parliamentarians.

That was its conclusion back in 1997. Seven years later, we finally get some action in respect of that conclusion. I do acknowledge that in 2001 there were some changes to the ability to preserve benefits but no changes to the actual size of the benefits themselves. The frustration of the committee in 1997 was due to a reluctance of the Labor and coalition caucuses to agree to a reduction in the level of public subsidy to the parliamentary superannuation scheme. That has been the core problem all the way through. Politicians voting on their own remuneration are not prepared to cop a cut, even when they acknowledge that on every possible consideration it is way out of kilter with the superannuation remuneration in the private sector and the community generally.

The [Parliamentary Superannuation Bill 2004](#) and the [Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004](#) are a direct result of comments made by the Labor leader, Mark Latham. Today I want to focus my comments on the Labor Party's position on parliamentary superannuation. In August last year, Mark Latham launched this debate by saying on Brisbane radio that the public had every right to be angry about the generous superannuation for politicians. He went on to say:

There is a lot of distrust of the political system and one of the nagging concerns is the double standard about super.

In February, just before he launched this initiative, he said:

... I can't defend the current scheme. It is way out of line from a decent community standard and it is also way out of date. This is a scheme that was devised at a time when it was said as politicians left parliament they struggled to get decent jobs ...

He also said:

I think politicians need to recognise that a lot of the public distrust and cynicism about modern politics is about double standards, and when people see a parliamentary super scheme that is way out of line, far more generous than a community standard, it is hardly surprising that the public makes a grievance about that.

A week later he announced his changes. I was getting quite excited. I thought, 'We're finally going to get the changes we need to see.' What did we see? The 226 current MPs were carved out of any reform. They were going to continue in a scheme that the Leader of the Opposition said he could not defend, was a double standard, was overly generous and was out of step with community standards. But it is okay for the current 226 MPs to continue to be members of that scheme and to continue to have excessive benefits. I note that in the ALP's news statement on 10 February Mr Latham again said that parliamentary superannuation had become a major source of public dissatisfaction and cynicism in modern politics and that was why a Labor government would pass legislation closing the scheme to new entrants. Why not to existing people? Why do we not acknowledge that, if you stand for election and are elected at the next election by the Australian people, you are contracting for another term with the Australian people? Why is it that somehow the 226 existing MPs are being put in this special class of people who are going to be able to maintain a superannuation subsidy, courtesy of the taxpayer, equivalent to 67 per cent of salary?

The Democrats think that is utterly inappropriate, and it is the weakness in the position put by Mark Latham. By bringing these reforms forward as evidence of the need to get cynicism and double standards out of politics, he has created a new double standard and a new level of cynicism because the reforms will apply to new MPs but not to existing MPs. Let me give you one example

of how this will apply. Hypothetically, if the new member for Kingsford Smith becomes a minister in a future Labor government, he will be subject to the new superannuation scheme—nine per cent of his office holder's allowance will be his superannuation entitlement as a minister. But, if he is side by side with Senator Sherry in the cabinet room, Senator Sherry will be on the old scheme and will be entitled to a full additional defined benefit of 2½ per cent to his final defined benefit of salary for each year that he is a minister. Somehow Senator Sherry's package will be worth an awful lot more than, say, Mr Garrett's package as a minister for the same time. I am not going to get into the question of whether Senator Sherry or Mr Garrett will be worth more or less as a minister, but I think it is inappropriate to have in the cabinet room two people on two totally different remuneration systems doing pretty much the same sort of work.

That is the why in the committee stage the Democrats will be moving amendments which will try to deal with this issue. We will make the entire Senate vote on these amendments to ensure that the current scheme is closed down for all MPs and that all MPs who are re-elected at the next election will be under the new scheme. We will put in place transitional proposals based on those in the current bill to ensure that the service up to the next election will be determined under the current superannuation scheme and will not be retrospective.

It is an absolute furphy, and Senator Sherry should know it, to argue that it is retrospective, to say that the new scheme should not apply to existing MPs. As the witnesses from the Department of Finance and Administration made clear in their evidence to the Senate committee that investigated this bill a couple of weeks ago, we in this place are not bound by the laws of contract, that this is a statutory entitlement—it is

almost a statutory privilege to have access to a superannuation scheme—and the issues of contract law and retrospectivity do not apply because this entitlement flows from statute and not from a personal right. Our view is that it is not a matter of retrospectivity. If you go to the Australian people at the next election and say, 'I want a contract for another term as a member of parliament,' you should agree to the same terms and conditions that the new entrants—who are unlucky enough not to be in the class of 2004—get for their superannuation. We will move those amendments and we will make this chamber vote on them. We think it is an important principle. If this chamber is going to vote to maintain for itself a whole range of superannuation concessions that it is not prepared to grant to new entrants, then it should be on the record that it is prepared to do so.

I really hope that the backbenchers of both the coalition and the Labor Party think carefully about what they are asking the Senate to do today as to whether it is fair and appropriate to say that new members of parliament are going to be paid 60 per cent less than us just because we were here first. I think that is an appalling principle to apply to superannuation and to politicians' remuneration. It is an appalling principle to carve ourselves out as an exception to reform of a benefit that is acknowledged as way beyond a reasonable community standard and to do so based on a furphy of a legal argument that any other approach would be retrospective. It is not retrospective; it is not a breach of the federal Constitution. All the other furchies that have been raised have been knocked out by the evidence we heard at the Senate committee inquiry. We can and should acknowledge that the community is not happy with our superannuation scheme and that we can and should bring our scheme into line with community standards.

I will move those amendments in the committee stage, and I do hope the Senate approves them. If those amendments fail I will move a second set of amendments—the ‘Peter Andren option’, which the chamber will also get a chance to vote on—which allows members of parliament to opt out of the current scheme and to go onto the community standard and be publicly accountable for that. I hope that the Senate will give parliamentarians the option to shift out of the current scheme into the new scheme and to be accountable to their voters for doing the right thing by not being part of this double standard that Mr Latham said was in such need of reform. I do hope the chamber gives that amendment favourable consideration, and I acknowledge that senators will get the chance to vote on it.

The Democrats have long supported reform of the existing parliamentary superannuation scheme. The proposed changes outlined in the bill apply only to future members and senators. The overly generous retirement pensions for existing members of parliament will continue to accrue superannuation benefits based on the old rules. We believe it is hypocritical for current MPs to impose reduced entitlements on future MPs while maintaining an increase in their own excessively generous superannuation entitlements. It is disappointing that this is the situation that this parliament has come to today. Only the Democrats—and I acknowledge the work of the Independent MP Mr Peter Andren—have proposed alternatives which would see changes to superannuation entitlements for all MPs applying from the next election. We have done this on the basis of the recommendations of the 1997 Senate Select Committee on Superannuation, which acknowledged that the current scheme was excessive, and on the basis of the acknowledgment by the Leader of the Opposition that the current scheme is a matter of public distrust and sets

a double standard. I hope the parliament gives favourable consideration to these aspects.

It is worth noting for the record that, according to the most recent Senate inquiry into this bill, the current level of public subsidy to the superannuation scheme is equivalent to 67.6 per cent of parliamentarians’ salaries. That is the current actuarial cost of the current scheme, calculated as a notional percentage of politicians’ current salaries. That is an enormous benefit when you compare it with the community standard of nine per cent. Over the course of the development of this scheme, we have voted ourselves a superannuation package that is roughly seven times more generous than that which applies to the community as a whole. I acknowledge that the changes in 2001 did result in a reduction in that percentage, from 69.2 per cent to 67.6 per cent of notional salaries, but the changes we are making today, according to the evidence from the Department of Finance and Administration, will have a fairly minimal immediate effect on that cost. It will take many years before there is any significant reduction in the cost to the taxpayer.

We estimate that, by failing to impose on existing MPs the changes to the scheme, the unfunded liabilities will be increased to the tune of \$45 million a year for each of the next three years. That is the cost of the unfunded liability that we, the 226 members of the class of 2004, represent by voting to keep ourselves in the old fund. That is an impost that we should not impose on the taxpayers of Australia. I can think of a lot better ways to spend \$45 million a year than to subsidise the retirement incomes of people in this place.

I should also note that the unfunded liability for the current parliamentary superannuation scheme is \$551 million. This was exposed by the Democrats at estimates com-

mittees last year. That liability will continue to rise if we ensure that existing MPs remain in the current scheme. If we want to reduce that liability, we have to move to a fully funded scheme. The government's proposal for a nine per cent scheme is at least a fully funded scheme for future MPs. It is incumbent upon us to try to reduce unfunded liabilities in superannuation, and it would be reasonable to do so in respect of our people.

I should also note in passing that the current scheme has a range of different anomalies. If a person leaves parliament with less than eight years service—which applies to a significant number of members of parliament—they get much less of a benefit than someone who retires with more than eight years service. The public benefit rises for each year of service after that, peaking at a maximum of 18 years service before starting to decline. It is impossible to determine equity between members of parliament under the current scheme because each member of parliament will end up with a different level of public subsidy, depending on the years of service they have completed when they retire. We need to deal with this matter, and the best way to deal with it is to put everybody on the same basis. A flat nine per cent superannuation contribution from all would be fair to all, whereas the current scheme throws up anomalies between MPs.

It would also mean that superannuation would no longer be a reason for people to stay in or leave the parliament. The number of people who hang on to get that pension at eight, nine or 12 years service is quite significant. The actuary who gave advice to the Senate committee acknowledged that there is evidence that people do hang on just to qualify and then depart. If we moved to a fully funded scheme with a flat rate for all employer contributions, we would get rid of superannuation as a reason for people to hang on past the date they felt they were use-

ful. There would be a benefit to the public out of the amendments the Democrats will move in the committee stage.

Senator Sherry raised concerns about whether the Democrat amendments would be retrospective. I do not believe they would be. DOFA advised the committee inquiry that these bills pose a very low risk of constitutional issues arising from taking away a right that we are not entitled to under section 51(xxxi) of the Constitution. A politician does not have a contract of employment with the parliament; rather, a politician has an entitlement established in legislation to payment of salary and conditions during the term they are a politician. It is neither a contractual right nor an employment right; it is a statutory entitlement. As such, the changes recommended by the Democrats are not retrospective and should be supported. They will ensure that all parliamentarians are on the same remuneration basis. Any entitlement that has accrued to a current politician would be maintained under our proposal—we do not propose to take away what has already been accumulated or earned—but it is the decision of all of us to contest the 2004 election, which constitutes a new statutory engagement with the Australian people. If we lose we should be entitled to our existing entitlement but, if we win, we should accept the entitlements for future service on the same basis as all of our colleagues. That is a reasonable proposal, and I hope that the government will consider it.

In the context of parliamentary remuneration generally, the Democrats are of the very firm view that there should be a holistic review of parliamentarians' remuneration and that it should not be done by this place. It should not be done by 226 people who have to declare an interest in the bill and who will vote on their future entitlements. It should be done by the Remuneration Tribunal, which should be given complete control over all

aspects of a politician's package. The tribunal should be required to undertake a holistic review of salary and entitlements, with a view to setting a package. Each of us is responsible to our electorates for how we use that package, but the package as a whole would be the subject of an independent determination. The Democrats strongly believe that that is the approach which needs to be adopted in dealing with these issues.

It is a massive conflict of interest for each of us here to be voting today on what our superannuation would be. It is a massive conflict of interest and a massive double standard for us to be voting to exclude ourselves from a reform which we are imposing on new MPs. It is certainly a massive conflict of interest when we acknowledge that we are voting to keep for ourselves a standard way beyond that which currently applies to the general community. From that point of view, the Democrats will be supporting this bill as it is at least a move in reducing the excessively generous subsidy from the public to our superannuation fund, but we will be moving in the committee stage to take it further and apply it to all of us so that none of us can be accused of a double standard or hypocrisy. That will ensure in going to the next election that each of us will be acknowledging our scheme is out of kilter with the community and each of us is committed to moving it back to that community standard, and this is part of that process.

Senator WATSON (Tasmania) (11.46 a.m.)—The radio audience will now be well aware that the Senate is debating the [Parliamentary Superannuation Bill 2004](#) and the [Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004](#). The purpose of the two bills is to establish new superannuation arrangements for new members of the Commonwealth parliament as from the next election. Under the primary bill, employer contributions made

on behalf of new members and senators will now be nine per cent, which is equal to the superannuation guarantee requirements, and will be paid into a complying superannuation fund of their choice. The purpose of the other entitlements bill is to close the parliamentary scheme to new members from the next federal election, to suspend any pension being paid to former members and senators who re-enter the Commonwealth parliament at or after the next federal election, and to allow members and senators covered by the arrangements in the Parliamentary Superannuation Bill to salary sacrifice up to 50 per cent of their parliamentary salaries.

These amendments are being made, as the Prime Minister stated, in response to the public's general perception that parliamentary superannuation is too generous. That is not doubted, because there is a community perception that all parties agree to the changes. Here we have an initiative to reduce the portion of the superannuation entitlement package to parliamentarians which is regarded as excessive. I think all parties agree. In fact, Mark Latham, while agreeing, said that the changes should go further and be extended to judges and the Governor-General. That is not what the Senate Select Committee on Superannuation decided in 1997, because there are particular and peculiar circumstances relating to judges which warrant the continuation of the current arrangements. It seems that the proposed amendments to the Parliamentary Contributory Superannuation Scheme have the support, in principle, of all major parties and Independents. Some wanted to go further and have suggested amendments.

The comments on parliamentary superannuation by both the Prime Minister and the Leader of the Opposition are interesting in that they virtually echo what was stated by the Senate Select Committee on Superannuation, which I chaired in 1997, in its report

The Parliamentary Contributory Superannuation Scheme and the Judges' Pension Scheme. The committee heard at that time a criticism from some quarters that the scheme was 'excessively generous and out of step with community standards'. One area that was particularly highlighted was the payment of pension benefits to retiring or defeated parliamentarians before the usual retiring age. As a result of that report, the Howard government acted and removed the ability for politicians under 55 years to access these provisions at an earlier date. I remind honourable senators that the Commonwealth parliamentary superannuation scheme was built around a concept many years ago of many members and senators having a career before entering parliament later on in life. Not surprisingly in this day and age, there was a blow-out in costs to the parliamentary scheme. This was due in part to the fact that, across the whole community, people have also been living longer, including parliamentarians.

The committee also found that the apparent generosity of the parliamentary superannuation scheme must be considered in the context of the overall remuneration package—not looked at separately. There was adequate evidence that parliamentary superannuation lagged behind what was expected for similar levels of responsibility in the private sector and some public sector positions. Basically, there were problems with the scheme in terms of internal inconsistencies and so on. I must declare an interest because I was a trustee and still am. The Senate select committee heard evidence at the time—in 1997—that there were many talented people who would not consider becoming parliamentarians because of the relatively low remuneration package compared with other options that were available to them. There were other disincentives as well—disruption of lifestyle, family life and careers.

Witnesses and submissions highlighted a number of issues relating to the parliamentary superannuation scheme, such as a lack of equity between members of the scheme, the inflexible nature of the scheme, the compulsory nature of members' contributions regardless of their circumstances, no portability of entitlements if a member leaves parliament and inadequate controls over the costs associated with benefits received by partners of parliamentarians or ex-parliamentarians when they die. There were submissions that suggested the scheme should be replaced with a fully funded accumulation scheme. While this option had a number of benefits, the committee then was of the view that parliament needed to focus on issues relating to independence before considering replacing the scheme with an accumulation scheme. One of the advantages of the proposed changes to the parliamentary superannuation scheme is that over time the ongoing unfunded liability of the scheme will be reduced—and reduced quite considerably. The reduction is expected to be \$0.9 million in 2003-04, increasing to \$5.3 million in 2007-08.

The amendments will also have the effect of bringing parliamentary superannuation into line with a community standard. Currently, that community standard—the superannuation guarantee rate, which employers are obliged to put in for their eligible employees—is nine per cent. The amendments will also mean that parliamentarians will be subjected to the same types of arrangements as their constituents—accumulation schemes. Further, by requiring new members and senators to have their contributions paid into a complying superannuation fund, the amendments will give them an understanding of how any changes to the superannuation legislation will affect the community generally. That has to be good.

One inevitable aspect of the changes is that three different classes of superannuation benefits will apply to parliamentarians, depending on when they were elected. That has applied in the public sector—the Commonwealth scheme—for quite some time, with different classes of people doing the same jobs. We will not be peculiar in that respect. Some people have argued that it is possible that the changes could result in the Remuneration Tribunal recommending a significant pay increase to compensate for the superannuation benefits that have been lost. I find that quite astounding. If something is regarded as excessively generous, why would we want the superannuation tribunal to use another avenue just, for example, to increase the absolute level of the remuneration outside superannuation to offset what was lost as a result of taking away the excessive component? On the other hand, it could be argued that, if the tribunal believed that there was an excessive component in the package, it could not be assumed that the tribunal would provide a salary offset to the superannuation package. With those thoughts in mind, I was surprised to read the report from the Senate Finance and Public Administration Legislation Committee review of this bill. While it supported the package in the bill, the second part of the recommendation seemed to suggest that it sought a review of the remuneration entitlements soon after July 2004. I thought that would defeat some of the purpose here.

One matter of interest is that, while parliamentarians will be able to choose the superannuation fund into which their contributions will be paid, they will be prevented from choosing to have their own self-managed fund. This will mean that parliamentarians who already have their own self-managed fund and are subject to the amendments will have to join another complying fund.

Some politicians have sought to publicly align themselves with community concerns over the excessive element in the superannuation package. I refer to Bob Brown, who is present in the chamber now, and Mr Andren in the House of Representatives. When called upon to use the pathway of giving a public declaration nominating a selected charity to receive the excessive component on their superannuation benefit, it was surprising that neither would give a public utterance. Therefore they both declined; maybe they might change their minds today. Each politician, while protesting vigorously—and that is their democratic right—knew that there was not a mechanism to move out of the existing parliamentary scheme while still a member. There is this pathway of nominating a selected charity, and that is quite clear: they can put it in the declaration of interests. I must say to Senator Brown and Mr Andren that some perceive this as a level of hypocrisy. But not the Australian media. They seem to be silent on this matter while talking about other aspects of the cases of Senator Brown and Mr Andren. And good luck to them.

As chair of the Senate Select Committee on Superannuation at the time—1997—I was always of the view that significant change was inevitable, that moving to an accumulation scheme would tend to reduce many of the excessive benefits and that therefore it was only a matter of time before the door was opened. Despite the move to the community standard in relation to superannuation, there are still people—both in the parliament and in the community—who believe that politicians are over-rewarded. We must look at that with some degree of scepticism. If we are really interested in democracy, we should recognise that there is a real danger of developing a cult mentality that will lead to parliaments attracting mediocre people or those with private means. This will damage

the parliament by removing the range and quality of representation, particularly from the professional and other sectors of society. I support the legislation.

Senator BROWN (Tasmania) (11.57 a.m.)—The Greens will support the **Parliamentary Superannuation Bill 2004** and the **Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004** because they are a major move in the right direction. They reflect the policy of the Greens, the Democrats and Independents like Mr Andren, the member for Calare in the House of Representatives—a policy expressed over many years. I want to congratulate Mark Latham, the honourable leader of the opposition, for taking this policy up shortly after he became Leader of the Opposition and forcing the hand of the Prime Minister.

We now have at last a response to the very decent proposition that members of parliament should get the same top-up from their employers—the Australian people, ultimately the taxpayers—that other workers are, by law, expected to get from their employers: about a nine per cent top-up for the superannuation payments going towards retirement and sustenance in old age. However, the decision to split the proposal so that existing members of parliament will continue to get the 69 per cent top-up while new members of parliament after the next election will get the nine per cent top-up is testimony to the self-interest that is still deep within both the government and opposition parties.

I note that Mr Latham has said he will accept the lesser payment if he becomes Prime Minister, and that is to be lauded as well. But the caucuses of both the Labor and Liberal parties were very strongly motivated to keep the extra 69 per cent top-up coming from taxpayers. If it were payable up until the next

election, you could understand that. But for this legislation to continue the 69 per cent payment to existing MPs after the next election would be to implement an outrageous two-tiered system—where people elected equally under the Constitution by an equal response from the people of Australia and who are doing equal work in this parliament, which is based on equality, will receive unequal remuneration. It is simply unacceptable for there to be a two-tiered system. Existing MPs who get re-elected by the people of Australia on 7 August, if that is the date, will continue to get a 69 per cent top-up, but new members of parliament elected equally by the Australian people will get a nine per cent top-up. This legislation is an extraordinary indictment of self-interest.

Moreover, I think this legislation is unconstitutional. I draw senators' attention to section 48 of the Constitution, which is imbued with the spirit of MPs being paid equally for the equal job they do in representing their constituents. It is a very short section. Section 48 states:

Until the Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat.

These days that would read, 'he or she takes his or her seat'. That is it, but, if you accept the spirit of that Constitutional provision, all MPs would be paid equally. Of course, a system has evolved of paying a loading to those people who have ministerial responsibility or greater electoral responsibility through remoteness or size of electorates. But I do not think you can argue in any way that it is consistent with the Constitution for MPs to be getting different remuneration—and vastly different remuneration—through their superannuation provisions simply because some were in the old parliament and some are going to be in the new parliament. I believe that

that opens this particular legislation to constitutional challenge. It is simply unfair legislation which is flouting a fair provision in the Constitution.

I will be moving—along with Senator Cherry, if I heard him correctly—to amend this legislation so that after the next election all MPs, all senators and all members of the House of Representatives, will get the nine per cent top-up and not the 69 per cent alternative. I will also be supporting the Andren amendment, which is that those who wish to opt out should be able to. There is collective protection going on within the Labor and the coalition caucuses which says: ‘One in, all in. We will keep the 69 per cent for ourselves. Everybody has to accept that position.’ It has been broken with to a degree by Mr Latham’s laudable commitment regarding his potential prime ministerial superannuation top-up, but it is not acceptable that this parliament can write advantage into this piece of legislation for those people who are going to vote on it today, as opposed to those people who will come in as new representatives of the Australian people after 7 August or whenever the election is held. I ask members to reflect on that.

There is absolutely no difference in the status of MPs elected after each election. We start the job anew after an election. Each member is dismissed when an election is called and each member either comes back or newly comes here as absolutely equal, being appointed by the people of Australia as absolutely equal. What happens as far as ministries and so on are concerned is then left to the government of the day. But we are all elected equal, whether we are Mr Howard, Senator Watson or Senator O’Brien, whom I see on the Labor bench now. We are absolutely equal and we have no right to be legislating, as these bills seek to today, an inequality from the start based on the advantage of those people who, in the majority,

would want to vote on this today. We will be putting forward that amendment—to make it equal, to make it all nine per cent after the next election—in the committee stage. I ask honourable senators on both sides of the house to reflect on that and to support that when the vote comes up in a short while.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (12.05 p.m.)—I want to make a few remarks in summing up the debate on this important legislation. The **Parliamentary Superannuation Bill 2004** and the **Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004** form a package that will deliver on the Prime Minister’s commitment to bring parliamentary superannuation in line with current community standards. The package closes the Parliamentary Contributory Superannuation Scheme to new senators and members and puts in place new super arrangements for those members and senators who join the parliament at or after the next election. It will involve a government contribution of nine per cent of parliamentary salary, paid to a complying super fund or retirement savings account chosen by the senator or member, and there will be a default fund where no choice is made.

The senators and members covered by these new arrangements will have a salary sacrifice facility so they can supplement their superannuation. The arrangements will apply to new senators and members elected or appointed at or after the next election. This will include a former senator or member who rejoins the parliament at or after that time. Any pension being paid from the parliamentary contribution super scheme to a former senator or member who rejoins the parliament will be suspended while they remain in parliament, but payment of the pension will be restored from the later of the completion of that new period of parliamentary service or age 55. The changes proposed in these

bills will not affect the super arrangements for sitting members and senators who will not be able to transfer to the new arrangements.

The government has considered but does not support the changes moved by the Democrats and the Greens to transfer sitting MPs out of their current arrangements as those changes may have an effect on accrued superannuation. Such changes would not be in line with the super arrangements applying generally in the community, which protect accrued super entitlements. The existing senators and members will have made financial arrangements and commitments based on the expectation of continued membership of the current scheme. It would be quite unfair and inequitable to retrospectively reduce their entitlements.

We also do not support amendments moved by the opposition to cap the entitlements under the existing scheme of any existing MP. The arrangements proposed by the government will ensure that all MPs, existing and new, have their superannuation benefits based on their total parliamentary salaries regardless of the amount. If the opposition believes that it is appropriate for a Prime Minister to be paid a higher salary than a minister then it is entirely appropriate that the salary for superannuation purposes of that member should reflect that differential.

This legislation does come on top of some substantial government changes to the parliamentary contributions scheme in 2001 to more closely align parliamentary superannuation with the superannuation arrangements of the majority of Australians. Those changes meant that senators and members entering parliament after the last election would have their pensions deferred between leaving parliament and age 55—a significant change. That did impose a higher standard of preservation on parliamentarians than what is im-

posed on others who receive pensions. This is important legislation. I thank senators for their contributions to this debate.

Question agreed to.

Bills read a second time.

In Committee

PARLIAMENTARY SUPERANNUATION BILL 2004

Bill—by leave—taken as a whole.

Senator BROWN (Tasmania) (12.09 p.m.)—by leave—I move Australian Greens amendments (1) and (2) on sheet 4241:

- (1) Clause 5, page 4 (line 29), omit “becomes”, substitute “is”.
- (2) Clause 5, page 4 (lines 31 and 32), omit paragraph (1)(c).

The amendments that I am moving on behalf of the Australian Greens are extremely simple, as the committee will see. The first amendment simply changes the word ‘becomes’ to the word ‘is’ in clause 5 so that after the election new members will all move to the same superannuation top-up of nine per cent, rather than 69 per cent for old members and nine per cent for new members, as is mooted under the legislation. This is the amendment that was moved by Mr Michael Organ, the member for Cunningham, in the House of Representatives recently. It is a very simple and neat device for ensuring that we come back to this parliament equally under the superannuation provisions after the next election—those of us who indeed are returned.

As you know, Madam Temporary Chairman, half the Senate will not be subject to election, whenever the next election is. That includes me, by the way. The half of us who are returned under this provision will automatically stay on 69 per cent but, under the Greens amendment I am putting forward now, we would fall into the same category as every other newly elected member of par-

liament of having a nine per cent top-up. I commend the amendments to the chamber. I hope that in the spirit of fairness we will see the amendments supported.

Senator SHERRY (Tasmania) (12.11 p.m.)—The Labor Party will not be supporting these amendments and I will outline why. Senator Brown might be technically correct that for most politicians who are elected—he has pointed out the exception of continuing senators—they recommence their employment, but I think the point is that they are still continuing in the same job.

Senator Brown—Not true.

Senator SHERRY—They are, Senator Brown. If you look at employment law, the situation of members of parliament, although their careers are determined by voters, is no different from many people in the public and private sector who may be on a fixed term contract—let us say it is three, four or five years; they are in the public sector, and there are many people in this circumstance, and also the private sector—who are members of defined benefit funds. Whilst technically their employment might cease, legally they are not kicked out of the existing defined benefit fund they may be in, although there are decreasing numbers. Even though their employment might be technically ceased and they are re-employed the next day or the same day, they have a legal right to continue in a defined benefit fund. In no practical way is this any different from the situation of members of parliament whose employment technically ceases, other than the class of senators Senator Brown has outlined.

I also want to point this out: if Senator Brown were being consistent—I must include Senator Cherry as well because I think he supports the same type of amendment—and if the argument is that you should not have two classes of employees doing the same job working side by side—one in an

old defined benefit and another doing the same job in a new accumulation superannuation fund on a lesser benefit—where was the amendment from Senator Brown and Senator Cherry to close the Public Service fund to existing public servants? If they were consistent, that is what they would be doing. When the regulations were gazetted to close the existing defined benefit Public Service fund, they would have closed it for existing members. That is what they are arguing. If these amendments were to be carried by the parliament you would not see demonstrations in the streets from politicians. But I would suggest that if you closed the existing defined benefit fund to existing public servants you would not have demonstrations in the street; you would have a riot in the streets, with some justification, I would have to say.

It would be exactly the same in the private sector. If you allowed any employer to get away with closing an existing defined benefit fund, which had current employees as members, you would have riots in the streets—that would be my prediction—and justifiably so. You are advancing the principle that legally an employer—and, in this case, we are the employer—should be allowed to shut down a defined benefit fund to existing members. I would argue that those members have a constitutional and legal right, and in employment law a contractual right, to that fund. Qantas closed their defined benefit fund in, I think, last July. If Qantas had gone to their existing employees and said, ‘We’re going to shut down your defined benefit fund,’ we would not have had a plane flying in the air. That would be my prediction. And I would have said, ‘Good on them.’ You cannot legally retrospectively take away an existing contract of employment once it has been given. You cannot do that in this country. There are good constitutional, legal reasons for that.

It is not just politicians that Senator Brown and Senator Cherry are talking about here. They are talking about literally hundreds of thousands of people in the state Public Service funds, which have been shut down in various years in the past, working side by side new public servants on a lesser benefit of nine per cent. Senator Brown and Senator Cherry are talking about hundreds of thousands of people in the private sector, and they advance a principle that employers could take away or significantly reduce their existing, promised and guaranteed retirement benefit. There would be riots in the streets if any employer in this country were allowed to get away with that—and with justification.

The principle of the closure of a defined benefit fund is a very sound one. It has been long established in Australian law and in English common law for good reason. What we have here from Senator Brown and Senator Cherry is catch-up politics. That is what they are trying to play at. They are trying to get a headline. That is the nature of politics; I do not deny them that. But what they are putting forward as a basic principle is absolutely outrageous. Where is Senator Brown's amendment to the regulations to close the Public Service defined benefit fund to existing employees? He would not dare move such an amendment. He would not dare do it. He knows that. Yet he would do it for one group of employees in a defined benefit fund. If you are fair dinkum, Senator Brown and Senator Cherry, come in here and move an amendment that would allow any employer to take away the existing rights and the existing membership of their employees of any defined benefit fund. Come in here and do it. You will have riots in the streets. You will have hundreds of thousands of people demonstrating. If you are fair dinkum, come and do it, because that is what you are arguing. The Labor Party will not support

that approach, so we will not be supporting the amendments.

One other issue I will deal with while I am speaking on these amendments is this. Senator Cherry made a point about the accrued liabilities of the fund, and I notice the minister made some remark on this as well. I think Senator Cherry was knowingly misleading the chamber in respect of the accrued liabilities. Clearly there is an accrued liability in the current parliamentary superannuation fund. Senator Cherry has been misleading people in that he has failed to point out that that liability will cease to increase and that over time it will be gradually paid off. The minister might be able to give us some figures on that. Again, that is no different from any other defined benefit fund. When a defined benefit fund is shut down, the unfunded liability—that is, the debt—ceases to grow and then over time it is gradually run down and paid off as the members quite literally die. I think Senator Cherry has quite deliberately been a touch misleading about the size of the liabilities in the current fund. They are certainly significant; I do not deny that. But the current Public Service liability is in the tens of billions of dollars. The fund is being shut from 1 July next year.

Are the Democrats suggesting that we should be paying off tens of billions of dollars in public sector unfunded liabilities by kicking all the current public servants out of the fund? Are they suggesting that we should do that to solve the debt problem? Is Senator Cherry seriously suggesting that as a solution? Many private sector employers have very significant funded—because in law they are required to be funded—liabilities that would be in the billions of dollars across the private sector. Is he suggesting that the employers should be relieved of that cost burden by us allowing them to kick all of the current members of the defined benefit funds out of the funds? Is he suggesting we allow

that so that the money could go back to the employers and they could repatriate the surplus? If Senator Cherry were consistent in his argument, that is what he would be arguing. That is totally wrong in principle, it is totally wrong in law and it would be totally wrong ethically to take that approach.

Senator Cherry: yes, the unfunded liabilities are significant, but if you are consistent come in here and do the same for the public servants. You would not dare do it. There are tens of billions of dollars in unfunded liabilities. The current public sector fund will close from 1 July 2005 and then it will be an accumulation fund. That has had support from all parties; I do not know about Senator Brown, but it certainly had support from the Democrats as well. If, Senator Cherry, you want to pay off those unfunded liabilities of tens of billions of dollars, come in here, shut the fund down for current employees and wipe off all that debt. Wipe off the tens of billions of debt if that is your solution. It is a pretty draconian solution. If the minister does have some figures—and I raised this at the committee hearing; I know they were not available then—I would be interested in them for general information. My understanding is broadly that the scheme will gradually run out over a 30- to 40-year period, like any other defined benefit fund, and that is as it should be.

Senator BROWN (Tasmania) (12.22 p.m.)—I want to point out the failed premise of the argument we have just heard from Senator Sherry. He used the term ‘employer’ throughout the argument—we know that the government employs public servants on behalf of the taxpayers—but he did not point out that, while we set the remuneration and the terms and conditions, including superannuation, of members of parliament, as we are doing here today, we are not our own employers. Our employers are the people of Australia—the taxpayers. So the job we have

to do is notional and ethical, and has to be consistent with what the Australian people are thinking as our employers. That is where parliamentarians can so easily fall down. As Senator Sherry so clearly outlined, we can succumb to the belief that we are employing ourselves. It is not so.

However, we are charged with the great ethical requirement to set terms and conditions which are appropriate to our job, as carried out by our employers—the people of Australia. The problem with the superannuation scheme is that it has been inappropriate. We have failed the ethical test there. This legislation is about putting that partly to rights. But, insofar as the legislation continues the old rort for existing members into the future, however long existing members may be here, it still fails the test. It is not acting as our employers would want it to act. We are usurping and abusing the powers that are handed to us by the Australian people in regard to how they would want us to use those powers.

It is simply a matter of going to our electorates and asking people what they think. People are fair-minded. They think members of parliament should be paid commensurate with the tough job that they do, but not this outlandish 69 per cent superannuation top-up. The only analogy you can see is not with the superannuation that goes to public servants, but with the rorts so often engaged in by the captains of industry and commerce, who give themselves outrageous severance and superannuation packages because they happen to be the director of a corporation somewhere or other or because they sit on a board. Repeatedly we see sensational stories of people who have even failed in their jobs being paid millions of dollars in hand-outs that they are not entitled to, should not get and have not earned.

Members of parliament are not all the same. They do not all put in the same hours. They do not all shoulder the same responsibility. But there is a job description here which it is up to us to fulfil to the best of our abilities on behalf of the people who employ us—the taxpayers. We are talking about a superannuation scheme which should apply equally to all members of parliament. This Greens amendment says that will be the case as of the next election. All members of parliament will get a nine per cent top-up without discrimination and without the two-tier system in this legislation. That is why the Greens amendment should be supported.

Senator CHERRY (Queensland) (12.26 p.m.)—I want to respond to the complete codswallop that was just presented by Senator Sherry in arguing for this legislation. Senator Sherry stood next to Mr Latham on 10 February, when Mr Latham announced the Labor Party's position on this matter. I want to quote Mr Latham yet again because it is a good quote:

These schemes are well outside the community standard in Australia, and have become out of date. They offer superannuation benefits seven times more generous than the current contribution scheme available to the general public. Parliamentary superannuation has become a major source of public dissatisfaction and cynicism in modern politics.

After hearing what Senator Sherry has just said, that cynicism will be much increased. There is a significant legal and constitutional difference between the Public Sector Superannuation Scheme and the parliamentarians' superannuation scheme because the Public Sector Superannuation Scheme deals with employees. I have not come in here to try to change the Public Sector Superannuation Scheme retrospectively, because that would be unconstitutional. I know that, and Senator Sherry should know that. Section 51(xxxi) of the federal Constitution makes it clear that

the Commonwealth cannot take away the acquisition of property, which includes rights, from any person in respect of any matter. The High Court has held that that extends to superannuation entitlements for employees.

The question then becomes: are we in this case as an employee dealing with a superannuation entitlement, or are we dealing with a statutory entitlement? It is abundantly clear that we are dealing with a statutory entitlement because we are not employees. We are not dealing with a particular right that flows out of a law of contract. We are dealing with an aspect of statute, and that is what the DOFA representatives before the Senate committee made abundantly clear.

Senator Sherry has been caught out once before not doing his homework on superannuation. On this occasion he has again not done his homework. It was quite clear in DOFA's evidence to the committee that we can amend this bill if we want to, and make it prospective. I am not talking about retrospective changes. I am talking about freezing the current entitlements of all existing members of parliament at the current level. If we do not do that, we are guilty of the same hypocrisy and double standards that Mr Latham identified—quite correctly—as affecting public attitudes towards parliamentarians and their superannuation. We have the legal and the constitutional power to cut our own superannuation prospectively, and we should do that. That would be the fair, reasonable and just thing to do. We do not have the power, under section 51(xxxi), to cut superannuation for future public sector employees. I might add, given that we are on broadcast and that people might actually believe Senator Sherry was telling the truth in his earlier statement, that the government has proposed for the new public sector scheme exactly the same employer contribution as is contained in the old public sector scheme—15.4 per

cent. That is very different from what we are dealing with in the parliamentarians' scheme—a government contribution of 67.6 per cent, which is four times higher than the government contribution in the public sector scheme.

I think that all the allegations, assertions and linkages that Senator Sherry tried to make simply do not stack up. We do have the constitutional power. We are dealing with a completely different situation from what we are dealing with in terms of retrospectivity of superannuation generally, and that was quite clear from the evidence we received. We are dealing with a scheme way outside the community's expectation, as acknowledged by Mr Latham on 10 February. It is a real pity that the Labor Party—typical, unfortunately, of the Labor Party, in my experience—having decided that something needs to change, squib out of doing the changes properly. In terms of reform, we have seen it time and time again—you identify a problem, you identify a need to fix the problem and then you fail to follow through and produce the appropriate policy to do so.

The Prime Minister was prepared to acknowledge that, if you are going to reform the parliamentary superannuation scheme, you go the full monty, you go the whole hog. Unfortunately, his backbencher overruled him on that particular matter. That is deeply regretful that the backbench of the Liberal coalition parties were not prepared to acknowledge that we should in fact change this scheme for all MPs and not have the class of 2004 sitting out there like a shag on a rock with special conditions, with special arrangements seven times more generous than those of new MPs coming in. From that point of view, the Democrats will be supporting the Greens amendments. I am not sure whether these amendments will work, because I have not had a chance to check them, having only just seen them. I can understand

the intent of them, but I am not sure whether they will work in respect of the other superannuation act. But from the point of view of acknowledging the intent of the amendments, I am prepared to support them at this particular point. The Democrats will also be moving two fall back amendments to the Greens amendments, which will give the parliament plenty of opportunities to vote on a range of options for applying this superannuation change.

Senator WATSON (Tasmania) (12.31 p.m.)—Firstly, I think I have to declare an interest in the outcome of Senator Brown's amendments, if they are successful. But, apart from that, I agree with the thrust of Senator Cherry's comments. But what worries me, in terms of the amendments moved by Senator Brown that Senator Cherry is going to support, is that with respect to Senator Brown, I am not sure whether his amendments will achieve the outcome he is desiring. I think that was a statement that was echoed by Senator Cherry. On the one hand, Senator Brown, it appears the amendments could have the intent of denying people their full superannuation entitlement, after 18 years service, so they receive no superannuation entitlement at all, which I think would be quite outrageous. On the other hand, it could lead to a situation where people have the entitlement they have built up frozen—if that is your word—but you do not have the word 'frozen' in your amendments. That is why I think it will lead to problems of interpretation which, I believe in all honesty, you did not intend. There could be people who get the full entitlement, say, after 18 years of service and, unless they have any added subsequent ministerial responsibility, could also benefit from the nine per cent. Once you have done 18 years, you do not get a thing, it is frozen and that is the limit of the entitlement. But, under your amendments, as I read them, it is possible that you could also get a

full 18 years entitlement, plus the nine per cent. I urge you to reconsider the wording because, as it stands, it is very ambiguous and could well lead, with respect, to some unintended consequences which you do not intend and certainly some consequences that other people may not want. I thank you for your contribution.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (12.34 p.m.)—The government oppose these amendments and we are intrigued that Senator Cherry supports the Greens amendments, even though he doubts they will work and, I think, as Senator Watson has just pointed out, they are unlikely to and will have unintended consequences. It is a remarkable thing in this chamber that we have senators advocating amendments on the basis that they do not think they will work. I do not often agree with Senator Sherry and the Labor Party in relation to workers and employees rights, but on this occasion I very strongly and earnestly do so. I commend his remarks and support them entirely. I think there is an appropriate, sensible and proper analogy between what we have done as a government and what the former Labor government did in relation to public sector schemes in ensuring that existing members of those schemes would retain the benefits they had accrued and that they would remain within those schemes and that new members of those schemes would go onto new arrangements.

It is at my instigation that we are closing the existing defined benefit scheme under the PSS, but at no stage did we ever contemplate anything other than that existing members would continue to remain within that scheme. New arrangements will only apply to new members. That is exactly the principle that we bring to bear in relation to the parliamentary superannuation scheme. Contrary to what Senator Cherry said, the Prime Minister made it abundantly clear from the

outset that it would not be retrospective. We do regard any application of the new scheme to existing members and senators as being retrospective, and it is a strong principle of Australian law that you do not apply changes to law retrospectively. I do think it is the case, and properly so, that any pub test, any fairness test would say, 'Sure, members, senators or candidates for the next election who are putting themselves up for election should come in knowing what the superannuation arrangements will be and that these new arrangements should apply to them, but existing members and senators who come into the parliament on the basis of an existing set of arrangements have every right and reason, under any fairness test, to expect that those arrangements will continue.'

I have been asked about unfunded liabilities. The total unfunded liabilities for the federal government is some \$89 billion. That is primarily in relation to the CSS, the military and the PSS. Obviously, by closing the defined benefit schemes to new members we are, in a sense, freezing those and putting a ceiling on those unfunded liabilities and over time they will reduce. Of that \$89 billion, only \$550 million comprises the parliamentary superannuation scheme.

As Senator Sherry properly pointed out, that will in effect be capped by this legislation and it will, over time, reduce to zero as the existing generation of MPs leaves and goes to heaven or other places. This will cap the scheme and it will eventually wind down to zero, so generations to come will not have to carry the burden of that liability. We think that this is good legislation and that it is fair legislation. It is fair and equitable as between existing MPs and future MPs and I commend it. We oppose the amendments.

Senator CHERRY (Queensland) (12.37 p.m.)—I really have to disagree with the minister. I am acutely aware of the High

Court decision in Smith and ANL about retrospectivity and closing down defined benefit schemes for employees. But the department of finance officials appearing before the committee inquiring into this bill made it abundantly clear that there is a very low risk of constitutional issues in respect of retrospectivity in this area. I quizzed them about it and they made it quite clear that a politician does not have a contract of employment with the Commonwealth. It is neither a contractual issue nor an employment issue; it is a statutory entitlement issue. Section 51(xxxi) does not apply. People keep talking about retrospectivity. From my point of view, I want to ensure that the issue of retrospectivity is put out of this debate because we are talking about future service. The Democrats acknowledge that we should not take away entitlements that current MPs have accrued, and the amendments we will move, which are somewhat more extensive than those that Senator Brown has moved, seek in some detail to ensure that the entitlements of all existing MPs are frozen as at the date of the next election.

We want to ensure that new service is on a new basis. Senator Minchin referred to the fact that new candidates applying to stand in the next election should know the basis on which superannuation applies. I will be a candidate at the next election and I will know that, if I am successful, I will have a different superannuation arrangement from whoever might be the third National Party person from Queensland standing for the Senate. If a person stands at the next election they will know, if we pass the legislation as it is proposed to be amended by the Democrats today, that that is the basis on which they will be standing for election. If they do not like the package they do not have to stand for election. When we are talking about future service, the whole notion of retrospectivity does not apply—because you are talking

about future service. You are talking about prospective operation. You are not talking about a change to employment entitlements—because we are not talking about employment entitlements; we are talking about a statutory entitlement. That statutory entitlement flows from the fact that we are members of parliament and have been elected. If we are not elected we do not have the statutory entitlement.

There is no notion here of a retrospective application of this law or a retrospective application of this particular change in terms of future application. We are trying to make sure that all people stand at the next election on the same basis. That is basically and fundamentally Australian, in my view. If they do not like the package being offered by the parliament today, they do not have to stand. The Democrats are saying—and we certainly hope that we get some sympathy from both sides—that it is absolutely outrageous that the current 226 MPs will line up to quarantine themselves from these changes which the Senate superannuation committee in 1997 unanimously said were overgenerous. It is particularly outrageous that Senator Sherry in his contribution on behalf of the opposition and Senator Minchin in his contribution on behalf of the government have put furies into the debate and claimed a retrospectivity that is not there. They have raised legal issues which do not exist. They have sought to put a correlation between the public sector scheme and the parliamentary scheme which is not relevant. We are talking about a scheme which quite clearly and definitively is different from the public sector scheme in every respect. We are not employees. We are MPs, and that makes for a very different situation altogether.

Senator BROWN (Tasmania) (12.41 p.m.)—It is not the unintended consequences of these amendments that are worrying to Labor and the coalition. It is the very in-

tended consequences which worry them—a fair superannuation outcome and an end to the 69 per cent rort as at the next election.

Question put:

That the amendments (**Senator Brown's**) be agreed to.

The committee divided. [12.46 p.m.]

(The Chairman—Senator J.J. Hogg)

| | |
|---------------|----|
| Ayes..... | 10 |
| Noes..... | 38 |
| Majority..... | 28 |

AYES

| | |
|-----------------|-------------------|
| Allison, L.F. * | Bartlett, A.J.J. |
| Brown, B.J. | Cherry, J.C. |
| Greig, B. | Harris, L. |
| Murray, A.J.M. | Nettle, K. |
| Ridgeway, A.D. | Stott Despoja, N. |

NOES

| | |
|------------------|-----------------|
| Brandis, G.H. | Buckland, G. * |
| Campbell, G. | Carr, K.J. |
| Chapman, H.G.P. | Colbeck, R. |
| Cook, P.F.S. | Crossin, P.M. |
| Eggleston, A. | Ellison, C.M. |
| Ferris, J.M. | Fifield, M.P. |
| Forshaw, M.G. | Hogg, J.J. |
| Hutchins, S.P. | Kirk, L. |
| Knowles, S.C. | Lightfoot, P.R. |
| Ludwig, J.W. | Lundy, K.A. |
| Marshall, G. | Mason, B.J. |
| McGauran, J.J.J. | McLucas, J.E. |
| Minchin, N.H. | Moore, C. |
| Murphy, S.M. | O'Brien, K.W.K. |
| Payne, M.A. | Santoro, S. |
| Scullion, N.G. | Sherry, N.J. |
| Stephens, U. | Tchen, T. |
| Troeth, J.M. | Watson, J.O.W. |
| Webber, R. | Wong, P. |

* denotes teller

Question negatived.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Queensland Government: Budget

Senator SANTORO (Queensland) (12.49 p.m.)—Yesterday the Queensland Treasurer, Mr Terry Mackenroth, handed down the state's 2004-05 budget. It is a budget underpinned by record funding flows from the Commonwealth, mightily helped along by the GST—every cent of which goes to the states and territories. A significantly positive proportion of it, of course, goes to Queensland. It is a budget helped along by the record surplus of \$2.37 billion for 2003-04 expected to be recorded when the final figures are tallied after 30 June. In line with Mr Mackenroth's record as a Treasurer who consistently misses his targets, it is a budget underpinned by some figures that the prudent—those not named Mackenroth or Micawber—would place firmly in the fanciful column on the balance sheet.

State budgets are about service delivery. There is very little about them that goes to high policy questions. I said as much in my first speech in this place, and nothing has happened since to make me change my view. The states deliver services, increasingly with the benefit of Commonwealth fund inflows. When they perform that duty well they should get the credit. When they do not—and Queensland under Labor certainly displays great deficiencies in this respect—they get brickbats.

Today the people of Queensland are entitled to ask why, if everything in Mr Mackenroth's garden is so rosy, the ambulance tax—\$88 a year on everyone's electricity accounts, and bad luck if you have more than one of those—has not improved ambulance response times. The people are entitled to ask why, when Mr Mackenroth has money to burn, electric shock complaints have gone up by 50 per cent in the past four years because of cutbacks in the government owned Energen power utility's maintenance and inspection.

tion services. The people are entitled to ask, when they hear the Premier and his ministers complaining about the state of the roads, why road funding in this budget—the best ever, according to the state Treasurer—has in real terms dropped to only 12 per cent of the overall capital works budget, when in 1998 it was 23 per cent. Twelve per cent is the lowest ever, which cannot be the best ever—unless, that is, you are a Labor politician.

As state Liberal leader Bob Quinn said yesterday, as he and other Queenslanders looked for the nettles hidden in Mr Mackenroth's prize-winning flowerbeds, this is not good enough when Queensland is the major beneficiary of increased revenue flows from state taxation, the GST, the housing boom that has lined the state Treasurer's pockets with windfall stamp duty receipts and the spectacular one-off 18 per cent rise in investment returns—thanks to the buoyant stock market and nothing whatsoever to do with Mr Beattie, Mr Mackenroth or anything they may have concocted or have tried to convince us they have concocted in that area.

Why, when we have all heard for months from the Queensland Labor government about how they cannot fix the Ipswich Motorway and the Tugun bypass and all the other transport problems that result from Premier Beattie and others playing ostrich when a problem approaches, has Mr Mackenroth been unable to allocate extra money for roads? Why is it only now, Queenslanders might ask—and I certainly encourage them to do so—nearly six years after the spotlight was turned onto the state's horrendous problems with child abuse, that the Beattie government is beginning the real process of putting money into fixing it? While it is good to see this money allocated, as it is in other areas of social need, it will be even better to see the results if it is put into the business end of the process, the bit that actually does the work of protecting children, instead of

into building yet another of Mr Beattie's self-serving bureaucracies. These are all questions of substance about which the Beattie Labor government prefers to be silent, to bluster or to try to sheet the blame home somewhere else—normally towards the federal sphere.

The fundamental problem with the Beattie government, and this comes from the very top of it, is that spin substitutes for substance and delay replaces delivery. If the Beattie government was in the pizza delivery business, then it would have gone out of business a long time ago. This Premier thinks that policy is in fact politics. As much as he is a stand back and throw money politician, he is also a fill the air with hyperbole politician. It is the hard yards that matter; it is the results that count.

Let us look at the real record rather than the remastered album he is now hawking around Brisbane town. Under Mr Beattie and Mr Mackenroth, Queensland has seen the disintegration of the Southern Pacific Petroleum shale oil project near Gladstone and the collapse of the proposed \$286 million LG Chemical plant, also near Gladstone. Under Mr Beattie and Mr Mackenroth, Queensland has seen the scrapping of the proposed wastewater pipeline from Brisbane to the Darling Downs and also the loss of MIM to a Swiss company. Under Mr Beattie and Mr Mackenroth, Queensland's cane harvester Austoft has decided to move from Bundaberg to Brazil, while Kellogg, Incitec Fertilizers and Queensland pharmaceutical manufacturer Herron have relocated their operations, or at least parts of them, and Qantas decided to base its new budget airline Jetstar interstate. This is hardly a comforting record when it comes to attracting and keeping investments in Queensland—something that the Queensland Premier has been telling the state, the nation and the world how good he is at doing.

Then there is the matter of accurate forecasting of budgets, something else where Mr Beattie and his Treasurer are apparently in need of remedial instruction. It is a pity they will not be able to get that at TAFE. They have done a bit of their favourite reforming there also, and now it does not work nearly as well as it used to or it should. The fact is that glowing budget predictions look nice, but they have to stack up. Mr Mackenroth's predictions have a horrible habit of falling short. Yesterday he forecast an 8.5 per cent rise in business investment in Queensland for 2004-05. This time last year, forecasting a bumper crop for 2003-04, he shot for 9.5 per cent. Yesterday he was forced to admit to a 6.5 per cent outcome. Queenslanders today will be hoping that this time he manages to get closer to his target than a 33½ per cent plus undershoot.

According to the Queensland Treasurer, the budget handed down yesterday—the Beattie government's sixth—delivers on the commitment to improve the quality and range of services and infrastructure to the people of Queensland. Fresh from its February re-election, the state government says it has targeted its key priorities and that the expenditures are affordable. There is no doubt that they are affordable—on figures Mr Mackenroth has produced many people say that more indeed could be afforded—and it is here that the Queensland government comes unstuck. Of course it is not alone in state governments coming unstuck. All state Labor regimes come unstuck while performing the simplest of tasks, but it is here that it is most open to criticism.

Health funding is going up by 11 per cent. Mr Mackenroth says that it shows heart. Queensland public hospital users will be hoping the money will actually go into service delivery and thus make a real difference and not just on paper. They will be hoping that the money does a front-end job deliver-

ing real improvements where it matters, rather than lubricating the bureaucracy where it does not. In regional areas delivery is not up to scratch. In the middle of the large population areas such as the Sunshine Coast, hospitals do not deliver ENT, ophthalmological or vascular outpatient services. Until now, a six- to 12-month wait for routine surgical procedures has been the norm and emergency departments waiting times are four hours plus. That is what Queensland Labor has been delivering during the past four or five years.

In 2004-05, health spending will total \$5.1 billion in a budget worth \$23.4 billion—21.3 per cent of the total state budget. But let us put that into perspective. It includes the proceeds of the \$2.1 billion federal hospital funding package that Queensland signed up to last August. However, if Mr Mackenroth's new money can really treat the endemic malaise that afflicts the state hospital system, everyone will cheer—and I will certainly be the first to do so. The budget also provides for the full implementation of child safety reforms, or at least that is what the Treasurer claims. This will involve additional funding of at least \$240 million a year—in Mr Mackenroth's words—by 2006-07. Child protection activists will no doubt note that this peak spending will arrive in 2006-07, eight years after Beattie's Labor government first had the opportunity to put right this dreadful wrong. That is another aspect of the Beattie government's appallingly bad record on service delivery, and it is an appallingly bad record in a fundamentally important area of service delivery—the protection of children, particularly the protection of children in state care.

Beattie Labor talks the talk but so far it has not shown that it can walk the walk. The fact is that, on the figures, the Queensland budget is remarkably fat. It is in this felicitous condition for a number of reasons—and

this is at the heart of my interest in these matters. There is the GST. On a final outcome basis for 2003-04, Queensland will receive \$6.410 billion from that source alone. In 2004-05 it is expected to receive \$7.098 billion in GST money. The increase in GST revenue to Queensland between 2000-01 and 2004-05 is \$2.44 billion or 52.4 per cent—an average annual increase of 11.2 per cent. And Mr Beattie and Mr Mackenroth still want Queenslanders to believe they have been short-changed by the federal government and so cannot deliver in key areas of service delivery.

Then of course there are the federal specific purpose payments to the state government, which in 2003-04 totalled \$3.145 billion and in 2004-05 are expected to total \$3.282 billion. Clearly the state government has been well served in terms of revenue allocations by the federal Howard-Costello government. The state government has also received a windfall investment return, as I mentioned previously. It has benefited from windfall gains from stamp duty because of the housing boom and has announced some concessions, which I acknowledge in this place is good news. It has benefited from higher than anticipated state tax revenue. State tax cuts worth \$300 million a year will be delivered. That is a start, which I also acknowledge, and offers some rewards to state taxpayers, who this year paid an additional \$810 million to the government. Insurance duty will be cut from 8.5 per cent to 7.5 per cent. That is good too. I just put those figures on the record so that nobody on the other side particularly can accuse me of not recognising some of the good that is in the budget—as I said before, credit where credit is due.

Education spending will rise by almost seven per cent to improve facilities and boost teacher numbers. Again, much of this increase comes from the federal government,

and that also must be acknowledged. Unfortunately, when it comes to Labor premiers and Labor governments, that acknowledgment is always slow in coming, if it ever does come. There is a record capital works budget of more than \$6 billion, we are told. But there can be no argument that capital works need to be at record spending levels given the cost of today's infrastructure, the pressure of population growth in the south-east of Queensland, and the chronic decline in capital works budgets since the state coalition left office. Of course, the time lags involved in the cranking up of the capital works programs will see much of the benefits delayed. Debit tax will go from 1 July next year—one of the reform measures agreed to on the introduction of the GST. The government is also abolishing the 10 per cent credit card duty which is effectively a limited state GST. It is worth remembering that withdrawal of regressive state taxes was a primary objective of the Commonwealth tax reforms, which state Labor governments such as the Queensland government of course vigorously opposed. It is also worth remembering that the Labor Party and the state governments, Queensland included, brawled over and meddled with the new tax system and have been dragging their feet ever since.

There is a forecast budget surplus of \$646 million in 2004-05 on top of the \$2.37 billion surplus expected this year, a good recovery from the deficits Mr Mackenroth produced when global stock markets retreated and could no longer hide his inability to budget. Gross state product is forecast to grow by 4¼ per cent in 2004-05, driven by population growth, exports and business investment. Population growth is forecast at 2¼ per cent, more than 1,600 people a week, fuelling consumption as a major driver of the economy. Unemployment is expected to remain steady at 6¼ per cent. There is still no sign of Pre-

mier Beattie's 1998 promise of five per cent but, hey, never mind about that, the circus has moved on to new attractions these days. Mr Mackenroth says he is expecting at least another 100,000 jobs to be created. But what he does not say is that those jobs primarily result from the progressive workplace relations policies, the pro investment tax reforms and the sound financial and public administration of the Howard federal government. They will never result from the coercive and restrictive workplace relations and the anti small business policies of the Labor Party.

Of course, Queensland is still a low tax state. But it does seem to have got into the business of bracket creep. Last year it was Mr Mackenroth's proud boast that Queenslanders paid 28 per cent less than other Australians in state taxes and charges. In 2004-05 Queenslanders will be forking out only 27 per cent less than other Australians. Does Mr Mackenroth have a secret 'up by one per cent per year, not quite so low tax state policy' hidden in his desk drawer? He should not have, because Queensland is, despite so many years of Labor, still in a sound position. But the proof of the pudding—the budget pudding, not the magic pudding—will be in the eating, on results, not on forecasts, and we in this place will certainly make sure that the Queensland state government is held accountable, particularly when it absorbs so much of the federal funds that we so generously allocate to it.

Olympic Games: Garment Workers

Senator GEORGE CAMPBELL (New South Wales) (1.04 p.m.)—In August of this year our athletes will gather with their peers in Athens to compete in the summer Olympic Games. Our best wishes, obviously, for victory will go with them. We in this chamber will all still remember the success of our athletes at the Sydney Olympic Games some four years ago. However, I rise today to dis-

cuss an overlooked aspect of the Olympics, one that should give us little cause for celebration. I refer to the exploitation of garment workers who manufacture the sportswear worn by the athletes who will compete in Athens this year.

As we all know, global sportswear firms spend enormous amounts of money sponsoring athletes in an attempt to associate their products with Olympian ideals. Via their associations with the athletes and the Olympics itself these multinational firms will have their corporate brands televised to global audiences of millions of people. However generous these firms might be to the athletes they sponsor, this generosity does not extend to those who actually make their products in the factories of Asia, Europe and South America. The expansion of international trade and sportswear goods, under the auspices of these sportswear giants, has drawn millions of people, mainly women, into employment. This is an industry that is now worth around \$58 billion a year.

But unfortunately the vast majority of this wealth will never be shared by the huge work force that creates it. Instead of providing their Third World workers with the good income security and support they need to lift their families out of poverty, the sportswear industry offers them only subsistence level employment. That is nothing more than unbridled exploitation. These garment workers struggle with long hours for low wages in arduous conditions, often without the most basic employment protection. Their rights to join and form trade unions and to engage in collective bargaining are systematically violated. They are commonly hired on short-term contracts or no contracts at all. Most have no sick leave or maternity leave and few are enrolled in health schemes. Fewer still are able to save for their future and the future of their families with the unacceptably

low wages they get for long hours of work in sickening conditions.

Some of the worst offenders in the sportswear industry are well known to all of us—corporations such as Nike, Adidas, Reebok and Puma. However, smaller firms such as Fila, Asics, Mizuno, Lotto, Kappa and Umbro are also guilty of exploiting these workers. We should not just focus on the usual corporate suspects but, rather, demand that the whole of the industry change. These huge multinationals with their super brands at the top must be made responsible for the conditions of workers at the bottom.

A recent report compiled by Oxfam/Community Aid Abroad, the Clean Clothes Campaign and Global Unions entitled *Play fair at the Olympics* highlights the extent of workers' exploitation in the sportswear industry. I would like to take the opportunity at this point to congratulate Oxfam on the work they are doing to improve the position of workers in Third World countries. Developed nations would do well to follow their example.

The researchers for that report interviewed 186 workers, nine factory managers and owners, and 10 representatives of brand name companies. The evidence compiled about worker exploitation in these garment factories is shocking. Take, for example, the case of Phan, a 22-year-old worker who sews for Puma in a garment factory in Thailand. Every day she works from 8 a.m. until noon. After a short lunch break, she again works from 1 p.m. until 5 p.m. She then has to do overtime every day, starting from 5.30 p.m. She works normally until 2 a.m. or 3 a.m. during the peak season. She always has to work a double shift. Despite her exhaustion, she cannot refuse overtime work because her standard wages are so low. Phan earns around \$US50 a month, but after expenses—including an employer mandated \$US7 a

month worker registration fee—she only receives about \$US35 a month for living expenses. Phan's experience is echoed in the stories of countless other garment workers in Indonesia, China, Turkey and Cambodia.

I want to take a moment to put the experiences of workers such as Phan into context. In 2003 Nike reaped a pre-tax profit of \$1.123 billion. Puma, the company for which Phan labours, made a pre-tax profit of \$US320 million. This last figure becomes even starker when you consider that the average wage of a Puma worker in a Cambodian factory is approximately 0.0009 per cent of that company's 2002 annual profit.

The interviews in the 'fair play' report make for disturbing reading. They reveal a pattern of abysmally low wages, workers being forced to work excessively long hours—sometimes between 16 and 18 hours a day—exploitative terms of employment, bullying, sexual harassment, and physical and verbal abuse. Involvement in trade union activity is effectively outlawed. This leaves workers helpless and subject to the whims of their capricious and uncaring employers.

Take the case of Mara, a 25-year-old Cambodian garment worker. Mara has a target of completing an enormous 120 pairs of trousers per hour. In a normal day her calloused hands sew an average of 960 pairs. For this she reaps the princely sum of \$US1.25 to \$US1.50. If she cannot meet her targets, her monthly 'incentive'—and I use that word advisedly—of \$US5 is cut. If workers like Mara had the chance to organise and demand equitable treatment, the hellish scenario that masquerades as their day-to-day existence would soon improve.

The 'fair play' report reveals countless more examples of the most insidious violations of workers' rights—for example, Indonesian workers attacked, intimidated and harassed for participating in union activities;

Bulgarian workers fined or fired for refusing to do overtime work; and Chinese workers receiving wages as low as \$US12 per month during the low season.

The business model that drives this agenda is globalisation. It is at the centre of this problem. This model is based upon intense pressure on costs, a demand for fast and flexible delivery, and a constant shift in manufacturing locations in pursuit of ever cheaper production savings. These savings, however, are not reflected in the cost of the product when you visit your local store. I have not seen discernible shifts downwards in the cost of sports goods that I have purchased over the last 20 years, despite the fact that there has been a significant shift in the production of these goods into some of these low-cost countries.

Global sportswear companies link millions of workers to consumer markets via long supply chains and complex networks of factories and contractors. Market power enables global companies to demand that their suppliers cut prices, shorten delivery times and adjust rapidly to fluctuating orders. Inevitably, the resulting pressures are transmitted down the supply chain to workers, leading to lower wages, bad conditions and the violation of workers' rights.

Many of these workers have no ability to defend themselves from exploitation and abuse because their rights to form and join trade unions and to bargain collectively are undermined to the point of extinction. These workers face intimidation and harassment if they complain about their conditions or even whisper about the possibility of joining a union. However, this is not just an issue for overseas workers. We should not forget that under the Howard government Australian garment workers who are home based or pieceworkers also face precarious terms of employment in trade competing sectors.

These substandard conditions are the result of being employed at the end of a major company's global supply chain, whether it is sourced internationally or domestically.

To date the National Olympic Committee and the multinational sportswear manufacturers supplying Olympic athletes have been silent in the face of the 'fair play' report. In the words of the Olympic Charter, the Olympic movement 'seeks to create a way of life based on respect for universal fundamental ethical principles'. There is no doubt that the business practices of major sportswear companies violate both the spirit and the letter of this charter. The Olympic movement has the power to ensure that the sportswear industry improves employment conditions and standards for millions of workers.

The IOC controls the rights to use the Olympic logo and is the protector of the Olympics brand. It can and should use this power to enforce changes by building into licensing and sponsorship contracts commitments to respect labour standards. This could help ensure that workers in this industry are employed under fair, dignified and safe conditions. In addition, sportswear companies should develop and implement credible labour practice policies and codes of conduct. They should change their purchasing practices to ensure that they do not lead to the exploitation of workers. They could commit themselves to be transparent about, and publicly accountable for, the impact of their business operations on their employees.

Clearly, our athletes are not in a position to dump their sponsors but they can play a vital role in the struggle for garment workers' rights. They could use their 'star power' constructively to help change the way their corporate sponsors run their businesses. Currently, English soccer star David Beckham has a deal with Adidas that will see him earn \$161 million over his lifetime. I wonder how

much the workers who produce his Adidas range will earn in their lifetimes. I also wonder what would happen if someone of David Beckham's stature decided to speak out. There can be no doubt that the world would sit up and take notice.

Consumers can play a part as well: while buying these products they could demand that these goods be made ethically. If that does not work then boycotts may be the only way to ram the message home. Ethical production practices do not necessarily mean more expensive goods. Labour costs only comprise one to two per cent of the cost of the finished garment. Most informed consumers would be prepared to pay a little more if they could be certain their clothes are not made in exploitative conditions.

The Australian government needs to stop trading away workers' rights in law and in practice, both domestically and at the international level. We need to stand by our commitment to international labour standards as a way to promote decent employment, poverty reduction, gender equality and development. I am sure the Howard government would delight in the working conditions described in the 'fair play' report. A pliant, intimidated work force that labours on with low wages, horrible conditions and no right to organise is their vision for industrial Australia. The Australian people have rejected that vision for our nation—it is not good enough for our families; it is not good enough for sweatshop workers in other parts of the world. This is not just an economic issue; it is a human rights issue. When you ignore human rights in the rest of the world you might as well lose your own. We can no longer afford to look the other way. (*Time expired*)

Immigration: Residential Housing Project

Senator NETTLE (New South Wales) (1.19 p.m.)—In the lead-up to the last federal

election, former Minister Reith released photos that he claimed were of asylum seekers throwing their children overboard. At the same time many Australians were appalled by the story of Mr Alzalimi, whose five-, seven- and nine-year-old daughters drowned at sea whilst trying to reach their father in Australia.

Last week I visited Baxter detention centre and the Port Augusta residential housing project to see whether things had changed in three years. I was particularly keen to visit the residential housing project because this is what both the government and the opposition point to when they are asked thorny questions about locking up children in our detention centres. I met a 20-year old Iranian girl, Bahareh, who has been held behind razor wire in Australia for the last four years. She described the residential housing project as a 'golden cage'. She pointed to the furniture supplied by the department of immigration and said, 'We don't want this furniture; we want our freedom.'

The residential housing project is a gated cul-de-sac in a suburban street of Port Augusta. It is cordoned off from the community by two large fences. At regular intervals along the fences are security cameras and motion detectors. Security cameras also line the edge of the road through the middle of the area. Standing at any one point you can see the entire area, which is only about 100 metres by 40 metres. There are eight sterile demountable buildings, each with a two-metre backyard. Eight to nine guards are present daily, and several times throughout the day they walk into the homes to do a head count. Up to three families are housed in each home.

If it is hot at night, as I imagine it often is in Port Augusta, and someone opens the window after 11 o'clock at night, guards descend on the home to check whether detain-

ees are trying to escape out the window, past the two fences with motion detectors and security cameras and into Port Augusta. Mothers are escorted by three guards to the shops one morning a week. A detainee described to me how, if you are shopping and you see someone you know and say hello, you will be stopped from going on future shopping trips—so much for living in the community in these residential housing projects. There is no talking to neighbours through the two fences and cameras; there is no talking to friends whilst guards escort you on a weekly shopping trip. Children in these prisons who are able to go to school are body searched on the way to and from school each day.

The government boasts of allowing children in detention to attend school. I met two young people who have been in detention for four years and have faced persistent obstruction from the Department of Immigration and Multicultural and Indigenous Affairs in trying to access schooling. Benjamin and Bahareh were initially held in the Curtin detention centre when they were 14 and 15. At that stage no children in Curtin detention centre were allowed to access school. The family were told that if they agreed to transfer to Baxter detention centre the children would be able to go to school. So the family agreed to the transfer. On arrival, the children, now 16 and 17, were told they were too old to go to school—regardless of the fact that they had just missed two years of schooling and that they had moved to Baxter on the promise of being able to attend school.

Years of obstruction from DIMIA in trying to access education led the children to approach a private education provider of distance education in Adelaide. The provider was supportive until they received a phone call from DIMIA insisting that the children needed permission from DIMIA before pro-

ceeding. Not only has DIMIA been obstructionist with the children's requests to access education but it has been actively preventing them from gaining access to schooling. After four years of trying in vain to get access to education, Benjamin and Bahareh have finally been given permission to access limited study by correspondence. They cannot receive a recognition of the study they do. Baxter detention centre holds on to Benjamin's books and other materials for so long when they arrive in the post that he cannot get any work handed in on time. These children are asked to pay \$10,000 each of their own money for this privilege of accessing education.

I also visited a man by the name of Peter Qasim who is believed to be the longest serving detainee in Australia. Peter has been locked in detention for five years and nine months. He has been locked up at Perth, Curtin and Woomera detention centres and he is now locked up in the desert at Baxter, but he, like all detainees at Baxter, cannot see the desert from his compound. He says he has now given up making friends, because at each detention centre when he has tried to relieve some of his pain by making friends, he has been transferred.

Ten months ago Peter applied for an Indian passport so that he could be returned home. Peter is from the disputed territory of Kashmir controlled by India and he was part of the Muslim separatist Jammu and Kashmir Liberation Front. The Indian government does not recognise Peter as a citizen. With 20 million people living illegally in India, it is unsurprising that validating a former separatist is not at the top of India's to-do list. Indian authorities have said in relation to validating Peter's identity that 'it will take a while to hear from their end'. The fact that an Indian state, one in the midst of a conflict, has said it is looking into Peter's identity is something that this government clings to

tightly to deny that Peter is a stateless detainee and to deny that all avenues have been pursued. Peter agreed to be returned home 10 months ago, but with no movement on his case, he ekes out a form of existence in our detention centres. He openly wonders how long he can keep his spirits up before he gives in. The government argues that their detention regime is not punitive. With no foreseeable movement on Peter's case it is hard to find a more appropriate word to describe his detention by this government.

I met another young man at Baxter called Ali Gharamany. Ali has spent most of his life since childhood in prison, first as a political prisoner in Iran's infamous Evin prison, and now in the desert prisons of this government's mandatory detention regime. What is his crime? Struggling for democracy in Iran. He escaped the torture and persecution he received in Iran only to be locked up in Australia. This young man's mental health is clearly under strain. All he is asking for is the chance to live a regular life, to contribute to Australian society and live free from persecution. Instead, this government locks him up.

My trip to Baxter and the residential housing project has highlighted for me the urgent need for Australia to change its asylum seeker processing system to a humane process that does not involve mandatory detention. We need to do this in order to rebuild our international reputation as a welcoming country. We also need to do this so that we as a country can benefit from all that those seeking asylum have to offer to our country. About 90 per cent of asylum seekers who arrive in Australia by boat are found to be genuine refugees. Years of imprisonment inhibits them from being able to enjoy and contribute to strengthening the diversity of our society.

The treatment of asylum seekers was a pivotal issue in the minds of many voters at the last federal election. Three years on, Australians have heard the stories of individual detainees and have met the TPV holders contributing to the economy of their regional towns. We have a situation where even more Australians are concerned and appalled by this government's treatment of asylum seekers. Both the major political parties need to explain their vision for humane treatment of asylum seekers and how it differs from the current situation.

The residential housing project and community or home detention of asylum seekers are not appropriate or humane systems for detaining asylum seekers. They are simply another form of detention; they are simply a different type of prison. The residential housing project separates families and community detention extends the system of detention into our society in the same way that home detention of prisoners extends the criminal justice system into our communities.

Community or home detention is when responsibility for a detainee is given to an agency, often a church agency. The house in which they are kept is designated a place of detention and certain individuals are police and DIMIA checked in order to be able to interact with the detainees. Children can be taken to school only by these individuals and parents can only leave the home in the company of these individuals. If a mother runs out of milk and there is a shop across the road selling milk, she cannot simply go out and go across the road to buy some milk.

Families are locked up in these houses in the community and are completely isolated. They rely on approved and security checked individuals for any contact. It is unlike even the situation in a detention centre when there are other detainees to talk to and interact with. It is also an incredibly expensive form

of detention. We heard last night about the \$700,000 of taxpayers' money spent on keeping a mother and her youngest child in a hotel in Adelaide away from her five other children. There is another mother and a child who have been kept in the same hotel for at least two years. If the costs of keeping them there are the same as the \$80,000 a month to keep Mrs Bakhtiyari in the same hotel, then this government has spent \$1.9 million dollars in detaining one woman and her young child. Think about the incredible community services and support that we could be providing to asylum seekers in this country with this money.

The Greens advocate a system of processing asylum seekers where claims are assessed whilst individuals live in the community, as they do in Europe and as we had in this country in the 1970s and 1980s. We can and we should implement a policy of hostel style reception centres in our cities, which are open to our communities, so that those healthy and security checked asylum seekers can come and go whilst they wait to move into the community. We should be strengthening our diverse community. We should be rebuilding our international reputation rather than locking up, in razor-wire prisons in the desert, individuals who have come to this country—fleeing torture in places like Iran, fleeing persecution in places like Kashmir—to seek asylum and the opportunity for a new life contributing to our community. They are locked up in these prisons. Their mental health continues to suffer under a mandatory detention regime that is supported by both major parties in this parliament.

We, as a country of Australians, need to rebuild our reputation internationally. When I have told these stories that I have been telling today to people whom I have met in the community, they have said, 'That is embarrassing.' It is embarrassing that that is the

way that this country and this government are treating people, such as those fighting for democracy in Iran. It is not acceptable. A growing number of Australians are immensely concerned about what is happening and want to see a change. This election provides an opportunity for those thousands of refugee advocates around the country who have been assisting and helping these detainees to speak out to both the major political parties and say, 'These are the changes we need. This is the humane way that we should be treating asylum seekers in this country. Let's look to other countries; let's look to examples in Europe and in our own country not so long ago where we had a humane system and people were in the community whilst their claim for asylum was being assessed.' That is the path that we should be going down and that is the path that the Greens will continue to advocate for both here and in the community.

Immigration: Bakhtiyari Family

Senator KIRK (South Australia) (1.33 p.m.)—I rise to speak on an issue of great concern to me, in my capacity as a South Australian senator and also as a compassionate member of the Australian community. I will say at the outset that a number of the comments I am going to make today are along the lines of the comments that Senator Nettle has just made in relation to children in detention. However, my focus is on one particular family whom she did refer to and that is the Bakhtiyari family.

As many senators are aware, the Bakhtiyari children's bid for freedom received another setback last month as a consequence of the negative outcome that they received following their appeal to the High Court of Australia. As a result of this decision in the High Court, the five children were set to be returned to the Baxter detention facility. As many people would be aware, the children

have been in the Adelaide community for many months now being looked after by community members. As a consequence of this decision, the Bakhtiyari children, strictly speaking, should have been returned to the Baxter detention centre. However, aware of the public sympathy that there is out there in the community towards the Bakhtiyari children and, of course, with an election on the horizon, the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone, gave way to her political sensitivities in this instance, and designated the children's domestic residence as a community detention facility.

Initially, this placed the onerous task of ensuring that the children were supervised at all times onto the Catholic welfare agency, Centacare Family Services, and other providers of care to the children including their school teachers, their friends, their soccer coaches and other people who care for them in the community. This declaration, made while the children's case was still in the process of appeal, I might add, amounted to returning the children to immigration detention while a case to maintain their freedom was still before the courts. The Bakhtiyari children now benefit from the discretion of the minister not to compel Centacare to enforce the terms of community detention rules. The threat of being subjected to 24-hour-a-day supervision hangs over the heads of these children, however, because it could be the case that the minister could change her mind at any time.

More recently, as Senator Nettle referred to earlier, Minister Vanstone has allowed the children's mother and her infant child to join the children at their Adelaide residence. Mrs Bakhtiyari has been kept in a motel in Adelaide for eight to nine months, under security, and it was revealed yesterday that this has been at the cost of over \$700,000 to the Australian taxpayer. As Senator Nettle said

\$700,000 was spent over the course of nine months, just to keep Mrs Bakhtiyari and her young child in detention in a motel. While those concerned for the welfare of the Bakhtiyari family—and there are many of those people in South Australia—can be pleased that finally the concerns of the children and their plight have won over the minister, my concern here today is about the minister's use of her discretionary power and her stubborn refusal to change the government's policy on the detention of children and their families.

The Bakhtiyari case is not an isolated incident. It is one that has caught the attention of the public and the media, but it is not an isolated case. Recent figures from the Department of Immigration and Multicultural and Indigenous Affairs indicate that children are being surreptitiously released from detention without any publicity. In recent weeks the government has been active in removing asylum-seeker children from immigration detention facilities, three of whom were unaccompanied children. Of course I welcome these efforts by Minister Vanstone in removing children from immigration detention. However, this should not be done through the back door, through the surreptitious granting of bridging visas and the use of ministerial discretion. The government and Minister Vanstone need to admit to their change of heart on the issue and, accordingly, change the legislation that governs these matters.

Last week the Bakhtiyari children received yet another negative judgment, this time from the Federal Court of Australia. The Federal Court refused their application to be granted an interim release from immigration detention, saying that the children's detention was not indefinite as there was a reasonable prospect that the family will be deported sometime in the future. If there is such a reasonable prospect, will the minister for immi-

gration remove the uncertainty that remains the children's daily companion and tell them, the parliament and the Australian people when this will occur? How much longer must these children wonder about their future?

This issue is made even more frustrating by the fact that the whole appalling state of affairs could have been avoided had Minister Vanstone responded proactively and granted the children an interim visa in the first place. Such a visa would allow the children a degree of certainty and the opportunity to live securely within the South Australian community until a final decision about their future can be made. Of course, such reliance on the discretion of the minister would be circumvented were the government to adopt Labor's position—which, as I have said, it is starting to implement through the back door, without passing any legislation, as we have seen by the removal in recent times of asylum-seeker children and their families from immigration detention.

As a direct result of the minister for immigration's obstinate refusal to act on this matter, the children's legal team are now taking further legal action, this time in the United Kingdom. Senators may recall that in April 2002 two of the Bakhtiyari boys attempted to claim asylum at the British Embassy in Melbourne but their claim was rejected. The case, which will be heard by the British Court of Appeal next month, is based on the argument that the British Foreign Minister, Jack Straw, failed to properly assess the children's case and that by not granting the boys asylum, and thus forcing them back into the conditions that unfortunately still prevail two years later at Australian immigration detention centres, the British Foreign Minister and the British government breached Britain's domestic human rights laws. This action in the British court comes shortly after the findings of Australia's peak

human rights organisation, the Human Rights and Equal Opportunity Commission, in its report entitled *A last resort? National inquiry into children in immigration detention*. We now face the prospect that a court in the United Kingdom will find that Australia's treatment of the Bakhtiyari children amounts to a breach of their fundamental human rights.

I would like to briefly comment on the Human Rights and Equal Opportunity Commission report *A last resort?* which I mentioned a moment ago. Many senators will be aware that the report made some very damning findings in relation to this government's treatment of children in detention. The report found that Australia's immigration detention laws, as administered by the Commonwealth and applied to unauthorised arrivals who are children, create a detention system that is fundamentally inconsistent with the Convention on the Rights of the Child. Based on this finding, the key recommendation of the HREOC report called for the release of all children in immigration detention by 10 June 2004—just last week. The report called for this to occur either through the transfer of the children into the community, the exercise of the discretion of the minister to grant humanitarian visas or the granting of bridging visas. That deadline has passed us by. We have to ask: what will it take for the minister to listen? If a 925-page report, which was two years in the making, by Australia's peak human rights body is not enough, what is?

The report's second recommendation was that Australia's immigration detention laws be amended to ensure that they comply with the Convention on the Rights of the Child. While the HREOC deadline has passed, it is still within the power of the minister to remove all children from immigration detention. Whether she sees fit to do so or not, I believe that this government must ensure that it treats all asylum seekers with the respect

and dignity that comes with recognising their fundamental human rights.

The government should also move to end the arbitrary exercise of the minister's discretionary power in these matters. This government promised that it would decide who comes into this country and the circumstances in which they come. That was its mantra for the last election. It must now amend its policy to face the reality that recent decisions to remove children from immigration detention by the minister are being made outside of its own legislation and at the whim of a single member of the executive government. The government must immediately release all children from immigration detention in Australia and in Nauru and own up to its change of heart.

Environment: Invasive Species

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (1.44 p.m.)—I listened with great interest to what I thought was a rather curious speech from Senator Nettle representing the Greens political party. What a senator might choose to speak about in this chamber is a matter for that senator—it is a free country. What I am always curious about is that the Greens political party are voted into this chamber—and Senator Nettle certainly was—by appealing to environmentally conscious people, people I believe who are very often misled by the propaganda of the Greens political party. I make the point that if voters wanted to vote for a party that supported the left-wing, pro-Saddam, anti-American policies that you hear from Senators Brown and Nettle, then they would normally vote for the old Communist Party. I understand the old Communist Party still exists, although I suspect a lot of its members have gravitated to the Greens because most of the policies and philosophy that you hear from the Greens political party these

days is the sort of social and political commentary that you used to get from communist parties in years gone by—communist parties, I might say, that have now lost favour even in Eastern Europe, even in the USSR. They seem to only retain their influence these days through the agency of such organisations as the Australian Greens, as represented by Senators Brown and Nettle.

I would have thought that if the Greens political party were true to their philosophy or their alleged philosophy—the philosophy they misrepresent to people—they would use every waking minute they have in this chamber to highlight the environment and the difficulties we sometimes face with the environment. I would very much have liked Senators Brown and Nettle to undertake the sort of journey I undertook last week, two days out of Townsville, looking at the issue of weeds in Australia, an issue which is very important for our environment and for our productive farming capacity as well. Last Wednesday I went to St Margaret's Creek, between Giru and Townsville, to launch a control manual on the lantana bush, a weed that is causing enormous problems along the east coast of Australia. It is a weed that was brought into Australia as a nursery plant and, curiously and quite amazingly, is still allowed to be sold in nurseries in Victoria, yet it is causing hundreds of thousands of dollars worth of damage to Australia's productive farming lands along the east coast of Australia.

I was pleased to be able to launch the control manual. I was depressed at the extent of the lantana infestation along the coast but I overcame that depression when I saw the enthusiasm and determination of those farmers who attended at the property of Mr and Mrs Stan Haselton for the launch of that control manual. I get depressed, but I do get elated when I see the enormous effort being put in by well-meaning farmers who are out

there making a real contribution, usually from their own resources. Most senators will know that weeds are matters for the attention of state and local governments. But the Howard government some time ago, recognising that weeds were a real problem, instituted our national weeds strategy and, as part of that, we have identified 20 weeds of national significance—‘WONS’, they are called. Lantana is one of those weeds. The Howard government have put a great deal of money into that program to help the states, local government and interested landowners to address that problem.

After launching the control manual for lantana I then journeyed to Charters Towers to visit Cardigan Station, a property owned by Mr and Mrs Colin Ferguson, where we launched a rubber vine control manual to assist landowners in that area with ways and means of controlling the spread of rubber vine. Rubber vine is an insidious plant brought to Australia many decades ago, originally as an ornamental bush and then actually promoted during the Second World War because apparently rubber could be made from the sap of the rubber vine, hence its name. But it now infests a great deal of the Gulf Country of Queensland and a lot of the east coast of Queensland and it turns productive grazing property into wasteland. The action being taken by all of the agencies now attacking the rubber vine is simply to control it, to make sure that does not spread across the Queensland border into the Northern Territory, which is a major problem. A lot of good research has been done by the Commonwealth and Queensland government agencies. There is now a rust that can attack it, and with a fire regime you can have some control over it, but it is a major problem and a very expensive one. I congratulate all of those around Charters Towers and elsewhere throughout Australia who are fighting the fight against rubber vine.

I then flew to Clermont in central western Queensland to launch a similar manual for the control of parthenium. Parthenium was introduced quite inadvertently from the United States as a seed in some grasses that were brought here. Parthenium is an insidious plant; not only does it attack productive farming land but it also attacks the mental and physical health of human beings. If people like those in the Greens political party who seem to have such great concern for the health and welfare of people were really genuine to their cause, perhaps they would be taking up the issue of weeds with greater enthusiasm. But I understand the Greens do not do that because there are not a lot of television cameras involved in weeds. The people in Sydney and Melbourne, where they get all of their votes, do not know about parthenium and they do not really care.

I really suggest that parthenium is a thing—obviously it is a weed—which should be of great concern to all members of the Australian public. If it were to escape from where it is at the moment—regrettably, I have heard reports that it has gone into northern New South Wales, Mr Acting Deputy President Sandy Macdonald, which would be causing you and the people that I know you associate with a great deal of concern, and I have heard there were some outbreaks of parthenium found in Far North Queensland, which is of great concern to me—it would be practically unstoppable. But if, for example, it were to get into the countryside around Sydney, where it would cause not only great danger to productive farming land but actually real danger to the health and welfare of human beings, then perhaps we might get a bit more attention to this weed. I repeat that the Australian government, although it is not our constitutional responsibility as it is a matter for state and local governments, is helping. The Queensland government and, I assume, the New

South Wales government are also doing work to contain parthenium. Unfortunately, this weed does not have the sort of public focus that demands the attention of the majority of the Australian public. I would say, however, that it is an issue that should be an item of great concern to all Australian people. Again, I am filled with depression at the thought of how you contain this but that depression is overcome by elation when you see so many decent hardworking Australians committing their own time and money to work in groups to try to attack the parthenium problem.

I then moved further back up the coast of Queensland to Proserpine and was taken by Queensland government officials out to the Peter Faust dam, which supplies water to the Proserpine shire, where there is a problem with a weed called *Mimosa pigra*, a weed that regrettably is all too common in the Northern Territory. The Northern Territorians are trying to contain it but I believe the battle is almost too much for the Northern Territory and I am told that some of their containment measures are not appropriate. There has been this outbreak at the Peter Faust dam and the extent to which Queensland government departments and the officers that took me to the dam have gone to try to contain this weed is quite remarkable. It is a very dangerous weed and if it escapes from the dam it could cause enormous problems to the grazing lands in the Proserpine area—indeed, if it got down to the wetlands it would destroy many environmental RAMSAR wetlands, and it would destroy a lot of productive grazing country.

The Queensland government, with Commonwealth government assistance through the Natural Heritage Trust, has been trying to contain this very dangerous and quickly spreading weed. That is made more difficult by the fact that it is in inaccessible places and it does require major effort. There have been three washdown facilities put in at the

dam site. It is like leaving a contaminated war zone: you really have to wash down before you leave and you have to wash your vehicles to make sure that any seeds of *Mimosa pigra* do not spread out from the Proserpine dam. It is a problem that causes me a great deal of concern, although the number and the commitment of the people who spend their working lives trying to control this evil is indeed encouraging. I want to use my speech here today to praise all of those who in the four instances that I particularly mention, but in other instances right throughout Australia, are fighting the real fight to protect Australia's environment and to protect Australia's farming land in the battle they undertake against these weeds. I do try, perhaps inadequately, to lift the attention given to these weeds, but I do call upon all Australians to take greater interest in these weeds of national significance and to be forever on guard to make sure that the weeds that we have in Australia are not dispersed and taken further away. I ask Australians, particularly those living in the cities, to do their bit to understand the importance of the danger of these weeds and to support actions to control them.

Finally, I return to the Greens political party, which is where I started. If that political party is a party that is interested in the environment, I urge it to get involved in things like weeds around our country. That is an issue on which I believe it would really make a contribution to Australia. The Greens political party members masquerade in this particular area. They never seem to be really interested in the real environmental issues. There are not too many television cameras around and there are not too many votes in real issues like weeds and that is why they are not interested in them. Perhaps those who sometimes have been inclined to vote for the Greens because of their mistaken belief in the Greens' interest in the environment might

choose to think a second time at the next election and realise that a vote for the Greens is not a vote for the environment but simply a vote for ultra left-wing political and social philosophies.

QUESTIONS WITHOUT NOTICE

Iraq: Treatment of Prisoners

Senator CHRIS EVANS (2.00 p.m.)—My question is directed to Senator Hill, the Minister for Defence. Given the minister's inability to address this issue yesterday and the Prime Minister's avoidance of this issue on the *AM* program this morning, does the government accept that all prisoners in Iraq detained as a consequence of the conflict are entitled to the full protection of the relevant Geneva conventions and protocol? If not, what exceptions does the government regard as acceptable and what legal advice has the government taken in relation to such exceptions?

Senator HILL—I actually answered this question yesterday.

Senator Faulkner—No, you didn't.

Senator HILL—I will repeat what I said yesterday. I believe it is legally correct, although I am not supposed to have a legal view on these issues. We believe that Geneva convention III, which covers prisoners of war, applies to prisoners of war held in Iraq. We believe that Geneva convention IV, which deals with civilians, applies in Iraq. If there is a circumstance in which someone is not covered by either of those two conventions, then it is the position of the Australian government that they should be dealt with humanely.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. Does the government agree with the view put forward in the letter by Brigadier General Karpinski to the International Committee of the Red Cross that 'where absolute military security

so requires, security internees will not obtain full Geneva convention protection'? If the Howard government does not agree with that view, what action has the government or the minister himself taken to press the importance of full compliance with the Geneva conventions with our coalition partners in Iraq?

Senator HILL—I know that the argument relates to the interpretation of a part of Geneva convention IV. I think it is fair to say that there are varying legal interpretations of that. The advice that I have is that it applies and that the exemption—I would like to check it but I think it is part 5—in the convention would not be applicable in relation to prisoners held in Iraq. That might mean I have a different interpretation to some others. I have said what the Australian government's position is—that is, if prisoners fall under either convention, they should be treated in accordance with the obligations of the convention but, above that, they should be treated humanely. That was the direction given to Australian forces operating in the Middle East area of operations. Certainly the obligation to treat prisoners humanely, whatever their status, is what I understand to be the guidance given to other coalition forces within the area of operations. (*Time expired*)

Howard Government: Economic Policy

Senator WATSON (2.03 p.m.)—My question is to the distinguished Leader of the Government in the Senate, Senator Hill. Will the minister inform the Senate of how the Howard government's continuing strong and responsible management of the Australian economy is providing outstanding benefits to Australian workers and to their families?

Senator HILL—That is a very important question—as I would expect from Senator Watson. The Australian economy continues to perform strongly under the responsible management of the Howard government. The

IMF recently predicted that the Australian economy would continue to grow strongly in 2004 and 2005 and that this was due to the government's commitment to reform and a sound policy framework. Those are the words of the IMF. The Howard government have made the necessary decisions to keep the budget in surplus. We have repaid \$70 billion of Labor's accumulated debt, saving us more than \$6 billion in interest payments every year. As a result, we are now able to invest in important areas such as health, education, families and defence. That is good news for Australian workers and their families.

Australia's unemployment rate is now just 5.5 per cent—the lowest level in almost 23 years. Over the last six months, the Howard government have created 68,000 full-time jobs compared with just over 53,000 full-time jobs during Labor's last six years in office—six months against Labor's six years. And we have created more than 1.3 million jobs since coming to office. More Australians are in work than ever before, and our responsible economic policies mean that we are now in a position to help Australian families even more.

A key component of the recent budget was to support families by giving them choice and opportunity. We have been able to do this in spades, delivering the largest package of assistance for families ever put in place by an Australian government—a fully funded investment of \$19.2 billion over five years. As part of that package, from today Australian families will start receiving their one-off payment of \$600 for each dependent child. About two million families will start receiving an average payment of \$1,200. This payment is tax free and will not be taken into account in assessing pensions or benefits as taxable income. The government clearly recognises the vital role that families play in supporting Australian society. By our re-

sponsible management of the economy, we are able to deliver to Australian workers and their families the benefits they so richly deserve.

We all vividly remember the appalling legacy of Labor. The contrast was record interest rates of 17 per cent, over one million unemployed, record high inflation and nine budget deficits of an average of \$12.2 billion. We can only judge Labor on its record in government. The overwhelming message from that record is that you cannot trust Labor on economic management. Interestingly, Labor still has not disclosed alternative economic policies. One wonders why. Australian families would pay the price through higher interest rates, higher unemployment and higher taxes if Labor returned to government. What a contrast. Under the Howard government we have record low unemployment, record low interest rates and record low inflation. We do not have to run up debt or put up taxes to pay for our commitments. We have the runs on the board and a record that we are proud of.

Centrelink: Overpayments

Senator JACINTA COLLINS (2.08 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that more than 15,000 pensioners have received debts from the government totalling \$39 million as the result of a pilot which data matches Centrelink income with a partner's taxable income? Can the minister confirm that, prior to the pilot, this data matching was not regularly done and that in many cases information provided by pensioners to Centrelink was not checked until recently? Minister, why are you slugging pensioners in cases where the mistakes are solely—I stress solely—the result of your failure to check the accuracy of payments for many years?

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (2.09 p.m.)—

It is a fundamental feature of the social security law that Centrelink customers, including age pensioners, need to tell Centrelink if their circumstances change. The overpayments to pensioners have been identified and have arisen because customers have not met their obligation to advise Centrelink of changes to circumstances. Under successive governments—and under the Labor Party when it was in government—data matching has been undertaken to detect customers who were not meeting their obligations. Off the top of my head, the number of people receiving the age pension is about 1.8 million and about 2,000 pensioners have been data matched and received notice of an overpayment

The checks, or the data matching, do not replace the fact that customers of Centrelink are required to advise Centrelink of changes in their circumstances. The fact that there is data matching should not mean that customers do not advise Centrelink about changes in their circumstances, whether it be a change to their income or their partner's income. Centrelink offers a range of options to allow suitable repayment and arrangements that enable recovery as quickly as possible without causing financial hardship. Unlike Labor when it was in government, the coalition has put in place measures that ensure that we have compliance controls. This means that \$44 million a week has been returned in the last financial year—money to which people were not entitled. I do not know what Labor anticipates it will do, but customers have a clear responsibility to advise.

Senator Mark Bishop interjecting—

Senator PATTERSON—Senator Bishop says \$44 million a week. Yes, \$44 million

per week in payments that people should not have received have been returned. We have compliance processes whereby, when people fail to tell Centrelink that they have got a job, we make sure that the money is returned. I do not know whether Labor thinks it will get rid of that, but that is the sort of thing that Labor does—it does not live within its means. We are about ensuring that people in similar circumstances receive similar assistance, whether they are age pensioners, families on family tax benefit A or people on a disability support pension. We have a means tested and assets tested social security system. Under Labor it was means tested and assets tested, but under Labor people could hold their investments in different forms and get different assistance from the taxpayer. We have moved to ensure that, as far as possible, people in similar circumstances receive the same assistance from the taxpayer.

People in receipt of the age pension have a responsibility to advise Centrelink of changes. It is obvious that these people have not advised Centrelink of their changes, and it has shown up in data matching. But the data matching does not change their obligation, and people need to be reminded to advise Centrelink. This is about ensuring that people in similar circumstances get the same assistance from the taxpayer.

Senator JACINTA COLLINS—Mr President, I ask a supplementary question. Is the minister aware that four per cent of age pensioners paying the \$4,500 average debt levied under the government's new pilot face interest bills of up to \$675 per annum because they have repaid these debts using credit cards? Minister, what action have you taken to ensure that age pensioners are not paying hundreds of dollars extra in interest on debts they would not have got if the system had checked their details on a more regular basis?

Senator PATTERSON—Senator Collins has failed to understand yet again that the obligation is on the customer to advise Centrelink about changes in their circumstances. People are given the option of how they will repay their debt, and she has gone through this in estimates. We are about ensuring that people in similar circumstances with similar assets and similar income are treated similarly by the taxpayer and given similar assistance.

Law Enforcement: Anticorruption Measures

Senator TCHEN (2.14 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison, who hit his half century yesterday. Many happy returns, Minister. Would the minister inform the Senate how the government is taking the lead on ensuring integrity in law enforcement through an independent national anticorruption body? How does this approach compare with alternative policies in this important area of community safety and security?

Senator ELLISON—This is an important question that Senator Tchen raises not only for the people of Victoria but also for the people of Australia. At the federal level we have certainly been putting the runs on the board in the fight against organised crime. Recently we had a request from the Victorian government that we extend telephone intercept powers to the ombudsman of that state. What the Attorney-General has said is very clear: this is not sound legal policy for any government, because this would set an unhealthy precedent—that is, a state ombudsman would be invested with the power to carry out telephone intercepts. Indeed, there are only 15 bodies that have that telephone intercept power, such as state police services, state anticorruption and anticrime bodies, and of course bodies at the federal level. We have the Victorian government saying they

have the ombudsman who not only monitors the telephone intercept powers but would also have those powers themselves. This is entirely inappropriate. We believe if the Victorian government were serious, they would set up an independent body such as Western Australia, Queensland and New South Wales have done. Those bodies have the ability for telephone intercepts. Of course, if that were done, the Commonwealth would be forthcoming in granting and extending those powers in the fight against corruption.

Similarly, the Commonwealth is of the view that at the federal level we should have an independent body to oversight any corruption at the federal law enforcement level. The Attorney-General and I made an announcement today that the government will be looking to set up an independent body with the powers of a royal commission which will include the ability to intercept telephone communications. This is an important step in ensuring the integrity of law enforcement at the federal level. This decision is to pre-empt any aspect of corruption should it arise, because no evidence to date has been presented to the government which would indicate any systemic corruption at the federal level of law enforcement.

Indeed, we recognise that federally there have been preventative measures put in place by the Australian Crime Commission and the Australian Federal Police in relation to corruption. I will give you an example. All AFP staff members are subject to a rigorous pre-employment process, including security vetting and integrity checks. A range of anticorruption programs and policies, including a drug-testing program, have also been adopted. In relation to the Australian Crime Commission we have extensive anticorruption measures, including rotational posting of seconded investigators and extensive background checking for all new staff and police officers who are involved with the Australian

Crime Commission. They are sound policies to prevent corruption occurring.

In relation to any prospect of corruption occurring, we have announced that there should be an independent body with the powers of a royal commission to enable the government to have a pre-emptive strike capacity. This is extremely important. The Howard government regards it as extremely important that the community of Australia has absolute faith in the integrity of federal law enforcement bodies. Of course, this action is in stark contrast to the government of Victoria, which has failed to address the widespread corruption allegations against its police force, and that is undermining the confidence of the public in Victoria in any aspect of law enforcement.

Senator Conroy—Did Peter Costello roll you?

Senator ELLISON—I hear Senator Conroy interjecting. He could well be advised to take that back to his state government in Victoria. (*Time expired*)

Centrelink: Staffing

Senator STEPHENS (2.18 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that, based on current projected workloads, Centrelink will shed 2,588 staff between this financial year and 2006-07? Minister, isn't it the case that the only way these job losses will be averted is through future budget announcements—forcing current staff to take on even more work to save their jobs?

Opposition senators interjecting—

The PRESIDENT—Order! There is too much noise in the chamber. I cannot hear the question. Senator Kemp and Senator Ray, if you want to have a conversation, I suggest you go outside and have it.

Senator STEPHENS—Given that a recent independent audit found one million mistakes at Centrelink over a four-month period as a result of existing workload pressures on front-line staff, why is the minister cutting even more front-line staff available to do current work?

Senator PATTERSON—This gives me the opportunity to thank the Centrelink staff for the enormous work they have put in in delivering the \$19.2 billion Howard government announcement made in the last budget. Today 600,000 families, as a result of the work of FaCS staff and Centrelink staff, will receive in their bank accounts \$600 per child if they have been eligible for family tax benefit during the year and carers on carers allowance will get their bonus as well. That is as a result of the enormous work of the staff of Centrelink and the staff of FaCS working together to deliver a one-off payment, which is not the normal way in which payments are made. They have been required to strip the data down and get that out.

The honourable senator mentioned mistakes in Centrelink. I think they do something like 19 million transactions a working day. The research that the honourable senator referred to did not look at mistakes necessarily but at where people thought there had been a mistake made. In some cases there was no mistake, in some cases the client had made an error and in some cases Centrelink had made an error. But with 19 million transactions a day you may find that some people have given the information incorrectly to Centrelink, you may find that a Centrelink officer made a mistake or you may find that it is a crossover between the two.

I know the Labor Party on the other side have been out making mischief about Centrelink. They know—and they were told in estimates—that the basis of that staffing did not include changes in this budget and there

are significant changes in this budget in financing Centrelink. The number of SES positions in Centrelink has increased by 0.1 per cent over the last few years. It is important to understand that the positions in Centrelink will be based on the work that they are required to do. Yes, there are some comings and goings of temporary people, but those on the other side know—and they know they are making mischief—that those figures do not include changes in this year's budget. I ask them not to run around mischief making when Centrelink people are working enormously hard, as we then require senior staff of Centrelink to go out and correct their mischief.

Senator STEPHENS—Mr President, I have a supplementary question. I found that response quite intriguing, but perhaps the minister can explain why the government has budgeted to cut Centrelink front-line staff when it is spending \$24 million on travel, including \$40,000 every six weeks to bring its guiding coalition of 85 senior executive officers together. Minister, why are you setting Centrelink up to fail its six million customers through vicious staff cuts while turning a blind eye to excessive travel?

Senator PATTERSON—I do not think that deserves an answer. It is the sort of mischief about Centrelink that has been going on in the Labor Party for years. We have ensured that Centrelink improves its services. We now have measures in place that give people the opportunity to go into Centrelink offices and talk face to face with staff. When Labor was in power and you went into an old social security office, as I have said before, it looked like the Gulag. People were not treated as customers. You now go into a Centrelink office—as I did the other day in Townsville—and see people working face to face with customers in a civil way, with customers being treated as though they were in a bank rather than in some sort of institution.

We ought to be very proud of the work that those Centrelink staff do face to face with their customers and the way in which they serve the people of Australia—the millions of clients that they see, the \$19 million in transactions. I wish the Labor Party would pull itself into line and get the facts straight. Go back and look at the *Hansard*, go back and look at the estimates and find out what is actually happening in Centrelink.

Environment: Policy

Senator ALLISON (2.24 p.m.)—My question is to the Minister representing the Minister for the Environment and Heritage. The energy package was described in the press this morning as:

... a soft-headed, populist tax cut to make it cheaper for business to use and waste energy.

Does the minister agree? How much energy will be wasted and how much more CO₂ will be generated by your massive diesel and petrol excise cuts?

Senator IAN MACDONALD—The first part of the question concerned whether I agree with what was said by these apparent journalists. No, I do not, Senator, and I do not expect you would have asked me to agree with that. The package announced yesterday is a very significant step forward in Australia's energy requirements not just for today but for the long-term future. As I mentioned yesterday—and I repeat—the environmental aspects of this package clearly show that the Howard government is the greenest government this nation has ever known. Mr Acting Deputy President, yesterday in question time I indicated in many ways—

The PRESIDENT—I have been demoted!

Senator IAN MACDONALD—I can go through all the initiatives that our side of parliament has put forward in the environmental area. If you want to go right back, let

me talk about Fraser Island, the Great Barrier Reef, the whales and the regional forest agreements. These initiatives have continued under the Howard government. Indeed, the Howard government has continued through the National Action Plan for Salinity and Water Quality and through the Natural Heritage Trust. I express my very great admiration to the former environment minister, Senator Hill, for his work with the Natural Heritage Trust—and to the current minister and the previous shadow minister—and for what was a fabulous policy.

The Labor Party try to pretend that they have some green credentials, but we know all about the Labor Party. Remember Graham Richardson and ‘whatever it takes’? There are a lot of similarities starting to emerge in the Labor Party now. Whatever it takes to get a bit of a kick in the green vote is what they are all about. Events of recent weeks, with the disgraceful effort in Kingsford Smith so far as ordinary Labor Party members are concerned, have a lot of resonance with Graham Richardson and ‘whatever it takes’.

I hope that Senator Allison’s question allows me to highlight the difference between the Howard government and the Australian Labor Party and its Greens allies in this. The Australian Labor Party is all about stunts. It seems to have learned about that from its mates in the Greens. It is about getting these sorts of people into the party—these wealthy non-voting rock stars—to give it a bit of a kick. It allows me to contrast the Labor Party approach to the environment with the Howard government’s approach. The representative areas program for the Great Barrier Reef is the most recent in a long string of initiatives that the Howard government has taken.

Senator Allison, I am sorry that I have been diverted from the main aspect of your question. The energy white paper does de-

liver improved outcomes for both fuel users and the environment. Since the package was agreed, there have been important changes to technologies and our understanding of the environmental impacts of technologies and fuels. *(Time expired)*

Senator ALLISON—Mr President, I ask a supplementary question. It is very interesting to hear about whales and salinity, but my question was about energy and how much energy will be wasted with these massive cuts in excise for diesel and petrol. Perhaps, while the minister is talking about sustainability, he can indicate to the Senate how much of the \$500 million will be wasted on technology to push underground the CO₂ from burning coal and how much, if any, will go to real sustainable and renewable energy.

Senator IAN MACDONALD—There will be no money wasted—a very short, succinct and accurate answer to your question, Senator Allison. All of the money that was allowed for—the \$500 million that you particularly spoke about—will go to causes that will help contain greenhouse gas emissions and will do very positive things for the environment. Regrettably, I do not have time to fully answer the question, but I simply remind Senator Allison of the \$75 million program to have alternative energy suburbs or towns—if I can call them that—throughout our country. That money will be very cleverly spent by those involved and those who have, as you and I do, a passion for our environment and a passion for reducing the emission of greenhouse gases. Those pilot projects will really show the rest of Australia how it will work. The whole package is one of moving forward with the environment but, at the same time, saving Australians considerable amounts of money. *(Time expired)*

Child Support Agency

Senator MARSHALL (2.31 p.m.)—My question is to Senator Patterson, the Minister

for Family and Community Services. Can the minister confirm that 15 child support client files containing names, addresses and other personal details were left on a Melbourne tram by a Child Support Agency employee? Can the minister confirm that affected families have had to change their tax file numbers and bank accounts at their own expense? Can the minister confirm that this serious breach has been referred to the Privacy Commissioner and whether the government will compensate affected families for the costs and distress caused?

Senator PATTERSON—I have read a brief about the fact that, unfortunately, a staff member of the Child Support Agency left some material on a tram or a bus—I cannot remember the details—and was very upset about that. All of us can make mistakes, and many people here know my absolute commitment to the issue of privacy. Those people were contacted personally and advised about it. It is not acceptable that it happened, but it did. It is an issue that Mr Anthony is looking at. I do not know the details about compensation, but the clients have been spoken to. I am not sure that things always need compensation. We need to move away from litigation and compensation. I think people will understand there was an error, but there have been some changes made. An apology was given, and that is what we have been encouraging doctors to do when they make a mistake. This was a mistake. We apologise to those people, whose information, I think, has still not been located. I encourage anybody who has found it to return it to the Child Support Agency. I regret that it happened, but these things do occur. They were apologised to.

Senator MARSHALL—Can the minister confirm that, in a separate incident 13 months ago, one of the families whose personal file was recently left on the Melbourne tram was sent another family's personal

Child Support Agency documentation in error, breaching privacy provisions? How many times has client privacy been breached by CSA lapses? What are you doing about it?

Senator PATTERSON—I do not do too badly in answering things off the top of my head when they have happened on my watch, but 13 months ago I was not minister of this portfolio. No, I was not aware of that and I am not always going to accept a claim that Labor makes. I will not go into the details of that anymore because, as Mr Anthony said the other day on television, there are always two sides to a story. I will take that on notice. I do not know, and I have not been advised that one of those families had their information released. CSA have taken the matter very seriously and will put in place mechanisms to ensure that we reduce the likelihood of it ever happening again.

Environment: Policy

Senator MURPHY (2.34 p.m.)—My question is to the Minister representing the Prime Minister, Senator Hill. Yesterday the Prime Minister launched the government's new white paper *Securing Australia's energy future*. In his address to the National Press Club, the Prime Minister said:

Expanding MRET would impose substantial new costs on the economy ...

Minister, what substantial new costs would be imposed on the economy if MRET were expanded? Will you table the government's methodology for determining the costs so claimed?

Senator HILL—I do not think there is any doubt that, for many forms of renewable energy, there is a net cost to the economy as a whole as opposed to using fossil fuels. That particularly applies to Australia because, as we all know, Australia has been blessed with abundant quantities of relatively cheap, good quality coal. It can be argued, therefore, that, to maximise economic growth and all the

benefits that flow from it, Australia should be utilising the most cost-effective fuel source that it has. The government's view, however, is that it is not as simple as that—the economic cost should not simply be looked at in a short time scale. It is in Australia's longer term interest to encourage and support the development of more energy efficient fuels and better greenhouse gas fuels, even though in the short term it will be at an economic cost. What the government have sought to do is find the right balance in economic subsidies to the more expensive renewable alternatives in order that we might achieve the long-term benefits which I have just mentioned.

The government obviously believes that the balance it struck in this statement is correct. It continues incentives to the renewable energy industry, but not at the level that some within that industry would like—some because of their own particular economic sector interests; some because they are not so interested in the overall economic growth of the country. On the other hand, the government wants to continue to maximise economic growth with all the benefits that flow from that. One of the benefits that flows from a strong, healthy economy is the capacity to be able to develop and support in the longer term better greenhouse gas alternatives. I always think that often the best first step towards achieving sensible, environmental goals is through an economy that can afford to make decisions that give a long-term benefit rather than an economy that simply requires short-term decision making.

As I said, the government is very committed to ecological sustainability but it is also very committed to the economic growth record, of which it is very proud, and the magnificent jobs record that it has been able to achieve. It wants to continue those benefits for all Australians whilst at the same time helping to improve their quality of life

through better environmental outcomes. I think that is what the Prime Minister was saying at the Press Club. In relation to any modelling that might be available to substantiate what I think is obvious, I will inquire of that and see if there is anything that can be made available.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President's Gallery of Ms Vesna Pusic MP, who is Deputy Speaker of the Parliament of Croatia. I warmly welcome you to the Senate and hope your stay in Canberra is fruitful. Welcome once again to the Australian Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Environment: Policy

Senator MACKAY (2.39 p.m.)—My question is to Senator Ian Macdonald, the Minister representing the Minister for Environment and Heritage. Has the minister seen reports that, following the government's energy statement yesterday, wind power companies are already abandoning future projects? Is the minister aware that one company alone, Pacific Hydro, says it will now abandon \$1.5 billion in likely projects and will focus on growing its overseas business and that the Australian Wind Energy Association has claimed that this figure across the industry is more like \$5 billion? Is the minister aware that the Howard government statement has cast doubt on a blade manufacturing factory in north-west Tasmania by the Danish company Vestas, putting 280 jobs in jeopardy? In light of how swiftly the Howard government's new policy has turned off a burgeoning, greenhouse-friendly technology, what action will the government belatedly take to actively support the new industries as the future of Australian energy?

Senator IAN MACDONALD—Again, the answer is no, as it is to most of Senator Mackay's questions. I am not aware of most of those things but I am sure Dr Kemp would be aware of them if they have been in the media. The energy statement was a complete package looking at all aspects of fuel and energy in Australia, the alternative energy industry and how Australia can promote some of the initiatives in areas in which we have become justifiably renowned as being at the leading edge. In relation to wind energy, there has been a lot of development in recent times. Under the MRET proposals, the targets that have been put in place still provide good opportunities for the alternative energy industry.

You will recall, Mr President, that the MRET of 9,500 gigawatt hours was set in 1999. That target was based on projections of electricity demand growth at the time. The MRET represents a 60 per cent increase in renewables over the period from 2000 to 2010, and over \$2 billion in renewable energy investment. MRET is expected to provide more than four per cent of the 2010 electricity demand. It is important for the Senate to understand that this level of output is equivalent to two Snowy Mountain hydro schemes. As we would all recall, that was one of the largest engineering projects ever undertaken.

Since 1997, projections for electricity demand in 2010 have increased, reflecting faster economic growth and increased electricity penetration. The new renewables output will be a smaller percentage of the electricity than was originally anticipated but the renewables share is now expected to be 11.1 per cent in 2010. That is somewhat of an increase. Across the board there are opportunities for the alternative energy industries. They are industries that have been very strongly promoted by the Howard government over the years and they are industries

that we will continue to promote in the future.

Senator MACKAY—Mr President, I ask a supplementary question. Can the minister apprise himself of the situation, ask Dr Kemp and get back to the Senate with respect to the two projects that I mentioned? Further, can the minister confirm the basis of a multitude of well-informed leaks that the Minister for the Environment and Heritage argued, as the Labor Party has done, for the benefits of a substantial increase in the MRET to five per cent? Isn't it the case that Minister Kemp was defeated in cabinet by the Minister for Industry, Tourism and Resources, together with former holders of that ministerial post?

Senator IAN MACDONALD—I am quite sure that Senator Mackay would not tell me what happened in the Labor shadow cabinet meeting if I were to ask her, and I think she is wasting her time in this chamber if she should presume to ask me what might have happened in the cabinet meeting. I will say this, however: Dr Kemp is a very committed Minister for the Environment and Heritage and a very committed member of the government. He understands that for Australia to move forward we have to concentrate on our environmental credentials but we also have to concentrate on the economy of the country. You cannot have good environmental outcomes and you cannot spend the money that the environment needs if you have an economy that is going backwards. Regrettably this is something the Labor Party and certainly their mates in the Greens can never understand. You have to have a progressing economy to do good things for the environment. *(Time expired)*

Environment: Policy

Senator HUMPHRIES (2.44 p.m.)—My question is to the Minister representing the Minister for Industry, Tourism and Re-

sources, Senator Minchin. Will the minister inform the Senate of actions being taken by this government to ensure Australian industry continues to have access to reliable and competitively priced energy? How will these actions underpin continued investment and jobs growth? Is the minister aware of any alternative approaches?

Senator MINCHIN—I thank Senator Humphries for that good question. Australia does enjoy considerable advantage over many other countries in having a reliable, competitively priced and abundant source of energy, and it is very much the government's position that we want to keep it that way. Our reserves are a big natural advantage and have underpinned very high living standards in this country for a very long time.

The white paper on our energy position released yesterday details how we are going to secure our energy future for the benefit of generations of Australians to come and do so in an environmentally sustainable way. It includes, as senators would know, a \$700 million commitment to our energy future. There is \$500 million for low emission technology. That will leverage another \$1 billion in investment by the private sector. There is \$100 million to support the commercialisation of renewable technologies. There is \$75 million for the solar cities trial—and I am pleased that Adelaide, my home city, will be one beneficiary of that very valuable trial. It also includes a comprehensive reform of the fuel excise system, reducing excise costs on businesses and households by \$1½ billion, which will of course make Australian industry that much more internationally competitive. The great thing about this package is that it secures our energy future without sacrificing Australian jobs, which is a focus of our government—unlike, we believe, the opposition.

Industry reaction to the package has been very good. The Australian Petroleum Production and Exploration Association described the package as 'a major step forward in developing a long term strategy for Australia's energy sector'. The Business Council believed the package 'would go a long way towards delivering long-term energy security and competitive energy costs for Australia'. The Minerals Council described it as 'a policy of substance over the ... inadequate Kyoto Protocol, premature and undefined carbon emissions trading, and unrealistic and unnecessarily ... mandated renewable energy targets'.

I was asked whether I am aware of any alternatives. The opposition leader does not seem to have an economic policy, but he does have some policies in this area. He has already committed a future federal Labor government to ratifying the Kyoto protocol. He has said that they will lift the MRET, the mandatory renewable energy target, to five per cent and he has said that a future ALP government will increase the diesel excise burden on Australia's vital mining industry. The plan to just ratify Kyoto will not reduce global greenhouse emissions one iota; it will simply redirect investment and jobs away from this country to countries not covered by the Kyoto protocol, and that will cost this country jobs and export income. The pledge to increase the renewable energy target to five per cent will result, from the estimates provided to us, in an \$1½ billion cost to the Australian economy over the next decade and a half.

That is just the tip of the iceberg. The new candidate for the Labor Party in the seat of Kingsford Smith, Mr Garrett—who, I am disappointed to say, was not prepared to face a rank and file preselection and who, we understand, will be next shadow minister for the environment—wants to increase the MRET to 10 per cent, which would cost Aus-

tralian industry some \$23 billion. I think the Labor Party's position is that, if you vote Garrett, you can garrotte your job! Mr Latham is in exactly the same position. He wants to trade away Australian jobs and Australian investment in his blind pursuit of Greens preferences—the great green chase. The workers' party is now going to abandon workers in the blind pursuit of the inner-city, trendy, green votes; and to hell with the workers. This government, on the other hand, is focused very much on delivering jobs and delivering a secure energy future for this great country.

Superannuation: Policy

Senator SHERRY (2.49 p.m.)—My question is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Can the minister confirm that, in respect of the estimated take-up rate of the existing superannuation co-contribution, she said in the Senate debate on Wednesday, 17 September last year, 'There are about half a million people who will receive the co-contribution—540,000 is the estimate'? Can she further confirm that at budget estimates on Friday, 4 June this year, Dr Rothman confirmed that the take-up estimate was 540,000 individuals?

Senator COONAN—Thank you to Senator Sherry for the question. No, I am not going to confirm either of those statements unless Senator Sherry wants to refer me to a document that I can have reference to while I am answering the question. What I can say is that the government's co-contribution scheme not only is popular but has been significantly enhanced by the recent budget measures. We have seen over the past number of months a suite of measures that significantly augment a direct injection into the retirement incomes of low-income Australians. I would have thought that was a very worthy objective. It is certainly one that is

supported by industry. I would have thought that all Australians would support the very useful way in which the co-contribution can enhance the retirement savings of ordinary Australians. When you look at how much money has been devoted to these measures, you can see that this government is very serious about doing something significant to put some money behind its retirement income strategies. Initially, the co-contribution measure introduced into this place seemed to receive only half-hearted support from the Labor Party. The debate took a very long time, with those on the other side cavilling about how many people might take it up and making all sorts of other criticisms, whereas in fact it has proved popular and the industry has very much welcomed it.

That led to an extension of the co-contribution. People who earned under the superannuation guarantee were also able to access the co-contribution, as a matter of fairness. It is not as if anyone has to have \$1,000 to take advantage of the co-contribution. Any amount is acceptable and will qualify for a co-contribution. It can be spare change; it can be any amount that any Australian who qualifies wishes to contribute to enhance their contribution. This was then extended again in the budget. The threshold was increased to \$28,000 for the maximum contribution up to an increased range of \$58,000.

Senator Sherry—Mr President, I rise on a point of order. The point of order goes to relevance. My question related very specifically to whether or not the minister gave an estimate of 540,000 as the likely take-up. I have just sent the *Hansard* quote over there, if the minister wants to have a look at it—page 15368, to be precise. That is the question I asked. Relevant!

The PRESIDENT—The minister has over a minute to continue her answer. I am sure she will come to an answer.

Senator COONAN—The point I was making in answer to Senator Sherry's question is that, with the expanded range of people who will be entitled to the co-contribution up to \$58,000, many more Australians will now be able to access the co-contribution measure. Not only does the income range extend to assist those people who earn under \$58,000—because there was some mention that those people did not get anything out of this budget—but this measure directly responds to lower and middle-income Australians, who are now able to access a retirement income strategy for themselves to enhance their retirement savings. The co-contribution measure will provide to Australians an opportunity, not previously available, that this government has designed and implemented to enhance the retirement savings of low- and middle-income earners. (*Time expired*)

Senator SHERRY—Mr President, I ask a supplementary question. Given that I have passed the transcript over to the minister, can she confirm that she said there are about half a million people who will benefit from, or receive, the co-contribution? Further, can the minister explain why the Treasurer, Mr Costello, in a statement to the House of Representatives on 13 May this year, claimed in reference to the existing superannuation co-contribution scheme:

The changes will improve retirement income savings for over one million Australians who already receive the co-contribution ...

Minister, which is the correct figure—the 540,000 that you claim is the figure or the 'over one million' that the Treasurer claims is the figure?

Senator COONAN—Thank you for the supplementary question, Senator Sherry. I

can understand that Senator Sherry may not have followed the fact that there have been three announcements in respect of the co-contribution, each of them with their own estimates. My recollection is that the Treasurer was referring to the most recent announcement. I can also understand how Senator Sherry may find it very difficult for the opposition to be dealing with a measure which opens up the superannuation saving system to low- and middle-income earners so they can seriously augment their savings. That might be difficult for the opposition to deal with. We have seen nothing from the opposition that remotely approximates the benefit to low- and middle-income Australians from the co-contribution measure. If Senator Sherry is worried about take-up, he should just wait and see how this new measure will go.

Trade: Free Trade Agreement

Senator RIDGEWAY (2.56 p.m.)—My question is to the Minister representing the Minister for Trade, Senator Hill. I ask the minister whether or not he is aware that the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America has commissioned Dr Philippa Dee of the Australian National University to do an independent economic study into the potential costs and benefits of the agreement. The results of her analysis have been reported in the media. Is he aware that the report has criticised the government commissioned CIE study, saying that it grossly inflated the gains Australia is likely to achieve? Given that Dr Dee has pointed out that the study does not include costs such as additional royalty payments resulting from copyright term extension and the long-term cost of the sugar package, will the government get the CIE to do another analysis taking into account these concerns?

Senator HILL—The position of the government, obviously, is that the free trade agreement will deliver enormous gains to Australia. The Centre for International Economics report estimates an increase in GDP of \$6 billion per annum after 10 years, or about a 0.7 per cent per annum boost to GDP.

Opposition senators interjecting—

Senator HILL—I hear an interjection in relation to Senator Cook, the former trade minister of the Labor government. He was opposed to this agreement from the start because he does not believe in bilateral agreements. He does not believe that it is legitimate for a country such as Australia to negotiate a bilateral agreement with the largest economy in the world to bring economic gains to our country through offering new investment and trade opportunities. Senator Cook said it is only legitimate if it is done on a multilateral basis.

Senator Cook—I've never said that.

Senator HILL—Oh, Senator Cook! I presume that is the Labor Party's position—I am not sure. We have two shadow trade ministers these days—the de facto shadow and the frontbench shadow. If you go down the Labor Party path you lose enormous opportunities. The alternative can be seen in the agreement the Howard government has negotiated with the government of Singapore, the agreement that has been negotiated with the government of Thailand, the agreement that has been negotiated with the United States of America and the new opportunities—not quite bilateral, but it still does not fit within Senator Cook's ideal—to negotiate with ASEAN. The benefits to Australia can be new opportunities to invest and to trade, with all the economic benefits that I outlined in answer to an earlier question today.

They are there; you can see the benefits. Record low unemployment, solid and continuing economic growth, low inflation—all

the benefits that Labor would have dreamt of in office but were never able to deliver because of such policies as Senator Cook used to argue. The advice to the government is that this agreement will deliver \$6 billion per annum after 10 years or about a 0.7 per annum boost to GDP. Over the first 20 years, aggregate GDP increase is expected to total almost \$60 billion—

Senator Carr—No-one believes that!

Senator HILL—The Labor Party does not want to believe it. Whatever the facts, it is irrelevant because it does not suit the Labor Party's political purposes. The total is \$60 billion in today's dollars. That is the advice that is given to government. We believe it is the correct advice. It offers enormous opportunities to the Australian economy. Through those opportunities, all Australians will benefit. The question now is of course: will the Labor Party vote for the bills? Will the Labor Party allow the Howard government to take advantage of this wonderful trade opportunity that has been negotiated so astutely? It is about time the Labor Party stood up on this and on so many different issues.

Senator Carr—This is the giggle test!

Senator HILL—Well, where is the Labor Party's economic policy? Eight years in opposition—where is its economic policy? Where is its trade policy? There is no alternative. *(Time expired)*

Senator RIDGEWAY—Mr President, I ask a supplementary question. I thank the minister for his answer. I refer more particularly to his pronouncements about the \$6 billion over 10 years being the realised gains in respect of the CIE report. Is the minister aware that Dr Dee's alternative assessment assesses the gains as being a mere \$53 million? I ask the question again: will the government consider getting the CIE to do another analysis in relation to the long-term

costs of the sugar package and royalty payments? In particular, is the minister aware that Dr Dee's report also argues that trade diversion is a significant problem? She cites a recent study by the Productivity Commission which showed that among 18 recent bilateral trade agreements, 12 diverted more trade from nonmembers than they created amongst the parties to the agreement. Will the government concede that the free trade agreement will have nowhere near the number of benefits the government is claiming and, in fact, probably will do more harm than good to Australia's national interest?

Senator HILL—My advice from the trade minister is that the modelling by CIE remains the best guide to the magnitude of the benefits likely to flow from the Australian-US free trade agreement. Whilst it is always possible to contract another economic modeller and then, if you like, another economic modeller after that, it is the view of the government that the agreement should be brought into effect and Australians should start to get the benefit of the \$6 billion per annum after 10 years. Because, through that, all Australians can benefit, it is now time for the Labor Party to stand up and be asked: will they support this huge economic benefit to Australia or will they, in their traditional way, carp and whine and vote it down and cause Australians to lose this wonderful economic opportunity? Mr President, I ask that further questions be placed on the *Notice Paper*.

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

Environment: Policy

Senator O'BRIEN (Tasmania) (3.04 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald), the Minister for Defence (Senator Hill) and the Minister for

Finance and Administration (Senator Minchin) to questions without notice asked by Senators Allison, Murphy, Mackay and Humphries today relating to the Government's white paper on renewable energy.

I will first remark on some of the more remarkable comments of Senator Minchin in an attempt to defend the indefensible. Senator Minchin was trying to say that a five per cent mandatory renewable energy target was a threat to Australia's coal industry and, therefore, to jobs. That is the inescapable conclusion of an analysis of what the minister said. A five per cent renewable energy target, according to Senator Minchin, is a threat to jobs in our export-oriented mining industry—what laughable nonsense. In fact, the government's policy is more than a threat to jobs; it is a guarantee of a decline in jobs in the renewable energy sector. It is those workers whom this government has betrayed, it is those jobs which will disappear, and what Senator Mackay said in her question, attributed to the industry, is evidence of the decline in employment which will result from this government's policy: Pacific Hydro announcing that it will put on the backburner \$1.5 billion of expenditure on renewable energy and the industry saying that the result of this announcement will be \$5 billion less in investment in the renewable energy sector.

We had earlier this week a statement by the Wind Energy Association that, given an even break and an extension of the renewable energy target, by 2020 wind energy would be price competitive with coal. That would be a marvellous outcome for this country, a marvellous outcome for the environment. But this government has guaranteed that, if that is ever to be achieved, it would be put back further and further. The government's announcement, frankly, is a backward step for the environment, a backward step for the renewable energy industry, and it is laughable to suggest that a five per

cent target is a real challenge to our export-oriented coal industry. That is utter nonsense.

Senator Abetz, from my state of Tasmania, was nodding in approval and cheering in defence of a policy that will destroy jobs in his own state with the probable cessation of the proposal to manufacture the turbines in the state of Tasmania. Senator Abetz was cheering on the decline of an industry in his own state. That is absolutely disgraceful. The skewing of the renewable energy policy expansion will have that effect, there is no doubt about it, in a state that is the leader in renewable energy technology and the producer of an almost totally renewable energy market through hydro and wind power.

This government has had eight long years to come up with this so-called policy. For eight long years it has had its head in the sand. And what do we see? Yet another short-term fix focused on throwing dollars at the re-election of the government. When I analyse the package and see how many of the big numbers are back-ended well past the term of the coming parliament it reminds me of the fisherman's hall of fame. Has anyone heard of that? I think it was announced in 2001 that a fisherman's hall of fame was going to be built in Bundaberg. It was a great announcement by the coalition. It will be announced again for the next election because not a sod has been turned. This will be an announcement for the election after next, I suspect. This is the announcement of a policy for the coalition in opposition at the election after next because, frankly, it is a joke insofar as its back-ending out into future parliaments is concerned.

What does this policy do about some of the real issues for this country? What does it do about addressing global climate change with a long-term market based approach to greenhouse emission reduction? Nothing. What does it do to specifically address Aus-

tralia's increasing dependence on crude oil? Absolutely nothing. What does it do to remove the regulatory impediments that are leading us to an energy supply crisis in households and industry? Again, the answer is nothing. This is a failed policy from this government. The opposition will look at aspects of it to see if there is any worth at all in it but it has failed the test we have laid out for it. It is a back to the 1950s policy and a demonstration of the bankruptcy of this government.

Senator SCULLION (Northern Territory) (3.09 p.m.)—I rise to speak about the mandatory renewable energy target policy that has been put out by this government. Despite some of the submissions from the opposition, there is a huge array of benefits in this policy. It is interesting to hear talk about the fisheries hall of fame in Bundaberg. I am quite sure the senator opposite will recognise that the formulators of this policy certainly should have pride of place in that hall of fame, because for the first time that I know of the barramundi fisheries in North Queensland and in the Northern Territory suddenly have access to one of the most crucial aspects of running them. Nearly 30 per cent of the cost of running the artesian fisheries is for petrol. This policy says that we will extend the rebate to include those issues that ensure that we run things that are outside of diesel. I am quite sure that people in the Northern Territory who are involved in the seafood industry will also recognise that this policy captures some of the issues they have been lobbying on for a very long time.

We talk about what we are doing globally for climate change. I would remind senators that Australia will meet its greenhouse targets in 2010. We are on track and will meet them in 2010. We will continue to support this sector until 2020, and this policy looks very clearly at ensuring that we do just that. We are putting in over \$2 billion, and renew-

able energy investment will flow from this scheme, which is very important for the future of Australians. We talk about why we are looking after ordinary Australians through this process. If you look at the MRET review panel, if we are going to expand this target it will impose direct costs on households of ordinary Australians. Once again, the cost will be increasing prices for electricity and those sorts of commodity items. It will be harder because it will impact on people in their homes.

The projected cumulative costs of meeting these sorts of targets will be more than \$5 billion by 2020, and that is just in terms of some of the present net values. We want to broaden the range of low-emission options available in the future. There has been talk about wind losing out; we all know that one of the greatest impediments in the wind industry is the fact that you cannot simply flick the switch and have it tie into your grid. We know that the issues are all about storage so we are depending on the very good processes involved in research and development in this country. We have put \$20 million towards someone who can come up with those sorts of options. We are expecting people to recruit into this program and to use Australian innovation and our very good science to resolve this issue. We have a high level of confidence that that will happen and we are backing it up with a \$20 million incentive to ensure that the storage issues associated with converting wind energy into grids is resolved. These are the ways you have to go about this. You have to look at the direct impediments to ensuring that good quality Australian technology that is currently being found in Tasmania—and supporting 280 jobs there—is not only being supported but being underpinned by processes to ensure that the storage link that is missing will be resolved.

We will focus very strongly on reducing the cost on the broader range of some of the

low-emission technologies. We know there will be some cost involved in that, and clearly the policy has set out ways of reducing in a broad sense the costs. We have allocated more than \$300 million over the last six years to renewable energy development, and to say that this government does not have a comprehensive policy and has not made a comprehensive commitment to ensure that we are looking at alternative energies and are not very concerned about climate control and climate change is a complete furphy.

Also in this energy white paper is an allocation of \$134 million, on top of the \$600 million for low-emission technology, in support of the 2004-05 budget. This country, very proudly under the John Howard government, has said that we will put in train processes in Australia that will ensure we meet our targets by 2010 under the Kyoto arrangements. There is absolutely no doubt that we will meet our targets by 2010. It is just so important that we recognise that this policy deals not only with our global obligations but also with the domestic balances we have to find in this matter.

Senator MACKAY (Tasmania) (3.14 p.m.)—I rise to speak on the same matter. I appreciate that Senator Scullion is actually here responding, because somebody who is not here responding is Senator Colbeck, and I wonder why. Today in the *Advocate* newspaper Senator Colbeck—who is a Liberal Party senator from Tasmania—expressed concern with what has happened. He expressed concern with respect to the fact that the MRET had not been increased and he expressed concern about the economic implications for Tasmania. He expressed concern about the very statement that his government made yesterday, but he is not here defending it. It is left to poor old Senator Scullion to come in here and defend it. In fact, I do not notice any Tasmanian senators

in here talking about what is a very critical issue for Tasmania.

Senator McLucas interjecting—

Senator MACKAY—That is right, Senator McLucas. Tasmania generates around 60 per cent of Australia's renewable energy and is currently considered a world leader in developing renewable hydro and wind power. This reputation has been extremely hard fought. For those who remember, we have had a difficult history with hydro power in Tasmania. It has been a political hot potato. At last we had a situation whereby my state of Tasmania—which, as I said, produces 60 per cent of Australia's renewable energy—was in the box seat to reap the rewards of what has been a very difficult and politically chequered history, and that is hydro power in Tasmania. That has gone. Pacific Hydro have said—and I asked the minister about this today—that they are going to abandon \$1.5 billion worth of projects as a result. This is disgraceful for Australia and for Australia's economy. Hydro Tasmania chief executive Mr Geoff Willis has said:

The White Paper is a major disappointment and displays a regrettable lack of vision and foresight on the part of the Federal Government.

He went on to say that there was nothing in yesterday's statement for the renewable energies sector at a time when it was still in its formative stage. Also he said, and he would know because he is the CEO of Hydro Tasmania:

The decision will dramatically reduce future investment in renewable energy across Australia, and Tasmania in particular.

He is not simply saying that as the CEO of Hydro Tasmania. He is saying that on behalf of the renewable energy industry right across Australia, and he is not the only one. His sentiments were echoed by the Chairman of Hydro Tasmania, who is ex Liberal senator Peter Rae. He went further than the CEO of

Hydro Tasmania. He said that he was angered by the federal government's failure to announce anything to get more renewable energy into the national grid.

This energy statement sells out regional Australia. It sells out renewable energy's potential to develop jobs in regional Australia and, particularly, in Tasmania. Yesterday Vestas President and CEO Mr Svend Sigaard announced that Vestas have now shelved plans for a wind turbine blade factory in Tasmania's north-west due to lack of certainty and security as a result of this energy statement. The loss of this new investment to Tasmania will result in the loss of potentially 280 jobs. That investment to Tasmania was worth \$25 million. That is an awful lot of money for a small state like Tasmania. It is an awful lot of money for a state that has finally got to the stage where it can be proud of its hydro capacity. For once in our history relying on hydro power is a good thing for the future of Australia and a good thing for the future of Tasmania. What do we now have? The hydro industry was finally getting to export its expertise right across the world, and then we got this body blow from the Howard government.

One has to wonder why. Why is Tasmania disproportionately affected by this? How do Tasmanians vote? All five Tasmanian seats in the House of Representatives are held by Labor. 'Who cares about Tasmania?' says John Howard. 'Who cares about Tasmania?' says this government. We on this side of the chamber do. We have indicated that we believe that the target should be lifted. We the Labor Party have said that we will fight for this. We the Labor Party actually believe in the renewable energy sector in Australia. We the Labor Party, if we are elected to power, will deliver it.

Senator EGGLESTON (Western Australia) (3.19 p.m.)—Listening to the ALP

speakers this afternoon, one would think that the government is not committed to fostering the development of renewable energy and is not committed to doing everything possible to ensure that this country has a national strategy to develop a sustainable energy program. Of course the Howard government is committed to fostering the development of renewable energy. It is doing that through such initiatives as the Renewable Energy Showcase program, the Renewable Energy Commercialisation Program, the Photovoltaic Rebate Program, the Renewable Energy Equity Fund and the Renewable Remote Power Generation Program. All of these things remain in place, as does the existing MRET scheme.

In other words, this government retains its commitment. I repeat that for the benefit of the people who are listening around Australia and who may have the wrong impression, especially from the comments of Senator Mackay: this government retains its commitment to fostering the development of renewable energy. That means fostering energy from sources such as wind, solar and hydro. The MRET scheme as it exists now will generate an additional 9,500 gigawatt hours of electricity each year. For the information of the Senate and Senator Mackay, this is the equivalent of two new Snowy Mountains hydroelectric schemes a year and is enough power to meet the residential electricity needs of four million people. The Howard government has a very fine record of commitment to renewable energy. That is characteristic of the very strong approach the Howard government has taken to the environment since it came into office eight years ago.

The Howard government has four outstanding achievements that point to its record on the environment. The establishment of the Natural Heritage Trust has been, as I am sure Senator Mackay knows, a great success and \$2.7 billion has been allocated to it over the

period of this government. The Environmental Protection and Biodiversity Conservation Act was introduced in 1999 which, for the first time, gave the federal government a say in environmental issues. Instead of having to come late into the process through bodies such as the Foreign Investment Review Board, the federal government now has direct involvement at the beginning of environmental issues through its decision to involve itself under five specific headings in environmental matters. The Howard government, as a world first, established the Australian Greenhouse Office. As Senator Scullion said, we have a very fine record in dealing with greenhouse issues in this country. Not signing on to the Kyoto protocol does not mean that this government is not concerned about greenhouse. In fact, under this government Australia is on track to meet its greenhouse targets regardless of the fact that we regard the Kyoto agreement to be a flawed agreement that would have an adverse impact on Australia. Then we have other major environmental initiatives such as our measures to control salinity and the proposals to have a national water program.

Under the energy statement made by the government yesterday, one of the major features is a complete overhaul of the fuel excise system to remove \$1.4 billion in excise liability from diesel fuel excise. That will largely benefit people in regional Australia and in the agricultural and mining sectors. So much for Senator Mackay's comment that the energy statement was a sell-out to regional Australia. Far from being a sell-out, the Howard government has done a great deal to improve the delivery of energy and to reduce the costs of energy in regional Australia—and that is consistent with its general approach to environmental issues.

Senator McLUCAS (Queensland) (3.24 p.m.)—I find Senator Eggleston's contribution somewhat ironic. I thought it was a

strange decision for him to raise the Snowy Mountain scheme because one has to ask what might have happened to the Snowy scheme under the government's policy announced yesterday. We probably would not end up with a Snowy Mountain scheme, so it is an unusual choice for Senator Eggleston.

I also want to make the obvious point that Senator Scullion said quite clearly that the government was going to meet the Kyoto principles—obviously thinking that was a good thing to do—and yet Senator Eggleston said it was a flawed policy. I do not know what the message is, but you're not on it. Between Senator Scullion's and Senator Eggleston's commentary, there is a big gap, and Senator Eggleston should read those briefing notes again. The government is probably highly embarrassed at the commentary and the response to yesterday's very flawed environment and energy statement. To paraphrase the Australian Conservation Foundation—

Senator Hill—That's the one Garrett was a member of, isn't it?

Senator McLUCAS—Absolutely, and I am very proud to be a member of it as well—its singularly most spectacular feature is to handsomely reward the polluters and offers nothing in investment incentives to the renewable energy market. The Prime Minister is on the record saying that he is not racing to the polls before he rolls out a range of major policy initiatives. He knows that he has to reinvigorate his tired government to match Labor's new leadership and the appeal of our innovative policy positions across a whole raft of areas, notably in the environment. Labor have already announced that we will introduce a mandatory renewable energy target of at least five per cent, we have said that we are committed to signing the Kyoto protocol and we have further detailed policy

to be announced in the lead-up to the election.

The bottom line is that this government just does not get it. It does not get the need for investment in the renewable energy industry—in wind, in solar or in hydrogen. Other countries—advanced European economies like those of the Netherlands, Iceland and the Scandinavian nations—are reaping the rewards of the renewable energy investments they have made over the years. These countries are exporting their technology, whether it be wind generation or hydrogen power, all over the world. We had the beginning of that clever industry in Tasmania, as Senator Mackay said, with the opportunity for the construction and development of wind generation in Tasmania, but that was trashed yesterday—gone. But here, when it comes to increasing the renewable aspects in our energy mix, the Howard government is living in the fifties. It is unsurprising that the papers have caned Minister Kemp and the Prime Minister and his energy statement. The headlines read like an eulogy for him: 'Quick fix policy fuels MPs' anger' is from the *Courier-Mail*; 'Farmers happy but Greenies fuming' from the *Canberra Times*; 'Energy giant kills NW plan' from the *Hobart Mercury*; 'Greens hit PM' from the *Northern Territory News*—maybe Senator Scullion did not actually read the paper this morning; 'Coal remains king in solar age' from the *Sydney Morning Herald*; and 'Tax break makes fossil fuels the energy of the future' from the *Age*. As I said, those headlines do sound like a eulogy for the minister for the environment but, sadly, also sound like a potential eulogy for the environment.

It is far too depressing to continue reading the headlines because where I come from there is a real sense of community ownership of our environmental treasures which also deliver great economic benefits for the whole region. We have to remember that an in-

crease of one degree in the water temperature in the Great Barrier Reef will mean the end of what we know the Great Barrier Reef to be. Not only would there be the loss of environmental values that would occur from such an event but also let us remember the economy—the \$5 billion tourism industry—that depends on that icon and the jobs that flow from it. This is a government that has lost its vision on the environment and environmental thinking. This is a government that needs to change. Labor are willing to deliver proper environmental and energy policy, and we stand prepared to do it.

Senator ALLISON (Victoria) (3.29 p.m.)—I too rise on the motion to take note of the answers on the most important matter of the energy statement given by the government this week about the long-term better greenhouse outcome, as Senator Hill describes it. He says this is what is needed and that the government has produced a balance. We supposedly have a balance between a cost-effective fuel source—that is, coal—and longer term energy proposals. The government's white paper is very long on coal and other fossil fuels and, I would have to say, very short on anything you could describe as renewables. In fact, it is a massive hand-out to the fossil fuel industry and has left renewable energy entirely out in the cold. The \$1.5 billion over seven years will be an enormous setback to much of the efforts of industry—and not much effort on the part of the government, I might say—over the last few years to shift to alternative fuels, in particular in the transport sector.

I cannot help wondering what effect this package will have on the great pronouncement that we had last week that money would be going for the first time in great quantities into rail and that the aim would be to shift some of the freight off road and onto rail. The original proposal to reduce excise largely involved a compromise because of

the great threat that this would have represented to rail. It would have shifted the very small percentage of freight that is currently on rail back onto road, and this package will be no different as far as I can see.

Supposedly we are having a road user charge to take the place of excise, but there has been no mention in this package of what that would look like. Is it going to be an equivalent charge or is it going to be some minor charge that will be based on the size of vehicles or on the distance travelled? Who knows? What we do know, though, is that there is every encouragement in this package to increase the use of road for freight. Already we know that the freight task will double by 2020. If our roads are going to be clogged up because rail is not being used in the way that I think most of us in this place would like to see it used, then this is a major failure in policy terms.

Effectively, it is a hand-out to mining, to the trucking industry and to the agricultural sector and it sends a strong message to stay with fossil fuels. The white paper asks major CO₂ emitters to do an audit every five years and then to join the greenhouse challenge if they do not manage to improve their emissions. Again, that is a totally useless and ineffective measure. In five years time, we will be almost at the end of our first commitment period when in this country we are likely to see a massive blow-out of greenhouse emissions. The only reason that we are even within striking distance of reaching that target is, as we all know, the deal done on land clearing.

The \$500 million for new technologies will be taken up with very expensive and as yet unproven efforts to lock carbon emissions through geosequestration. Again, this leaves renewable energy in the lurch. That money would have been much better spent on ways to improve access to solar and wind

technology. Instead of that, we are pouring huge amounts of money into technology which is unproven and, anyway, is only mopping up a problem that we should stop at the source. It is an absolutely ridiculous idea that so much money should be spent on such a purpose. Of course, we have no breakdown. The government say: 'This can be used for renewable energy but we have got no criteria. We do not know how this is going to be spent.' There has been no suggestion that half of it would go to renewable energy and the other half to geosequestration. So, conceivably, the lot could be poured into a technology which is at best useless.

The great disappointment is that we remain with almost the status quo for MRET. In fact, it is not two per cent. Anyone who thinks it is wrong. It is more like 0.5 per cent of energy consumption by 2010. I think the least the government could have done to honour its promise to all Australians and to the renewable energy industry would be for two per cent of the energy expended—but it is not. (*Time expired*)

Question agreed to.

PETITIONS

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

Indigenous Affairs: Government Policy

To the Honourable President and members of the Senate in parliament assembled. The petition of the undersigned shows:

That the current intention of the Government to abolish the rights of Aboriginal and Torres Strait Islander people to exercise their right of self-determination and self-management, will severely disadvantage Aboriginal and Torres Strait Islander people.

Your petitioners request that the Senate:

1. oppose any legislation for the abolition of ATSIC unless and until an alternative elected representative structure, developed and approved by Aboriginal and Torres Strait

Islander peoples is put in place and which would, at the same time assume the function of ATSIC.

2. oppose any move to appoint an advisory committee as contrary to the rights of Aboriginal and Torres Strait Islander people to elect their own representatives.
3. oppose any move to diminish, dismantle, destroy and/or erode the principles of self-determination and self-management since any such action would turn back the clock on hard won rights of Aboriginal and Torres Strait Islander people.
4. strongly defend these rights of self-determination and self-management of Aboriginal and Torres Strait Islander people previously supported by the Australian Parliament.
5. oppose any move to main-stream services for Aboriginal and Torres Strait Islander people as this too would severely disadvantage Aboriginal and Torres Strait Islander people.

by **The President** (from 11 citizens)

by **Senator Fifield** (from 22 citizens).

Health: Pharmaceutical Benefits Scheme

The petition of certain citizens of Australia draws to the attention of the House:

That sufferers of Osteoporosis are forced to pay large amounts for the supply of treatment, due to the Criteria, which is enforced by the Government through the Pharmaceutical Benefits Board which states "A vertebral fracture is defined as a 20% or greater reduction in height of the anterior or mid portion of a vertebral body relative to the posterior height of that body, or, a 20% or greater reduction in any of these heights compared to the vertebral body above or below the affected vertebral body".

Your petitioners therefore ask the Senate to

Please amend this criteria: We request that diagnosis of Osteoporosis be sufficient to have treatment offered on PBS.

by **Senator Humphries** (from 123 citizens).

Military Detention: Australian Citizens

To the Honourable the President and members of the Senate in parliament assembled. The petition of the undersigned shows:

- That the treatment of Hicks and Habib is not in accordance with Geneva Convention Guidelines applying to prisoners of war.

Your petitioners ask that the Senate should:

- Ensure that Hicks' and Habib's rights are met under the guidelines of the Geneva Convention, as it applies to prisoners of war.
- Send a deputation to George W. Bush asking that Hicks and Habib be returned to Australia.
- Ensure that Hicks and Habib be entitled to civil trials in Australia if charged with any crime.

by **Senator Kirk** (from 92 citizens).

Military Detention: Australian Citizens

To the Honourable the President and Members of the Senate in Parliament assembled. The Petition of the undersigned shows:

that the treatment of David Hicks is not in accordance with Geneva Convention Guidelines applying to prisoners of war

Your petitioners ask that the Senate should:

- ensure that Australian citizen, David Hicks', rights are met under the guidelines of the Geneva Convention as it applies to prisoners of war
- send a deputation to George W. Bush asking that David Hicks be returned to Australia
- ensure that David Hicks be entitled to a civil trial, in Australia, if he is charged with any crime

by **Senator Kirk** (from 770 citizens).

Petitions received.

NOTICES**Presentation**

Senator Hutchins to move on the next day of sitting:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade

References Committee on current health preparation arrangements for the deployment of Australian Defence Forces overseas be extended to 5 August 2004.

Senator Lightfoot to move on the next day of sitting:

That the Joint Standing Committee on the National Capital and External Territories be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 23 June 2004, from 5 pm to 8 pm, to take evidence for the committee's inquiry into the adequacy of funding for Australia's Antarctic Program.

Senator Heffernan to move on the next day of sitting:

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 17 June 2004, from 4.30 pm to 8.30 pm, to take evidence for the committee's inquiry into the provisions of the Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004.

Senator Knowles to move on the next day of sitting:

That the Community Affairs Legislation Committee be authorised to hold public meetings during the sitting of the Senate, from 9.30 am, on the following days:

- (a) Friday, 18 June 2004, to take evidence for the committee's inquiry into the Family and Community Services and Veterans' Affairs Legislation Amendment (Income Streams) Bill 2004; and
- (b) Friday, 25 June 2004, to take evidence for the committee's inquiry into the provisions of the Commonwealth Electoral Amendment (Preventing Smoking Related Deaths) Bill 2004 and related bills.

Senator Kirk to move on the next day of sitting:

That the Senate—

- (a) notes that:
 - (i) 20 June 2004 is World Refugee Day,

- (ii) there are over 20 million refugees and displaced people in the world, and
- (iii) acknowledges Australia's long and proud record of resettling refugees in Australia as a signatory to the Refugee Convention;
- (b) commends the United Nations High Commissioner for Refugees (UNHCR) for the tireless work it undertakes worldwide;
- (c) congratulates the UNHCR Australia post for its ongoing work in assisting asylum seekers who were or remain a part of the Howard Government's 'Pacific Solution';
- (d) condemns the Howard Government's outsourcing offshore to foreign countries and an international company of Australia's immigration detention system through the 'Pacific Solution';
- (e) notes the report of the Human Rights and Equal Opportunity Commission's inquiry into children in detention;
- (f) calls on the Government to:
- (i) acknowledge that it has presided over an immigration detention regime where the welfare, safety and health of children has not been its primary concern,
- (ii) set the immigration detention system up for the future so that this cannot happen again, and
- (iii) release children from immigration detention facilities immediately, which is within the power of the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Vanstone);
- (g) notes that there are over 9 000 temporary protection visa (TPV) holders in Australia and calls on the Government to provide certainty to the lives of these people by adopting the Australian Labor Party's one-off two year TPV policy;
- (h) condemns the Minister for the production of the selective and ill-informed 'Australia says YES to Refugees' school kit; and
- (i) commends the UNHCR for its activities to commemorate World Refugee Day 2004 and encourages Australian high school students to participate in the UNHCR's World Refugee Day writing competition.
- Senator Allison** to move on the next day of sitting:
- That the Senate—
- (a) recalls the incident that took place in the Union of Soviet Socialist Republics (USSR) at Serpukhov-15 on 26 September 1983 at 12.30 pm Moscow time, and the role of Colonel Stanislav Petrov in this incident;
- (b) notes:
- (i) that the Serpukhov-15 incident, in which a newly installed Soviet surveillance system reported that the United States of America (US) had launched nuclear missiles at the USSR, is considered by many analysts to have been the closest the world has ever come to nuclear war,
- (ii) that the megatonnage that was likely to have been used at that time was between 30 and 60 times the amount required to produce a nuclear winter, and that the number of nuclear weapons that would have been launched would have been enough to end civilisation and kill most living things,
- (iii) the role played by Colonel Petrov in refraining from launching a number of thousands of warheads at the US in retaliation and in pressing his superiors to consider the report a false alarm,
- (iv) that the Canberra Commission of 1996 recommended that strategic nuclear weapons be taken off 'Launch on Warning' status, and
- (v) the resolution of the European Parliament of 11 November 1999, and the Senate's own resolutions as well as repeated calls to lower the alert status of strategic nuclear weapons made by the Non-Aligned Movement and the New Agenda Coalition that have been passed year after year by the United Nations (UN) General Assembly;

- (b) offers its congratulations to Colonel Petrov for being presented with the World Citizen Award on Friday, 21 May 2004, in recognition of his actions; and
- (c) urges the Government to give unreserved support to measures aimed at lowering the readiness to launch nuclear weapon systems and to support such measures on the floor of the UN General Assembly.

Senator Allison to move on the next day of sitting:

That the Senate—

- (a) notes that:
 - (i) despite an overall improvement in average health status, trends in health statistics associated with the distribution of social, economic and cultural opportunities are worsening both within and between countries, and
 - (ii) widening inequalities are a barrier to Australia's future social, economic and cultural development and that persistent coexistence of material poverty and cultural alienation in Australia poses an accumulating social risk; and
- (b) calls on the Government to adopt the recommendations of the Public Health Association of Australia, and in particular to:
 - (i) give priority across government agencies to reducing socio-economically related health inequalities as a national goal,
 - (ii) provide health impact statements as part of the development of all major policies, whether economic, environmental or social in focus, and
 - (iii) provide funding through the National Health and Medical Research Council for research into health inequities and their socio-economic determinants.

Senator Ludwig to move on the next day of sitting:

That the Senate—

- (a) notes the report of the Human Rights and Equal Opportunity Commission's inquiry into children in detention; and
- (b) recognises that the Government has presided over an immigration detention regime where the health, welfare and safety of children has not been its primary concern.

Senator Allison to move on the next day of sitting:

That the following legislation committees whose recent examination of estimates have been affected by the Government's Energy White Paper reconvene to further consider the 2004-05 Budget estimates:

- Economics
- Environment, Communications, Information Technology and the Arts
- Finance and Public Administration
- Rural and Regional Affairs and Transport.

Senators Allison and Stott Despoja to move on the next day of sitting:

That the Senate—

- (a) acknowledges that domestic and intimate partner violence comes in many forms and occurs in all sections of the Australian community and across all cultures;
- (b) notes that:
 - (i) the Victorian Health Promotion Foundation report of 16 June 2004 on intimate partner violence revealed that physical and emotional abuse by a partner was the leading risk factor for death, disease and disability and was responsible for 9 per cent of the total health costs for Australian women aged between 15 and 24,
 - (ii) domestic violence affects between one in three to one in five Australian families,
 - (iii) the 1996 Australian Women's Survey found that more than one million women had experienced some form of physical or sexual violence from a current or previous partner,

- (iv) more than 80 per cent of violence experienced by women is not reported to police or other services,
 - (v) men, women and children can be victims of domestic violence as well as perpetrators, however, the vast majority of intimate partner violence is perpetrated by males, and
 - (vi) domestic violence is not limited to physical and sexual violence but covers a wide range of abusive behaviours such as bullying, verbal, emotional, social, and financial abuse, which are often unrecognised by the community; and
- (c) calls on the Federal Government to:
- (i) return to the original violence against women campaign, 'No Respect/No Relationship' with its focus on young men and the need to develop respectful relationships,
 - (ii) provide funding for specialist services to meet the demand that the campaign will generate, and
 - (iii) direct urgently needed resources into implementing the National Safe Schools Framework, with a strong focus on tackling bullying behaviour.

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

That—

- (1) On Thursday, 17 June 2004:
- (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 10.30 pm;
 - (b) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) not be proceeded with;
 - (c) the routine of business from not later than 4.30 pm shall be government business only;
 - (d) divisions may take place after 4.30 pm; and
 - (e) the question for the adjournment of the Senate shall be proposed at 9.50 pm.

(2) The Senate shall sit on Friday, 18 June 2004 and that:

- (a) the hours of meeting shall be 9 am to 4.25 pm;
- (b) the routine of business shall be:
 - (i) notices of motion, and
 - (ii) government business only; and
- (c) the question for the adjournment of the Senate shall be proposed at 3.45 pm.

Senators Ridgeway and Stott Despoja to move on the next day of sitting:

That the Senate—

- (a) notes that:
- (i) 19 June is the birthday of Aung San Suu Kyi, leader of the Burmese National League for Democracy (NLD),
 - (ii) 2004 marks the eighth birthday since 1989 that Aung San Suu Kyi has been in detention under the Burmese military government (SPDC), and
 - (iii) 19 June is Women of Burma Day;
- (b) urges the SPDC to:
- (i) release Aung San Suu Kyi and her deputy Tin Oo, who remain under house arrest, and
 - (ii) re-open all offices of the NLD and allow all offices full access to communication with people both inside and outside of Burma; and
- (c) calls on the Australian Government to reconsider the policy of full diplomatic relations with the Burmese military government until the release of Aung San Suu Kyi is ensured.

Senator Lees to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to set a higher target for mandatory renewable energy requirements, and for related purposes. ***Renewable Energy Amendment (Increased MRET) Bill 2004.***

COMMITTEES

Selection of Bills Committee

Report

Senator LIGHTFOOT (Western Australia) (3.35 p.m.)—I present the eighth report of 2004 of the Selection of Bills Committee.

Ordered that the report be adopted.

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

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 8 OF 2004

1. The committee met on Tuesday, 15 June 2004.
2. The committee resolved to recommend—That—
 - (a) the *provisions* of the Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004 be **referred immediately** to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 21 June 2004 (see appendix 1 for statement of reasons for referral);
 - (b) the Family and Community Services and Veterans' Affairs Legislation Amendment (Income Streams) Bill 2004 be **referred immediately** to the Community Affairs Legislation Committee for inquiry and report by 21 June 2004 (see appendix 2 for statement of reasons for referral);
 - (c) the *provisions* of the Family Law Amendment Bill 2004 be **referred immediately** to the Legal and Constitutional Legislation Committee for inquiry and report by 30 July 2004 (see appendix 3 for statement of reasons for referral);
 - (d) the *provisions* of the National Security Information (Criminal Proceedings) Bill 2004 and the National Security Information (Criminal Proceedings) (Consequential Amendments) Bill 2004 be **referred immediately** to the Legal and Constitutional Legislation Committee for inquiry and report by 19 August 2004 (see appendix 4 for statement of reasons for referral);
 - (e) the Superannuation Budget Measures Bill 2004, Superannuation Laws Amendment (2004 Measures No. 1) Bill 2004 and the Superannuation Laws Amendment (2004 Measures No. 2) Bill 2004 be **referred immediately** to the Economics Legislation Committee for inquiry and report by 21 June 2004 (see appendix 5 for statement of reasons for referral);
 - (f) the *provisions* of the Telecommunications (Interception) Amendment (Stored Communications) Bill 2004 be **referred immediately** to the Legal and Constitutional Legislation Committee for inquiry and report by 22 July 2004 (see appendix 6 for statement of reasons for referral);
 - (g) the *provisions* of the Workplace Relations Amendment (Protecting Small Business Employment) Bill 2004 be **referred immediately** to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 14 September 2004 (see appendix 7 for statement of reasons for referral); and
 - (h) the Tax Laws Amendment (2004 Measures No. 3) Bill 2004 be **referred immediately** to the Economics Legislation Committee but was unable to reach agreement on a reporting date (see appendix 8 for statement of reasons for referral);
 - (i) the following bills **not** be referred to committees:
 - Aged Care Amendment Bill 2004
 - Australian Institute of Marine Science Amendment Bill 2004
 - Child Support Legislation Amendment Bill 2004

- Customs Legislation Amendment (Airport, Port and Cargo Security) Bill 2004
 - Customs Tariff Amendment (Fuels) Bill 2004
 - Excise Tariff Amendment (Fuels) Bill 2004
 - Excise and Other Legislation Amendment (Compliance Measures) Bill 2004
 - Export Market Development Grants Amendment Bill 2004
 - Extension of Charitable Purpose Bill 2004
 - Farm Household Support Amendment Bill 2004
 - Medical Indemnity (Run-off Cover Support Payment) Bill 2004
 - Medical Indemnity Legislation Amendment (Run-off Cover Indemnity and Other Measures) Bill 2004
 - New International Tax Arrangements (Participation Exemption and Other Measures) Bill 2004
 - Tax Laws Amendment (2004 Measures No. 2) Bill 2004
 - Tax Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Bill 2004
 - Tax Laws Amendment (Personal Income Tax Reduction) Bill 2004
 - Tourism Australia (Repeal and Transitional Provisions) Bill 2004
 - Workplace Relations Amendment (Fair Dismissal) Bill 2004.
- Corporations (Fees) Amendment Bill (No. 2) 2003
- Racial and Religious Hatred Bill 2003 [No. 2].
Bill deferred from meeting of 23 March 2004
 - Resale Royalty Bill 2004.
Bill deferred from meeting of 30 March 2004
 - Flags Amendment (Eureka Flag) Bill 2004.
Bills deferred from meeting of 15 June 2004
 - Aboriginal and Torres Strait Islander Commission Amendment Bill 2004
 - Marriage Legislation Amendment Bill 2004. (Jeannie Ferris)

Chair

16 June 2004

Appendix 1

Proposal to refer a bill to a committee

Name of bill(s):

Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004

Reasons for referral/principal issues for consideration

This bill proposes a number of amendments to legislation flowing from the inquiry into the live-stock export trade by Dr Keniry. An inquiry is needed to ensure these amendments and associated regulations deliver the outcomes intended by Dr Keniry.

Possible submissions or evidence from:

AQIS, AFFA, Livecorp and Animals Australia

Committee to which bill is referred:

Rural and Regional Affairs and Transport Legislation Committee

Possible hearing date: Week starting 15 June 2004

Possible reporting date(s): Week starting 21 June 2004

Senator Lyn Allison

Whip/Selection of Bills Committee Member

Appendix 2

Proposal to refer a bill to a committee

Name of bill(s):

The committee recommends accordingly.

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

Bills deferred from meeting of 10 February 2004

- Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003

Family and Community Services and Veterans' Affairs Legislation Amendment (Income Streams) Bill 2004

Reasons for referral/principal issues for consideration

The impact of the changes to asset test exemption on retirement income adequacy and take-up of income stream products.

Possible submissions or evidence from:

FaCS, COTA/National Seniors, Association of Independent Retirees (Australia), Investment and Financial Services Association, Financial Planning Association, Association of Super Funds Australia, Small Investment and Super Funds Association, Investment Fund Services.

Committee to which bill is referred:

Community Affairs Legislation Committee

Possible hearing date:

Possible reporting date(s): June 24 2004

Senator Lyn Allison

Whip/Selection of Bills Committee Member

Appendix 3

Proposal to refer a bill to a committee

Name of bill(s):

Family Law Amendment Bill 2004

Reasons for referral/principal issues for consideration

To consider provisions in further detail (19 parts to the bill)

Possible submissions or evidence from:

Family Law Council, National Women's Legal Services Association, Law Council of Australia.

Committee to which bill is referred:

Legal and Constitutional Legislation Committee

Possible hearing date:

Possible reporting date(s): by 30 July 2004

Senator Lyn Allison

Whip/Selection of Bills Committee Member

Appendix 4

Proposal to refer a bill to a committee

Name of bill(s):

National Security Information (Criminal Proceedings) Bill 2004

National Security Information (Criminal Proceedings) (Consequential Amendments) Bill 2004

Reasons for referral/principal issues for consideration

Whether the bills strike an appropriate balance between the protection of classified and security sensitive information, and the rights of parties in the criminal justice system

The report of the Australian Law Reform Commission on Protecting Classified and Security Sensitive Information

Possible submissions or evidence from:

Legal profession, government and liberties groups

Committee to which bill is referred:

Legal and Constitutional Legislation Committee

Possible hearing date:

Possible reporting date(s): 19 August 2004

Senator Lyn Allison

Whip/Selection of Bills Committee Member

Appendix 5

Proposal to refer a bill to a committee

Name of bill(s):

Superannuation Budget Measures Bill 2004, Superannuation Laws Amendment (2004 Measures No. 1) Bill 2004 and the Superannuation Laws Amendment (2004 Measures No. 2) Bill 2004

Reasons for referral/principal issues for consideration

To receive evidence on the number of persons and socio-economic background of those likely to benefit

Increased level of saving that may result

Possible submissions or evidence from:

Treasury, Association of Super Funds, IFSA, Financial Planners Association

Committee to which bill is referred:

Economics Legislation Committee

Possible hearing date: 18/21 June 2004**Possible reporting date(s):** 21/22 June 2004

Senator Lyn Allison

Whip/Selection of Bills Committee Member

Appendix 6

Proposal to refer a bill to a committee**Name of bill(s):**Telecommunications (Interception) Amendment
(Stored Communications) Bill 2004**Reasons for referral/principal issues for consideration**

Whether previous concerns of the committee have been addressed.

Possible submissions or evidence from:

Electronic frontiers, legal profession, civil liberties groups, law enforcement agencies

Committee to which bill is referred:

Legal and Constitutional Legislation Committee

Possible hearing date:**Possible reporting date(s):** 22 July 2004

Senator Lyn Allison

Whip/Selection of Bills Committee Member

Appendix 7

Proposal to refer a bill to a committee**Name of bill(s):**Workplace Relations Amendment (Protecting
Small Business Employment) Bill 2004**Reasons for referral/principal issues for consideration**

To consider the best method of ensuring that small businesses which genuinely cannot afford to pay redundancy pay, can readily obtain exemptions

Possible submissions or evidence from:

ACTU, employer groups, AIRC

Committee to which bill is referred:

Employment, Workplace Relations, and Education Legislation Committee

Possible hearing date:**Possible reporting date(s):** September 2004

Senator Lyn Allison

Whip/Selection of Bills Committee Member

Appendix 8

Proposal to refer a bill to a committee**Name of bill(s):**Tax Laws Amendment (2004 Measures No. 3)
Bill 2004**Reasons for referral/principal issues for consideration**

Adequate consideration of the proposed changes to the Venture Capital Regime

Possible submissions or evidence from:

Treasury, ATO

Committee to which bill is referred:

Economics Legislation Committee

Possible hearing date:**Possible reporting date(s):**

Senator Lyn Allison

Whip/Selection of Bills Committee Member

NOTICES**Postponement**

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Forshaw for today, proposing the reference of matters to the Community Affairs References Committee, postponed till 22 June 2004.

General business notice of motion no. 466 standing in the name of Senator Lees for 17 June 2004, proposing the introduction of the Protection of Biodiversity on Private Land Bill 2003, postponed till 12 August 2004.

General business notice of motion no. 467 standing in the name of Senator Lees for 17 June 2004, proposing the introduction of the Encouraging Communities Bill 2003, postponed till 12 August 2004.

LEAVE OF ABSENCE

Senator LIGHTFOOT (Western Australia) (3.35 p.m.)—by leave—I move:

That leave of absence be granted to Senator Harradine for the period 15 to 18 June 2004, on account of health reasons.

Question agreed to.

COMMITTEES

Free Trade Agreement Committee

Meeting

Senator LIGHTFOOT (Western Australia) (3.36 p.m.)—At the request of the Chair of the Select Committee on the Free Trade Agreement between Australia and the United States, Senator Cook, I move:

That the Select Committee on the Free Trade Agreement between Australia and the United States of America be authorised to hold public meetings during the sitting of the Senate on the following days:

Wednesday, 16 June 2004, from 3.30 pm to 6.30 pm

Thursday, 17 June 2004, from 3.30 pm

Monday, 21 June 2004, from 3.30 pm

Tuesday, 22 June 2004, from 3.30 pm

Wednesday, 23 June 2004, from 3.30 pm

Thursday, 24 June 2004, from 3.30 pm.

Question agreed to.

Rural and Regional Affairs and Transport Legislation Committee

Meeting

Senator LIGHTFOOT (Western Australia) (3.36 p.m.)—At the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Hefferman, I move:

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to

hold a public meeting during the sitting of the Senate on Wednesday, 16 June 2004, from 6.30 pm to 7.30 pm, to take evidence for the committee's inquiry into the administration of Biosecurity Australia concerning the revised draft import risk analysis for bananas.

Question agreed to.

Foreign Affairs, Defence and Trade References Committee

Meeting

Senator LIGHTFOOT (Western Australia) (3.36 p.m.)—At the request of the Chair of the Foreign Affairs, Defence and Trade References Committee, Senator Hutchins, I move:

That the Foreign Affairs, Defence and Trade References Committee be authorised to hold a public meeting during the sitting of the Senate on Monday, 21 June 2004, from 4 pm to 9 pm, to take evidence for the committee's inquiry into the effectiveness of the Australian military justice system.

Question agreed to.

Public Works Committee

Meeting

Senator LIGHTFOOT (Western Australia) (3.36 p.m.)—At the request of Senator Ferguson, I move:

That the Parliamentary Standing Committee on Public Works be authorised to hold a public meeting during the sitting of the Senate on Thursday, 24 June 2004, from 9.30 am to 11 am, to take evidence for the committee's inquiry into the Wellington Chancery works.

Question agreed to.

BUDGET

Consideration by Legislation Committees

Extension of Time

Senator LIGHTFOOT (Western Australia) (3.36 p.m.)—At the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee, Senator Sandy Macdonald, I move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Legislation Committee on the 2004-05 Budget estimates be extended to 24 June 2004.

Question agreed to.

Consideration by Legislation Committees Meeting

Senator LIGHTFOOT (Western Australia) (3.36 p.m.)—At the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee, Senator Sandy Macdonald, I move:

That the Foreign Affairs, Defence and Trade Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 17 June 2004, from 4 pm to 10.30 pm, to further examine the 2004-05 Budget estimates for the Department of Defence.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Extension of Time

Senator LIGHTFOOT (Western Australia) (3.36 p.m.)—At the request of the Chair of the Rural and Regional Affairs and Transport References Committee, Senator Ridgeway, I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on forestry plantations be extended to 12 August 2004.

Question agreed to.

Employment, Workplace Relations and Education References Committee

Extension of Time

Senator LIGHTFOOT (Western Australia) (3.36 p.m.)—At the request of the Chair of the Employment, Workplace Relations and Education References Committee, Senator George Campbell, I move:

That the time for the presentation of the report of the Employment, Workplace Relations and

Education References Committee on the Office of the Chief Scientist be extended to 30 July 2004.

Question agreed to.

Legal and Constitutional Legislation Committee Meeting

Senator LIGHTFOOT (Western Australia) (3.36 p.m.)—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 on Wednesday, 16 June 2004, from 4.30 pm, to take evidence for the committee's inquiry into the provisions of the Civil Aviation Amendment (Relationship with Anti-discrimination Legislation) Bill 2004.

Question agreed to.

Environment, Communications, Information Technology and the Arts References

Extension of Time

Senator LIGHTFOOT (Western Australia) (3.36 p.m.)—At the request of the Chair of the Environment, Communications, Information Technology and the Arts References Committee, Senator Cherry, I move:

That the time for the presentation of the following reports of the Environment, Communications, Information Technology and the Arts References Committee be extended to 5 August 2004:

- (a) Australian telecommunications network; and
- (b) competition in broadband services.

Question agreed to.

Administration of Indigenous Affairs Committee Establishment

Senator O'BRIEN (Tasmania) (3.37 p.m.)—I, and also on behalf of Senators Ridgeway, Nettle and Lees, move:

That—

- (1) A select committee, to be known as the Select Committee on the Administration of Indigenous Affairs, be appointed to inquire into and report, by 31 October 2004, on the following matters:
- (a) the provisions of the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004;
 - (b) the proposed administration of Indigenous programs and services by mainstream departments and agencies; and
 - (c) related matters.
- (2) The committee consist of 8 senators, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, 1 nominated by the Leader of the Australian Democrats, and 1 nominated by minority groups and independent senators.
- (3) The committee may proceed to the despatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.
- (4) The chair of the committee be elected by the committee from the members nominated by the Leader of the Opposition in the Senate.
- (5) The deputy chair of the committee be elected by and from the members of the committee immediately after the election of the chair.
- (6) The deputy chair act as chair when there is no chair or the chair is not present at a meeting.
- (7) The quorum of the committee be a majority of the members of the committee.
- (8) Where the votes on any question before the committee are equally divided, the chair, or the deputy chair when acting as chair, shall have a casting vote.
- (9) The committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.
- (10) The committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to consider.
- (11) The quorum of a subcommittee be 2 members.
- (12) The committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (13) The committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily *Hansard* be published of such proceedings as take place in public.

Question agreed to.

EDUCATIONAL TEXTBOOK SUBSIDY SCHEME

Senator STOTT DESPOJA (South Australia) (3.37 p.m.)—I move:

That the Senate—

- (a) notes that:
 - (i) the Educational Textbook Subsidy Scheme currently subsidises the majority of the goods and services tax (GST) on students' textbooks,
 - (ii) this scheme will cease on 30 June 2004, and
 - (iii) without this scheme, all students (including school, university and technical and further education students) will have to pay up to 10 per cent more for textbooks; and
- (b) urges the Government to extend the scheme to prevent the imposition of this further cost burden on students and hold

true to its promise of no GST on education.

Question agreed to.

HEALTH: BRAIN TUMOURS

Senator ALLISON (Victoria) (3.37 p.m.)—I, and also on behalf of Senator McLucas, move:

That the Senate—

- (a) acknowledges that brain tumours can cause immense distress to those who are diagnosed with them, their carers, family and loved ones;
- (b) notes that:
 - (i) 1 400 Australians annually are diagnosed with a primary brain tumour,
 - (ii) statistical data from the United States suggests that there will be almost as many Australians diagnosed with benign brain tumours, many of which can be life threatening,
 - (iii) an even greater number are diagnosed with a metastatic brain tumour,
 - (iv) brain tumours, unlike some other malignant neoplasms, affect both males and females in all age groups from birth to old age and are now responsible for the cancer deaths of more children under 14 years of age than all types of leukaemia,
 - (v) while the incidence of brain tumours is ranked thirteenth in a list of all cancers in Australia, they rank fourth in a table of the total number of person years of life lost as a result of deaths attributed to cancer, and
 - (vi) as yet, there does not appear to be any identifiable single cause of primary brain tumours, nor is there an efficient, safe, and cost-effective method of screening for them, nor are they necessarily preventable by changes in diet or lifestyle, although these changes may be useful in alleviating distress and symptoms; and
- (c) calls on the Federal Government to recognise:

- (i) the need for a specialised response to the challenge caused by brain tumours, particularly in the areas of patient and carer support, and
- (ii) the need for increased support for research, including the collection of more detailed clinical and statistical data, particularly by way of data sets and a brain tumour registry, with a view to developing better treatment protocols leading to longer survival and better quality of life.

Question agreed to.

AUSTRALIAN DEFENCE INDUSTRIES: FORMER SITE

Senator NETTLE (New South Wales) (3.38 p.m.)—by leave—I move the motion as amended:

That there be laid on the table, no later than 3 pm on 24 June 2004, all documentation relating to the sale of Comland Limited to Lend Lease Corporation Limited that relates to the former Australian Defence Industries site at St Marys, New South Wales.

Question agreed to.

EDUCATIONAL TEXTBOOK SUBSIDY SCHEME

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.40 p.m.)—Mr Deputy President, I seek leave to have the vote on motion No. 881 recommitted.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.40 p.m.)—by leave—I was informed that we had moved to the discovery of formal business to enable a number of Senate committees to sit this afternoon while the Senate is sitting. That was my understanding. I believe that we ought to deal with that element of the business before us and then come back and deal with all these other issues. We would grant leave if there needs to be a recommittal. Of course we always grant leave for these things to occur. I suggest that

we adopt that course of action, because my understanding was that Senator Hill was going to make a ministerial statement or what has been described as a ministerial statement. That is a sensible way of dealing with this, and I commend it to the chamber.

The DEPUTY PRESIDENT—Senator Faulkner, I note your comments. I take it that there is a foreshadowing that motion 881 will be recommitted at a later stage today for further determination. We will now proceed to the ministerial statement.

**QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS**

Iraq: Treatment of Prisoners

Senator HILL (South Australia—Minister for Defence) (3.42 p.m.)—I do not have a ministerial statement but I want to add to—

The DEPUTY PRESIDENT—It is not a ministerial statement? That is what it is on the red.

Senator HILL—I want to add to answers I gave to questions in the Senate on 11 May in relation to prisoner abuse in Iraq.

The DEPUTY PRESIDENT—You will need leave to make that statement.

Senator HILL—I seek leave.

The DEPUTY PRESIDENT—There being no objection, leave is granted.

Senator HILL—In providing additional information, I intend also to table three detailed tables compiled on the basis of information available to Defence on these issues. They provide:

- A list by rank of all ADF personnel embedded in coalition forces in the Middle East area of operations, the positions they held and the dates of their deployment;

- A list of visits to detention facilities by ADF personnel and the reasons for those visits; and
- A chronological summary of situation reports compiled by ADF legal officers embedded in the Coalition Provisional Authority Office of General Counsel where reference was made to detention concerns.

I would note that much of this information has already been placed on the public record at the recent estimates hearings. In addition, I can advise the Senate that Defence will today provide the answers to more than 60 questions that were taken on notice at those hearings.

Having put this level of detail on the public record, I still note there are some who are determined to implicate Australia in the abuses that took place in the Abu Ghraib prison regardless of the facts. There has been a deliberate attempt to raise the spectre of some kind of ‘guilt by association’ in relation to these abuses. That can be evidenced by the deliberately loose language of the shadow spokesman who referred on radio to ‘the involvement of Australian legal officers in the abuse scandal’.

On 11 May I gave the Senate as best I could an assurance that no Australians were involved in the abuses we have seen portrayed in these horrific photos. I said:

What I am concerned about is that there is an implication within the Labor Party questions that, in some way, the ADF are at fault in this matter. The ADF did not manage the prisons, the ADF did not interrogate the prisoners.

Defence has thoroughly reviewed the information available to it and has confirmed the key facts in this issue.

- Australia did not interrogate prisoners.

- Australia was not involved in guarding prisoners at the Abu Ghraib prison or any other Iraqi prison.
- Australia was in no way involved in perpetrating the acts of abuse against Iraqi prisoners we have seen in photos published in the media.

I can confirm that Australian forces assisted in the capture of around 120 Iraqis during the combat phase of the war but in each case the United States was the detaining authority.

To put that 120 in context, the International Institute for Strategic Studies estimates that prior to the war the Iraqi armed forces numbered 389,000. The captures were effected in March and early April, some four months before Abu Ghraib prison was reopened by the United States. I also note that the Red Cross February report in its reference to its October visits to Abu Ghraib notes that the detainees had been captured mainly in early October.

I have been asked previously when did the government become aware of the issue of alleged abuses of prisoners at Abu Ghraib and I have said that from the time of the January media release by the United States military and the subsequent CNN report, the government would have been aware of allegations of abuse and that these allegations were being investigated—that is of course when the world at large learned of it. I have also stated that it was only with the release of the horrific photos in late April this year that I became aware that abuses had occurred and the extent of those abuses. I told the Senate on 11 May:

The abuses I saw in the media about a fortnight ago, I saw for the first time.

I stand by that statement. I have stated that Defence became aware of the existence of the February report of the Red Cross relating to detention practices in Iraq in February

through ADF legal officers working for the Coalition Provisional Authority in Baghdad.

It has subsequently emerged that, some time after 12 November, an ADF legal officer, Major O’Kane, working with coalition force headquarters in Baghdad had access to working papers from Red Cross inspections of two prisons in October. The officer had not been present during the inspections. Defence has confirmed that there is no record of those working papers being passed up through the chain of command back to Australia.

It is important to note that the Red Cross did not deliver either its February report or the earlier October working papers to Australia. The Red Cross handed its report to those who were responsible for the running of the prisons—the United States and the United Kingdom. The working papers were provided to the coalition force headquarters. I note that, despite all of the recent inferences of Australian involvement and claims of a cover up by Australian officials, the Red Cross still declines to make those reports officially available to Australia. In their view, it was a matter for the detaining authorities—the US and the UK—and remains so.

In contrast to the atmosphere of suspicion generated by the opposition’s questions, the facts of this issue reveal that Australia has made a positive contribution to improved detention and judicial practices in Iraq. An Australian officer posted to the Office of General Counsel in the Coalition Provisional Authority in April of last year played an important role in streamlining detention practices and improving detention conditions. This included helping to facilitate the work of the Red Cross. This officer, who visited Abu Ghraib on a number of occasions, expressed concerns about overcrowding in prisons and his efforts helped the coalition to implement better processes.

I would note that Australian legal officers in both the CPA headquarters and the coalition forces headquarters worked cooperatively with the Red Cross to facilitate visits to prisons and access to coalition officials. As noted previously, the work of the Red Cross saw it visit the Abu Ghraib prison twice and the special detention facility at Baghdad International Airport once during October of last year. As a result of these visits, two working papers were delivered to the coalition forces headquarters where Major O'Kane was tasked to assist in responding. Officials in Australia were not informed of those working papers at the time. Until recently, Defence believed it did not have access to those working papers. I have expressed that belief publicly, as has the Prime Minister.

It subsequently emerged that while Defence was not officially provided with those papers, Major O'Kane had brought copies of them back in February of this year among other papers from his time in Iraq. Those papers were provided to the International Policy Division in Defence on May 11 but were not recognised as what was subsequently referred to as the 'October report'. I regret that incorrect information was provided to me and, through me, to the Prime Minister.

Defence officials had previously understood the working papers as dealing generally with concerns about detainee conditions and treatment. This advice was passed to the Prime Minister, who used it in good faith in response to a question in the parliament on 27 May. When the documents were discovered and examined it was clear that they included allegations we would characterise more seriously in that they referred to allegations of ill-treatment.

I would note, however, that the October working paper on the inspections of the Abu

Ghraib prison does not contain evidence or allegations of the type of serious abuses which have subsequently come to light from the publication of the photos. There was no reference to naked prisoners being dragged along the ground by a dog leash as we have seen in the photos. There was no reference to the hooding of prisoners as we have seen in the photos. There was no reference to prisoners undergoing mock electrocutions, again as we have seen in the photos. There was no reference to naked prisoners being forced to lie on top of each other. There was no reference to the pyramid of naked prisoners. There was no reference to the use of guard dogs to terrify prisoners. There was no reference to prisoners being sexually assaulted by guards. There was no reference to prisoners being made to pose in simulations of sexual acts. Surprisingly, there is no mention at all of detainees being photographed.

It is a matter of record that these abuses all happened. We have seen the photos that prove it. But to suggest that Australia had knowledge of the extent of the abuses at Abu Ghraib through the October working papers is a nonsense. The October Red Cross working paper on Abu Ghraib asked the coalition authorities to clarify and improve the conditions of detention and treatment of detainees under interrogation. Major O'Kane was tasked to ensure this report was taken seriously and given a proper response.

Major O'Kane visited Abu Ghraib prison on 4 December of last year, as detailed at the recent estimates hearings, to discuss the findings of the Red Cross October working paper. Defence advised me on 26 May:

The response was taken seriously by the SJA Office and included Major O'Kane visiting Abu Ghraib and obtaining comments from the responsible officers (MP and Military Intelligence Lieutenant Colonels) about the concerns raised in the 2003 ICRC inspection. The responsible officers denied the specific allegations and were adamant

that there was no abuse or mistreatment of internees.

Subsequent to the estimates hearings, Major O'Kane has again been interviewed about this visit and has confirmed that the Red Cross report was being taken seriously by coalition authorities. He has also confirmed that he raised the contents of the report 'paragraph by paragraph' with the appropriate military officials and that the allegations were denied.

As part of his ongoing involvement with the Red Cross, Major O'Kane facilitated the next ICRC visit to Abu Ghraib in January this year. All the evidence indicates that Major O'Kane continued to work in a constructive manner with the Red Cross on detention issues and in no small way ensured that difficulties encountered by the Red Cross in its October visits were not repeated.

As I have previously mentioned, other embedded ADF legal officers had contact with the Red Cross February report. They also helped facilitate meetings between the Red Cross and the CPA. While they reported the existence of the February report to officials in Australia I would note again that the report itself was not delivered to Australia as we were not responsible for detention issues.

As stated at the estimates hearings, the existence of the report was not passed to ministers at the time as it was considered that detention matters were not an issue for which Australia had responsibility and it was also clear that these issues were being dealt with seriously by the relevant detaining authorities.

Defence has faithfully tried to establish and report the facts as it sees them but I would note that it is not as simple as pressing a button or logging on to a database. More than 3,000 Australians have served in different roles under the banner of Operation Falconer and Operation Catalyst. When they

return to Australia they are not all based in one location, nor do they necessarily return to the same job.

In providing full and detailed advice on this issue Defence has faced difficulties but has always provided advice in good faith and based on the best knowledge to hand. Subsequent to the estimates hearings Defence completed a review of all the information available to it. The level of detail in the tables I referred to is evidence of the effort that has been applied. The information is the most complete picture Defence can provide on its knowledge to date of this issue.

In closing I would like to quote from the advice provided to me by the head of the Defence Legal Service on 28 May which stated:

Australian Defence Force personnel, whether dealing with prisoners or detainees, acted at all times consistently with their international obligations, including under the Geneva Convention.

The men and women of the Australian Defence Force have done an outstanding job in Iraq, serving with honour and distinction. They have our government's full support. They certainly deserve better than the smear tactics and claims of cover-ups from the opposition. I table the three tables that I referred to in my comments.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.56 p.m.)—by leave—This much heralded statement, this comprehensive explanation, promised two weeks ago by the Prime Minister, Mr Howard, turns out to be an absolute disgrace. It is a damp squib. It is not an explanation; it is a complete whitewash. Senator Hill insists on responding to allegations that have not been made. The opposition has not and does not accuse Australian troops of having been involved in the abuse of prisoners. This is a straw man put up by the government. After all, it is so much eas-

ier for Mr Howard and his colleagues to defend Australian troops against imagined slurs than to address the real and uncomfortable issues that this whole matter has raised.

This so-called statement from Senator Hill is just the last in a litany of failures for which Senator Hill himself should take ultimate responsibility. It reveals a supine government, it reveals a dysfunctional department and it reveals a minister asleep at the wheel. Senator Hill blames the opposition for indulging in smear tactics and claims of cover-up. He blames Defence for providing inaccurate information to the government. He blames everybody but himself. This is a minister more concerned about self-preservation than decent standards. This statement is full of excuses. There is nothing about consequences. The logical consequence of a fiasco such as this—and this is the big gap in Senator Hill's statement, the issue he does not address—is Senator Hill's own resignation.

This is the minister who, 20 months ago in the wake of the 'children overboard' scandal, promised to fix the very problems which have caused this mess, and he has failed in that task abysmally. The Prime Minister, the Minister for Defence and senior defence officials, seriously misled the Australian parliament and people about what the government knew and when they knew it in relation to the abuse of coalition detainees in Iraq. The only excuse that Senator Hill can offer is: it was the best we knew at the time. We hear today that Senator Hill has apologised to the Prime Minister. What about apologising to the parliament and what about apologising to the Australian people? Remember that on 27 May in the House of Representatives Mr Howard said it was not until February of this year that a report by the Red Cross raised allegations of ill-treatment of detainees. An earlier report in October 2003 had covered only general concerns about

detainee conditions and treatment. He went on to say:

To suggest that, because Major O'Kane drafted a response to the October report, he or the Australian government were in some way aware of the more serious allegations ... is quite nonsensical.

How absurd that statement looks now! In the Senate we had Senator Hill telling us on 11 May that Defence and the government 'became aware of the international Red Cross report in February'. When asked when he personally became aware of the prisoner abuse he said:

I am not going to split myself from the government ... I accept the responsibilities that flow from that.

I want to come back to the issue of Senator Hill's responsibilities because I do think they are important. We had persistent questioning by the media and the opposition following the publication of the abuse photos at the end of April and that led Defence of course to conduct an inquiry, its first inquiry into the state of knowledge of the abuses.

The results of that inquiry, which included a survey of 298 members of the defence forces, were announced by the Chief of the Defence Force, General Cosgrove, and the Secretary of the Department of Defence, Mr Ric Smith, on 28 May. We were informed that none of those surveyed were 'aware of abuse or serious mistreatment of Iraqi prisoners or detainees of the nature of recent allegations during their deployment' and there were 'no reports about the abuse or serious mistreatment of prisoners or detainees of the nature of recent allegations made either through the chain of command or informally'. Their words! General Cosgrove and Mr Smith informed us that Major O'Kane had said that the October 2003 Red Cross report 'raised general concerns about detainee conditions and treatment but no mention of abuse'.

What about the top brass? They stated:

Neither the current Australian Joint Force Commander in the Middle East nor any of his predecessors was aware of these allegations of abuse or serious mistreatment until the publication of photographs in April 2004, and neither was Defence leadership in Canberra.

So, according to the government, the situation as at 28 May was that the ADF first knew of the abuses in February when Major O'Kane saw the second Red Cross report, and the Defence leadership and ministers first knew of them when the photos were published at the end of April. Remember, 28 May was seven months after the Red Cross first raised prisoner abuses with the Coalition Provisional Authority including the embedded Australians. It was more than four months after the US issued a press release about the abuse allegations. It was three months after the Red Cross submitted a detailed report to the US and one month after the abuse photos were published.

Remember also that the 28 May statement came after the prisoner abuse issue had been running as the No. 1 media issue nationally and internationally for a full four weeks and following exhaustive inquiries of all relevant defence personnel. Precisely how the government got this so wrong and maintained such ignorance in these circumstances has still not been explained at all. It certainly has not been explained by that pathetic statement that Senator Hill just made in the Senate this afternoon. Anyone who dared question this unbelievable version of reality was subjected, and has been subjected again today by Senator Hill in his statement, to streams of abuse for questioning the integrity of our troops. That is something that this opposition has never done. We have never done it no matter how hard the government tries to pretend otherwise.

Since the 28 May statement the government has been in full retreat on this matter.

How is this for classic backsliding? Mr Howard on 30 May said:

I am told by Defence that Major O'Kane has told Defence that the October report did not contain references to the abuse ... I'm just telling you what I have been told.

What I want to know is what else the Prime Minister had been told at that time to warrant that incredibly guarded, slimy language. Then on Tuesday afternoon, 1 June, after 1½ days of questioning at the Senate estimates committee, Defence secretary Ric Smith admitted that there were 'inaccuracies' in the 28 May statement. He said there were:

... inconsistencies between that statement and evidence that you have heard over the last two days.

He explained that the 28 May statement 'reflected the best knowledge we had at that time'. But since that time Mr Smith has said that the existence of the two Red Cross working papers dated October and November 2003 had come to light and, further, that Major O'Kane's understanding that the October report had only raised general concerns, as opposed to serious allegations, was incorrect. He and General Cosgrove took full responsibility for the stuff-ups, to the enormous relief of Senator Hill, who was sitting ashen faced beside them—and, of course, they regretted any embarrassment that may have been caused to the government.

Senator Robert Ray—And to the Prime Minister.

Senator FAULKNER—Mr Howard was very happy to let his two top Defence officials accept the blame. On 1 June, leaving for the United States of America, he dumped all over them. He said:

I regret very much that I was given the wrong advice.

He went on to say:

I am very unhappy that I was misinformed by the defence department.

Remarkably, while Mr Howard claimed to have been misled by the defence department, he denied that he had misled the parliament and he denied that he had misled the Australian people. He said:

I did not mislead the public or the Australian parliament. The advice that I gave the parliament and the public was based on the advice I'd received from the defence department.

This is a desperate Prime Minister trying to rewrite the doctrine of ministerial responsibility to avoid any of the mess sticking to him or any of the mess sticking to any of his ministerial colleagues—like Senator Hill. Note well: there was not a mention at all of the minister presiding over this shambles, Senator Hill. After the indignant denials and the subsequent retreat, what we have heard today in the statement from Senator Hill is another grudging apology. He said:

I regret that incorrect information was provided to me and, through me, to the Prime Minister.

As if that is satisfactory, as if that is enough in these circumstances. I think it is important to explain at this stage just what the government stands accused of—failure to take seriously the reports of abuse of Iraqi prisoners by US personnel, failure to acknowledge Australia's legal and moral obligations to Iraqi prisoners in general and those captured by Australian forces in particular, failure to take its accountability responsibilities seriously and failure to correct the serious procedural faults in Defence which were revealed during the 'children overboard' inquiry. This is a serious litany of failure on the part of this government by any standard. Even by the standards of the Howard government, this is a serious litany of failure.

Take the first of those: right from the start the government has demonstrated by its inaction that it does not take the issue of prisoner abuse in Iraq seriously. It is impossible to come to any other conclusion. What did the

government do in response to the United States press release about prisoner abuse accusations in mid-January and the CNN reports a few days later? Nothing. Did it think to make inquiries of its coalition partner about the seriousness and extent of these allegations? No, it did not. It did nothing. Did it bother to check whether the allegations involved violation of the Geneva conventions? No, it did not. Has it even now bothered to check on the welfare of the 120 Iraqis that Australian forces assisted in capturing? No, it has not. Of course it does not care. According to Senator Hill, they were just a drop in the ocean.

When the photos of prisoner abuse were first published on 29 April, provoking shock and outrage around the world, you might have imagined that the Howard government, as a loyal and close ally of the United States, a strong and unquestioning supporter of its actions in Iraq and an influential member of the coalition of the willing, would immediately express its concern to the United States. But, no, the abuses were not regarded as serious enough to even warrant a diplomatic murmur of disapproval—nothing at all from the Howard government.

You might have also thought that in the face of such universal outrage and disgust the Prime Minister, Minister Hill or Minister Downer might have been prompted to think: 'We're part of what's happening in Iraq. We've got Australian military personnel embedded in the Coalition Provisional Authority in Baghdad. What did they know about this? When did they know about it? What did they do about it?' But, no, it was left to others. It was left to the media. It was left to the opposition to ask questions. Even a month later on 28 May the government was not able to accurately answer those questions. It was either not asking any questions, it was not asking the right questions or it was refusing to listen to the answers but, whatever, the

government stands condemned for a massive dereliction of duty.

The government has also failed to take its legal and moral responsibilities to Iraqi detainees seriously. It has both legal and moral responsibilities as an occupying power and as a member of the coalition. These responsibilities include respect for the Geneva convention, not only in relation to Iraqis captured by Australian forces but also to Iraqi detainees more generally. In fact, Mr Downer directly acknowledged these responsibilities in an answer to a question on notice last September when he said that the government had established a legal watch group 'to advise on legal matters of relevance to Australia's participation in the Coalition Provisional Authority and consult with its counterparts to ensure that Australia's legal obligations are taken into account'.

Since then the government has been attempting to sidestep the responsibilities flowing from Australia's participation in the invasion and occupation of Iraq. It argues that Australia is not an occupying power on the basis that the United Nations in Security Council resolution 1483 has specifically recognised only the US and the UK as occupying powers. But we know, according to Professor Triggs of Melbourne University:

Australia has a legal responsibility to all detained persons, whether prisoners of war or civilians, as a joint Occupying Power in Iraq and as a member of the Coalition.

She goes on to say:

Australia's continuing obligations as a joint Occupying Power are not altered by Security Council Resolution 1483 in the absence of express termination of its status in relation to future acts.

The government also contrived a legal artifice to ensure that Australian troops never officially detained any Iraqi POWs and therefore never triggered the immediate or longer term responsibilities of a detaining

power under the Geneva convention. The arrangement—

Senator Ferguson interjecting—

Senator Chris Evans—They cannot tell us what it is.

Senator FAULKNER—That is right.

Senator Chris Evans—The minister does not know.

Senator FAULKNER—He does not, but the arrangement was that US troops who accompanied the Australian troops would always act as a detaining power even when the POWs were detained by an Australian warship crewed by Australians with only a single US Coastguard sailor on board. When we pressed Senator Hill for the legal basis of this arrangement all he could point to was a letter dated 11 March 2002 from the then Commander of the US Central Command to the then Chief of the Defence Force referring to an agreement that was negotiated for the conflict in Afghanistan.

Senator Robert Ray—It could have been worse; it could have been El Alamein.

Senator FAULKNER—Knowing this mob, they would probably fall back on that. The minister was unable to say—he did not know. No-one in Defence could tell him or the Senate or anybody else how that two-year-old agreement came to be relevant to the conflict in Iraq. The minister did not have a clue and today in this so-called explanatory statement that he has made to the Senate he does not even address that issue. All the promises made at the estimates committee to come back and address this important issue in a statement to be made this week in the Senate have not been honoured by the minister. It is incredible after the total incapacity of the minister and Defence officials at the estimates hearings to explain the legal underpinning for the arrangements relating to the 120 Iraqis captured by Australian forces

that no explanation on this important issue has been offered by the minister in his statement today. He promised to do it two weeks ago; he still has not done it. You have to ask yourself, again, why? What is the reason?

As for the government's accountability responsibilities, it has shirked those responsibilities absolutely. In fact, it has rendered the concept of ministerial responsibility virtually meaningless. As I have said, on 1 June General Cosgrove and Mr Smith dutifully took full responsibility for having provided incorrect advice to the government and the public. But taking full responsibility apparently meant nothing more than mouthing the words because neither General Cosgrove nor Mr Smith—nor the minister today—has offered any explanation at all as to why, knowing their evidence was incorrect, they waited until Tuesday afternoon 1 June before correcting the record. We know that the errors in their evidence came to light over the weekend of 29 and 30 May. Why did they wait until Tuesday afternoon to set the record straight? Why did Mr Smith tell the Senate estimates committee on Monday, 31 May:

... we know that no Defence personnel were aware of the allegations of abuse or serious mistreatment before the public reports in January.

Why did he say that when he must have known it was untrue? Why did he say the October Red Cross reports were only 'about things like prison conditions and so on' when he must have known that they were not? Why did Mr Carmody fail to acknowledge, when asked whether the October report described serious abuses, that he knew that to be the case? Were these senior Defence officials hoping we would not pursue these issues and that they may not have to correct the record? Why else would they have sat there in estimates biting their tongues about these important issues for a day and half before putting all the facts on record? We are at least entitled to an explanation from the min-

ister of what on the face of it appears to be—and I am happy to say here that I think it is a fair description—a contempt of the parliament. Yet Senator Hill, illustrating the same culture he presides over in Defence, has simply ignored yet another serious issue. There is no mention of any of this, of course, in the explanation he has made to the Senate today.

The Prime Minister, as I have said, has adopted a trenchant 'don't blame me' approach—'It's all Defence's fault'. After all, he is just the Prime Minister, as Senator Hill is just the defence minister. Senator Hill, according to Mr Howard's code of ministerial conduct, is 'ultimately accountable for the overall operation of his portfolio'—the minister who bravely asserted when he was asked when the government became aware of the prison abuse:

I accept the responsibilities that flow from that.

How has he discharged his accountability obligations? By doing nothing more than presenting a couple of half-baked excuses to the Senate weeks too late. He has not even bothered to front up and make a proper ministerial statement to the Senate. He has avoided this by simply providing additional information to answers to questions—in fact, to a question I think asked some five weeks ago in the Senate.

Senator Robert Ray—But the Prime Minister said he was supposed to have a statement!

Senator FAULKNER—Yes. Surely the most reasonable person would accept that that is simply not good enough, Senator Hill—nowhere near good enough, even for a minister in the Howard government! If ministerial responsibility means anything anymore, Senator Hill, you should offer your resignation. Of course, ignorance of matters such as these does not absolve ministers from responsibility. I think it compounds Senator Hill's responsibility. We know a bit

more about Senator Hill because I was able to read a very interesting article in the *Canberra Times* written by Jack Waterford, an astute observer. On 6 June he described Senator Hill as:

... a paranoid and suspicious minister ... who distrusts all of his advisers ... a compulsive micro-manager ... who wants to know everything.

I do not know how you work that out. He wants to know everything?

Senator Robert Ray—Talk about stating the bleeding obvious!

Senator FAULKNER—Yes. Senator Hill has had almost three years now at the helm of the Department of Defence. If he has been kept in the dark then he has to accept responsibility for having created, or failed to correct, the circumstances and the environment that have kept him in the dark. That is the nub of it. There are uncanny parallels here between the government's handling of the prison abuse scandal and the 'children overboard' affair: the same obstinate refusal on the part of the Prime Minister and other ministers to seek out the truth, the same reluctance on the part of senior officials and advisers to pass on unwelcome or inconvenient advice to their political masters, and the same Nixonian culture of plausible deniability.

Then, in the 'children overboard' fiasco, as now, neither the Prime Minister nor the Minister for Defence accepted any responsibility. Then, as now, the government made Defence the scapegoat. Then, as now, the Chief of the Defence Force and the Secretary of the Department of Defence set up a task force. Back then it was to examine 'the range of internal and external communication issues flowing from the incident'. I would like to remind the Senate what happened in the aftermath of the 'children overboard' scandal. Following the report of that task force,

Senator Hill boastfully issued a press release on 22 October 2002 claiming that it was:

... confusion surrounding the SIEV4 incident—that is, the 'children overboard' incident—that led to inaccurate information being given to the Government.

Not to worry—don't worry at all—he had instructed Defence to:

... move quickly to ... ensure there is no repeat of the communication problems experienced ...

That is what he said. There was to be no repeat. He was going to fix it all. Good old Senator Hill! He had claimed to have already ensured:

... a clearer understanding of the incident reporting requirements through the chain of command in the passing of such information to the Minister's office.

I bet you regret saying that. You also said, boastfully and pompously:

Ministers and decision makers within Defence must be confident that the information they are acting on is delivered in a timely and accurate manner.

And even more bombastic:

I also accept there is a responsibility to ensure there are clear lines of communication between the Minister's office and Defence.

That is right, of course—this is your responsibility, Senator Hill, absolutely your responsibility, and you have failed to deliver on it. If the Prime Minister wants us to believe the government is serious about respect for the Geneva conventions, if he wants the Australian people to have confidence in the leadership of our defence forces and our defence department, if the Prime Minister is to demand the most minimal standards of competence from his ministers and a senior minister like the Minister for Defence, if he is to attach any meaning at all to the doctrine of ministerial responsibility, then the Prime Minister has no alternative but to sack Senator Hill.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.30 p.m.)—by leave—I move:

That the Senate take note of the statement.

I would start by noting that the minister did not even have the courage to formalise his additional explanation as a ministerial statement but seemed to want to do it in a half-hearted manner—a half explanation, half tabling. Despite whatever half mechanisms and half approaches the minister wants to take, the bottom line is that the lies and the dishonesty continue.

The fact is that this government has cut and run from its responsibilities and its obligations as an occupying power and as one of the few nations on this planet that preemptively invaded Iraq against international law. As Senator Faulkner quite rightly pointed out, no-one, and certainly not the Democrats, has alleged that the ADF was involved in the prisoner abuse or is at fault for the prisoner abuse. It is not only false and another deception to allege that that is the case; it is grossly insulting. The implication of the minister's statement that the men and women of the ADF have our government's full support is that the ADF do not have the full support of the opposition or the Democrats. That is also dishonest and false.

Indeed, the Senate has been very careful and, I would suggest, very responsible to state repeatedly, overtly and clearly that, despite all our disagreement with this government's actions, policies and deception, we still support our troops. I believe that should be noted, because in an issue as emotional, as crucial and as important as this it would be very easy for those who are concerned about the government's approach to involve our troops in some way. The Democrats and certainly everybody in the Senate have been very careful not to involve our troops in this political debate. It is very important to em-

phasise that. That is why I am particularly offended by the continual implication and sometimes blatant and misleading statements by this government that they are the only ones that support the ADF or that these are allegations against defence personnel.

Indeed, I would say that, more than anybody else, the people who deserve the truth and deserve a straight explanation from this government are the defence forces themselves. I believe that the Senate owes it to the men and women of the Australian Defence Force, more than anybody else, to clear up this matter. It is their reputation that is being besmirched. When this government continually suggests that the Geneva convention is an optional extra that does not necessarily apply, it is actually slurring the men and women of our defence forces, because I have no doubt that they are well and truly aware and committed to enforcing and upholding the Geneva convention.

As part of the small number of countries that, regrettably, were part of the invading force, we have an obligation to ensure that the Geneva convention is upheld not just by our own troops but by everybody involved in the coalition that we are a part of. That is why the government's dodgy legal fictions that they are using to avoid responsibility do not hold any water. The fact is that we are part of that coalition—everybody on the planet knows that—and therefore we are jointly responsible for ensuring that all the coalition forces uphold their responsibilities under the Geneva convention and other areas of international law. Just because we broke international law in being part of that invasion—certainly that is the Democrat view, even if it is not the government's—does not mean that we can ignore international law from then on.

Indeed, that is one of the reasons why the Democrats have differed from some others

who opposed the invasion, by saying that our troops should stay in there and that we should not withdraw them straightaway, as has been called for by some in the community and some parties in this place. We have recognised that, even though we opposed the war, once we were involved in it and were part of the invasion, we had a moral and a legal obligation to stay there and ensure a transition occurred to a local governing authority to assist with rebuilding security. That is clearly a moral obligation, I would suggest, but it is certainly a legal obligation under international law.

The same applies with something as crucial and central as the Geneva convention. It is not an optional extra. It is not something that we can make passing note to, with the government and the minister continuing to suggest that we do not actually have to legally follow that or stating that we do but we are not obliged to. That is not the case. We are obliged to and we are also obliged to ensure that our coalition colleagues stick to it. Even if you want to go outside the international law argument, surely commonsense suggests that, if we are fighting a battle against terror—a battle against oppression and injustice, as the Prime Minister likes to repeatedly puff up his chest and say—the strongest weapon in that battle is to uphold our own standards of justice and the rule of law. If we allow ourselves to ignore fundamental laws like the Geneva convention, we are simply asking for it. We cannot credibly criticise, complain or seek to persuade others to follow that approach if we do not do so ourselves. That is why this is so important.

I stated that we owe it to defence personnel more than anyone else to clear up this matter, and that is why the minister and the government have failed so dramatically again. Even this morning, Mr Howard said at 9 o'clock, according to AAP, that Major O'Kane, who obviously knows more about

this issue than any other Australian, will still not be allowed to give evidence to a Senate committee. The Prime Minister said:

... it is not normal in Senate inquiries for somebody in that position to be interviewed.

That is wrong. I am sorry, but it is certainly a practice—

Senator Ferguson—It's not an inquiry; it's estimates.

Senator BARTLETT—It is also a practice in estimates, where personnel come before the committee to answer specific questions. There have been repeated examples of committees requesting certain people who are likely to know the most about a particular area of inquiry to appear. If the government's argument is that it wants us to set up a specific reference on this matter, then it will complain about us wasting the time of the Senate. The opportunity is there, the precedent is there and the Prime Minister is simply wrong in saying that is not normal practice. Frankly, with the greatest of respect, I very much doubt that the Prime Minister has much idea at all about what happens in Senate inquiries. I suspect he has never attended one. I very much doubt that he knows much about Senate procedure, Senate precedent and Senate practice. In one sense, why should he? I do not know much about the House of Representatives procedures and practice. But he is once again being inaccurate with the Australian people.

The simple question is: why not let this guy speak? What is it that the government are trying to hide? They are simply providing the information they want to let out and nothing else. Again, the minister has the gall to complain about 'this atmosphere of suspicion' being generated by the questions that are asked, as though it is a crime to ask questions. Seeking information to reveal the truth is blamed as generating an atmosphere of suspicion. What generates the atmosphere of

suspicion is the government's longstanding record of being loose with the truth, of covering up the facts and, most distressingly of all from my point of view, of failing to correct the record. All of us make mistakes; all of us occasionally say things that we later discover are wrong; but the key, simple, fundamental principle when that happens is that you correct the record at the first available opportunity.

Even with the example that preceded this statement, the record was not corrected at the first available opportunity. The record was not corrected for two days after the mistake was said to have been discovered. It was corrected just before the Prime Minister was about to jet out of the country. It was corrected after a day and a half of questioning at estimates rather than at the start of it. The Prime Minister allowed it to happen just before he was about to jet out of the country and left the Defence Force behind to be the scapegoat. It is clearly another example of not correcting the record at the first available opportunity.

There are many who say that you can tell when things are getting bad with a particular government when it starts to adopt a rule that lying is only a problem if you get caught trying to cover it up. I suggest that this government has gone even further than that and that even that unacceptable tenet has been turned on its head. It is running an administration that consistently tries to cover its tracks with misinformation rather than admit to misleading. It consistently tries to cover its tracks with the sort of dishonest abuse that Minister Hill, and even more so Minister Downer, uses. Anybody who raises a concern is criticised as being unpatriotic, as not supporting our troops or as supporting Saddam Hussein. It happens time and time again. Frankly, I am absolutely sick of seeing Minister Downer every time I turn on the television implying that anyone who does not sup-

port the war in Iraq, anybody who is criticising the government's policy, does not support our troops and is somehow supportive of Saddam Hussein. That is the sort of shallow but very offensive level of debate that this government has sunk to because it is trying to divert attention from its own clear failings, its litany of dishonesty and the misleading statements that it has made.

This is another example. After weeks of denying any knowledge about the mistreatment of Iraqi prisoners prior to January, we have now seen some statements where the government have been forced to admit that was wrong. But they have tried to point the finger of blame everywhere else. As I said, the mistake was not corrected at the first available opportunity. It is part of that record of, instead of admitting to the deceit, continuing along a path of further evasion, further red herrings and, in this case, seeking to blame failings within the Australian military and the Department of Defence.

The Prime Minister has tried to protect himself from criticism by denying any fault along the lines, as many people have pointed out, of the tried and true path of the 'children overboard' affair of simply saying, 'I wasn't told.' But we all know that the message is out loud and clear now throughout the Public Service and the defence and intelligence communities: do not pass on something that you know people do not want to hear. The clear example behind the whole Commissioner Keelty episode was not specifically to pull him into line but to send the message loud and clear to every other public servant not to step out of line in any way, shape or form.

There were the false weapons of mass destruction allegations against Iraq and the deception that was given to the Australian parliament and the Australian people was that Saddam Hussein was attempting to purchase

uranium. The Howard government's attempt to deflect all responsibility for its deceptions onto the defence department and the military is a deliberate attempt to cover up. At the same time we have the government claiming that it only first learnt of Public Service intelligence and we have military officials as scapegoats.

For the past few weeks the government has claimed to have provided information to parliament and the public based on briefings it received from the Department of Defence. What would have happened if we did not have the Senate estimates committees? It is a clear example once again of the immense value of the Senate committee process. If we did not have the Senate empowered to reveal the truth, then these facts would not have come out and the deceit would have continued. It has only been through the presence, the activity and the independence of the Senate that the truth has been able to come out, but there is clearly more that needs to be revealed.

In March 2003 a joint agreement signed by Australian, British and American military leaders conferred obligations on Australia under international law to ensure the welfare of Iraqi prisoners and detainees. This agreement stated that all captured Iraqis must be treated in accordance with the Geneva convention. Australia was also obliged to appoint liaison officers to monitor the treatment of prisoners that Australian troops had handed over to the US forces. In a further litany of evasion, the Prime Minister has denied any responsibility for ensuring the proper treatment of these prisoners by stating that he believed the government had discharged all of its moral responsibilities. The government has confirmed it was not interested in finding out the full story about evidence of abuse of Iraqi prisoners of war.

At the Senate estimates hearings the week before last, Minister Hill was asked about whether they had followed up reports of female Iraqi prisoners being raped and tortured and was told that a US secret inquiry had confirmed the abuse. These were public allegations that were made repeatedly in a number of media outlets. Did the minister make any effort when those allegations became public to find out whether they were true, to determine the accuracy of them? Not at all; he did not. We had another red herring continually put up by the minister at estimates that by asking these questions we were trying to subvert the US justice process. Again, nobody is trying to get the Australian government to run a parallel trial. What we are trying to do is ensure that the Australian government finds out what has happened because we have a responsibility to ensure that people are treated properly, to find out if they are not and to ensure that, if that does happen, justice is done—that that is identified, the guilty are punished and it does not happen again. Unless you find out what has happened, you cannot know whether or not that has been done properly.

It is a pretty straightforward issue and a pretty straightforward fact, but it seems to be something that, even now, the government does not seem to be able to comprehend—this simple fact that if you do not try to find out what is going on you have no way of credibly being able to state that all is above board. That is why this government is able to go around repeatedly and confidently asserting that everything is being done appropriately and according to proper procedure and according to law. Because they do not try to find out and make sure that that is the case, they are not going to know if it is wrong. That is simply not good enough and it is, in effect, dishonest—but it is characteristic of the government's conduct during the entire course of the lead-up to, and then the inva-

sion and occupation of, Iraq. This is not just a debate about semantics. This is an issue that has involved the killing or wounding of tens of thousands of Iraqis and the destruction of their homes, property, schools and infrastructure, which is not mere collateral damage. Of course, all we get again are inferences from government backbenchers that, somehow or other, by pointing this out we are supporting Saddam Hussein.

Senator Sandy Macdonald—Well, you are.

Senator BARTLETT—There we have it again: another one saying that we are supporting Saddam Hussein. That is the level of debate. By pointing out the human cost of this, by pointing out the dishonesty of the government's approach, somehow or other you are an apologist for Saddam Hussein. That is as good as the government can come up with.

Senator Brown—Mr Acting Deputy President, I raise a point of order. There are serial interjections coming from the government and some of them are very low quality indeed. I ask that that stop so that the rest of the chamber can hear the speech being made.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—That is not a point of order. I will determine whether the level of interjection is contrary to what we normally accept.

Senator Brown—It is a point of order.

The ACTING DEPUTY PRESIDENT—I will determine whether the level is contrary to what we have accepted in the past, and it has not reach that stage yet, Senator Brown.

Senator BARTLETT—It is because of the concern and total condemnation that the Democrats and, I am sure, all in the chamber have for the human rights abuses conducted by Saddam Hussein that any form of abuse, however less severe, should also be identi-

fied and condemned. You do not want to run the risk in fighting an evil to in any way concede ground to that evil. The fact is that we went to war based on a false premise given by this government that they then changed after the fact. The facts speak for themselves. The record is there clearly in the *Hansard* of repeated statements in the parliament that then changed and of the shifting of gears from the excuse, beforehand, of weapons of mass destruction to, after the fact, talking about regime change. That is clear to all. The bottom line with this issue is not about whether you are for or against the war; the bottom line is honesty with the Australian people and standing up for the reputation of our defence personnel, who would in no way have truck with this suggestion that we do not stand for upholding international law and ensuring that our coalition colleagues and anybody we engage in joint operations with should also be required to uphold international law. That is something Australia has had a proud record of in the past, and the Democrats will continue to push at every opportunity to have our country return to upholding international law. (*Time expired*)

Senator FERGUSON (South Australia) (4.51 p.m.)—I must say that, having heard 20 minutes of Senator Bartlett on his motion, I am not surprised the Democrats are polling one per cent; I am actually amazed it is that high, but that is not really what I am here to talk about. Mr Acting Deputy President, you may remember that, when Senator Faulkner rose to speak in response to Senator Hill's statement, he took great exception to the fact that Senator Hill mentioned at the end of his contribution that the troops have our government's full support and they deserve better than smear tactics and claims of cover-ups by the opposition. Senator Faulkner took extreme umbrage at that statement and said that Senator Hill was setting up a straw man. There is only one person that has set up a

straw man today and that is Senator Faulkner himself in his little acting performance. When Senator Faulkner raises his voice and talks to the gallery, you know darn well he is on very thin ground because the louder he speaks the less sure he is of the ground that he is standing on. If he wants to talk about cover-ups, he need only look at his own contribution at Senate estimates when he said 'if it was not for this committee you would have covered the whole thing up' and later on when he talked about 'a culture of cover-up'. You cannot allege a cover-up without insinuating that there has been some improper or inappropriate or illegal activity that has been covered up—and I strongly deny that there has been any cover-up at all by either our armed forces or this government. There has been no cover-up at all. He then went on to quote Jack Waterford from the *Canberra Times*. If you are going to quote from newspapers, I suggest that you use an editorial from one that I think is a little bit more reputable. This is what the *Australian* said in their editorial on 9 June, last Wednesday, about the complicity of prisoner abuse in Abu Ghraib prison:

But there still has not been a shred of evidence to suggest Australians were involved in the abuses or in an attempt to cover those up. In the absence of such evidence, innuendo—

the innuendo raised at the estimates committee—

has been liberally applied to create the impression, first, that Australian soldiers witnessed the abuse and, second, that the abuse was morally equivalent to the atrocities of Saddam Hussein.

That is what I call a balanced observation by an editorial as to what has taken place over the past two weeks. Innuendo 'has been liberally applied' to create impressions which in fact do smear our defence forces. That has taken place at the estimates committee, in prior questioning and in taking note of answers in this place over a period of time. I

will go further down that editorial to where it says:

If there is something wrong with Australian officers not making a bigger song and dance about general reports of abuse at Abu Ghraib in the closing months of 2003, there is nothing less wrong with the media ignoring the story between January and April.

If the story was around, why did the media ignore it for all those months? It continues:

Like the Australian officers, journalists across the world had no idea of the scale of the abuses until the report by US General Antonio Taguba, and the photos accompanying it, leaked at the end of April.

... ..

Australia bears no responsibility for the crimes at Abu Ghraib, and those crimes bear no comparison with Saddam Hussein's 25-year campaign of torture and mass murder.

Some of our colleagues opposite would do well to remember those things when they start trying to make much more out of this than has been the case. This government is serious about the Geneva convention, and always has been. The US government and the US Army are serious about the Geneva convention because of the rules of engagement, which Senator Brown wanted to show all around estimates when we had them some two weeks ago. But there were two particular overriding rules of engagement that he refused to mention. One of those said that at all times the Geneva convention must be put in place and the rules of the Geneva convention must be observed. The second was that at no time should prisoners be handled by any member of the armed forces. I can tell you that they are the overriding rules of engagement, not the things that Senator Brown picked out and to which Senator Hill alluded today when he said there was no reference to prisoners being dragged, there was no reference to the hooding of prisoners and there was no reference to all of those things which

were highlighted in estimates as to the treatment of prisoners.

The people involved in abusing those prisoners were committing a crime, and for that crime they are being put to trial and some have already been punished for committing a crime. We do not support what happened in that jail in any way or shape or form. In no way do we condone any of the activities that took place that were outside of the Geneva convention. To try to suggest through innuendo that somehow Senator Hill or the defence forces were in any way responsible for the abuses that took place is what I would say is Senator Faulkner setting up his straw man.

We all know that the Labor Party did not want any of our troops in Iraq. Who will ever forget the send-off that those troops got from the then Leader of the Opposition, Simon Crean, last year? Who will ever forget his weasel words that day that he sent them off when he said, 'We don't think you should be going but we wish you well.' As a matter of fact, he said things even stronger than that, and I think that they were very bleak words which at that stage denigrated the Australian contribution both overtly and covertly. There is no doubt that since that time the Labor Party have been looking to make up some ground, and they saw this prisoner abuse, this illegal activity—the alleged crimes and in some cases proven crimes by some members of the American armed forces—that took place in Abu Ghraib prison as their opportunity to try to reclaim some lost ground. No doubt Senator Brown, in his contribution, will go on and on about it as well. Senator Bartlett went far and wide in trying to draw all of these things together as though the Australians involved were in some way complicit in what happened there, and it just simply is not true because we have said right from the start that we abide by the Geneva

convention and do not condone any of the activities that took place there.

There is no doubt that the Minister for Defence and the Prime Minister were given inaccurate information, prior to their making statements, both from the Defence Force and from the department. There is no doubt that they were given inaccurate advice, and therefore their statements were made based on what they presumed was sound advice. They had no way whatsoever of knowing that the advice was not correct, so the Prime Minister used that advice when he made his statement. I thought it was a pretty cheap shot of Senator Bartlett's to say that the Prime Minister made his statement and then jumped on a plane to go overseas, when in fact it was something that had been planned months ago. You cannot get a much cheaper shot than that, because he stayed behind to make the statement to make sure that he said something before he actually left. So we have the situation where the Prime Minister and the Minister for Defence made the statements based on the best advice that was available to them. When Senator Faulkner was responding to Senator Hill, he used the phrase 'coalition detainees'. These prisoners are not coalition detainees. The detaining authority in Iraq is the United States.

Senator Chris Evans—Who says that?

Senator FERGUSON—Senator Evans would have heard at the end of estimates—I believe he was there—a lawyer from the armed forces say that the detaining authority is the occupying force that processes the prisoners. I think, Senator Evans, that you may have been there when he said that. So they are not coalition detainees; they are detained by the United States. I do not know what Senator Faulkner thought we should do with the 120 we got—set up our own prison over there? We would then have to keep forces there a bit longer to make sure that we

kept them there, and they would not be able to come home by Christmas—unless, of course, they brought the prisoners back to Australia with them. Senator Faulkner said that we failed to take our accountability seriously because of these 120 troops that the Australian forces detained and then handed over to the United States as the detaining authority.

I can tell you, Mr Acting Deputy President, that this government is serious when it announces its intention to make sure that everything we do as a government, everything that our defence forces do, will be done in accordance with the Geneva convention. And if anyone suggests, either by innuendo or by any other means, that any Australian was complicit in any of the activities that took place at Abu Ghraib prison or in relation to any of the abuse of prisoners, then I am afraid they have a long way to go to try to convince the Australian public that this government does not support the Geneva convention.

One of the issues that was raised was the Red Cross reports. It does disturb me that Red Cross reports become public, because the Red Cross do not want them to become public. The fact that those reports are never published means that the Red Cross have the opportunity to get into prisons and into places they would not otherwise be able to get into because of the powers or authorities that exist within some countries. The Red Cross do not want these reports made public and yet we have seen efforts here to have all the reports of the Red Cross brought into the public arena. In some countries in the world where there is conflict, where there are dictatorships and where we know that conditions are not what they should be, it may be more difficult for the Red Cross to get in to inspect those places if their reports were to be made public. The authorities simply would not let them in. They let them in because they know

the Red Cross's reports are meant to remain private. So that disturbed me.

The thing that we do know about the initial Red Cross reports is that they were concerned most of all with the conditions in the prisons, with the lack of access by families, and with overcrowding and all those other matters that were brought to the Red Cross. There was no evidence whatsoever about abuse by the forces there.

As a member of this parliament, I am very pleased that in Iraq at present there is an attempt to form a democratic government. Unfortunately, issues like this overshadow all the good work that is being done in that country at present. We never hear about the enormous advances being made in communities, in small villages, and how lives there have changed. It is a pity that we do not have more of the world's media and journalists going out and talking to those people who are so pleased because at last they feel as though they can act in some freedom and their quality of life has improved. Instead of that, the only things that the journalists of this world seem interested in are car bombings and the activities of terrorists, who are not the normal Iraqi people going about their everyday lives. The Australian Iraqi Forum has said:

We in the Australian Iraqi Forum believe that one of the saddest things about the Iraq war and its aftermath is the way it has been and continues to be debated by critics. If we fail in Iraq, we are all going to pay a huge price. The critics of the war would have played a role in derailing Iraq's path to democracy and destroyed any hope of its rebuilding. Obviously the latest revelations of abuse and torture at Abu Ghraib prison and the heinous crimes of dragging corpses in Falluja and the beheading of Nicholas Berg have added fuel to the critics' arguments.

These issues have been trawled through in estimates, we now have a statement on them and we are having estimates again tomorrow,

where I guess the same issues will be raised again. It does not help in the rebuilding of Iraq and in Iraq becoming a functioning democracy without the violence that we currently see. All the debate that continues all around the world about matters that are outside Iraqi control does nothing for that country in its march towards freedom, some sort of economic stability and some sort of stability within all areas of the whole country.

I am rather sad today to hear Senator Faulkner's contribution, because I believe that Senator Faulkner was concerned only in making a political statement to suit those people in the gallery who like to see him perform in this way. He was seeking only to extract the maximum amount of political advantage out of what is a very serious situation, and that is the abuse of prisoners anywhere. We on this side of the parliament deplore the abuse of prisoners. We support and acknowledge that this Australian government and our Australian defence forces will always abide by the Geneva convention. As has been the case with the United States Army, whenever anybody is seen not to abide by the Geneva convention, they have committed a crime against mankind and will be brought to trial—and that is happening.

The people they are dealing with are criminals. They might be part of the armed forces, but in a force of in excess of 200,000 people who have been there over a period of time there are bound to be one or two people whose standards are not the same as everybody else's. As long as those people are found out, as long as they are tried and as long as they are punished for the crimes they commit against humanity, justice has been served. It serves no purpose to drag out in this parliament debate as to why; who knew what, where or when; whether or not the government or the minister knew something before a certain date, which seems to be the biggest problem that Senator Evans and

Senator Faulkner have; exactly when they knew; and why, if they knew, they did not tell everybody, when in fact they have said they did not know and have set out explicitly in this statement when information became available to them.

I commend Senator Hill's statement to the parliament. I am quite sure that anybody who looks at this from a balanced point of view will realise that there is no fault on the part of the Australian government for what happened in Iraq—no fault whatsoever—and that we have done everything we possibly can to make sure that we have fulfilled our obligations to the international community, to the Geneva convention and, importantly, to our armed forces. I commend Minister Hill's statement to the parliament today.

Senator CHRIS EVANS (Western Australia) (5.08 p.m.)—I also rise to speak in this debate taking note of the statement by the Minister for Defence. Actually, it was not a statement; he refused to make a ministerial statement. Apparently he claimed it was a supplementary answer to questions we asked him three or four weeks ago. He undertook to provide with his statement to the parliament answers to the 60-odd questions taken on notice by Defence, but, certainly at the time of my rising to speak, those have not been provided. That is another commitment the minister made that has not been honoured. Those detailed answers which would have fleshed out his report are not available to us.

What is clear is that Senator Hill's statement to the parliament today does not deliver on the commitment the Prime Minister made to the Australian people to explain what went wrong over Australia's knowledge of, and involvement in, abuse of Iraqi prisoners. The Prime Minister went out and had a press conference and apologised for misleading the Australian people. I accept that he was angry.

He made it clear that he felt he had been misled and let down and that he was very concerned about those issues. We expected the minister to come into the parliament yesterday and make a full explanation of what had gone wrong, why the Australian people had been misled month after month and why our knowledge of these matters and our peripheral involvement in them had not been made clear at the time—why what the Prime Minister told the Australian people was misleading and wrong.

That did not happen. Senator Hill did not do that today. Instead he came in and attempted to whitewash this whole process. He gave us what we already knew. He gave us a report which confirmed the facts which emerged under questioning at the estimates hearings in early June. What he did not do was take any responsibility for having misled the people of Australia and the parliament. He did not provide any explanation for it. He did not answer any of the questions which the Prime Minister assured us he would. The Prime Minister's commitment to the parliament and the people of Australia has not been delivered on by the minister. His statement is a whitewash. It fails to answer any of the key questions. Quite frankly, our view is that Senator Hill has to accept responsibility now and resign his position.

He said in this parliament on 11 May that he would take responsibility. I ask you to flick through the document, read it and point out where Senator Hill takes responsibility. I have not had any success in finding any point where Senator Hill takes responsibility. He does not. He came in, and do you know what he did? He blamed Labor. On the first page he blamed me—this was all my fault because we asked difficult questions and somehow sought to slur the ADF—and on the last page he went back to blaming Labor. Responsibility, in the minister's view, lies with the Labor Party and the media for ask-

ing questions. Senator Ferguson's contribution confirmed that. He said that questioning, debate and accountability were issues that we should have nothing to do with in relation to these matters because it was not helpful to the situation in Iraq. That is not the Australian tradition, it is not the role of this parliament and it is certainly not Labor's attitude.

I want to make it very clear that the slurs delivered by the minister—the slurs that Mr Downer has been out there making for the last few weeks and that Minister Hill has supported today—are quite wrong. Labor has never made any accusation against the role of the Australian military. It has never made any accusation that our officers have acted with anything but professionalism and high standards. What it has questioned is our knowledge of, and involvement in, the concerns about the abuse of Iraqi prisoners; why that information was not related to government, as has been claimed; and why our government did not act to address the very serious concerns that we had knowledge of. People were being tortured and abused. We knew about it, and this government did nothing about it. We want to know why, because everything we have seen so far indicates that this government did not care. 'It's not our problem. Hear no evil, see no evil,' has been this government's response. We see that again today with the tenor of this report: 'It's not our problem. If anyone's to blame, it's the Labor Party and the media.'

The minister said he would take responsibility. Where did he take responsibility? What responsibility has he taken? He has taken none. He was quick to say that it was not General Cosgrove's fault, it was not Secretary Smith's fault and it was not the Prime Minister's fault. Now, it seems, it is not his fault. What is the minister responsible for? What is this government's view of ministerial responsibility if the Australian public can be misled month after month and the Austra-

lian parliament can be misled month after month and yet nobody is responsible? That is not acceptable but it seems to be the standard that the Howard government wants to apply. There is no responsibility in this statement. There is no explanation. All we have is the minister crawling into the last refuge of the scoundrel and trying to hide behind the ADF and pretend that somehow their reputations have been impugned.

Nothing of the sort has happened. We have had a debate about government process, about who knew what and when and about why we did not act to try and end the torture and abuse if we knew about it. That is the key issue. What we know now, and what the government has known for some time, is that Australian legal officers reported back those concerns. They reported back to government the fact that the ICRC had very serious concerns about abuse of Iraqi prisoners, they reported back on their involvement in inspections of Abu Ghraib prison, and they reported back the concerns about the mistreatment of those prisoners—and this government did nothing about it.

Their defence is that it was not brought to their attention. As we go through this it is clear that certainly in the early days that might have been true but it is not a defence that the minister can hold onto later in the period at stake. I will come to that in a minute because I think the minister is directly responsible. He has to accept responsibility and he should resign. Someone has to take responsibility for this fiasco and it seems that the government's attitude is that no-one will. I do not think the Australian public or the Australian parliament should or will accept that.

This report is a whitewash. It is devoid of new information. It takes no responsibility for what occurred and provides no explanation as to why this sorry state of affairs was

allowed to occur. It is very much a minimalist report—a report designed to confirm what we found out at estimates, what we dragged out of the government at estimates. It goes no further. It does not answer most of the key questions, and it is a complete failure in terms of meeting the Prime Minister's commitment to the Australian people to get to the bottom of this matter.

Senator Faulkner did an excellent job in responding to Senator Hill's speech, and I will not try to cover all the issues in the time available to me. I think what this most seriously shows is that Senator Hill has acted with a great deal of political cowardice. He has failed to take responsibility, either at the estimates process or today, for what has occurred. He must take responsibility. What I have seen today—when he slunk in here and tried to get away with not really making a report and not really answering any of the questions—is political cowardice at its worst. We saw it at the estimates process as he sat for a day and a half while officials refused to bring out the full truth. No-one came clean despite the minister and the Prime Minister being briefed earlier in the piece. Certainly the minister knew from the Sunday night that the public defence was in tatters: they knew what had occurred and they had been misleading the Australian public.

The minister knew but he sat there for a day and a half while officials continued to, in a sense, mislead us by failing to give us the whole story. As we dragged it out bit by bit, as the whole thing crumbled, the minister sat there. He did not take any responsibility; he largely did not participate. He sat there and let the department, the secretary and General Cosgrove be the fall guys. And when it got totally indefensible, when it became clear that the whole case had collapsed around them and that the thing was nothing more than a pretence, Senator Hill organised for

the secretary and the general to make a statement. At 12.30 on the second day, after a long first day, he made them go out and take the rap. He sat there while they took the rap because he would have known that half an hour later the Prime Minister was going to go out and dump on the department.

At 12.30 Secretary Smith asked for permission to make a statement where he accepted responsibility on behalf of himself and General Cosgrove. He was made to accept responsibility for the fact that the government's defence on this issue had collapsed. He gave an abject apology and accepted responsibility. The minister sat there and made no contribution. Again, it was nothing to do with him. That was a gross act of political cowardice—it was nothing to do with him when the department fessed up that what he had been saying for the last few months was completely wrong. Half an hour later, at one o'clock, the Prime Minister went out and dumped all over the minister's department. He dumped all over them, indicated his lack of confidence in them, claimed that they had misled him and expressed his deep disappointment. And again, Senator Hill sat mute: it was nothing to do with him. 'Hear no evil, see no evil.' He took no responsibility. Well, that is not good enough. He is a minister of the Crown; he is the Minister for Defence in this country; he has to take responsibility. To try and hide behind General Cosgrove or the Secretary, Mr Smith, is, as I said, an act of complete political cowardice. It does him no credit and he ought to face up to his responsibilities.

We now know from the record that he should have known—and that he did know from 11 May. What is critical in this whole debate is not the fact that it was such a bumbling, inept performance inside Defence in the early period, that the reports coming back from our legal officers were not acted upon, that the Iraqi task force—which was set up

with senior representatives from the PM's department, Foreign Affairs, Defence and Attorney-General's—failed to deal with any of this information. They knew, as in the 'children overboard' affair, that you were not supposed to pass on bad news and you were not supposed to deal with Australia's responsibilities seriously if it might embarrass the government's political agenda. It is not those things that most worry me, because those public servants were only responding to the culture and the modus operandi that they know is favoured by the government.

But we know that on 10 May the minister was briefed by Mr Carmody about the existence of the two sit reps from Colonel Muggleton. The minister knew when he came into the parliament on 11 May. The department had prepared him for the first day of parliament. This was in the atmosphere of the photos becoming known and the minister going on the *Lateline* program and pretending he had not known anything about it until he had seen the photos. In that atmosphere, preparing the minister for question time on the first day back of the parliament, they briefed him. They briefed him on 10 May and told him they had the sit reps from Colonel Muggleton. What do we know of those sit reps? We know that they referred to the ICRC report. They referred to the shock and anger about the ICRC's findings and the serious concern about the abuse of Iraqi prisoners. Senator Hill knew on 10 May. That is why, when he came into this parliament and we asked him questions on the matter, he said:

I am not going to split myself from the government. The government became aware of that report—

referring to Red Cross February report—

in February. I accept the responsibilities that flow from that.

He came into the parliament, basically conceded that he had misled the Australian public and accepted that he had to take responsibility—that Defence and the government had known in February. What has he done to accept that responsibility? Between 11 May and 1 June, when we found out about it at estimates by questioning the witnesses, what did he do? Nothing. He maintained the lie. He maintained the misleading of the Australian public. He did not seek to correct the record. He did not seek to change the Prime Minister's public utterances or to change the government's official responses on these issues.

But he was briefed on 10 May. He knew—and acknowledged in the parliament on 11 May—that they had information inside Defence that made it clear that the ICRC had found serious abuses at Abu Ghraib prison and that our legal officers had reported back to Defence in Canberra that this was a serious issue, which they were involved in and providing advice on, which had rocked the coalition administration inside Iraq. Paul Bremer was quoted as saying how shocked and disturbed he was about the allegations. From that day on, Minister Hill was responsible. He knew. He was briefed. Yet what did he do to correct the public record? What did he do to ensure that the Prime Minister did not continue to mislead the Australian public? He did nothing.

He admits that he was briefed on 10 May. We know his PPQ for 11 May reflected the fact that he had to own up that he had misled the public watching the *Lateline* program and that he knew of the ICRC report. What we know is that he sat there mute, he sat there quiet, while we questioned witnesses who tried to maintain that in fact they had not known. As we dragged out bits of information, piece by piece, we found out the story that is reflected in his statement today, which the department had access to from at

least May 10. The minister may be able to hide behind incompetence and the failure of systems in the department, but he cannot hide behind the fact that for 22 days he failed in his responsibilities: from 11 May to 1 June, when it finally all unravelled and collapsed around them, the minister did nothing to ensure that the record was corrected. He did nothing to ensure that Defence corrected the misrepresentation of the facts—knowing as he did that Defence had been advised of the concerns of the ICRC, had received reports from the legal officers and had had Australian Defence officials reporting on the serious concern about Abu Ghraib.

In my view the minister must take responsibility because he did not take his responsibilities seriously. For 22 days he allowed the Australian public to be misled. He failed the Prime Minister. He failed the Australian public. He failed the parliament. For him to come in today and fail to take any responsibility for that leaves him standing condemned. He has been not only inept but also a political coward. He let his departmental officials carry the can and make a grovelling apology because he did not have the courage to come clean with the Australian public. He did not have the courage to take the information he was briefed about on 10 May, to find the whole story and to correct the record. He has to accept responsibility for that.

The other thing I want to correct in the brief time available to me is the suggestion that is again in today's statement—a reversion to the original government defence—where Senator Hill said:

I would note, however, that the October working paper on the inspections of the Abu Ghraib prison does not contain evidence or allegations of the type of serious abuses which have subsequently come to light from the publication of the photos.

Wrong, wrong, wrong. Lie, lie, lie. It is quite clear that the allegations were of serious

abuse. I quote from the ICRC report of February, which the minister accepts the government had information on since February. It refers to their visit to the Abu Ghraib correctional facility in mid-October 2003. It says:

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

So this was not in the dark night when nobody was there; this was when the Red Cross were actually inspecting that they saw these terrible abuses. They go on:

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

This is in a report of the ICRC in October 2003. I do not know fully what is in the report, but the minister knows; he knows because he has got it, but we have not seen it publicly. For him to maintain again that somehow there is a real distinction between the sort of abuse that was occurring in October and the sort of abuse that was occurring in February is directly refuted by the ICRC's February report. Quite frankly, to revert to this low defence of trying to pretend that somehow the complaints in October were not serious does this government no credit at all. *(Time expired)*

Senator SANDY MACDONALD (*New South Wales*) (5.28 p.m.)—I also rise to speak in this debate taking note of the statement by the Minister for Defence. I follow Senator Evans and his valiant but failed effort to make Senator Hill and the government responsible for the abuses in Abu Ghraib. There are two particular elements in the minister's additional information in relation to the question he was asked on 11 May which I would like to pick up on. Firstly, there is the fact that neither the minister nor the government knew of the isolated and inappropriate treatment of prisoners in Abu Ghraib until after the US authorities had already commenced action against the participants—in fact, after the pictures were published. Secondly, to the extent that some information concerning Abu Ghraib—which is not a particularly pleasant place—was known within Defence, this was not passed to the minister. The minister has explained the process in his statement today.

This possible oversight is now used by those desperate to make Australia somehow responsible for this unacceptable treatment of Iraqi prisoners. This attempt is really humbug and it is politically vexatious. It is also used by those desperate to undermine our mission in Iraq. There is no evidence to suggest that Australians were involved in the abuses or, in fact, in any attempt to cover up. Every opportunity has been taken to suggest through innuendo and kite-flying that Australia is in some way responsible. We are not. We are not the occupying power and we are not the detaining authority. We did not have responsibility for the abuses that took place in Abu Ghraib. To suggest that these abuses were even witnessed by Australians is wrong and to suggest that these abuses were equivalent to the atrocities of the Saddam Hussein regime is again simply vexatious. Those who think that should go and ask the Kurds or the Iranians or the many tortured Iraqis who

were strung up by piano wire during the Saddam Hussein 25-year regime.

The events in Abu Ghraib have happened, unfortunately, and I think that we have to move on. In the broad, they are irrelevant to the overall task and ongoing commitment in Iraq at this time. Iraq's transition to democracy is something that is occurring now and will be one of the most significant global events in most of our lifetimes, certainly in the last decade. The changes that a democratic Iraq will bring to the Middle East and the impact it will have in the war against terror are potentially inspirational and will justify the removal of Saddam Hussein without doubt. Australia has played a part in this and will continue to do so under our coalition government. However difficult the task may be in the next months and years we do not propose to cut and run. That is not the Australian way whatever the temptations might be.

The present Leader of the Opposition's mantra that we are returning our troops to Australia for the defence of Australia is something out of a Ladybird history book. The defence of Australia is underpinned by our relationship with the United States. I am proud of that relationship and I think that most Australians are comfortable with it and comfortable that it has never been stronger than at this time.

The handover of authority to the sovereign Iraqi interim government on 30 June will be a key milestone in the transition towards a fully representative elected government in 2005. Iraq for first time has an identifiable leadership to take responsibility for the future of their country. This is their opportunity. They should recognise it. They have the support of the United Nations, which voted 17-nil to support the transfer to a sovereign power. They have the support of the Arab League. The Arab League is not a group

normally able to agree on much, but they agree that this is an opportunity for Iraq to take control of its own destiny. They have the best wishes of the European community, who are starting for first time to put their hand in their pocket to assist. They have the participation of 32 coalition partners prepared to help as part of the coalition reconstruction of Iraq.

In short, Australia is not responsible for the abuses that took place in Abu Ghraib. They are very regrettable. They are certainly not helpful for the future development of a democratic and reconstructed Iraq. But it is time to move on. These were isolated abuses that in no way undermine the reasons for removing Saddam Hussein. Australia will continue to support the transition of Iraq commencing with the handover of sovereign power on 30 June 2004. I commend Senator Hill's statement to the parliament and I commend the role that the ADF has played in the removal of Saddam Hussein. Now we move to the rebuilding of Iraq.

Senator BROWN (Tasmania) (5.35 p.m.)—I rise to speak on the motion to take note of Senator Hill's statement. The general in charge of the Abu Ghraib prison said that she was not informed of the breaches of the Geneva convention which were taking place in her prison. General Karpinski sent down no orders, so far as is known, that the Geneva convention should be upheld at all times. She was kept at arm's length, she maintains. The Australian Minister for Defence, Robert Hill, says that he was not informed of the abuses of the Geneva convention taking place in Iraq. We have established through the Senate committees that he did not send orders down the line that at all times Australian personnel would uphold the Geneva convention. He maintains that he was kept at arm's length from knowledge of the serious abuses taking place.

The difference here, besides the obvious ones of proximity and chain of command, is that General Karpinski has been removed from her command, effectively sacked in disgrace. Robert Hill, on the other hand, maintains his line and, without the authority of the Prime Minister being brought in to ensure that this chain of events which led to the Prime Minister misleading the parliament and the people of Australia would not go unchecked, has not removed Robert Hill from the Ministry for Defence. But Robert Hill should resign. He should be relieved of his post.

It is very easy for a minister in his position to say, 'I cannot bear responsibility for what I did not know about,' and he is too clever by half in the way in which he puts that case. I note that, to date, Senator Hill has not tabled the answers to the 60 questions from the Senate inquiry which he had in his hand two hours ago in this chamber. One can presume that, once again, the lateness of release of those answers is deliberately intended to deprive this chamber of the information in those replies which it should have at the moment and which should be part of the debate.

I want to move to Major O'Kane. Remember that this government determined that Major O'Kane, unlike his immediate superior, the colonel in the US armed forces who was brought before the US Senate committee, would not be brought before the Australian Senate committee. However, Senator Hill is speaking for Major O'Kane in today's response. He says in his statement that, subsequent to the estimates hearings, Major O'Kane has again been interviewed about the visit to Abu Ghraib which took place on 4 December last year and has 'confirmed that the Red Cross report was being taken seriously by coalition authorities'.

Who is telling the truth here? General Karpinski told her inquisitors that the Red Cross report was met with some hilarity or at least light-heartedly within the prison by the authorities. So we have conflicting reports here from General Karpinski, whom I choose to believe on this occasion, and Major O'Kane. It is very serious that this conflict be resolved, because there are all the hallmarks in the history that we have here that, indeed, the prison authorities whom Major O'Kane visited and responded to were not taking these serious abuse charges seriously. Secondly, according to Senator Hill, Major O'Kane has:

... also confirmed that he raised the contents of the report 'paragraph by paragraph' with the appropriate military officials and that the allegations were denied.

I ask: is this sufficient from a trained lawyer responding to Red Cross allegations which came from Red Cross visitations and what the Red Cross officials saw with their own eyes? Is it responsible or acceptable that Major O'Kane says, 'In rebuttal of that, I spoke to the military officials, and the Red Cross allegations'—these serious allegations of criminal abuse and breach of the Geneva convention—'were denied'? I think not, Major O'Kane. I do not believe it. And you should not have believed it either. Then Senator Hill says:

As part of his ongoing involvement with the Red Cross, Major O'Kane facilitated the next ICRC visit to Abu Ghraib in January of this year.

Did he really? Let us look at the *US News and World Report* of 7 June last headlined 'Up In The Cell Blocks—a Pentagon memo defines just who gets to see some inmates at Abu Ghraib and when', by Edward T. Pound. It states:

Details on the January Red Cross visit are contained in the memo written by Maj. George O'Kane, an Australian officer who worked for Colonel Warren at U.S. military headquarters in

Baghdad. O'Kane wrote that he briefed 'MP and military intelligence staff' based at Abu Ghraib on January 2. The purpose: 'to ensure a more coordinated visit by the ICRC.' Two days later, O'Kane wrote, he and Maj. Laura Potter, deputy commander of the 205th MI Brigade, briefed the Red Cross visitors. 'The purpose of the inspection briefing ... was to control the inspection for security purposes ...' He went on: 'It was briefed to the ICRC that their free access would be restricted in accordance' with the Geneva Conventions, 'but only to those security internees undergoing interrogations in Units 1A, 1B, and interrogation booths.'

After negotiations with the 205th MI Brigade, O'Kane said, the Red Cross was denied 'free access' only to the 'security internees' then being interrogated. The inspectors, he added, were given immediate access to prisoners in 1A and 1B.

Senator Hill, as I have just said, said that Major O'Kane facilitated the next ICRC visit to Abu Ghraib. On the evidence here, that is a deceit of the Senate. What in fact happened was that Major O'Kane became part of a conspiracy to block the Red Cross from its right under the Geneva convention to visit all prisoners at Abu Ghraib when it wanted to and without notice. He went to the prison on 2 January and forewarned the authorities that the Red Cross was seriously alarmed about abuse and was coming again and he had put them off until 4 January. On 4 January he ensured not only that the Red Cross would come to a prison that was warned to get its act in order but, moreover, that the Red Cross would not get access at all to that particular contained part of the prison where the worst abuses had occurred. That is a breach of the Geneva convention. How can Senator Hill come in here and say that Major O'Kane upheld the Geneva convention when he did not? At that time he became part of the problem.

Let me go to General Cosgrove. In the estimates hearings I asked questions of General

Cosgrove to ascertain whether it was the case that Australia from the Prime Minister down made sure, seeing we were going into an integrated war operation, that the Australians at the coalface, the Australians who were going to be in the serious position where there could be potential loss of life and limb for themselves or their opponents, would be reminded that they were to act according to Australian standards, which uphold the Geneva convention, no matter what the US or other combatants were doing. I asked General Cosgrove:

Maybe Senator Hill, if not you, General, can answer this question: are you in agreement with the guidelines of the United States, including the rules that I tabled earlier in the day?

These are the rules which allow under authority such things as dogs to be used in the interrogation of prisoners. General Cosgrove answered:

It is a hypothetical question for me to be either in agreement or in disagreement. I do not know the provenance of that. It is fairly cryptic. I do not know the circumstances in which it was meant to be applied. It looks like a PowerPoint slide to me. I would prefer to have a lot more detail before I would be prepared to agree, disagree or comment further. There was a comment about guard dogs and we left it at that.

I then asked General Cosgrove:

There is a problem though, isn't there, where a commanding general issues a cryptic document.

I am talking about the US commanding general issuing this document as the guideline for interrogation of prisoners in Abu Ghraib which, I might add, facilitated the abuse that we now know about. General Cosgrove replied:

There may have been amplification available but I am not aware of it, Senator.

I asked:

Can you find out?

General Cosgrove answered:

No, that is their document. That is a 'no foreign' document. I would not embarrass myself by asking the US to release to me what they plainly intend to keep as national information. It is like AUSTEO, in their terms.

Here we have General Cosgrove in charge of the Australian Defence Force determinedly saying that it is not his business to find out what interrogation laws were being applied by the Americans, with whom we went into combat and with whom we helped arrest a number of these prisoners who ended up in internment camps in Iraq—that is not our business. I maintain that it is our business—it is General Cosgrove's responsibility to know what the rules are when we are in an allied war zone interrogating prisoners. It is his absolute responsibility to insist that the Geneva conventions will be upheld and there is no case ever so important as when Australians are integrated into the US effort as Major George O'Kane was integrated into the inspection facility that took place at Abu Ghraib after the Red Cross complaint. I went on to ask:

Where we have Australian Defence Force personnel working with another country, be it the United States or any other country, how do you draw the line as far as the Australian personnel are concerned? Clearly, cases are going to arise where the defence force with which they are working is going to allow practices which would not be allowed by the Australian Defence Force.

General Cosgrove answered:

There may be cases. Each person is aware of the rules of engagement. They are also aware of their own legal requirements. Fundamentally, the Geneva convention and the other laws of armed conflict guide all of us when we are involved in operations whether we are operating solely within an Australian context or in a coalition context.

I then asked:

Is there concern within the Defence Force or do you have concerns about what has happened at Abu Ghraib?

General Cosgrove answered:

Absolutely. I think some of the reports from Abu Ghraib are horrendous.

I asked.

Do you not have a concern that some of those things may have occurred because they were sanctioned or at least they were not militated against by very clear authority coming down the line and saying, 'You must not allow this to happen'?

General Cosgrove answered:

I just refer you back to the minister. You have had that discussion with the minister. I would not seek to comment further on the exchange that you had with Minister Hill on that very same point.

There is General Cosgrove saying that the minister is ultimately the authority here. But I submit to you that both the minister and the general failed in their responsibility in this situation to ensure they passed down the line to Australians in Iraq at all levels that they must at all times abide by the Geneva conventions and, moreover, that if they saw those conventions being abused or had it brought to their attention that those conventions were being abused it would be reported back to the Australian command and to the ministry. What sort of that can be allowed?

I submit that you cannot go below that level of responsible practice yet here we have Major O'Kane himself, according to the *US News and World Report*, making it clear in a report made on the Red Cross complaints that he was not going to allow the Red Cross access to certain prisoners and that as far as the Red Cross visits were concerned they were going to be controlled for inspection and security purposes. I ask: where does controlling for inspection and security purposes not become cover-up? On the face of it, Major O'Kane's involvement is a very serious indictment of the failure of the chain of command to go down the line and insist that the Geneva conventions were upheld. If Major O'Kane, working as a legal officer, cannot understand and enforce to the

letter of the law the Geneva convention, where does that leave other soldiers defining without that training at the work face?

Minister Hill in his statement to the Senate today said:

I told the Senate on 11 May:

The abuses I saw in the media about a fortnight ago, I saw for the first time.

I stand by that statement.

What a clever concoction that is. That leaves me to conclude that he is using this to say: 'I did not see the abuse until it came on TV. Therefore, you must not accuse me of knowing about the abuses earlier on.' I submit that he did know. Remember that the minister went to Baghdad knowing that in June last year Amnesty International had held a press conference—

Senator Ferguson—Mr Acting Deputy President, I rise on a point of order. When Senator Brown contradicts a statement of Senator Hill's and says, 'I submit that Senator Hill did know,' that is tantamount to accusing him of lying and that is unparliamentary.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—I think it is a debating point, Senator Ferguson. Please continue, Senator Brown.

Senator BROWN—I will send the honourable member a set of the standing orders! What we have here is an attempt to defend the indefensible. The statement by Senator Hill is a clever device for trying to duck around the knowledge that he had or should have had about what was happening in Abu Ghraib. This is a very serious cover-up by the minister and a very serious failure in an integrated involvement with US forces in Iraq by the Australian authorities right from the Prime Minister down to ensure that Australian standards were upheld. A lesson has to come out of this: that never again can this

situation be allowed in this nation of ours. We are an independent nation, we have our own rules and we uphold the Geneva conventions, regardless of egregious breaches of those conventions by the United States. At all times those people in the defence forces who act in the service of this country deserve leadership which is going to make sure they are protected from infractions of the Geneva conventions by other nations. The Prime Minister, the minister and the defence leadership let our Defence Force personnel down in that regard. (*Time expired*)

Question agreed to.

Senator Brown—Mr Acting Deputy President, I rise on a point of order. The minister indicated that the answers to 60 questions put to the committee a couple of weeks ago were available. I submit that, as part of the debate we have just completed, they ought to have been tabled. Where are the answers to those questions and when is the government going to table them?

The ACTING DEPUTY PRESIDENT—There is no point of order, Senator Brown. It is entirely up to the government whether they table them or not.

COMMITTEES

Scrutiny of Bills Committee

Alert Digest

Senator CROSSIN (Northern Territory) (5.56 p.m.)—I present the seventh report of 2004 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills *Alert Digest* No. 7 of 2004, dated 16 June 2004.

Ordered that the report be printed.

Economics Legislation Committee

Additional Information

Senator FERRIS (South Australia) (5.57 p.m.)—On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present additional information

received by the committee on its inquiry into the provisions of the Tourism Australia Bill 2004.

Treaties Committee

Report

Senator KIRK (South Australia) (5.57 p.m.)—On behalf of the Joint Standing Committee on Treaties, I present the 60th report of the committee, entitled *Treaties tabled on 2 March 2004*, together with the *Hansard* record and minutes of proceedings and submissions received by the committee. I move:

That the Senate take note of the report.

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

Leave granted.

The statement read as follows—

Mr President, Report 60 contains the findings of the inquiry conducted by the Joint Standing Committee on Treaties into four proposed treaty actions tabled in the Parliament on 2 March 2004.

Mr President, the Committee considered and supports the Consular Agreement between Australia and Vietnam, as it will provide a practical and valuable framework for consular relations between the two countries.

The Committee also supports Australia's accession to the World Tourism Organization Statutes. The World Tourism Organization plays an important role in promoting the development and implementation of responsible and sustainable tourism practices. The Committee understands that Australia will receive a number of benefits from membership, such as increasing Australia's capacity to respond to global events that impact on tourism, and the generation of export revenue for Australia's tourism services sector.

Mr President, the Committee also supports the 2002 Amendments to the Constitution and Convention of the International Telecommunication Union. The ITU, amongst other things, provides an international framework for the operation of the communications industries. The 2002

Amendments will enhance procedures and flexibility of the ITU.

Mr President, the Committee also carefully considered Australia's proposed withdrawal from the Agreement Establishing the International Fund for Agricultural Development. IFAD is a small, specialised agency of the United Nations.

The Committee spoke with AUSAID, representatives of IFAD which is based in Rome and the local IFAD Support Groups.

The Committee carefully considered the options available to Australia including any impact on Australian individuals and businesses. AUSAID's concerns were that IFAD did very little work in the South Pacific, had poor donor relations and focussed on small projects with no comparative advantage. No Member of the Committee proposed that Australia contribute to IFAD6. The Committee adopted a recommendation that Australia withdraw from IFAD. However within the Committee there were a range of views on whether Australia should withdraw now, or until after the Independent External Evaluation or in 2007-2008 when our contribution is exhausted.

On behalf of the Committee I would like to thank the organisations, individuals and Government departments that participated in the Committee's inquiry—their contributions are greatly appreciated. I particularly would like to thank those individuals who travelled internationally and interstate to give evidence at the Committee's public hearings. I would also like to thank all Members of the Committee for their consideration of the proposed treaty actions.

I commend the report to the Senate.

Question agreed to.

ASIO, ASIS and DSD Committee

Reports

Senator FERGUSON (South Australia) (5.58 p.m.)—On behalf of the Parliamentary Joint Committee on ASIO, ASIS and DSD, I present the following reports of the committee: *Review of the listing of the Palestinian Islamic Jihad (PIJ)* and *Annual report of the committee's activities 2002-03*. I move:

That the Senate take note of the reports.

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

Leave granted.

The statement read as follows—

On 10 March 2004, the Parliament amended the sections of the Criminal Code relating to the listing of terrorist organisations. The amendments provided a role for the Parliamentary Joint Committee on ASIO, ASIS and DSD in reviewing each listing within a disallowance period of 15 sitting days of the making of the regulation. The intention of the review powers in the amendment was to give greater transparency to the process of the listing, to provide parliamentary oversight and so to allay fears that too much power was concentrated in the hands of the Minister as set out in the original Bill. The passage of this and related bills is illustrative of many of the issues relating to all security legislation—the tension between security and civil liberties and between executive and parliamentary and judicial power. The debate over the listing powers took place over a period of two years and the Bill went through three iterations. These are outlined in the report being tabled today.

While the Act provides for a review by the Committee, it does not specify the nature of the review. The Committee considered the possible approaches it might take very seriously. It looked at international comparisons, sought views from ASIO and the Attorney-General's Department, considered the other review mechanisms available and the intentions of the Parliament insofar as they can be gleaned from the debates over the Bill during its passage. It considered the consequences of any listing for individuals caught up in the banning of an organisation and the principles of natural justice that underpin any review mechanism.

The Committee decided that it would conduct a review on both the process and the merits of a listing.

The review would be conducted as much as possible within the framework of normal parliamentary committee processes, while noting that some evidence may be classified and would need to be dealt with accordingly. Listings will be advertised, submissions received and, where appropri-

ate, hearings held. The Committee has asked the Government to provide a comprehensive set of information on both the arguments for the specific listing and the procedures used to make the regulation as soon as possible. As the Committee notes in its report:

Given the severity of the penalties and the principles of natural justice, it seems prudent for the Committee to adopt a course of action that is as rigorous as possible. The Committee's obligation to report to the Parliament prior to the end of the disallowance period offers the only opportunity for an accused entity to test, through an independent reviewer, the validity of the listing on both the procedures and the merits. Beyond this period there can only be reviews on the basis of process. Moreover, since the Parliament is able to disallow a regulation, the Parliament should have the clearest and most comprehensive information upon which to make any decision on the matter. Where classified material is involved, the Parliament will rely heavily on the judgement of the Committee.

This report is the first review under the Act. There appeared to be no doubt that the organisation under review, the Palestinian Islamic Jihad, had committed numerous and deadly acts against civilians and fitted the definition of a terrorist organisation under the Act.

However, the Committee wished to make a number of comments on the listing.

The Committee noted that there was no connection between this organisation and Australia—no membership, no funding. While the Act does not specify that there should be an Australian linkage, it is the Committee's view that, in making a selection among the numerous organisations world wide that would fit the definition of a terrorist organisation, the Government should give weight to such a connection. The Minister has recognised that it is within his discretion to do so and has suggested that it is an important factor in his thinking.

In selecting an organisation for listing, a second factor that the Committee believes is important is whether the activities of the organisation extend beyond the particular dispute in which it is engaged, whether it constitutes an armed struggle based on local grievances and whether the solu-

tion to the underlying problem is best found in peace processes, rather an intervention on what might be perceived as one side of the dispute. The Committee would urge the Government to consider such factors in any future selections. In this respect, the Committee believes that consultation with the Department of Foreign Affairs should be an important part of the process.

On process, the Committee would like to see more comprehensive information presented to it on the procedures used by the agency and the department in the making of the regulation—the level, timing and nature of the consultations. This information should be presented to the Committee in the most timely fashion possible.

Given the serious consequences attached to listing, it should not be taken lightly. We should not waste the capital of anti-terrorist legislation.

I commend the report to the Senate.

Question agreed to.

Public Accounts and Audit Committee

Executive Minutes

Senator WATSON (Tasmania) (5.59 p.m.)—On behalf of the Joint Committee of Public Accounts and Audit, I present executive minutes to various reports of the committee. I seek leave to move a motion in relation to the document.

Leave granted.

Senator WATSON—I move:

That the Senate take note of the document.

The executive minutes remain an important accountability mechanism both to the committee and to the parliament. The committee noted the high level of government support for our recommendations, as indicated in these executive minutes. This is especially so as the committee has not shirked from hard-hitting recommendations if warranted by the evidence. Sometimes acceptance of such recommendations has incurred significant cost to the Commonwealth. The government has agreed to the new procedures to facilitate a speedy response to the committee's rec-

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

Leave granted.

The statement read as follows—

Mr President, on behalf of the Joint Committee of Public Accounts and Audit, I present Executive Minutes for four of the Committee's reports—namely, reports 390, 393, 394 and 396.

The first of these, Report Number 390, reviewed Auditor-General's reports for the first three quarters of 2001-2002.

This report examined four performance audits of the Auditor-General concerning:

- the administration of Taxation Rulings;
- Commonwealth Estate Property Sales;
- administration of the Federation Fund Program; and
- the management of security clearances.

I might add as an aside that the Committee has taken an ongoing interest in the management of security clearances by the Commonwealth including post report briefings and ongoing correspondence with the Attorney-General.

The second report, Number 393, was the review of Auditor-General's Reports for the fourth quarter of 2001-2002.

This report also examined four performance audits of the Auditor-General. The audits focused on:

- corporate governance in the ABC;
- research project management in CSIRO;
- the management framework for preventing unlawful entry into Australian territory; and finally
- the management of the DASFLEET Sale and Tied Contract.

The third JCPAA report, Number 394, reviewed Australia's Quarantine Function.

This report mainly reviewed three broad areas:

- the parameters within which Australia must operate as a member of the World Trade Organisation;

- Australia's quarantine operations at the borders and quarantine preparedness generally; and finally
- quarantine public education programs.

The fourth JCPAA report, Number 396, reviewed Auditor-General's Reports for the first three quarters of 2002-2003.

Report 396 examined ten performance audits of the Auditor-General. The subjects covered ranged from facilities management at HMAS Cerberus; to client service in the Child Support Agency; to physical security arrangements in Commonwealth Agencies.

The Executive Minutes to these 4 Committee reports respond to a total of 32 recommendations. I am pleased to say that the vast majority of these recommendations have been accepted by the Government. Only two of the Committee's recommendations were rejected outright and another was superseded by events—namely the announced abolition of ATSIC.

The Committee notes with satisfaction the high rate of support for the Committee's recommendations as indicated in these Executive Minutes.

This is especially so as the Committee has not shirked from hard hitting recommendations if warranted by the evidence. Sometimes acceptance of such recommendations has incurred a significant cost to the Commonwealth.

Mr President, as a final comment, the Committee is pleased to advise that the departments of Finance & Administration and Prime Minister & Cabinet have modified and codified the arrangements by which the Executive responds to JCPAA recommendations. The Committee hopes the new procedures will facilitate speedy responses to the Committee's recommendations.

The Committee continues to monitor the implementation of its recommendations and has not hesitated to seek further information if it believes that an Executive Minute has lacked sufficient detail. The tabling of Executive Minutes remains an important accountability mechanism, both for the Committee and the Parliament as a whole. The Committee looks forward to making future reports to Parliament on the responses to more recent reports.

Question agreed to.

BUDGET

Portfolio Budget Statement

Senator ABETZ (Tasmania—Special Minister of State) (6.00 p.m.)—I table a corrigendum to the Immigration and Multicultural and Indigenous Affairs portfolio budget statement for 2004-05.

COMMITTEES

Membership

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

Senator ABETZ (Tasmania—Special Minister of State) (6.01 p.m.)—I move:

That Senator Webber be appointed as a participating member of the Rural and Regional Affairs and Transport Legislation and References Committees.

Question agreed to.

AGED CARE AMENDMENT BILL 2004

EXTENSION OF CHARITABLE PURPOSE BILL 2004

AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (EXPORT CONTROL) BILL 2004

First Reading

Bills received from the House of Representatives.

Senator ABETZ (Tasmania—Special Minister of State) (6.02 p.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the *Notice Paper*. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator ABETZ (Tasmania—Special Minister of State) (6.03 p.m.)—I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in *Hansard*.

Leave granted.

The speeches read as follows—

AGED CARE AMENDMENT BILL 2004

The amendments in the Aged Care Amendment Bill 2004 are not extensive. They are however important measures which need to be considered in the context of the 2004 Budget initiatives in aged care, which in turn, should be considered in the context of our ageing population.

As the number of Australians over the age of 65 increases, so will the demand for aged care. The challenge is to find the appropriate balance between public funding and government regulation, the responsibilities of the aged care providers and individual responsibility. Older Australians have worked hard, they have raised families, paid taxes and contributed to our community. They deserve to be cared for and supported as they age.

The majority of older Australians want to stay in their own homes, in their own communities, or with their own families for as long as they can. If the time comes where staying in their homes is not possible, we need to ensure older Australians have access to the best available care delivered by qualified people. This care must be of high quality, affordable and accessible.

Growing demand, as the population ages, means that we must ensure that the aged care sector is sustainable over the long term. The challenge is to balance cost-sharing with equity of access, while continuing to improve the quality of care.

The Australian government is committed to meeting the challenge. We have made strenuous efforts over the past eight years to improve the quality of

care for older Australians, introducing accreditation, improving access to residential and community care, boosting support for carers, and paying special attention to needs in rural and remote areas.

Funding for aged care has increased from \$3 billion in 1995-96 to more than \$6 billion today. Since 1996 the Australian government has allocated more than 55,600 new aged care places and is on target to meet its commitment to 200,000 places by June 2006. Funding for Community Aged Care Packages has increased by more than 820 per cent.

The government, providers of aged care services and the community must ensure older Australians continue to receive a high standard of care. This care must include choices in accommodation and services that are all well resourced, well run and well staffed.

Every element in the government's 2004 budget package, Investing in Australia's Aged Care: More Places, Better Care is designed to maintain and improve access for older Australians to high quality and affordable care.

Over the next four years, the government will provide an extra \$2.2 billion to build on the progress we have made since 1997 in establishing a world class system of aged care.

The budget package will bring the Australian government's total investment in the care of older Australians to \$30 billion over the next four years—\$6.7 billion in 2004-05 rising to \$8.2 billion in 2007-08.

By the end of the four-year span of these latest initiatives, the Australian government will have spent \$67 billion on securing better aged care since coming to office in 1996.

The budget funding and initiatives are a detailed response to Professor Warren Hogan's *Review of Pricing Arrangements in Residential Care*. This extensive review, commissioned by the government in 2002, examined the longer term prospects of residential aged care with particular respect for private and public funding, performance improvement in the industry and longer term financing.

The government has responded to all of the recommendations for immediate action and has fast-

tracked its response to some of the medium term recommendations to create a sustainable industry. Through Investing in Australia's Aged Care: More Places, Better Care, the government will encourage a cooperative working partnership with both aged care service providers and the community at large.

A central element of this partnership is working with aged care providers to ensure the most efficient use of aged care funding. Greater efficiency holds the prospect of lower costs. As the Hogan report noted:

If all residential care services were to operate at optimal technical efficiency then the combined public and private cost of residential care could be reduced by 17 per cent (\$1.1 billion in 2002-03).

In the alternative, the level of output of the sector (the number of people cared for) could be expanded by 17 per cent (23,100 in 2002-03) at no additional public or private cost.

The government's package provides a firm foundation from which the aged care sector can grow and increase their efficiency and sustainability while ensuring that older Australians can receive the care they need—at the right time and in the right place.

We will provide \$877.8 million over the next four years for a conditional adjustment payment which will increase residential care subsidies by seven per cent by 2007-08, in addition to the annually indexed basic care subsidy.

The average annual Australian government subsidy per resident, currently \$30,500, will rise to around \$35,380, including the effect of indexation, by 2007-08.

The payment is conditional on aged-care providers meeting certain requirements, including encouraging workforce training, making audited accounts publicly available annually, and participating in a periodic workforce census.

It will give homes an immediate boost in income so they can continue to improve the quality of care they provide, including assisting in paying more competitive wages to nurses and other staff.

The government recognises the unique problems that homes in rural and remote areas often face. We will pay an extra \$14.8 million in viability supplements over the next four years from 1 January, after aspects of the viability supplement are reviewed.

The government is increasing the number of aged care places it subsidises—from 100 places to 108 places per 1,000 people aged 70 or over.

We will do so at a cost of \$468.3 million over the next four years, including \$58.4 million in new spending provided in the budget package.

This is the first increase in the aged care provision ratio since it was introduced in 1985.

This will double the number of places offered in community care to 20 per 1,000 people aged 70 or over, reflecting the preference of older Australians to receive care in their own homes.

In total, around 27,900 new aged-care places will be allocated over the next three years, including 13,030 this year.

These are on top of the 35,371 places allocated over the past four years.

Among the total are up to 2,000 transition care places over three years to help older people return home after a stay in hospital.

Investment is needed over the next decade to ensure the supply of aged care homes grows in line with the increase in the number of older Australians who need care.

As well as building new homes, existing aged care homes need to be upgraded to provide quality buildings, furniture, fittings and equipment that are needed for the comfort and safety of residents. To ensure that services deliver high quality care in appropriate surroundings, homes will be expected to meet the new privacy, space and amenity standards, developed in consultation with the aged care sector, by 2008, and appropriate fire and safety standards.

The Hogan report noted that significant levels of investment in new buildings and upgradings were being undertaken.

It was reported that in 2002-03, \$821.4 million of new building, refurbishment and upgrading work in aged care was completed, involving an esti-

mated 22.8 per cent of all residential aged care services.

A further \$941.7 million of work was under way as at 30 June 2003, involving about 11.7 per cent of services.

The government recognises that over the next decade there will be a continuing need for capital funding so that existing homes can be well maintained, new homes built and existing facilities refurbished.

To address these medium-term needs, the government will provide \$438.6 million over the next four years to increase its capital contribution to the providers of care.

We will lift the top rate of the concessional resident supplement from \$13.49 to an indexed \$16.25 per resident per day from 1 July this year.

Other concessional resident supplement rates will be increased proportionately from the same date. The rates of the respite supplement will be increased in line with the residential increase—that is, by \$2.76 per resident per day. The transitional resident supplement rate will be increased to match the new concessional resident supplement rate.

In addition, this financial year the government will make a one-off payment of \$513.3 million to aged care providers, amounting to \$3,500 per resident, to ensure that all homes have the means to meet 2008 certification standards, in particular fire and safety requirements.

In line with the principle that those who are able to make a contribution to the cost of their accommodation should do so, the government will increase the maximum rate of the accommodation charge for new high-care residents who are able to make such a contribution.

This means that the maximum accommodation charge for new residents from 1 July will be no more than \$16.25 per day.

We will also remove the five-year limit on accommodation charges for new high care residents, so that a capital contribution is made for the duration of time spent in a residential care service.

This is the subject of our proposed amendment which I will refer to shortly.

We have also invested in the aged care workforce. The government recognises that the global shortage of nurses and other care staff makes a major investment in education and training imperative.

In order to attract and retain staff, it is important that staff receive training and that caring for the aged is a rewarding career path.

A recent survey found that Australia's residential aged care sector employs over 116,000 direct care workers who are, overall, highly skilled and motivated.

It found that around 12 per cent had not had sufficient education and training opportunities.

New funding of \$101.4 million over four years in this budget will significantly raise the skills and career opportunities of the aged care workforce.

We will fund 400 more undergraduate nursing places each year, rising to 1,094 in the fourth year. This will enable 1,600 students to commence nursing education over the next four years.

Funding will also assist 15,750 aged-care workers, up to Enrolled Nurse level, to obtain formal qualifications, up to 5,250 Enrolled Nurses to be trained in medication management; and up to 8,000 workers to improve language and literacy skills.

One of the critical issues we have identified and addressed is to ensure that caring for older Australians in aged care homes is made easier for nurses and care workers by simplifying administrative requirements. This will allow them to spend more time caring for older residents and less time on paperwork.

Funding of \$81.9 million over four years will be used to simplify administrative requirements.

The Hogan report recommended a single assessment service for community and residential care, and increased funding for Aged Care Assessment Teams to help people access the services best suited to their requirements. As part of the budget package, the government will boost funding for the teams and extend their role so that they give older people support to access suitable care.

The government will introduce a single assessment service for residential and community care.

The Resident Classification Scale funding tool will be simplified from eight categories to three,

making it less complex, with two supplements for dementia and palliative care.

A new \$2.1 million web-based information service will simplify choosing a residential care home, and encourage providers to consider the particular needs of older Australians.

We will introduce progressively e-commerce for funding and information transfers between government and providers.

After 1 July 2005, providers will no longer have to undertake asset testing for new residents. This function will be carried out by Centrelink and the Department of Veterans' Affairs in the case of veterans.

We will also provide additional funding of \$36.3 million over the next four years to maintain the activities of the Aged Care Standards and Accreditation Agency.

ACATs provide a 'gate-keeping' role to ensure that the individual care needs of older Australians are met.

There will no longer need to be an ACAT assessment as the care needs of a resident remaining in the same home increase. This means residents will more quickly receive care matched to their needs. This initiative responds to a specific recommendation in the Hogan report and requires an amendment to the Aged Care Act (1997) in particular the repeal of paragraph 28-1(3)(b).

Residents and their families and the providers entrusted with their care will benefit from this amendment. Removing the need for an ACAT assessment will allow residents to move quickly from low to high care within the same aged care home as their care needs change, meaning that people will receive the higher level of care they need more quickly. There will be appropriate funding review processes.

The second amendment to Division 57A of the Aged Care Act 1997 gives effect to the government's response to the Hogan report's recommendation on the removal of the five-year limit on payment of accommodation charges.

It will affect only those residents who enter high level care after 1 July 2004 and who can afford to contribute to the cost of their accommodation. This amendment recognises that it is reasonable

for residents who can afford to make this contribution to pay a charge for the duration of their stay in an aged care home. Existing residents and new concessional residents will not be affected nor will those going into low level care or extra service homes.

Existing accommodation bond arrangements remain unchanged.

In addition, the Australian government will ensure that residents who are in need can access a hardship allowance. Further, we will review the existing hardship allowance guidelines to ensure assistance is available to those who need it.

Both amendments are part of our overall aged care package that builds on a solid platform of reforms and our commitment to care for older Australians.

Every initiative in the new \$2.2 billion Investing in Australia's Aged Care: More Places, Better Care package is designed to further the Australian government's long term vision for world class, high quality, accessible and affordable care. We are determined to ensure that we continue to meet the individual needs of older Australians and their families, by:

- investing in better care
- providing more aged care places
- building better aged care homes
- increasing skills and training and
- ensuring the right care is delivered in the right place at the right time.

EXTENSION OF CHARITABLE PURPOSE BILL 2004

This bill provides a statutory extension to the common law meaning of charity.

This will allow certain organisations, which have difficulty satisfying the common law requirements, to be charities for the purposes of all Commonwealth legislation.

This includes certain child-care and self-help bodies, and closed or contemplative religious orders.

By extending the common law meaning of charity in this way, the concessions embodied in Commonwealth legislation that are available to chari-

ties will also become available to these organisations. Such concessions principally relate to taxation and include income tax and fringe benefits tax exemptions and certain GST concessions.

The provisions will apply from 1 July 2004.

Full details of the measures in this bill are contained in the explanatory memorandum.

I commend this bill.

**AGRICULTURE, FISHERIES AND FORESTRY
LEGISLATION AMENDMENT (EXPORT
CONTROL) BILL 2004**

The purpose of this bill is to amend the Australian Meat and Live-stock Industry Act 1997 and the Export Control Act 1982 to introduce tighter regulation across all aspects of the livestock export trade.

The amendments in the bill will ensure that the legislative framework is in place to carry out the \$11 million package of reforms to the livestock export trade announced by the Australian government on 30 March 2004 in response to the recommendations in the report of the Keniry review into livestock exports. The report was provided to the government in December 2003.

The government's package of reforms, with accompanying funding, recognises that the livestock export trade is important to Australia. The trade contributes significantly to the Australian economy generating about \$1 billion a year in rural economies and supporting approximately 9,000 jobs. However, the trade is also controversial because of the community's concern that the welfare of the animals is not being properly addressed.

The Keniry review found that, although the industry has made genuine efforts to address animal welfare issues, the improvements have been incremental and the pace has been too slow to restore community confidence in the trade. The government has, therefore, decided to take the lead to drive change at a faster pace through legislative and other means.

The main thrust of the bill is to achieve improvements in animal welfare outcomes by moving from a co-regulatory environment and providing government with clearer powers to require the

livestock export trade to meet more rigorous standards.

The move away from co-regulation for the livestock export trade is highlighted by an amendment to section 9 of the Australian Meat and Live-stock Industry Act 1997 which removes the requirement for the Secretary to have regard to any broad policies formulated by livestock industry bodies in exercising certain powers under the act.

The Keniry review identified a need for the creation of a set of nationally consistent principles that focus on the health and welfare of livestock during the whole of the export chain. The bill gives the minister power to determine the principles and states that they are to be known as the Australian Code for the Export of Livestock. These principles will influence all aspects of the regulatory regime applicable to livestock exports.

The Keniry review also proposed closer integration between the Australian Meat and Live-stock Industry Act and the Export Control Act. Currently, the acts are integrated to the extent that a person must hold a licence under the Australian Meat and Live-stock Act to be able to export livestock under the Export Control Act. The bill provides for further integration of these two acts.

The success of the government's reforms and the continuation of the trade will depend to a large extent on the integrity and competence of the industry participants. Industry participation is controlled through the granting, renewal, suspension and cancellation of licences under the Australian Meat and Live-stock Industry Act. The Keniry review identified a loophole in this act that allows an exporter to simply rely on the licence of an associate if a decision is made to deny the exporter a licence or to suspend or revoke his/her licence. To prevent frustration of the act by this behaviour, the bill provides the secretary with the power to take action, such as suspension or revocation, in relation to licences of the associates of the exporter.

Veterinarians engaged by exporters undertake an important role in the export chain for livestock, as well as for other animals and reproductive material. Under current practices, exporters engage veterinarians to undertake certain veterinary functions, such as testing of livestock to meet import-

ing country requirements, before the livestock are loaded onto the vessel for the export journey. These veterinarians are currently accredited by the Australian Quarantine and Inspection Service under an administrative arrangement. The Keniry review recommended that the responsibilities of accredited veterinarians should be referenced in legislation with suitable penalties for breach.

The review also recommended that veterinarians should, in certain circumstances, accompany livestock on voyages to overseas destinations and be required to report to the Australian Quarantine and Inspection Service on specified matters including any matters relating to the health and welfare of the animals. In response to these recommendations, the bill contains amendments to the Export Control Act to provide a legislative basis for the accreditation of veterinarians to undertake roles both in Australia and on overseas vessels which are carrying livestock. The bill also contains offence provisions. The accredited veterinarians will continue to be engaged by the exporters.

The bill responds to current widespread criticism of the live animal export trade both in Australia and internationally. It represents an important step in the government's overhaul of the livestock export trade and reflects the government's strong commitment to rectifying the problems with the trade as a matter of urgency.

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

Ordered that the bills be listed on the *Notice Paper* as separate orders of the day.

(*Quorum formed*)

COMMITTEES

Economics Legislation Committee

Reference

Senator SHERRY (Tasmania) (6.06 p.m.)—I move:

That the Superannuation Industry (Supervision) Amendment Regulations 2004 (No. 2), as contained in Statutory Rules 2004 No. 84 and made under the *Superannuation Industry (Supervision) Act 1993*, be referred to the Economics Legislation Committee for inquiry

and report by 3 August 2004, with particular reference to:

- (a) the extent to which defined benefit arrangements have been used for:
 - (i) the purposes of tax minimization,
 - (ii) estate planning,
 - (iii) reasonable benefit limit avoidance, and
 - (iv) any other purpose other than providing retirement income;
- (b) the extent of past losses to revenue from the above measures; and
- (c) the estimated future losses to revenue likely in the absence of these regulations.

Question agreed to.

Appropriations and Staffing Committee Report

Consideration resumed from 15 June.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (6.07 p.m.)—I move:

That the Senate adopt the 40th report of the Standing Committee on Appropriations and Staffing and endorse the resolution at pages 3 and 4 of the report.

Question agreed to.

BUSINESS

Consideration of Legislation

Senator MINCHIN (South Australia—Minister for Finance and Administration) (6.08 p.m.)—I move:

That the Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Bill 2004 and the Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Bill 2004 be listed on the *Notice Paper* as separate orders of the day.

Question agreed to.

**PARLIAMENTARY
SUPERANNUATION BILL 2004
PARLIAMENTARY
SUPERANNUATION AND OTHER
ENTITLEMENTS LEGISLATION
AMENDMENT BILL 2004**

In Committee

Consideration resumed.

**PARLIAMENTARY SUPERANNUATION
BILL 2004**

(Quorum formed)

Senator CHERRY (Queensland) (6.10 p.m.)—by leave—I move Democrat amendments (1) and (2) on sheet 4251:

- (1) Clause 5, page 4 (lines 29 to 32) omit paragraphs (1)(b) and (c), substitute:
 - (b) the person has been elected or re-elected; and
 - (c) the Remuneration Tribunal has not determined that the person should continue to be entitled to parliamentary allowance.
- (2) Clause 5, page 4 (line 33) to page 5 (line 20), omit subclauses (2), (3) and (4), substitute:
 - (2) For the purposes of this Act, where a senator as at the date in subsection (1) has a term due to expire on 30 June 2008, then the new scheme entry time for that senator, if the person is entitled to a parliamentary allowance beyond 30 June 2008, shall be 1 July 2008, provided that the senator may, in writing to the trustees, opt to agree to the earlier new scheme entry time.

These two amendments are fairly similar in intent to those we debated before lunch. They are very much about trying to ensure that the new superannuation scheme applies to existing MPs. They are also related to a longer series of more detailed amendments on sheet 4252. Combined, these two sets of amendments seek to do a number of things. First, they seek to ensure that from the date

of the next election, which is essentially the new entry time, all MPs who have been re-elected will move to the new superannuation scheme. There are, of necessity, two exceptions to that.

The first exception is senators who are part way through their terms. I only raise that because the principle that one should apply this particular change from the date of the next election does not necessarily apply for those who are halfway through their terms, so we have carved them out as a separate exception. The second exception, which was suggested to me by some people in another party, is for senators who have not yet qualified for a pension under the current scheme—in other words, who have fewer than eight years service. It has been suggested to me that, to try to make the transition to the new scheme reasonably acceptable for people, they should be carved out as an exception and be allowed to continue in the scheme until their eight years is attained. Those amendments are contained in more detail in the amendments we have proposed to the other bill.

The two amendments in front of us deal with the issue of trying to ensure that people who are elected at the next election do immediately transfer across to the new scheme, unless they fall within that exception or the exception I mentioned in respect of senators. The Democrats believe that it is a very important principle that the new superannuation scheme should apply to all MPs elected from the next election, regardless of whether they are lucky enough to be in this particular club or in the next club. That is a principle that we have held very dear for quite some time.

As I said before lunch—and I do not particularly want to repeat my arguments in any great detail—we are of the strong view that there is no issue of retrospectivity in the amendments we are moving because it is the

decision of each and every one of us whether we offer ourselves for re-election or not. If we do offer ourselves for re-election then, from that date, we are essentially agreeing to the statutory entitlements that the parliament offers us for that particular term. If we choose to change those statutory entitlements, that does not bring into play issues of retrospectivity, contract or constitutional reimbursement or any other issue. For those reasons, the Democrats think these amendments are very reasonable and we commend them to the Senate.

Senator SHERRY (Tasmania) (6.14 p.m.)—I have a brief question. What is Senator Cherry's intention, in moving these amendments, in respect of current members of the defined benefit fund who will not meet the minimum qualifying period and who will be carved out of the scheme?

Senator CHERRY (Queensland) (6.14 p.m.)—These are dealt with in my next set of amendments on sheet 4252. Essentially this is an idea that I think came out of the discussions of the coalition backbenchers committee, where it was suggested that people who had not met the qualifying time should be entitled to meet that qualifying time. I should declare that I am in that category if I am re-elected, which I am sure is the point to which Senator Sherry is referring. It also says that those particular people should be entitled to continue in the old scheme until they have met the qualifying time, which is eight years, as an assumed involuntary retirement and at that stage that would become the date at which they transfer to the new scheme. As I said, it is not a proposal which we developed but one which came from the coalition backbench.

I should also note that our limits also allow people in that category, which would include myself, and senators halfway through a six-year term to opt to move to the

new scheme immediately with all other senators. So whilst we are providing that little bit of flexibility for those people who are yet to qualify in the current club, we are at least also giving those people who are yet to qualify the option of moving across with all other MPs as at the date of the new scheme. I should note that the amendments on sheet 4252 also provide that people's current entitlements would be preserved as if they had been involuntarily retired as at the date of the next election and that the percentage calculation of salary at that date would be preserved, as it has been preserved in the amendments the government has moved in respect of MPs who return to parliament at that election. Essentially we are saying that MPs who return to parliament at the next election and MPs who are currently in parliament and who are re-elected will be treated in the same category. We have shamelessly plagiarised the government's own amendments to achieve that outcome.

Question negatived.

Senator CHERRY (Queensland) (6.17 p.m.)—I move Democrat amendment (3) on sheet 4251:

- (3) Clause 5, page 5 (after line 20), after subclause (4), insert:
- (4A) For the purposes of this Act, if a person:
- (a) was entitled to parliamentary allowance immediately before and after the date determined in subsection (1); and
 - (b) the person notifies the trustees of the Parliamentary Contributory Superannuation Scheme of his or her desire to close off his or her entitlement under that scheme and have future service determined under the new scheme; and
 - (c) the person has less than 18 years service under the old scheme;

then the new scheme entry time shall be the date the trustees accept the notification.

This amendment seeks to provide what I call the 'Andren option', which means that it gives all MPs who are in the class of 2004 and who are re-elected at this election the opportunity to opt out of the old scheme and move into the new scheme. In relation to the amendments which I am moving to the second bill, they would ensure that the benefits of those particular MPs under the current scheme are preserved and that all new service is under the new scheme. At the very least, we should ensure that people have the option of opting out of the current scheme and moving into the new scheme. I think that is a reasonable proposition. There are a lot of MPs in this place who feel very uncomfortable with the current level of benefit, from Mark Latham down, and I think it is essential we at least give those people the opportunity to keep faith with their electorates about moving to community standards and to actually move to a superannuation system more in keeping with community standards.

Question negatived.

Bill agreed to.

**PARLIAMENTARY SUPERANNUATION
AND OTHER ENTITLEMENTS
LEGISLATION AMENDMENT BILL 2004**

Bill—by leave—taken as a whole.

Senator SHERRY (Tasmania) (6.18 p.m.)—by leave—I move opposition amendments (1) and (2) on sheet 4221:

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

3A After subsection 18(9)

Insert:

- (9A) The rate of additional retiring allowance in accordance with paragraph (9)(b) shall not exceed the rate set from time to time by the Remuneration Tribunal in accordance with subsection

6(1) of the *Remuneration Tribunal Act 1973* for an other Minister in Cabinet.

- (9B) The application of subsection (9A) is limited to the rate of additional retiring allowance of any person who serves as an other Minister in Cabinet for that period of service as an other Minister in Cabinet that commences after the 40th Parliament.
- (2) Schedule 1, page 3 (after line 14), after item 3, insert:

3B After subsection 18(9)

Insert:

- (9C) For the purposes of subsection (9A), *an other Minister in Cabinet* is a Minister in Cabinet other than the Prime Minister, the Deputy Prime Minister, the Treasurer, the Leader of the Government in the Senate or the Leader of the House of Representatives.

As I have outlined the purpose of the amendments we are dealing with in my speech in the second reading debate, I do not want to take too much time of the chamber. The Labor Party argues that, as is common with many defined benefit funds—private or public and not just in Australia but throughout the world—there are capping provisions that establish a reasonable cap to the entitlement of a defined benefit fund. They do not necessarily reflect total salary including, in this case, the various allowances for office in all circumstances.

It is a capping measure at the level of cabinet allowance. It does affect a number of individuals: the Prime Minister, the Leader of the Opposition, the Deputy Prime Minister, the Treasurer, the President of the Senate, the Speaker of the House of Representatives, the Leader of the Government in the House of Representatives and Leader of the Government in the Senate, and the manager of business in House of Representatives as well—if that person is not a cabinet minister,

I think there is a higher allowance. I have outlined our case for a capping provision. I should indicate that, if this is accepted by the Senate and the government sends the bill back in the form of a message and rejects it, I want to make it very clear that we will not be insisting on the amendments. We are not going to hold up the passage of this legislation in those circumstances. I want that on the record and clearly understood. But this is Labor Party policy and, in terms of the consistency of our approach and the policy announcement that our leader, Mark Latham, made, this was part of that. If it is not successfully carried on this occasion, there will be a future occasion if we are elected to government when we can deal with this matter.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (6.21 p.m.)—I think the opposition's otherwise relatively honourable and principled approach to this whole issue is sullied and cheapened by what is a fairly tawdry stunt on this particular matter. The opposition attacks—properly—the minor parties for their lack of consistency between the parliamentary scheme and arrangements for public servants in relation to the question of forcing existing members out of the scheme. I think the same principle applies here. It is proper that the superannuation under the existing scheme is related to salary, and we see no role or place for a cap. If the Prime Minister warrants, as I am sure the opposition agree, a higher level of salary—and so should the highest parliamentary officer in the land warrant a higher salary—then the superannuation arrangements should be set accordingly. If the opposition felt that this was such an important principle—to put a cap on it—why aren't they putting a cap on the new accumulation scheme? We see no amendment to cap, at cabinet minister level or any other level, the arrangements that will apply to the new accumulation scheme, and the employer con-

tribution of nine per cent will be set according to salary whatever that salary is, including the Prime Minister's salary. So I think their position is exposed as nothing more than a fairly cheap trick. I am disappointed that they are moving it. It is the government's position that we will not accept it. We do not think it accords to any principle and it is not a principled position. We welcome the fact that the opposition will not insist on this amendment when the bill comes back to the Senate from the House of Representatives but it does mean a delay in the passage of this legislation. If the minor parties should support the opposition on this matter, then that is an unfortunate delay in the process. But I am grateful that at least the opposition will not insist on this amendment should it come back to this chamber.

Senator SHERRY (Tasmania) (6.24 p.m.)—I have two very quick points. In terms of the delay, Senator Minchin can hardly claim that a possible day's delay is going to be critical to the passage of this measure over the next two weeks. I do not think that is an issue. He has alleged we have not been consistent in our not moving a cap to the new scheme. The new scheme is a nine per cent accumulation scheme. It is very different with a total outcome that is substantially lower in terms of accumulation compared to the defined benefit scheme.

In concluding my remarks, I emphasise it is commonplace in defined benefit funds to cap at the top end. It is a quite common provision, and that is true of both public and private sector defined benefits. In fact, I should draw Senator Minchin's attention to the fact that we have in this country a retirement benefit limit, which is a cap on the total lump sum and the total pension benefit. That is a cap that imposes a statutory limit on the maximum superannuation benefit, in whatever form. I think it is well over \$1 million at the present time. I do not know the precise

figure but it is a substantial figure. There is a limit to which we reflect the retirement income of higher income earners through a superannuation fund in the Australian system anyway. The RBL does that, otherwise we would have people saying that if you earned \$2 million a year you should be entitled to two-thirds of \$2 million a year in retirement. We think there should be caps. There is a cap on the general system; there should be a cap on the current system in respect of the small number of people that I have indicated. I hope the minor parties will support our proposal but, if the matter is carried here—and I do not know whether the minor parties are going to support it in fact—and it is rejected by the government in the House of Representatives, then our day will come. Whether it is this year or next year, whenever the election is held, our day will come in the House of Representatives when we have a majority and we will be able to implement a reasonable cap in the circumstances.

I do not think it is a cheap stunt, Senator Minchin. I think it is a reasonable approach. It is certainly not going to be cheap in terms of outcomes for Mark Latham should he be elected Prime Minister. I am frankly very proud of our leader. I am not going to go into the personal conversations we have had on this issue. I think they were a little less fractious than the conversations that occurred in the Liberal party room.

Senator Minchin interjecting—

Senator SHERRY—I am not going to say any more about that—that is your business—but I can say that our leader was very determined that he should set a personal example on this issue. He believed that, given the salary level of the Prime Minister, a cap set at cabinet level was a very reasonable level of retirement income. If it is not passed by the parliament on receipt of a message back, should it enjoy minor party support,

the Labor Party's day will come when we are in government and we will deal with the matter then.

Senator CHERRY (Queensland) (6.28 p.m.)—I find myself caught out on this particular amendment: caught out because I agree with Senator Minchin that it is a stunt and caught out because it also exposes the inconsistency in Senator Sherry's argument over the course of this debate. On the one hand we are being told that we cannot change future entitlements because that would be retrospective. On the other hand we are being told we can change them for a small number of ministers in the cabinet—not all of the ministers in the cabinet, I might add, just a small number. So certainly, as I highlighted earlier in the debate, if Mr Garrett ends up a member of the Labor ministry he will end up being paid a lot less superannuation than his colleagues in the ministry like—potentially—Senator Sherry. In fact, he will be getting nine per cent of his officer allowance and Senator Sherry will be getting 60-plus per cent of his officer allowance as an equivalent employer contribution to superannuation. In addition to that, we are going to have a different rate of superannuation for some members in the cabinet and not for others. I think it is a notion which reeks of inconsistency and opportunism. I notice that Senator Sherry, in his contribution, highlighted hats off to Mr Latham for being prepared to take a cut on his superannuation. Hats back on for the rest of the Labor caucus who are not prepared to do the same, in my view. Mr Latham has made it quite clear in his comments that he cannot defend the current scheme because its benefits are excessive. Then why is it the case that for 226 MPs he is prepared to lock that in place?

My party room's intention was to support this amendment on the basis that a little is better than nothing at all in terms of getting some changes in place for reducing the su-

perannuation generosity. But I have just been advised by Senator Sherry that he is not going to insist on the amendment, in which case I wonder why he has bothered moving it in the first place. To me, it highlights the fact that Labor just want to get through this debate and get maximum publicity for minimum damage to their own members, and that is something which, to be honest, I find disappointing. When Mark Latham first raised the issue of parliamentary superannuation as shadow Treasurer last October, I welcomed his comments. The Democrats were very pleased to see that we finally had an MP honest enough to say what no other MP had been prepared to say outside the Labor Party, except Mr Andren, which was that we needed to reform the parliamentary superannuation scheme. What has come through is a very pale reflection of what was actually needed, and I think it reflects very poorly on Mr Latham and the Labor Party that we have these stuntish sorts of amendments coming through and not the comprehensive proper analysis and proper changes that we need to reform the system.

The Democrats will support this amendment, reluctantly, because we think a little bit of reform is better than none at all. We like to encourage the Labor Party to be a party of reform and to be bold. The small-target strategy will not work for this election, as I am sure they know, and I would encourage them to go further. We will support this amendment because it will give Mr Andren and his colleagues in the other place a chance to make the other place vote on taking these amendments a bit further. We might actually get a bit more attention paid to these matters in both places as a result. From that point of view, we will reluctantly support the amendment, although we express disappointment that the Labor Party have already said they are not going to insist on it.

Senator SHERRY (Tasmania) (6.31 p.m.)—I think Senator Cherry is being a little harsh. I have refrained from anything other than justifiable support for our leader, Mark Latham, who has exercised decisive leadership on this matter. Let us be honest, Senator Cherry: we would not be debating these bills tonight if it were not for the announcement by Mark Latham. Everyone knows it is a fact that we have adopted a significant policy of closing down the current defined benefit fund, and I have outlined the reasons why we have taken that position. The Labor Party made a very significant decision in their policy announcement in February this year. Of course, within a day of the Prime Minister's announcement, the flow-on consequences were immediately obvious with regard to the states that have not changed their schemes—Tasmania and Western Australia had already reformed their schemes. So to argue that this is not a substantial reform is just not right; it is a very significant reform.

I reject the accusations that this is a cheap stunt by our leader, Mark Latham. He exercised strength and leadership on this issue and went publicly where no other political leader in recent times had dared to go. I know from my discussions with him on this issue over some time that he has a very strong view about the level of benefit being capped. It is not some cheap stunt; he holds the view very passionately, I can tell you. He has a very passionate commitment to a reasonable level of capping in the current defined benefits scheme.

Whilst I have made some fair and firm points about the Democrats' and the Greens' approach on this matter, I have resisted—and I resisted in the committee hearings, Senator Cherry, as you will probably recall—attacking individuals and their particular positions in terms of their own benefits. I have strenuously resisted that, because I just do

not think that is an appropriate way to deal with this legislation. But I do commend and support fully the stand that Mark Latham has taken with respect to his personal position on the cap. It is not some sort of cheap stunt. It is a very deep and passionate commitment from him. It is the way he feels about this and what he thinks is a reasonable level of defined benefit retirement superannuation savings that he and some other officers and persons who hold high office can live on when they retire.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (6.35 p.m.)—I do not want to prolong this debate but I want to welcome Senator Cherry's support for my arguments in opposition to this amendment and therefore express my disappointment that, despite that, he is going to support the amendment. Senator Cherry highlighted the extent to which the ALP amendment is riddled with inconsistencies with the positions they are taking on the rest of this legislation. I thought Senator Cherry emphasised that particularly well.

I have two other quick points. I do think that the status of Prime Minister in this country should be upheld. It is the highest elected office that any Australian can aspire to, and it would be unfortunate if the parliament, in a sense, expressed a devaluation of that office by some sort of legislative cap of this kind. In this country we ought to pay more regard to, and regard with greater reverence, those who have served in the highest elected office in the land. I think that is one of the things we can learn from the American system of government, because they do that very well. Therefore, I do not agree with moves that devalue that office.

I also make the point that if Mr Latham should ever become Prime Minister and retire and go onto a pension, it is always open to him to voluntarily give up part of that pen-

sion. He can donate it to charity, give it back to the government or do whatever he likes with it. If he thinks it is excessive he need not take it all, or he can donate it to his favourite cause. That would be a much better course of action than seeking to have the parliament legislate to provide a cap of this kind. I think Senator Cherry is quite right to earmark this as nothing more than a stunt.

Question agreed to.

Senator CHERRY (Queensland) (6.37 p.m.)—by leave—I move Democrat amendments (1) to (6) on sheet 4252:

- (1) Schedule 1, item 4, page 5 (line 1), after "4", insert ", 4A".
- (2) Schedule 1, item 4, page 6 (after line 24), after clause 4, insert:

4A Entitlement to a retiring allowance for continuing member

- (1) This clause applies to a person if, immediately before the start of the first new scheme contribution period of the person, a parliamentary allowance was payable to the person.
- (2) The person is entitled, after the end of the first scheme contribution period, to a retiring allowance (the *preserved initial allowance*) under this clause at the *preserved initial percentage* (see subclause (5)) of the rate of parliamentary allowance for the time being payable to a member.
- (3) For the purposes of the reference in subclause (2) to the rate of parliamentary allowance for the time being payable to a member, any reductions of a particular member's entitlement to parliamentary allowance under Division 2 of Part 1 of Schedule 3 to the *Remuneration and Allowances Act 1990* as a result of salary sacrifice are to be disregarded.
- (4) The person's entitlement to the preserved initial allowance is suspended for the duration of any later

new scheme contribution period of the person.

- (5) The preserved initial percentage is, from the end of the new scheme contribution period of the person to the start of the next (if any) new scheme contribution period of the person, the percentage that would have been applied to the rate of parliamentary allowance in order to calculate the rate of retiring allowance (other than additional retiring allowance) payable to the person under section 18, or under this clause, if the person had retired involuntarily, immediately before the start of the firstmentioned new scheme contribution period.
- (3) Schedule 1, page 8 (after line 24), after clause 5, insert:

5A Entitlement to an additional retiring allowance for continuing member

- (1) This clause applies to a person if, immediately before the start of the first new scheme contribution period of the person, a parliamentary allowance was payable to the person, and, if the person had involuntarily retired, additional retiring allowance would have been payable to the person under subsection 18(9) in respect of either or both of the following:
- (a) his or her service in an office or offices he or she held as a Minister of State;
- (b) his or her service in an office or offices by virtue of which he or she was an office holder.
- In this clause, each office in respect of which the additional retiring allowance was payable is a *relevant office*.
- (2) The person is entitled, after the end of the first scheme contribution period, and in respect of each relevant office, to a retiring allowance (the *preserved additional initial allowance*) under this clause at the *preserved additional*

initial percentage (see subclause (4)) of the rate, for the time being, of:

- (a) for an office referred to in paragraph (1)(a)—the salary payable to a Minister of State; or
- (b) for an office referred to in paragraph (1)(b)—the allowance by way of salary payable to an office holder in respect of that office.
- (3) The person's entitlement to the preserved initial additional allowance is suspended for the duration of any later new scheme contribution period of the person.
- (4) The preserved additional initial percentage for a relevant office is, from the end of the new scheme contribution period of the person to the start of the next (if any) new scheme contribution period of the person, the percentage that was applied to:
- (a) for an office referred to in paragraph (1)(a)—the salary payable to a Minister of State; or
- (b) for an office referred to in paragraph (1)(b)—the allowance by way of salary payable to an office holder in respect of that office;
- in order to calculate the rate of additional initial retiring allowance that would have been payable to the person under section 18(9) or under this clause, if the person had retired involuntarily, immediately before the start of the firstmentioned new scheme contribution period.
- (5) If, immediately before the start of a new scheme contribution period of the person, the person would not have been entitled to have been paid an additional retiring allowance, or would have been paid a reduced rate of additional retiring allowance, because of all or any of the following provisions:
- (a) Part VA;
- (b) subsection 18(10B) or subclause (6) of this clause;

- (c) subsection 20(3A);
- (d) section 21;
- (e) section 21B;

this clause applies to the person as if the person were, at that time, entitled to be paid the additional initial retiring allowance he or she would have been paid if those provisions had not applied.

- (6) Nothing in this clause entitles the person to additional initial retiring allowance at a rate that exceeds:
 - (a) if the person is entitled to additional retiring allowance in respect of one relevant office only—75% of the rate, for the time being, at which salary or allowance by way of salary, as the case may be, is payable in respect of that office; or
 - (b) if a person is entitled to additional retiring allowance in respect of 2 or more relevant offices—75% of the rate that is the highest rate, for the time being, at which salary or allowance by way of salary, as the case may be, is payable in respect of either or any of those offices.
- (4) Schedule 1, item 2, clauses 6, 12, 13, 14, 15, 16, 17 and 18, after “preserved basic allowance”, (8 times occurring), insert “or preserved initial allowance”.
- (5) Schedule 1, item 2, clauses 6, 12, 13, 14, 15, 16, 17 and 18, after “preserved additional allowance”, (8 times occurring), insert “or preserved additional initial allowance”.
- (6) Schedule 1, item 2, page 12, (after line 21), at the end of the item, add:

19 Members may continue in scheme to qualify for retiring allowance

- (1) Where a person was entitled to parliamentary allowance immediately before and immediately after the new scheme start date, but not entitled to a preserved initial allowance in accordance with clause 4A, the person shall be entitled to continue as a member of the scheme until the person

would become entitled to a preserved initial allowance. For such a person, the person shall cease to be a member only on the date that he or she becomes entitled to a preserved initial allowance in accordance with clause 4A.

- (2) For a person mentioned in subclause 19(1), clauses 4A and 5A of this Act shall apply as if the date determined in subclause (1) was the date for the commencement of the new scheme contribution period.
- (3) A person may exercise the right not to continue in the scheme under this section.

I intend to divide on these amendments and on the amendment I shall move next. I do not propose to speak to the next amendment, so we will be able to have those two divisions pretty much simultaneously. I will speak to this set of amendments very briefly because I spoke to them at great length earlier in the debate. These are detailed amendments to ensure that all MPs and senators elected at the next election could transfer at that time to the new contributions scheme and to provide for the preservation of existing benefits on the formula which the government has devised for former parliamentarians who are elected at the next election. Essentially, the amendments say that the election would be treated as if it were an involuntary retirement for the purposes of closing down the current superannuation scheme for existing parliamentarians and that they would be transferred and their benefits preserved at the percentage that would apply if it were involuntary retirement.

The Democrats think this is a reasonable proposition to ensure that we accelerate the process of closing down the current scheme and moving all parliamentarians to the community standard of the new nine per cent scheme—moving from the 67 per cent, which is the current notional employer contribution, to the nine per cent, which is the

employer contribution of the new scheme and also the community standard. I think it is very reasonable, for the arguments that we have put in this place. As I said, a Senate committee highlighted unanimously in 1997 that the current public benefit of this superannuation scheme was overly generous. The Leader of the Opposition has said that it is indefensible, and by coming forward with this legislation the government has acknowledged that it is way out of whack with community standards. I think it is a reasonable proposition to put in place a reasonable transition to the new scheme, and that is what we have sought to do with these amendments.

I will speak very briefly to the amendment which I will move shortly. That second amendment is to provide as an alternative, if this set of amendments is defeated, for parliamentarians to at least have the choice of moving to the new scheme—the Andren option, which I have raised before. That amendment would at least ensure that members could choose to move to the new scheme and provide that their benefits under the existing arrangements are preserved to allow that to occur. I propose to divide on both of these amendments because I think it is important that all of us be counted in terms of our views on this.

I know that the whips usually call a vote on an amendment that is only supported by the Democrats a mickey division, in which case half the senators are often sent out. But I think it would be unfortunate in this case for them to do so, because it is important that all senators be counted in their states as to where they stand on whether they are prepared to vote to exclude themselves from the reform of this superannuation scheme into the future. It is important that all senators make sure that their vote is recorded as to whether they are prepared to excise themselves from this reform and keep their current excessive, above community standard

superannuation or whether they believe they should move to the new nine per cent superannuation scheme with a reasonable transition arrangement. I also think all senators should be counted on whether they are at least prepared to give other senators the option of moving to that scheme. I hope that the whips, in calling this division, remind senators that this is a vote on their superannuation scheme and is not a good one to sit outside and not be counted on. I commend the amendments to the chamber.

Question put:

That the amendments (**Senator Cherry's**) be agreed to.

The committee divided. [6.45 p.m.]

(The Chairman—Senator J.J. Hogg)

| | |
|---------------|----|
| Ayes..... | 9 |
| Noes..... | 37 |
| Majority..... | 28 |

AYES

| | |
|-------------------|------------------|
| Allison, L.F. * | Bartlett, A.J.J. |
| Brown, B.J. | Cherry, J.C. |
| Greig, B. | Murray, A.J.M. |
| Nettle, K. | Ridgeway, A.D. |
| Stott Despoja, N. | |

NOES

| | |
|-----------------|------------------|
| Barnett, G. | Bishop, T.M. |
| Buckland, G. | Campbell, G. |
| Carr, K.J. | Colbeck, R. |
| Collins, J.M.A. | Conroy, S.M. |
| Cook, P.F.S. | Crossin, P.M. |
| Eggleston, A. * | Fifield, M.P. |
| Forshaw, M.G. | Hill, R.M. |
| Hogg, J.J. | Humphries, G. |
| Hutchins, S.P. | Johnston, D. |
| Kirk, L. | Knowles, S.C. |
| Lightfoot, P.R. | Mackay, S.M. |
| Marshall, G. | McGauran, J.J.J. |
| Minchin, N.H. | Moore, C. |
| Murphy, S.M. | O'Brien, K.W.K. |
| Patterson, K.C. | Santoro, S. |
| Sherry, N.J. | Stephens, U. |
| Tchen, T. | Troeth, J.M. |

Watson, J.O.W.

Webber, R.

Wong, P.

* denotes teller

Question negatived.

Senator CHERRY (Queensland) (6.49 p.m.)—I move Democrat amendment (7) on sheet 4252, which I have spoken to previously:

(7) Schedule 1, item 4, page 12 (after line 21), at the end of the item, add:

20 Members may opt not to continue in scheme

(1) For the purposes of this Act, if a person:

(a) was entitled to parliamentary allowance immediately before and after the date determined in subsection 5(1) of the *Parliamentary Superannuation Act 2004*, and

(b) the person notifies the trustees of the Parliamentary Contributory Superannuation Scheme of his or her desire to close off their entitlement under that scheme and have future service determined under the new scheme; and

(c) the person has less than 18 years service under the old scheme;

then the new scheme entry time shall be the date the trustees accept the notification.

(2) Where a person chooses to leave the scheme under clause, the person is entitled, after the end of the first scheme contribution period, to a retiring allowance (the *preserved initial allowance*) under this clause at the *preserved initial percentage* (see subclause (5)) of the rate of parliamentary allowance for the time being payable to a member.

(3) For the purposes of the reference in subclause (2) to the rate of parliamentary allowance for the time being payable to a member, any reductions of a particular member's

entitlement to parliamentary allowance under Division 2 of Part 1 of Schedule 3 to the *Remuneration and Allowances Act 1990* as a result of salary sacrifice are to be disregarded.

(4) The person's entitlement to the preserved initial allowance is suspended for the duration of any later new scheme contribution period of the person.

(5) The preserved initial percentage is, from the end of the new scheme contribution period of the person to the start of the next (if any) new scheme contribution period of the person, the percentage that would have been applied to the rate of parliamentary allowance in order to calculate the rate of retiring allowance (other than additional retiring allowance) payable to the person under section 18, or under this clause, if the person had retired involuntarily, immediately before the start of the firstmentioned new scheme contribution period.

(6) If the person has served as a Minister of State or an office holder, the person is entitled, after the end of the first scheme contribution period, and in respect of each relevant office, to a retiring allowance (the *preserved additional initial allowance*) under this clause at the preserved additional initial percentage (see subclause (8)) of the rate, for the time being, of:

(a) for an office as a Minister of State—the salary payable to a Minister of State; or

(b) for an office as an office holder, the allowance by way of salary payable to an office holder in respect of that office.

(7) The person's entitlement to the preserved initial additional allowance is suspended for the duration of any later new scheme contribution period of the person.

(8) The preserved additional initial percentage for a relevant office is, from the end of the new scheme contribution period of the person to the start of the next (if any) new scheme contribution period of the person, the percentage that was applied to:

- (a) for an office referred to in paragraph (1)(a)—the salary payable to a Minister of State; or
- (b) for an office referred to in paragraph (1)(b)—the allowance by way of salary payable to an office holder in respect of that office;

in order to calculate the rate of additional initial retiring allowance that would have been payable to the person under section 18(9) or under this clause, if the person had retired involuntarily, immediately before the start of the firstmentioned new scheme contribution period.

(9) If, immediately before the start of a new scheme contribution period of the person, the person would not have been entitled to have been paid an additional retiring allowance, or would have been paid a reduced rate of additional retiring allowance, because of all or any of the following provisions:

- (a) Part VA;
- (b) subsection 18(10B) or subclause (6) of this clause;
- (c) subsection 20(3A);
- (d) section 21;
- (e) section 21B;

this clause applies to the person as if the person were, at that time, entitled to be paid the additional initial retiring allowance he or she would have been paid if those provisions had not applied.

(10) Nothing in this clause entitles the person to additional initial retiring allowance at a rate that exceeds:

- (a) if the person is entitled to additional retiring allowance in respect of one relevant office only—75% of the rate, for the time being, at which salary or allowance by way of salary, as the case may be, is payable in respect of that office; or
- (b) if a person is entitled to additional retiring allowance in respect of 2 or more relevant offices—75% of the rate that is the highest rate, for the time being, at which salary or allowance by way of salary, as the case may be, is payable in respect of either or any of those offices.

Question put:

That the amendment (**Senator Cherry's**) be agreed to.

The committee divided. [6.50 p.m.]

(The Chairman—Senator J.J. Hogg)

| | |
|---------------|----|
| Ayes..... | 9 |
| Noes..... | 36 |
| Majority..... | 27 |

AYES

| | |
|-------------------|------------------|
| Allison, L.F. * | Bartlett, A.J.J. |
| Brown, B.J. | Cherry, J.C. |
| Greig, B. | Murray, A.J.M. |
| Nettle, K. | Ridgeway, A.D. |
| Stott Despoja, N. | |

NOES

| | |
|------------------|-----------------|
| Barnett, G. | Bishop, T.M. |
| Buckland, G. | Campbell, G. |
| Carr, K.J. | Colbeck, R. |
| Collins, J.M.A. | Conroy, S.M. |
| Cook, P.F.S. | Crossin, P.M. |
| Eggleston, A. * | Fifield, M.P. |
| Forshaw, M.G. | Hill, R.M. |
| Hogg, J.J. | Humphries, G. |
| Hutchins, S.P. | Johnston, D. |
| Kirk, L. | Lightfoot, P.R. |
| Mackay, S.M. | Marshall, G. |
| McGauran, J.J.J. | Minchin, N.H. |
| Moore, C. | Murphy, S.M. |
| O'Brien, K.W.K. | Patterson, K.C. |
| Santoro, S. | Sherry, N.J. |

Stephens, U. Tchen, T.
Troeth, J.M. Watson, J.O.W.
Webber, R. Wong, P.

* denotes teller

Question negatived.

Bill, as amended, agreed to.

Parliamentary Superannuation Bill 2004 reported without amendment; Parliamentary Superannuation and Other Entitlements Legislation Amendment Bill 2004 reported with amendments; report adopted.

Third Reading

Senator MINCHIN (South Australia—Minister for Finance and Administration) (6.55 p.m.)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

DOCUMENTS

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

Department of Foreign Affairs and Trade

Senator STOTT DESPOJA (South Australia) (6.56 p.m.)—I move:

That the Senate take note of the document.

I would like to address tonight, albeit briefly, the Department of Foreign Affairs and Trade's glossy brochure entitled *Iraq: the path ahead*. I am wondering exactly what is the purpose of this booklet that has been tabled this evening. It is a very glossy—and, no doubt, expensive—book of smiling faces. I am not sure if it depicts the reality of the conflict that has occurred in Iraq. The Democrats have long called for the government to reveal—or perhaps even formulate—an exit strategy in relation to Iraq. We believe that, as one of the countries that invaded Iraq in the first place—and in the context of international criticism when we did so—we as

a nation have a special responsibility to assist the people of Iraq during this crucial rebuilding stage. It is not a matter of do we pull out now, do we pull out before Christmas or do we pull out at some date in the future; what we need to be considering is what we achieve before we pull out, what we have to do to ensure that we clean up the mess, if you like, as one of the occupying forces and how we can achieve this as soon as possible.

While this paper does provide some clarification, there is still no clear exit strategy. Perhaps we should be asking President Bush about the exit strategy in relation to Iraq—and indeed to our country and our forces. While this paper accuses the media of providing a distorted account of the situation in Iraq by, for example, publishing images of violence, anyone looking at the pictures in this publication could be forgiven for thinking that Iraq is a utopia of peace. The front cover is a photo of an ADF officer with a young, smiling Iraqi girl, while children's drawings and red love hearts—love hearts!—adorn the walls behind them. There are no pictures of the children who have been detained without charge by coalition forces. Neither is there any indication that children may have been killed or wounded as a consequence of the actions of coalition forces in Iraq.

Of course, there is a picture of our Prime Minister, John Howard, during his fleeting tour of Iraq on Anzac Day. If the government really wants to provide information about and a clarification of its strategy in Iraq, why couldn't it have done so by way of a statement to the parliament or simply a low-cost—perhaps less glossy—brochure? Instead, what we have is a very attractive booklet, no doubt, which actually looks a lot like campaign material. I would not be surprised if it is the kind of thing that gets mailed out to the electorate over the coming months to persuade the electorate that Iraq is

not a negative in the polls—as the Prime Minister was insisting yesterday—and to justify, in some way, some of the indefensible actions that have taken place.

The hypocrisy in this paper is startling. For example, it states:

... the onus is on Iraq's new leadership and the Iraqi people to keep progress on track. They must forge an inclusive political environment in which Iraqis see their interests reflected and represented through peaceful debate and negotiation, rather than violence.

If only the coalition countries had demonstrated a commitment to peaceful debate and negotiation, rather than violence, before they went in and wreaked so much havoc. The paper also states that 'Australia has always held the view that the United Nations has a crucial role to play in Iraq'. Yet this government completely bypassed the processes of the UN in order to invade Iraq in the first place. I know that the Prime Minister spent months lobbying for a Security Council resolution which would sanction military action against Iraq. I know he flew to Washington in an attempt to convince the President of that country that any attack should occur within the auspices of the United Nations. But when it became too difficult he and others did a complete backflip. On the sole basis that other member states did not concur with the coalition's position, the Australian government suggested that the UN was somehow irrelevant. Instead of putting money into glossy brochures attempting to justify its decision to go to war, the government should be spending this money on desperately needed resources for the Iraqi people. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Landcare Australia Ltd

Senator WATSON (Tasmania) (7.02 p.m.)—I move:

That the Senate take note of the document.

At a time when some members of the media give the impression that the environment debate is the preserve of Labor and the Greens, it is timely to note the annual report of Landcare Australia Ltd for 2002-03. This report highlights the commitment and success of the Australian government in achieving grassroots involvement in environmental projects through partnerships between Landcare Australia Ltd and community groups. The Australian government continues to fund Landcare and Coastcare programs through the \$2.7 billion National Heritage Trust and the \$1.4 billion National Action Plan for Salinity and Water Quality—a great achievement. These funds help communities undertake local projects aimed at conserving biodiversity and promoting sustainable resource use.

In Tasmania, Landcare continues to thrive with over 310 Landcare, Coastcare, Waterwatch and Friends groups now linked into Tasmania's Landcare network. These groups represent over 5,000 people dedicated to improving the environment through local and regional action. This community involvement is replicated across the country with over 4,000 groups nationally, representing possibly the largest commitment of human resources to a national project since the end of World War II.

The Australian government with bipartisan support has again committed to funding this enormous endeavour with recent budget funding to 2008. Through partnerships with the Tasmanian government this funding has enabled the many local Natural Heritage Trust groups established throughout the state to amalgamate into regional NHT associations to provide a strategic framework to ensure that the high priority issues are given prominence. In the words of the Tasmanian state Landcare coordinator, Don Defenderfer: Landcare is active in both rural and urban areas of Tasmania, focusing on agricultural issues as well

as other environmental issues. Local Landcare groups decide what issues they want to focus on and then apply for government investment to address those issues.

Landcare is all about local groups tackling issues and achieving on-ground results. Landcare groups don't just talk about problems, they get out and do something about it.

Some good examples of recent projects that have received Australian government funding are: PE and LM Davies, \$27,132 for restoring culverts for native fish passage in Hobart stream catchments; the Coal River Products Association, \$27,272 for removal of willows and weeds from 5.1 kilometres of the Coal River—this project included the planting of 4,000 native plants and four kilometres of fencing; the Tamar Region Natural Resource Management Group, \$26,367 to develop a coastal management plan for the George Town Municipality; the Kindred Landcare Group, \$25,245 for restoration of Buttons Creek near Ulverstone—this will include 7.8 kilometres of fencing to exclude stock from the waterway and the planting of 1,150 native trees and shrubs.

I am also pleased to see that the report highlights the growing self-reliance of Landcare Australia through a \$3.1 million sponsorship and an estimated \$13.7 million media coverage. This indeed shows that the community approach to protecting the environment and raising awareness is beginning to show major and significant results. The list of sponsors includes: Alcoa, Boral, Coles Myer and Qantas, and that shows that the triple bottom line is becoming the norm rather than the exception. I commend the report to the Senate.

Question agreed to.

Consideration

The following government document was considered:

Australian Maritime College—Report for 2003. Motion to take note of document

moved by Senator Watson. Debate adjourned till Thursday at general business, Senator Watson in continuation.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! Consideration of government documents having concluded, I propose the question:

That the Senate do now adjourn.

Banking: National Australia Bank Board

Senator WATSON (Tasmania) (7.07 p.m.)—I rise tonight to speak about the dysfunctional National Australia Bank board. A lot has been written about the role of independent directors and auditors. This matter has again been brought to the fore with the very public airing of the NAB board's stoush. Indeed, there are seminars galore about corporate governance and their prime focus is on the happenings at the National Australia Bank.

The Joint Committee of Public Accounts and Audit has taken an interest in the issue of corporate governance in view of the number of high profile corporate failures within Australia. In its report on the review of independent auditing by registered company auditors, it stated that the responsibility for corporate failures should lie ultimately with the company's management and its directors. It thought that the failures pointed to the inadequate nature of corporate governance exercised by some in the business community.

Opinion is divided over the role and the need for independent directors. It seems that a few leading chairmen and directors in Australia disagree with the concept and are of the view that a properly functioning board does not require a person in such a role. They believe that having an independent director on the board actually undermines the role of the CEO-chairman position. On the other side of the coin, fund managers and share-

holder groups support the idea as it gives investors better access to boards and should theoretically lead to greater accountability.

It certainly would not be a cure-all for the ills of the NAB board. However, a pill of some sort is needed. The board has been progressively decimated since the \$360 million foreign exchange currency trading fiasco, news of which broke on 13 January this year. Reports into the disaster were conducted by both PricewaterhouseCoopers and APRA. Although the board got off relatively lightly, both reports did point out its acquiescence in relation to the mounting losses.

First, Frank Cicutto, the NAB's chief executive who commissioned the PricewaterhouseCoopers report, resigned in February before the report was finalised, and he was followed by the chairman, Charles Allen—each leaving with generous redundancy benefits. Both resignations, I believe, were a mistake. In my opinion they should have remained and been held accountable until the matter had been fully investigated. On the other hand, Mr Cicutto was hardly responsible for Don Argus's earlier misreading of the USA Homeside fiasco. While I do not wish to depreciate Don Argus's effort, it must be remembered that the share price increased fivefold while he was the CEO. The situation was made worse because of the decision to appoint Graham Kraehe to replace Charles Allen as chairman. He was already under a lot of pressure in his position as chairman of the risk management committee.

Then there was the controversy surrounding Cathy Walter. Quite frankly, I was appalled at the way she brought the whole row to the public's attention and brought the whole board into disrepute. Her fitness for reappointment or indeed appointment to other public boards must now be questioned. After rejecting requests by directors opposing her to stand down, she became embroiled

in a bitter conflict with them. I see that she has now had the good sense to stand aside. However, while I do not condone her actions, I do think she had a point in calling for the removal of the directors, particularly the new chairman, Graeme Kraehe, and herself.

The point is that the blame for the fiasco should be shared. Cathy Walter has a very strong background in corporate governance and an eye for detail, and I feel she was probably worried that the PricewaterhouseCoopers report may have focused unduly on her. This may have been the reason why she chose to venture outside the board's solidarity. However, this turned out to be a wrong premonition. In terms of directors' prime responsibilities, the audit committee was headed by Cathy Walter and the risk management committee was headed by Graham Kraehe. Of the two, the risk management committee should have been abreast of the problem areas. Hence, Cathy Walter was quite right in targeting Graham Kraehe. Mr Graham Kraehe has now agreed to remain with the NAB for another 12 months in order to oversee the appointment of new directors.

There is some conjecture as to just how often the risk management committee met once it was established in August 2003. It seems that the first meeting was not held until late November 2003. Given the activities of rogue trader Nick Leeson, operating out of Singapore and bringing down the old English Barings Bank, an ordinary prudent person would have expected all banks to have been ultra cautious. APRA's concern about monitoring limits in trading markets goes back to 2002, because the NAB was not paying enough attention to signals that it was in trouble. By 2003, APRA was of the view that there were sufficient problems with its risk management to warrant it going back to the full board.

The NAB has been criticised for not having the right people with the right mix of skills on its board. I agree with that criticism. To begin with, in my view it is wrong that there is only one person with financial services experience sitting on the board. I also think it is farcical that that person, Mr Tomlinson, can sit on seven boards at the one time while Mr Kraeche has not had a startling career either, particularly if you look at his South Corp Ltd experiences. In my view, the mix of people on many boards is generally not right. There is a need to have people with a wider experience, not just ex-CEOs who are prepared to fearlessly represent shareholders' interests—but that is sometimes questionable.

Sandy Easterbrook, a director of Corporate Governance International said that, in his view, people with a funds management or superannuation fund background or people with relevant industry experience would be ideal. There is also new evidence which now suggests that combining the roles of CEO and chairman leads to stronger performance by the company. One of the reasons for this is that boards would take greater care in selecting them and the increased security of the joint role would allow them to take the necessary risks. However, it is the excessive risk taking or greed that has got so many companies into trouble, so this approach must be severely discounted.

Another noteworthy issue, not just in relation to the NAB, is that so many executives seem to leave with very generous redundancy payments while the company is being run down. This situation certainly lends credence to the concept of the old boys club. I believe that the other directors need to denounce this idea and challenge these payments, even going so far as to take the matters to court if necessary. Sandy Easterbrook also said:

There is a close correlation in Australia between significant corporate governance issues in companies being followed by significant destruction of shareholder value ...

Other commentators have also suggested that internal fights, such as the very public one going on now in the NAB board, can affect the company's earnings and the confidence that investors have in the company. They are interesting comments, given that I have already been asked by some people about what is happening at the National Bank. I should add my support for the bank: despite the recent shortcomings, it remains particularly strong. A particular strength of the bank has always been in the area of its housing portfolio.

It is good news that John Stewart has been appointed as CEO and he appears to be a breath of fresh air. However, he has a further problem in relation to the expensing of the capitalisation of software development costs, and he has oversight by APRA. APRA are now having a greater involvement looking over the bank's shoulder. There will be more prudence and consequently less risk. The question now that must be asked is whether NAB will be able to maintain its profit growth levels and dividend increases each year. The investing public needs to be reassured that the NAB's current rate of profitability will continue. APRA's involvement with the NAB does deserve praise, unlike some early superannuation fund difficulties with different personnel. I think that is significant, particularly for us as parliamentarians. However, perhaps NAB should consider undertaking a prudential audit every four to five years, just as some of the more progressive superannuation funds do. It would also be wise to place a greater emphasis on its risk management infrastructure with appropriate technology support.

One disturbing thing that came out of Mr Lewis's APRA report in relation to NAB was

the culture and subcultures operating in the bank, which certainly appeared to give credence to the idea that it was not a bad thing to exceed limits and to minimise monitoring and hide certain problems in the trade. However, all that bad news is now behind the bank and I wish it well in the future because it is a major financial institution in Australia and when it gets its new board structure I think it has a good future.

Multiculturalism

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (7.17 p.m.)—Among many issues of concern affecting Australia at the moment from world events is, in my view, a real potential problem with the future strength of multiculturalism. The term ‘multiculturalism’ has been used by some people as a controversial one, so you can use the terms ‘cultural diversity’ or ‘social dynamism’—I do not really mind. I think there is a potential major problem with the ability of groups in our community to be effective parts of our entire society, to be able to contribute fully and to be able to do so free from discrimination and fear. There is a very real prospect that that danger may appear. We have the real prospect that one of the real strengths of our nation will be compromised unless we address this danger now.

There are recent reports on this, and many parliamentarians would have received letters from Islamic groups in Australia concerned about discrimination they believe is targeted towards them and their communities. They say and believe that antiterrorism laws and proposed laws in this country are particularly focused on the Muslim community within Australia. Clearly, the government rejects this and has said that it rejects this. I think we need to hear this very real view, and it is a very real belief and feeling and view of many Muslims within Australia. It is not a

brand new feeling. It is something that has grown since September 11 2001, with the implementation of the ASIO legislation and other laws since then, and the activities and the focusing of some Federal Police and ASIO raids on Muslims in Australia. It is a reality that sections of the Muslim community feel targeted. It is not good enough to say, ‘You are not being targeted.’ That is the way they are feeling and they need more than just blithe reassurances saying that it is not the case. If we have such a large number of Muslim organisations saying that this is their view and their feeling, then we have to acknowledge it. They say that only Muslims have been arrested and only organisations linked to Muslims have been prescribed.

These perceptions need to be addressed. In the same way, this government says that immigration laws are not discriminatory and that they are applied equally across the board. The fact is that, in their implementation, there are people from certain countries who are treated differently from people from other countries. People with disabilities are discriminated against and people from certain backgrounds—

Senator McGauran—Not in the law.

Senator BARTLETT—It is simply a case of the way it is administered and that is a fact. The government can say that it is non-discriminatory; the fact is that in its implementation it is discriminatory. That is not to say that officers within DIMIA are racist or are deliberately saying, ‘We will not let you in because of the colour of your skin.’ It is saying that the structural implementation and operation of it is such that that is the actual outcome. That is the concern that is being expressed in relation to the structural operation of these laws and it is something that needs to be acknowledged.

You can couple that with some of the actions within the community. We had contro-

versy over the absurd comments of Reverend Fred Nile, for example, in relation to Muslim women wearing particular attire. We had the situation a month or so ago of a female Muslim soccer player who was told she could not play whilst she was wearing a headscarf. I would commend the Victorian Soccer Federation for the way they handled that incident and I believe that it has since been addressed in a constructive way. But it is an example. There was more coverage recently of a Sikh man who was told he was not allowed to wear his turban inside. While these are only a small number of incidents and are easy to brush off as isolated examples, we need to add them together and to hear the message that is coming from the Islamic community. We need to be very aware of and I believe concerned about it. Those sorts of fears very easily become self-perpetuating and self-fulfilling prophecies. It is something we must guard against. We must go out of our way to assuage such fears and prevent them from developing.

To that end I particularly note and praise the joint work of Australia's peak Islamic, Jewish and Christian bodies, who have met together through the Australian National Dialogue of Christians, Muslims and Jews—a joint initiative of the Federation of Islamic Councils, the Executive Council of Australian Jewry and the National Council of Churches—to enhance understanding and to speak out together against discrimination and violence and for greater understanding. That is what we need to do more overtly. It is not enough to say, 'Look, it's not discriminatory. You've got it wrong.' We have got to overtly, proactively, positively and strongly increase understanding and awareness and actively express support for different expressions of belief and different ethnic backgrounds.

I say that as someone who is not religious and is not at all keen to see religion inserted into the political debate or into the education

system. But it should be something that people are able to not just practise but express. People should be able to be comfortable being who they are within our community. That is something that is at risk. Religion is obviously a key part of and integrally linked to many people's culture and heritage. That diversity is something that makes our nation particularly strong. I think we have done better than almost any other country in the world at having people from such a wide range of diverse backgrounds, cultures, religions and heritage together and not just 'tolerating'—to use a word that is a bit of a double-edged sword—but actively embracing and using the value of the unique viewpoints and maximising the positives of each of those viewpoints to bring a greater whole.

We talk about a globalised world and moving into a new century. The one big advantage I think our country has over many others is that long history we have of migration, despite some obvious difficulties along the way. We have done quite well in getting the maximum value out of all those different cultures. I do not want to lose or risk that in any way, for the sake of our whole country as well as for those particular groups within our community who feel fearful and targeted and who fear that they are at risk of unfair laws or laws that give excessive power without adequate scrutiny.

I would point briefly to the recent situation in France, with the passing of legislation that bans the wearing of headscarfs, crosses and overt religious symbols in schools. I do not totally condemn that. France has a very different history; indeed, secularism has been a specific focus and part of their law for nearly 100 years. It is a different situation. Whilst I understand some of the reasons why the French have gone down that path—it is a decision that was made across the political spectrum by people of the Left, the Right and the Centre to go down that path, with very

little parliamentary dissent—it is still something that concerns me, because I do think it runs a risk. Whilst I understand the historical reasons why it has been put together to ensure the separation of church and state—and this is from a nation that actually has a very strong religious heritage, more so than Australia, actually, and it also has a larger Muslim community—there are dangers in suppressing open expressions of belief. There are other problems there that needed to be addressed. I understand those in the French context and I am not totally critical of it. There are counter arguments about ensuring that Muslim women or girls who did not want to wear the veil were not being oppressed in schools as well—and this law does only apply in schools and not in other areas.

It is an example of the complexity of the problem. It is an example of a situation that Australia does not want to end up with. We have a situation where we do not need to worry about levels of action or laws to address problems like that, but we have got to be aware of where discrimination might develop and try to get in early and ensure that all parts of our community are able to feel safe and contribute fully for the benefit of all us, not just for that group.

Domestic Violence

Senator STOTT DESPOJA (South Australia) (7.27 p.m.)—I rise tonight to address the issue of domestic violence in Australia. I do so in light of the study that was released today by the Victorian Health Promotion Foundation, VicHealth, which found that domestic violence is responsible for more ill health and premature death in women aged 15 to 45 than any other well-known risk factor, including high blood pressure, obesity and smoking. It found that women exposed to violence suffered depression, anxiety and phobias, suicide attempts, chronic pain

symptoms, psychosomatic disorders, physical injury, gastrointestinal disorders, irritable bowel syndrome and a variety of adverse reproductive consequences. The study also reported that the economic cost of violence against women was at least \$500 million per annum.

As indicated by the study, the impact of domestic violence cannot be overstated. At least one million Australian women have experienced some form of domestic violence. Half of these cases, according to statistics, were witnessed by children. Domestic violence is also a significant factor leading to lethal violence. It accounted for 27 per cent of all homicides in our country between 1989 and 1996. Despite this, however, the federal budget contained no forward estimates for expenditure under the important Partnerships Against Domestic Violence program, suggesting, if you read those budget papers, that the government may abolish this program after the 2004-05 financial year.

In the context of the budget, the government did announce an additional \$5.1 million in 2003-04 and \$1.6 million in 2004-05 for the national campaign for the elimination of violence against women. I am glad of that and I am glad that the media campaign in relation to domestic violence has finally been launched. I support the message of that campaign, which is that violence against women in our society is totally unacceptable. However, both the campaign itself and the way in which it was developed, postponed and changed call into question true commitment to the eradication of violence against women in our society and, in particular, the role for government.

I understand that one of the reasons that the campaign was postponed was to make it less anti-male. This misses an important point. It is an unfortunate one but a fact: violence against women is mostly perpetrated

by men. It is unfortunate that the campaign was delayed, let alone that the reason for the delay was to water it down and potentially make it less controversial. Campaigns about violence should be controversial. They should be confronting. They should not be toned down to fit a government agenda.

It has been revealed that another change between the original ads and the ads now on television that were launched on 6 June was that the Coaching Boys into Men segment was dropped from the campaign. This was designed to encourage young men and boys to develop positive attitudes towards women and to show them that violence is unacceptable. I do not think anyone doubts the need for programs such as that. The recent spate of allegations against AFL and rugby players has highlighted this need. I highlight that as an example only, because I know that in all aspects of our society violence takes place. It is not just in the case of sportsmen.

Like many others, I spoke out publicly—albeit wary of the legal constraints, I acknowledge—in relation to the recent decision not to press charges against the Canterbury Bulldog players over allegations of raping a woman in Coffs Harbour. But I was worried, like many others, that this decision may prevent women from coming forward with allegations of rape and sexual assault because they are worried about the fact that these decisions will be made or that their complaint will not be taken seriously. I was and am still concerned that women may see decisions such as this as a reason not to pursue similar claims.

According to a 1996 ABS survey, 1.9 per cent of women aged 18 and over have experienced sexual violence by a man in the last 12 months. Yet respondents indicated that only 15 per cent of these assaults were reported to police. These are the most recent ABS figures available, as the government

has not actually studied violence against women since 1996. Interestingly, however, support centres have noticed a sharp increase in the number of women reporting sexual assault since the most recent allegations involving those sportsmen. The Brisbane Rape and Incest Survivors Support Centre reports it has been inundated with calls from women who have been affected by sexual violence in recent months. Similarly, the New South Wales Rape Crisis Centre report a 13.5 per cent increase in calls in the past month. So perhaps in some way these allegations have had an impact. They have made it clear that women who have experienced sexual violence are not alone and hopefully, if there is any positive that comes out of this, it has given them the courage to come forward.

However, even when sexual assault is reported and the matter is taken to court, it is notoriously difficult to achieve a conviction, partly due to the high level of proof required. The *Courier Mail* newspaper recently reported the Queensland Director of Public Prosecutions, Leanne Clare, as saying:

... by its very nature rape remains one of the hardest offences to prosecute ... It is physically and emotionally invasive for the victim who feels ashamed and humiliated.

Obviously, it is important that women feel they can come forward and know that their claims will be dealt with seriously.

One of the most disturbing aspects of domestic violence is the extreme end—that is, domestic violence can lead to murder. On average, 77 homicides occur each year where the victim and the offender are current or former spouses. Three-quarters of these killings involve men killing their female spouses. These murders can often follow custody disputes or are the result of domestic violence. However, like many, I hope, in this place, I am sick and tired of people attempting to explain or justify such killings as be-

ing somehow caused by these disputes. There is never an excuse for this violence.

Often, of course, children become the victims of violence. According to the Institute of Criminology, around 25 children were killed by their parents each year between 1989 and 2002 and fathers were responsible for 63 per cent of these filicides. While any form of violence is abhorrent, in the minority of cases where a woman perpetrates violence against her partner or a mother against her child what I find fascinating is the media's portrayal of such violence and indeed the double standards that we still get in this day and age in the treatment of violence perpetrated by women. I was going to put this into words but I found a quote from the *Age* recently which summed it up brilliantly. The writer, Sue Leigh from Thornbury, said:

When there is a tragic killing of children by a father, the response is often one of sympathy for the perpetrator. It is said that the poor man was depressed because he was unable to cope with separation and divorce. Depressed women who kill their children, because they are overwhelmed by the pressures of coping with children on their own, are called monsters and demonised by the media.

I am not sure what this highlights in our society but I have a grave fear that it is a culture of misogyny that has not left us. It is misogyny that is evident in institutions throughout our society and I indicate the media in the context of those groups.

But we know that there are legal, police and other avenues theoretically available to women and children. Killings of any kind, but these killings in particular, highlight the need for an increased enforcement of protection orders and apprehended violence orders. It is often assumed that apprehended violence protection orders, AVOs, can keep women safe. But we know that is not the case. They do not always work. They are often violated and we know that enforcement

is patchy. I am not suggesting that the judiciary, the legal services or indeed the police are not acknowledging that, but we are not doing enough to make sure that they are not patchy.

A man who has written well on this issue is Phil Cleary. I refer honourable senators to his book about the murder of his sister as an example of where we have perhaps not moved on over the last decades. It is clear that an advertising campaign may help, but it is not enough to combat violence. I will continue, as the Democrats and many others will, to pressure the government to increase funding to address this issue, but indefinitely postponing or shutting down campaigns and programs designed to assist victims of violence does not work. We need a combined approach that involves all of society's institutions—media, judiciary, police, health, support—plus law makers. But I suspect that at the heart of it all is a culture of misogyny that has to be stamped out, and I look forward to seeing it eradicated some time, I hope, in the near future.

Ministerial Reply

Senator McGAURAN (Victoria) (7.38 p.m.)—I am absolutely compelled to respond to the speech of the Leader of the Democrats. It was so shallow, such an attack on the Australian community and so wrong that I stand to challenge it. The Leader of the Democrats attacked Australian society and community as being, the way he put it, fundamentally discriminatory against the Muslim community in Australia. That must be challenged. Anyone who listened to his speech on air or who cares to go back to the *Hansard* would think that the Leader of the Democrats is a stranger in his own country to attack our community and society the way he did. He spared no spurious point. He produced every unproven point that he possibly could—and untrue points, for that matter—to criticise

and to build a case that Australia has a community and a government—I think he threw us in too—that is discriminatory against the Muslim community. Nothing could be further from the truth.

In his own words he said that we have non-discriminatory law. He said that himself and it is the truth. But it is not good enough for him that we have in place one of the world's best systems of non-discriminatory law, because it is not administered properly—but that is not to say that those who administer it are racist at all. That does not make any sense. Of course they are not. Those who administer it happen to administer it according to the law. I do not understand his point other than that he is trying to make us feel ashamed of our law and the way we administer it. The law is non-discriminatory and those who administer it are non-racist. He bases his case on the way some of those he has met feel about Australian society. We have a lot to be proud of in our multicultural country, including our law and the way it is administered. If he happens to have met some who feel otherwise then he should explain to them that this is one of the best countries in the world in relation to non-discrimination.

I challenge what the Leader of the Democrats says about how some people feel about the way this country operates with regard to racism. It is the least racist country in the world, and we should not stand here and listen to the Leader of the Democrats shame us and try to make us hang our heads and wear black armbands over that fact. The truth is that he was really grappling to make his point that this government is somehow responsible for an attack on the Muslim community. Nothing could be further from the truth. It is true to say that certain ethnic groups from time to time have had attacks upon them, but there is an element of racism in all societies. It is so rare in this country

compared to other countries that we ought to be proud of how we operate our multicultural society.

More often than not, when there are elements of racism and attacks and perhaps violence, it is usually the new ethnic groups against the new ethnic groups that have not quite settled into our society. You can point to the new ethnic groups. They are often still in old wars brought out here against new ethnic groups. What we say to them is a great Australian saying that works: leave your problems back in your old country or go back there.

The real contradiction, shamelessness and shallowness of the Leader of the Democrats was that, after building that case against Australian society, he mentioned France. It is all right for France to move a law of the land against the dress of the Muslim community—for that matter, right across all religious groups, but particularly the Muslim community, which he was talking about. It is all right for France to move a discriminatory law preventing the Muslims from wearing their veils. It is not just a religious dress for them; it is also a cultural dress—and they ought to be allowed to wear it, as far as I am concerned. But that is all right; he understood why France did that. I do not understand how he understands that at all. France has a greater tradition of intolerance than this country has? What a load of rubbish his speech was! He ought to come in here and withdraw half of his comments.

Senate adjourned at 7.43 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:

Australia-Korea Foundation—Report for 2002-03.

Australian Maritime College—Report for 2003.

Department of Foreign Affairs and Trade—
Iraq: The path ahead—Discussion paper,
June 2004.

*Sydney Airport Demand Management Act
1997*—Quarterly report on the maximum
movement limit for Sydney Airport for the
period 1 January to 31 March 2004.

Tabling

The following documents were tabled by
the Clerk:

Class Rulings CR 2004/58 and CR
2004/59.

Defence Act—Determination under section
58B—Defence Determination 2004/22.

Financial Management and Accountability
Act—

Financial Management and Account-
ability (Determination 2004/02—
Property Special Account) Variation
2004.

Financial Management and Account-
ability (Determination 2004/03—Aus-
tralian Antarctic Heritage Conservation
Special Account) Establishment 2004.

Financial Management and Account-
ability (Determination 2004/04—
Employee Entitlements Support Scheme
Account) Variation 2004.

Financial Management and Account-
ability (Determination 2004/05—
Federal Magistrates Court Litigants'
Fund Special Account) Establishment
2004.

Financial Management and Account-
ability (Determination 2004/06—
Family Court of Australia Litigants'
Fund Special Account) Establishment
2004.

Financial Management and Account-
ability (Determination 2004/07—
Federal Court of Australia Litigants'
Fund Special Account) Establishment
2004.

Financial Management and Account-
ability (Determination 2004/08—Inter-
Parliamentary Relations Special
Account) Establishment 2004.

Financial Management and Account-
ability (Determination 2004/09—
Commonwealth Parliamentary Assoc-
iation Conference and Seminar
Contributions Account) Variation 2004.

Product Ruling—

Addendum—PR 2004/14, PR 2004/30,
PR 2004/40 and PR 2004/45.

Notice of Withdrawal—

PR 2002/91.

PR 2003/72.

PR 2004/34.

PR 2004/72-PR 2004/77.

Taxation Ruling—

TR 2000/17 (Notice of Withdrawal).

TR 2004/4 and TR 2004/5.

Telecommunications (Carrier Licence
Charges) Act—Determination under
paragraph 15(1)(e) No. 1 of 2004.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Environment: Greenhouse Gas Emissions (Question No. 2848)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 15 April 2004:

- (1) For each of the financial years 1999-2000, 2000-01, 2001-02, 2002-03 and for 2003-04 to date: (a) how much did Australia spend under the aid program to help abate greenhouse gas emissions and/or facilitate adaptation to climate change, for the following regions: Pacific, Asia, Africa, other and global environment facility; and (b) what was Australia's total aid program expenditure.
- (2) For each of the financial years 1999-2000, 2000-01, 2001-02, 2002-03 and for 2003-04 to date, can a list be provided of energy or greenhouse-related projects and programs for the Pacific region, including for each project or program its title, aim, amount of expenditure and the country to which it relates.
- (3) Which sectors have priority for Australia's aid in the Pacific region.
- (4) (a) For each of the financial years 1999-2000, 2000-01, 2001-02, 2002-03 and for 2003-04 to date, which Pacific countries have requested Australia's assistance in relation to energy and climate change; and (b) in each case, what kind of assistance has been requested.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

- (1) Aid Program expenditure through AusAID¹ on Greenhouse Gas Abatement and Adaptation to Climate Change

| | 1999-00 | 2000-01 | 2001-02 | 2002-03 | 2003-04 est. |
|-------------------------------|---------------|---------------|---------------|---------------|---------------|
| Asia | 10,582,438 | 11,090,830 | 11,684,396 | 14,334,308 | 8,572,686 |
| Pacific/ PNG | 12,493,002 | 12,825,445 | 12,173,895 | 10,533,356 | 9,920,742 |
| Africa | 977,197 | 603,743 | 398,127 | 407,808 | 253,809 |
| Other | 1,103,115 | 1,102,937 | 1,085,663 | 1,296,769 | 917,855 |
| Total | 25,155,752 | 25,622,955 | 25,342,081 | 26,572,241 | 19,665,092 |
| Global Environment Facility* | 5,131,200 | 7,727,400 | 9,459,200 | 10,323,600 | 21,396,400 |
| Total Aid Program Expenditure | 1,748,700,000 | 1,623,100,000 | 1,755,100,000 | 1,830,900,000 | 1,893,800,000 |

¹ This response is limited to aid provided through AusAID. Australia's total aid program includes activities funded through other Government agencies

* According to latest figures, in the period since its establishment (1991-2002), the GEF has allocated almost 37% of its program funding to climate change (about 35% in 2002).

Australia, through AusAID, channels most of its funding in support of the United Nations Framework Convention on Climate Change (UNFCCC) through the Global Environment Facility (GEF) and has increased its financial commitment to the Facility by pledging to provide \$68.2 million for the third replenishment period (2003-2005). This is a substantial increase of almost 58 percent over the funding Australia provided in 1998 for the 2nd replenishment (since 1991, Australia has committed over \$184 million to the GEF).

The GEF is an operating entity of the financial mechanism of the UNFCCC. In the period since its establishment (1991-2002), the GEF has allocated almost 37 percent of its program funding to climate change (about 35 percent in 2002).

In addition, Australia provides annual contributions to the United Nations Environment Program (UNEP) in support of its work on sustainable development. Annual contributions are:

| | |
|-----------|---------|
| 1999-2000 | \$0.5m |
| 2000-2001 | \$0.6m |
| 2001-2002 | \$0.65m |
| 2002-2003 | \$0.55m |
| 2003-2004 | \$0.55m |

- (2) A list of energy and greenhouse-related projects for the Pacific region funded by AusAID since 1999-00 is provided at Annexe A. See also at Annexe B a list of activities which enhance the ability of Pacific island countries to respond effectively to climate change.
- (3) The priority sectors for Australia's aid to the Pacific region are:
- improved systems and structures for law and order
 - more effective, accountable and democratic government and more equitable growth and
 - enhanced service delivery

In PNG the priority sectors are infrastructure, governance, law and justice, education and health, with smaller programs in civil society and renewable resources.

- (4) Over the period since mid 1999 the following requests have been formally received from Pacific island governments for assistance in relation to energy and climate change²

1999-00

Cook Islands: To upgrade the electrical system in Omoka and Te Tautua, to enable current and future demand to be met in an economically sustainable way, while ensuring an adequate level of reliability and system performance.

Kiribati: To extend assistance under Phase 1 of the Public Utilities Power Board Project.

2000-01

Niue: To provide an emergency generator for Niue Hospital

PNG: Financial, business and facilities management adviser for PNG Forestry Authority

2001-02

Nauru: To provide essential power supplies through support and supplementation of the existing power infrastructure, including provision of diesel fuel and lubricants for power supply.

PNG: Legal adviser for the PNG Forestry Authority

2002-03

Nauru: To provide essential power supplies through support and supplementation of the existing power infrastructure, including provision of diesel fuel and lubricants for power supply.

PNG: To provide an expenditure controller for the PNG Forestry Authority and six advisers - five full-time in the areas of corporate management, financial management, human resource management, asset management, and management information systems, and one part-time monitoring and evaluation adviser.

2003-04

Cook Islands: To trial wind-powered electrical generation to develop options for reduced dependency on fossil fuels

Nauru: To provide essential power supplies through support and supplementation of the existing power infrastructure, including provision of diesel fuel and lubricants for power supply.

PNG: Legal advice for the PNG Forestry Authority

Solomon Is: For emergency restoration of power.

² While every attempt has been made to determine the formal requests made, informal requests are frequently made either in the course of consultations through the project development process or on an ad hoc basis.

AUSAID ASSISTANCE FOR ENERGY AND GREENHOUSE-RELATED PROJECTS IN THE PACIFIC

| COUNTRY | TITLE | AIM | EXPENDITURE | | | | |
|--------------|---|---|-------------|---------|----------|---------|-------------|
| | | | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 Est |
| Cook Islands | Aitutaki Wind Energy Monitoring Station | To trial wind-powered electrical generation to develop options for reduced dependency on fossil fuels | | | | | 72,978 |
| Cook Islands | Manihiki Power Upgrading Project | To provide reliable electricity generation and distribution systems on the island of Manihiki | 201,411 | | | | |
| Cook Islands | Penrhyn Electrical Power Upgrade Project | To upgrade the electrical system in Omoka and Te Tautua, to enable current and future demand to be met in an economically sustainable way, while ensuring an adequate level of reliability and system performance. | | 707,413 | 878,736 | | |
| Fiji | Australian Centre for International Agricultural Research | To determine the status of the tree damaging Neotermes in Fiji's American mahogany plantations and undertake preliminary evaluations of the use of entomopathogens for their control. Note: No funding provided in the identified years | | | | | |
| Fiji | Australian Centre for International Agricultural Research | To determine the implications for sustainable development policies of trade liberalisation, agriculture and land degradation in Fiji | | | | | 60,923 |
| Kiribati | Public Utilities Power Board Project Phases I and II | Phase I aimed to improve the reliability of the electricity generating capacity in South Tarawa. Phase II aims to secure and maintain a safe and reliable power supply on South Tarawa by improving the maintenance of and response to breakdowns in the current power systems. | 717,642 | 799,812 | -199,594 | 176,913 | 155,969 |

 QUESTIONS ON NOTICE

| COUNTRY | TITLE | AIM | EXPENDITURE | | | | |
|-----------------|--|--|-------------|-----------|------------|------------|-------------|
| | | | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 Est |
| Nauru | Nauru Package of Additional Assistance - Power Infrastructure | To provide essential power supplies on Nauru through the support and supplementation of the existing power infrastructure, including the provision of diesel fuel and lubricants for power supply. | | | 11,030,000 | 11,010,000 | 8,410,000 |
| Niue | Electrical Engineer support through Pacific Technical Assistance Program | To provide governance capacity assistance, human resources training and basic infrastructure support | 74,602 | 49,225 | 45,660 | 32,566 | 68,527 |
| Niue | Niue Hospital | To provide an emergency generator for Niue Hospital | | 25,814 | | | |
| Solomon Islands | Solomon Islands Forestry Management Project Phase I | To strengthen organisational development and industry monitoring, including revenue capture, and improve forest management infrastructure. | 1,272,709 | 1,015,890 | 1,708,370 | 1,558,730 | 1,501,815 |
| Solomon Islands | Solomon Islands Electricity Authority (SIEA) Generator Repairs | To make urgent repairs to a main generator servicing Honiara | | | 635,414 | 451,407 | 42,726 |
| Solomon Islands | Strengthened Assistance - Electricity | To provide urgent restoration and normalisation of SIEA's power supplies for Honiara | | | | | 1,100,000 |
| Solomon Islands | Village First: Light up the Future | To increase local capacity to manage and operate village electrification systems. | | 23,642 | | | |

| COUNTRY | TITLE | AIM | EXPENDITURE | | | | |
|-----------------|---|--|-------------|---------|---------|---------|-------------|
| | | | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 Est |
| Solomon Islands | Integrated Community Development Energy Supply | To establish a micro-hydro electricity generating scheme, to be fully owned, maintained and operated by the local community management structure, as the key element in the Bulelavata integrated community development plan | 73,247 | 3,746 | | | |
| Tonga | Small Grants Scheme – Standby generator for Niu'ui Hospital, Hihifo, Ha'apai | To ensure a reliable constant supply of electricity. Ensure that potency of vaccine are maintained through refrigeration. Ensure that night-time operations and deliveries are conducted in a fully lit environment. | 36,000 | | | | |
| Tonga | Small Grants Scheme – Generator for Tonga Development Bank (TDB) & Central Planning Department (CPD), Nuku'alofa, Tongatapu | To ensure reliable electricity for the offices of TDB and CPD, that important work keyed into the computer is not lost and that staff are able to perform their jobs even when the main supply of electricity is turned off. | 44,561 | | | | |

| COUNTRY | TITLE | AIM | EXPENDITURE | | | | |
|---------|---|---|-------------|---------|-----------|-----------|-------------|
| | | | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 Est |
| Tonga | Ha'apai Outer Islands Electrification Project | To design and install appropriate electricity infrastructure, and to facilitate institutional arrangements that will ensure the long-term sustainable operation of that infrastructure. | 263,265 | 311,158 | 1,438,061 | 2,511,526 | 1,114,079 |
| Tuvalu | Incountry training program for Tuvalu Electricity Corporation (TEC) | To provide training for the TEC in relation to Australian Standard Association Wiring Regulations 3000 for Electricians, ASA Wiring Standards, power generator for Vaitupu, power transmission and control, workplace safety, electrical generator maintenance and industrial electronics | 37,821 | 34,821 | 78,000 | 13,983 | 48,000 |
| Vanuatu | Small Grants Scheme – Reforestation Program | To provide hand tools, fertiliser and pesticide to nursery workers to allow maximum production of tree seedlings at provincial nurseries around the country | | | | 47,259 | |
| Vanuatu | Small Grants Scheme – Timber Inspector Program | To improve skills of timber inspector through training and work experience. Skills to be applied through new timber standards legislation. | | 3,482 | | | |
| Vanuatu | Sustainable Forest Utilisation | To provide assistance to sustainable forest utilisation through better forest management planning, minimising the environmental impact of logging operations, maximising returns to resource owners and Government, | 413,503 | | | | |

QUESTIONS ON NOTICE

| COUNTRY | TITLE | AIM | EXPENDITURE | | | | |
|--|--|--|-------------|-----------|------------|------------|-------------|
| | | | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 Est |
| | | and optimising ni-Vanuatu participation in harvesting and processing. | | | | | |
| TOTAL EXPENDITURE PACIFIC BILATERAL PROJECTS (not including PNG) | | | 3,134,761 | 2,975,003 | 15,614,648 | 15,802,384 | 12,575,016 |
| Papua New Guinea | | | | | | | |
| Papua New Guinea | Advisory Support Facility | To build capacity in PNG Forestry Authority including financial, business and facilities management. | | 400,000 | 800,000 | | |
| Papua New Guinea | Expenditure Control Program | To provide a Financial Controller for PNG Forestry Authority | | | | | 55,000 |
| Papua New Guinea | Sustainable Management and Livelihoods | To support small scale community based forestry management and to assist government to reform the system of forest planning and management in PNG. | | | 246,668 | | |
| Papua New Guinea | Forests of PNG Management and Livelihoods | To support small scale community based forestry management and to assist government to reform the system of forest planning and management in PNG. | | | | 248,517 | |
| Papua New Guinea | Forest Sector Commodities Assistance Program | To meet high priority PNG requests for provision of essential equipment and training which will support Australia's wider forestry sector objectives and activities. | 263,289 | 55,927 | | | |
| Papua New Guinea | Sustainable Forest Management in PNG | To change the management of Melanesia's forests towards long term sustainability and conservation. | | 145,788 | | | |

| COUNTRY | TITLE | AIM | EXPENDITURE | | | | |
|--|--|---|-------------|-----------|-----------|---------|-------------|
| | | | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 Est |
| Papua New Guinea | Forestry Human Resource Development | To improve human resource development and training systems in the forestry sector to assist in the management of PNG's forest resources on a sustainable basis. | 3,000,366 | 3,890,910 | 1,629,559 | 231,955 | 594 |
| Papua New Guinea | Structural Reform Program: Consultants Fund | Forestry reform component of broader World Bank consultancy support. | | | 250,000 | | |
| Papua New Guinea | National Forest Conservation Action Plan (NFCAP) Trust Fund (Mama Graun) | To support the NFCAP and provide legal advice | 124,751 | | | | 40,000 |
| Papua New Guinea | Sustainable Forest Management Project | To improve the sustainability of the forest sector, its contribution to PNG society and the economy, and to improve mechanisms for biodiversity conservation. | 558,917 | 628 | | | |
| Papua New Guinea | Australian Centre for International Agricultural Research | To develop planning methods for sustainable management of PNG timber stocks | 128,029 | 128,029 | 128,029 | 128,029 | 128,029 |
| Papua New Guinea | Australian Centre for International Agricultural Research | Domestication of PNG indigenous forest species | 273,327 | 273,327 | 273,327 | 273,327 | 273,327 |
| TOTAL EXPENDITURE PNG BILATERAL PROJECTS | | | 4,348,679 | 4,894,609 | 3,327,583 | 881,828 | 496,950 |

| COUNTRY | TITLE | AIM | EXPENDITURE | | | | |
|--|---|---|-------------|---------|---------|---------|-------------|
| | | | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 Est |
| Regional and Multicountry Projects | | | | | | | |
| PNG, Solomon Islands and Vanuatu | Village First Program | To identify and build the local capacity to deliver energy infrastructure and services for rural communities. | | 69,500 | | | |
| Fiji, Samoa, Tonga, Vanuatu | Australian Centre for International Agricultural Research (ACIAR) | To develop forest health surveillance systems | | | | 164,594 | |
| Fiji, Samoa, Solomon Islands | Australian Centre for International Agricultural Research (ACIAR) | To determine nutrition of tropical hardwood species in plantations | 125,037 | 147,045 | 34,110 | | |
| Melanesia | Melanesian Forest Sustainable Development | To change the management of Melanesia's forests towards long term sustainability and conservation. | 159,309 | | | | |
| Fiji, PNG, Solomon Is, Vauatu, Cook Is, FSM, Palau, Kiribati, Tonga, Samoa, Tuvalu | SPC Forest and Trees Project (Phase I & II) | To strengthen the national capacities of Pacific Island countries to more effectively conserve, manage, use and develop their forest and tree resources including the implementation of policy frameworks and training in watershed management. | 166,804 | 54,701 | 80,670 | | |
| Fiji, Vanuatu, Samoa, Solomon Islands, Tonga | Regional forest genetic resources | To safeguard vital forest genetic resources through improved conservation and management of high-value species. | | 316,345 | 728,978 | 311,355 | |

| COUNTRY | TITLE | AIM | EXPENDITURE | | | | |
|--|------------------|---|-------------|-----------|------------|------------|-------------|
| | | | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 Est |
| Cook Islands, Tonga, Vanuatu, Marshall Islands | Renewable energy | To demonstrate the viability of renewable energy technologies in the region | 250,392 | 500,000 | 500,000 | 245,000 | |
| TOTAL EXPENDITURE REGIONAL AND MULTICOUNTRY | | | 701,542 | 1,087,591 | 1,343,758 | 720,949 | |
| TOTAL EXPENDITURE PACIFIC | | | 8,184,982 | 8,957,203 | 20,285,989 | 17,405,161 | 13,071,966 |

ANNEXE B

ACTIVITIES IN THE PACIFIC WHICH ASSIST WITH ADAPTATION TO CLIMATE CHANGE AND ENVIRONMENTAL MANAGEMENT

Australia's aid program has a substantial program which assists with adaptation to climate change in the Pacific. It includes the following AusAID projects:

- a Sea Level and Climate Monitoring Project involves a commitment of \$24.6 million over 1990-2005
- a Vulnerability and Adaptation Initiative which involves a commitment of \$4 million over 2003-09 and
- Enhanced Application of Climate Predictions which involves a commitment of \$2.2 million over 2003-06.

In addition, Australia strongly supports the Pacific regional organisations which make substantial contributions to improving environmental management and the sustainable development of the region, including assisting with the management of climate change. Australia's annual funding for these organisations is currently:

- \$1.8 million for the South Pacific Applied Geoscience Commission (SOPAC) which seeks to support the sustainable development of natural, principally non-living resources, and reduce the vulnerability of the region to natural hazards
- \$1.4 million for the South Pacific Regional Environment Program (SPREP) which has an extensive program to protect and improve the environment including strengthening the capacity of the Pacific island countries to respond to climate change, climate variability and sea level rise.

International Conference for Renewable Energies**(Question No. 2851)**

Senator Brown asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 16 April 2004:

- (1) Was the Government invited to participate at ministerial level in the International Conference for Renewable Energies, which is to be held in Bonn, Germany, from 1 June to 4 June 2004.
- (2) Which ministers will attend the conference and who else will be part of the delegation.
- (3) (a) What steps has the Government taken to publicise the conference and encourage Australian participation; and (b) which organisations are planning to attend.
- (4) If the Government has decided not to participate at ministerial level, why not.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator's question:

- (1) Yes.
- (2) No ministers will attend the conference. Proposed participants, to date, on the Australian delegation to the conference are listed in the table below.

| Participant | Organisation |
|----------------------|---|
| Mr Bruce Wilson | Department of Industry, Tourism and Resources |
| Ms Nicola Watkinson | Department of Industry, Tourism and Resources (Invest Australia – Europe) |
| Mr Peter Heyward | Department of Foreign Affairs and Trade |
| Mr Mike Byers | Department of Foreign Affairs and Trade |
| Ms Alison Carrington | Department of Foreign Affairs and Trade (Australian Embassy – Berlin) |

| Participant | Organisation |
|--------------------------|---|
| Mr Greg Terrill | Australian Greenhouse Office |
| Mr Denis Smedley | Australian Greenhouse Office |
| Ms Catherine Fitzpatrick | Greenpeace Australia Pacific |
| Mr Geoff Willis | Renewable Energy Generators Australia |
| Mr Alex Beckitt | Renewable and Sustainable Energy Roundtable |

- (3) (a) The Government has liaised with the Renewable and Sustainable Energy Roundtable and the National Environment Consultative Forum to invite Australian participation at the conference as members of the official Australian Delegation.
- (b) The organisations which are planning to attend the conference are listed in the table above.
- (4) The Government is not participating at ministerial level because Ministers are unavailable during the conference period due to prior commitments.

Parliament House: Functions

(Question No. 2860 amended answer)

Senator Brown asked the President of the Senate, upon notice, on 19 April 2004:

In the past 3 years which: (a) private or corporate entities; and (b) non-government organisations, have held dinners or other functions in the Great Hall of Parliament House.

The PRESIDENT—The answer to the honourable senator's question is as follows:

The Department of Parliamentary Services has no way of assessing accurately which bodies are covered by the three categories listed (private, corporate and non-government). The following list shows all bodies other than government departments or agencies that have held dinners or other functions in the Great Hall in the past 3 years.

3rd Science World Congress
 Acumen Alliance
 Aim Higher Marketing Pty Ltd
 Amiens Brass Band from France
 AMP
 ANU - Fenner Hall
 Association of Risk & Insurance Managers of Australasia
 Australian Chamber of Commerce & Industry
 Australian Society of Cataract & Refractive Surgeons
 Australian Tertiary Education Management
 Australia & America Fulbright Commission
 Australian Academy of Science
 Australian Airports Association
 Australian Broadcasting Corporation
 Australian Bureau of Agriculture & Resource Energy
 Australian Catholic University
 Australian Food and Grocery Council (AFGC)
 Australian Industry Group
 Australian Institute of Company Directors

Australian Institute of Management
Australian International Hotel School
Australian Local Government Association (ALGA)
Australian Medical Association
Australian National University Law Students Society
Australian Petroleum and Exploration Association Limited
Australian Red Cross
Australian Rehabilitation Providers Association (ARPA)
Australian Science Festival
Australian Society of Anaesthetists
Australian Strings Association
Australian Trucking Association
Australian Vice Chancellors' Committee (AVCC)
Australian-American Fulbright Commission
Aviation Medical Society of Australia & NZ
Ballarat High School Senior Band & Whiz Bang Orchestra
Ballina/Alstonville Primary School Concert Band
Beaudesert State High School Stage Band
Benalla College Senior Concert Band
Berkley Group Financial Consultants
Brumbies ACT Rugby
Canberra Christian Network
Canberra Church of England Girls' Grammar School
Canberra Quilts for Comfort
Canberra Raiders
Canberra Youth Music
Cancerians Canberra Committee
Castle Hill High School Concert Band
Centenary of Federation
Chapman Primary School String Orchestra and Choir
Charlton Group for Austrade
Commonwealth Parliamentary Association (CPA)
Cooperative Research Centres Association
Cor Meibion de Cymru (SW Male Choir)
Countrywide National Network
Economist Conferences
Embassy of the People's Republic of China
EMC Corporation
Engineers Australia

Erindale College
Federal Police Academy
Focus on Business
Foxtel Digital
Freedom Furniture Australia/NZ
Fundraising Institute Australia Ltd
George P Johnson Company
Geoscience Australia
Ginninderra High School Band
Global Youth Leaders
Hartley Lifecare
Hawker College
Hellenic Council Australia
Housing Industry Australia
Igor Causoski & Antoniette De Marco
Indianapolis Children's Choir
Institute of Engineers
Institute of Quarrying Australia
Insurance Council of Australia Ltd
International Society for the Reform of Criminal Law
Invest Australia
Issues Deliberation Australia
Jackson Wells Morris
Jazz Syndicate, Victoria (student band)
Jewish National Fund
Juvenile Diabetes Research Foundation
Karabar High School
Kingaroy SHS Concert & Stage Bands
Lake Tuggeranong College
Leeming High School Senior Concert Band
Legacy Club of Canberra
Lyneham High School
Marine Detachment American Embassy Canberra
Marketing Services
Master Builders Australia
Melrose High School
Minerals Council of Australia
Mornington Secondary College Band
Mowbray College Symphonic Band

Mr Tsoulias & Maria Karellas
Mrs Urmil Sethi
Murray Darling Commission
National Institute of Accountants
National Landcare Australia
National Liaison Committee
National Library of Australia
National Prayer Breakfast Office
National Press Club
National Press Gallery
National Sorry Day Committee
New Creation Church
Newton Moore Senior High School Concert Band
Northcote High School Band
Nova Youth Orchestra
Office of Training & Adult Education
Opera Australia
Orana School, Weston
Ormiston College Concert Band
Pharmacy Guild of Australia
Phillips Fox
Praise Corroboree
Property Council of Australia
RANZCO
Red Cross
Restaurant & Catering Association
Roche Productions Pty Limited
Rosebud Secondary College Concert Band
Rotary International
Royal National Capital Agricultural Society
Royal Netherlands Embassy
Samantha Chee
Services Clubs Association
Shailer Park High School Band
Sony Australia
Spirit of America Band
St Patrick's College Concert Band
St. Clare's College
Sydney Male Voice Choir & Canberra Men's Choir

Taxation Institute
Technology in Government Committee
Telstra Corporation Limited
The Australian American Association (Canberra Division) Inc
University of Canberra
University of Melbourne
Victor Harbor High School, SA
Victorian State Youth Band
VIEW Clubs of Australia
Waldorf Wayfarers
Weber-Shandwick for Community Business Partnership
West Moreton Anglican College
Woden Valley Youth Choir
Women in Policing
Woolworths Limited
Wrap Up Canberra Committee
Young Australian of the Year

Environment: Maleny
(Question No. 2869)

Senator Allison asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 3 May 2004:

With reference to the proposed Woolworths supermarket development on the banks of Obi Obi Creek at Maleny in Queensland:

- (1) In the referral form submitted by the proponent of this development was the Minister made aware that the site is a known habitat for a significant number of endangered species, including the Coxen's Fig Parrot (critically endangered), the Grey Goshawk (rare), the Cascade Treefrog (endangered) and the Richmond Birdwing (vulnerable).
- (2) What steps did the Minister take to determine the accuracy of the referral form.
- (3) During the assessment of this development, why were the scientists currently working on the Coxen's Fig Parrot in the area, who are partly funded by the Commonwealth, not consulted by Environment Australia about the significance of the fig tree on the site.
- (4) Why were those involved in the Commonwealth-funded recovery plan for the endangered Mary River Cod (which included recently releasing fingerling fish in the Obi Obi Creek), not consulted by Environment Australia in relation to the possible damage to creek banks associated with the development.
- (5) What effect will the development have on these endangered species.
- (6) Is the Minister aware that the number of native plant species on the site, including two bunya pines, three hoop pines, one kauri pine, two silky oaks, a Moreton Bay fig, sandpaper figs, a bangalow palm, tree ferns, native daphne, macadamia nut, native quince, black bean, flame tree and native epiphytic orchids and ferns exceeds the number of exotic plant species.
- (7) Given that the proponent will remove all vegetation on the site and that the loss of habitat is a major threatening process, why was approval given for this project to proceed.

- (8) Was consideration given to requiring the proponent to re-orientate the building and car park, to allow for a buffer between the supermarket and the creek; if not, why not.

Senator Ian Macdonald—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

- (1) The proposal to develop a supermarket on a 6737 m² site at Maleny was referred under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) on 27 February 2004. The Department of the Environment and Heritage, as my delegate, decided that the referred action is not a controlled action under the EPBC Act on 25 March 2004.

The potential for the threatened Coxen's Fig Parrot to occur in the vicinity of the development site was identified in the referral. The Grey Goshawk, Cascade Treefrog and Richmond Birdwing Butterfly are not threatened species listed under the EPBC Act.

- (2) A number of information sources were used in assessing the likely significance of impacts. These included the referral and associated maps, figures and photographs, and the following reports: Erosion and Sediment Control Plan (J H Ward Consulting Engineers, February 2004); Amended Environmental Management Plan (OTEK Australia, February 2004); Proposed Site Landscape Plan (Trevor Lynch Landscape Architect, November 2003); Platypus Report (Dr Frank Carrick, January 2004); Tree Survey Plan (Norris Clarke & O'Brien, October 2004); and extracts from the Environmental & Landscape Report (Chenoweth EPLA, June 2003).

Other information sources taken into account included the public submissions, media articles concerning the development, the Coxen's Fig Parrot Recovery Plan 2001/2005, and the Department's wildlife databases. Information was checked and assessed by experienced Departmental officers.

- (3) The Department took into account a variety of information sources (above) concerning the likely significance of the site for listed species and considered that sufficient information was available from these sources to make a decision on the proposal under the EPBC Act.
- (4) See above. Relevant information concerning the likely presence of the Mary River Cod and the impacts of the proposal on water quality and suitable habitat within Obi Obi Creek was taken into account.
- (5) Based on the relevant information available, the Department considered that the proposed development was not likely to have a significant impact on important habitat or populations of species listed under the EPBC Act. This conclusion took into account the absence of key vegetation on which listed species are likely to be dependant due to past clearing and land use activities, associated disturbance from adjacent urban development, the limited size of the area to be cleared, absence of connectivity with other areas of native vegetation, and the temporary nature of disturbances to Obi Obi Creek.
- (6) The Department was aware of the nature and extent of native vegetation remaining on the site.
- (7) As noted above, the Department considered that habitat and biotic factors important for sustaining listed species would not be lost and that significant impacts on the matters of national environmental significance protected under the EPBC Act were therefore not likely. This is not to say that the development site does not have important local, regional or State environmental values. Impacts on these values need to be addressed by the State.
- (8) Consideration was not given to alternative configurations for development given the decision that significant impacts on matters of national environmental significance from the referred proposal were not likely.

Disability Discrimination Act Review
(Question No. 2876)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 6 May 2004:

Did the department make a submission to the Productivity Commission in relation to the review of the Disability Discrimination Act; if not, why not, given that the Minister cited community concerns regarding the implications of the Marsden decision in his second reading speech on the Disability Discrimination Amendment Bill 2003 on 3 December 2003, stating that

The bill is prompted by community concerns about the implications of the decision of the Federal Court in *Marsden v. Human Rights and Equal Opportunity Commission and Coffs Harbour and District Ex-Servicemen and Women Memorial Club Limited*. That decision suggested that it may be unlawful under the Disability Discrimination Act to discriminate against a person solely on the ground that the person has an addiction to or dependence on a prohibited drug. The bill addresses the concerns of employers and operators about this issue.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator's question:

Yes. The submission (number 115) is available at www.pc.gov.au.

Disability Discrimination Act Review
(Question No. 2877)

Senator Ludwig asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 6 May 2004:

Given the Attorney-General's concerns regarding the implications of the Marsden decision, as stated in his second reading speech on the Disability Discrimination Amendment Bill 2003 on 3 December 2003 in which he stated that the Bill is prompted by community concerns about the implications of the decision of the Federal Court in *Marsden v. Human Rights and Equal Opportunity Commission and Coffs Harbour and District Ex-Servicemen and Women Memorial Club Limited*. That decision suggested that it may be unlawful under the Disability Discrimination Act to discriminate against a person solely on the ground that the person has an addiction to or dependence on a prohibited drug. The bill addresses the concerns of employers and business operators about this issue.

Did the department raise these concerns in its submission to the Productivity Commission in relation to the review of the Disability Discrimination Act; if not, why not; if so, can details be provided.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The Department did not raise concerns of employers and business operators in relation to the Disability Discrimination Amendment Bill 2003 or the issue of drug addiction as a disability in its submission to the Productivity Commission. The Department's submission responded to recommendations made by the Productivity Commission in its Draft Report released in October 2003, and neither the issue of drug addiction nor the Disability Discrimination Amendment Bill was canvassed by the Commission in its report.

Attorney-General's: Drugs Policy
(Question No. 2879)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 6 May 2004:

- (1) Does the Ministerial Council on Drugs Strategy provide assistance to the department; if so, in which areas does the Ministerial Council have a direct impact on the Attorney-General's portfolio.
- (2) When seeking to amend legislation pertaining to the disabled, are all state and territory jurisdictions that provide treatment services involved in the policy formulation process in order to ensure that the implications of the proposed amendments are addressed; if so, can details of their involvement be provided; if not, why not.
- (3) Does the department collect statistics relating to drug dependency for each state and territory; if so can these statistics be provided.
- (4) Does the department recognise drug dependency as a disorder.
- (5) Given that the Disability Discrimination Amendment Act 1992 by removing the prohibition on disability discrimination on the ground of a person's addiction to a prohibited drug, but would not apply to people receiving treatment for their drug addiction:
 - (a) does the Department collect statistics for each state and territory concerning the number of people receiving treatment for their drug addiction; if so can these statistics be provided; if not, why not;
 - (b) does the department collect statistics on the number of people currently receiving treatment who continue to use illicit drugs while on treatment programs; if so, can these statistics be provided; if not why not;
 - (c) has the department contacted the department of health to obtain statistics in relation to people on the methadone program who may continue to use methamphetamines in conjunction with their prescribed medications; if so:
 - i. Can these statistics be provided, and
 - ii. how does this information impact on current legislation in relation to disability discrimination
 - (d) what research has the department undertaken in relation to drug dependency and rehabilitation;
 - (e) does the department co-ordinate its disability program with the Department of Health; if so, can details be provided of any previous co-ordination efforts; and
 - (f) does the department collect statistics on the number of persons who have an addiction but fail to be rehabilitated; if so, can these figures be provided; if not, why not.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator's question:

- (1) The Ministerial Council on Drug Strategy (MCDS) is the peak policy and decision-making body for licit and illicit drugs in Australia. MCDS is comprised of Commonwealth, State and Territory Ministers for health and law enforcement, including the Ministers responsible for education. The role of the MCDS is to determine national policies and programs intended to reduce drug related harm within the Australian community. The Attorney-General's Department is one of several avenues through which the MCDS implements its decisions and initiatives.

The MCDS seeks to:

- provide a mechanism for regular consultation between Australian Government, State and Territory health and law enforcement Ministers on programs and policies in relation to licit and illicit drugs in Australia
- promote a consistent and coordinated national approach to policy development and implementation in relation to all drugs issues, and
- consider matters submitted to the Council, through individual MCDS members, by the Intergovernmental Committee on Drugs.

- (2) Decisions to consult States and Territory jurisdictions are made on a case by case basis, depending on the circumstances of the amendments.
- (3) No. The Department of Health and Ageing has in place a mechanism to collect data on treatment services. However this is not an indicator of drug dependency.
- (4) The question of what falls within the term 'disorder' in the definition of 'disability' in the Disability Discrimination Act 1992 is not a matter that the Department determines. Rather, it is a question to be considered by a court when this question comes before the court, and subject to that, it is a question to be considered by the Human Rights and Equal Opportunity Commission when discharging its functions under the Disability Discrimination Act 1992. Drug dependency was recognised as a disorder in the Federal Court's decision in *Marsden v HREOC & Coffs Harbour and District Ex-Servicemen and Women's Memorial Club Ltd* (15 November 2000), involving a drug user on methadone treatment.
- (5) (a) No. The Attorney-General's Department does not collect statistics of this nature.
(b) (f) No. The Department has been advised that the Department of Health and Ageing does not collect statistics of this nature either.
(c) No. The Department consulted with the Department of Health and Ageing through an inter-departmental committee in regard to drug dependency issues.
(d) The Attorney-General's Department consulted with the Department of Family and Community Services (Office of Disability), and the Department of Health and Ageing (amongst other departments) in formulating the Disability Discrimination Amendment Bill 2003. The Department of Health and Ageing conducts research in relation to drug dependency and rehabilitation.
(e) The Attorney-General's Department engages in close consultation with relevant departments on matters regarding disability discrimination. For example, the Department of Health and Ageing participated in a number of inter-departmental committee meetings regarding the Disability Discrimination Amendment Bill 2003.

Discretionary Grants Program

(Question No. 2888)

Senator Nettle asked the Minister for Finance and Administration, upon notice, on 7 May 2004:

- (1) Since 1996 how much has the Commonwealth provided to each of the following organisations to manage under devolved grants programs: Agforce Queensland, Australian Conservation Foundation, Australian Council of National Trusts, Australian Council of Social Service, Brotherhood of St Laurence, Cairns and Far North Conservation Council, Care Australia, Combined Pensioners and Superannuants Association of New South Wales, Conservation Council of South Australia, Conservation Council of the South East Region and Canberra, Conservation Council of Western Australia, Environment Centre of the Northern Territory, Environment Victoria, Federation of Ethnic Communities Councils of Australia, Humane Society International, Mission Australia, National Council on the Ageing, National Farmers Federation, National Trust of Australia (Australian Capital Territory), National Trust of Australia (New South Wales), National Trust of Australia (Northern Territory), National Trust of Australia (Tasmania), National Trust of Australia (Victoria), National Trust of Australia (Western Australia), National Trust of Queensland, National Trust of South Australia, Nature Conservation Council of New South Wales, North Queensland Conservation Council, New South Wales Farmers Federation, Queensland Conservation Council, Queensland Farmers Federation, South Australia Farmers Federation, Tasmanian Conservation Trust, Tasmanian Farmers and Graziers Association, Victorian Farmers Federation, Western Australia Farmers Federation and WWF Australia.

- (2) How much have the organisations listed in part (1) returned to the Commonwealth since 1996 because the money was not spent or contractual requirements were not satisfied.
- (3) Since 1996, how much has the Commonwealth paid to officers of the organisations listed in part (1) (as defined in the Corporations Act 2001) by way of grants, gifts, contractual payments, or other payments.
- (4) Can a list be provided of the officers or employees of the organisations listed in part (1) that are currently members of Government bodies, committees or agencies, including details of any remuneration paid to these individuals.
- (5) (a) Since 1996, which members of the organisations listed in part (1) have been invited to attend international conferences with the Commonwealth; and (b) can the details of each invitation be provided, including the date and name of the relevant conference.
- (6) Have any of the organisations listed in part (1) been audited by the Commonwealth Auditor-General; if so, which.

Senator Minchin—The answer to the honourable senator's question is as follows:

- (1) The Finance and Administration portfolio has not provided any funding under the discretionary grants programme to any of the organisations listed. As I do not have responsibility for other portfolios I am unable to provide any further information in relation to this question.
- (2) Not applicable.
- (3) The Finance and Administration portfolio has not provided any grants, gifts, contractual payments, or other payments. As I do not have responsibility for other portfolios I am unable to provide any further information in relation to this question.
- (4) The Finance and Administration portfolio does not have responsibility for any Government bodies, committees or agencies of which any officers or employees of the organisations listed are members. As I do not have responsibility for other portfolios I am unable to provide any further information in relation to this question.
- (5) The Finance and Administration portfolio has not invited any members of these organisations to attend any international conferences. As I do not have responsibility for other portfolios I am unable to provide any further information in relation to this question.
- (6) As I do not have portfolio responsibility for the Australian National Audit Office I am unable to answer this question.

Commonwealth Departments: Grants
(Question No. 2889)

Senator Nettle asked the Minister for Finance and Administration, upon notice, on 7 May 2004:

For each financial year since 1996-97 and for the 2003-04 financial year to date, how much has the Commonwealth paid to each of the following organisations by way of grants, contractual payments, in-kind contributions or other payments: Agforce Queensland, Australian Conservation Foundation, Australian Council of National Trusts, Australian Council of Social Service, Brotherhood of St Laurence, Cairns and Far North Conservation Council, Care Australia, Combined Pensioners and Superannuants Association of New South Wales, Conservation Council of South Australia, Conservation Council of the South East Region and Canberra, Conservation Council of Western Australia, Environment Centre of the Northern Territory, Environment Victoria, Federation of Ethnic Communities Councils of Australia, Humane Society International, Mission Australia, National Council on the Ageing, National Farmers Federation, National Trust of Australia (Australian Capital Territory), National Trust of Australia (New South Wales), National Trust of Australia (Northern Territory), National Trust of Australia (Tasmania),

National Trust of Australia (Victoria), National Trust of Australia (Western Australia), National Trust of Queensland, National Trust of South Australia, Nature Conservation Council of New South Wales, North Queensland Conservation Council, New South Wales Farmers Federation, Queensland Conservation Council, Queensland Farmers Federation, South Australia Farmers Federation, Tasmanian Conservation Trust, Tasmanian Farmers and Graziers Association, Victorian Farmers Federation, Western Australia Farmers Federation and WWF Australia.

Senator Minchin—The answer to the honourable senator's question is as follows:

The Department of Finance and Administration purchased six books from the Brotherhood of St Laurence on 26 September 2000 for the sum of \$30.00. As I do not have responsibility for other portfolios I am unable to provide any further information in relation to this question.

Nuclear Weapons: United States

(Question No. 2899)

Senator Allison asked the Minister for Defence, upon notice, on 10 May 2004:

- (1) Is the Minister aware that the United States (US) Administration proposes spending \$US9 million to investigate new nuclear weapons concepts including low-yield warheads, \$US27 million to continue research on warheads modified to destroy deeply buried targets and nearly \$US30 million for a new nuclear bomb-making facility.
- (2) In the Government's view, what will be the effect of this nuclear weapons development program on global nuclear non-proliferation efforts, particularly in Russia and Korea.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) The United States has stated that the fiscal year 2005 funding allocation is for research, and that it is not developing new nuclear weapons. The United States proposes spending in fiscal year 2005 \$US36.6 million for the Advanced Concepts Initiative comprising \$US27.6 million for studying the concept of a Robust Nuclear Earth Penetrator, \$US9 million for other Advanced Concepts Initiatives, and \$US29.8 million for a study into a Modern Pit Facility program.
- (2) As the United States has stated that it is not developing new nuclear weapons, and the United States and Russia are reducing their strategic nuclear weapons holdings, there is no effect on global nuclear non-proliferation efforts.

Iraq: Treatment of Prisoners

(Question No. 2934)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 18 May:

With reference to the abuse of prisoners in Iraq and, in particular, to the quote attributed to the director of the International Committee of the Red Cross, Mr Pierre Kraehebuehl in the Wall Street Journal that 'concerns ... were regularly brought to the attention of the coalition forces throughout 2003': (a) which concerns were brought to the attention of the Government or any of its agencies; and (b) when.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

The ICRC did not bring any concerns about the treatment of Iraqi detainees directly to the attention of the Government or any of its agencies. ICRC reports regarding the condition and treatment of detainees in Iraq have not been given to Australia. ICRC reports were provided on a confidential basis to the detaining powers, that is the United States and the United Kingdom. This is the standard practice of the ICRC.