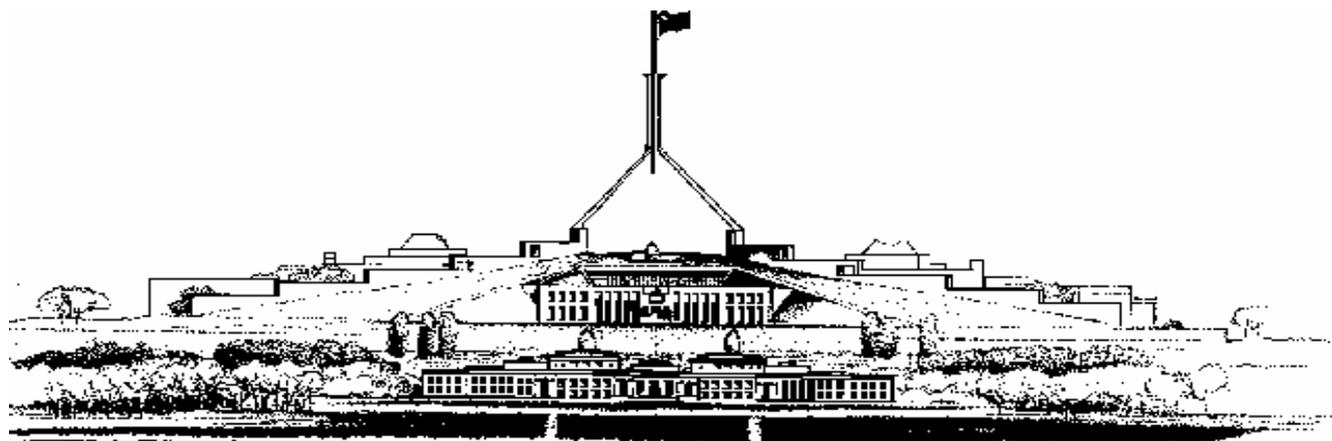




COMMONWEALTH OF AUSTRALIA

**PARLIAMENTARY DEBATES**



**SENATE**

**Official Hansard**

No. 11, 2003

**THURSDAY, 18 SEPTEMBER 2003**

FORTIETH PARLIAMENT  
FIRST SESSION—SIXTH PERIOD

BY AUTHORITY OF THE SENATE



### INTERNET

The Journals for the Senate are available at  
<http://www.aph.gov.au/senate/work/journals/index.htm>

Proof and Official Hansards for the House of Representatives,  
the Senate and committee hearings are available at  
<http://www.aph.gov.au/hansard>

For searching purposes use  
<http://parlinfoweb.aph.gov.au>

### SITTING DAYS—2003

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

### RADIO BROADCASTS

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

<i>CANBERRA</i>	1440 AM
<i>SYDNEY</i>	630 AM
<i>NEWCASTLE</i>	1458 AM
<i>BRISBANE</i>	936 AM
<i>MELBOURNE</i>	1026 AM
<i>ADELAIDE</i>	972 AM
<i>PERTH</i>	585 AM
<i>HOBART</i>	729 AM
<i>DARWIN</i>	102.5 FM

## CONTENTS

THURSDAY, 18 SEPTEMBER

Notices—	
Presentation .....	15515
Business—	
Rearrangement.....	15517
Notices—	
Postponement .....	15517
Retirement Savings Accounts Amendment Regulations 2003 (No. 2) .....	15518
Superannuation Industry (Supervision) Amendment Regulations 2003 (No. 4)—	
Motion for Disallowance .....	15518
Senators' Interests .....	15518
Immigration: Asylum Seekers .....	15518
Committees—	
Employment, Workplace Relations and Education References Committee—Extension of Time .....	15519
Education: Funding.....	15519
Financial Management and Accountability (Anti-Restrictive Software Practices)	
Amendment Bill 2003—	
First Reading .....	15520
Second Reading .....	15520
Committees—	
Publications Committee—Report.....	15524
Foreign Affairs, Defence and Trade Legislation Committee—Report .....	15524
Crimes (Overseas) Amendment Bill 2003, Taxation Laws Amendment Bill (No. 8) 2003 and Taxation Laws Amendment (Superannuation Contributions Splitting) Bill 2003—	
First Reading .....	15526
Second Reading.....	15527
Energy Grants (Cleaner Fuels) Scheme Bill 2003 and Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill 2003—	
First Reading .....	15530
Second Reading.....	15530
Senators' Interests .....	15532
Committees—	
Finance and Public Administration References Committee—Report .....	15535
Retirement Savings Accounts Amendment Regulations 2003 (No. 2) and Superannuation Industry (Supervision) Amendment Regulations 2003 (No. 4) .....	15539
Superannuation (Surcharge Rate Reduction) Amendment Bill 2003, Superannuation (Government Co-contribution for Low Income Earners) Bill 2003 and Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003—	
In Committee.....	15540
National Residue Survey (Customs) Levy Amendment Bill 2002, National Residue Survey (Customs) Levy Amendment Bill (No. 2) 2003, National Residue Survey (Excise) Levy Amendment Bill 2002 and National Residue Survey (Excise) Levy Amendment Bill (No. 2) 2003—	
Second Reading .....	15567
Third Reading.....	15567
Questions Without Notice—	
Employment: Job Network.....	15567

## CONTENTS—*continued*

Australian Broadcasting Authority .....	15569
Medicare: Reform.....	15570
Australian Labor Party: Centenary House.....	15571
Health Insurance: Rebates .....	15572
Education: University Fees.....	15574
Health: Pharmaceutical Benefits Scheme.....	15575
Defence: USS <i>La Jolla</i> .....	15577
Health: Blood Products .....	15578
Transport: Alice Springs to Darwin Railway.....	15579
Health: After-Hours Services.....	15580
Education: Student Unions .....	15581
Questions Without Notice: Additional Answers—	
Foreign Affairs: Indonesia .....	15583
Defence: Health Services .....	15583
Defence: Funding .....	15583
Questions Without Notice: Take Note of Answers—	
Medicare: Reform.....	15583
Matters of Urgency—	
Indigenous Affairs: Children .....	15589
Ministerial Statements—	
Building and Construction Industry Improvement Legislation .....	15603
Committees—	
Rural and Regional Affairs and Transport References Committee—Report:	
Government Response.....	15603
Appropriations and Staffing Committee—Report.....	15608
Parliamentary Zone—	
Proposal for Works .....	15608
Trade: Live Sheep Exports—	
Return to Order.....	15608
Age Discrimination Bill 2003—	
Report of Legal and Constitutional Legislation Committee.....	15609
Migration Legislation Amendment (Identification and Authentication) Bill 2003—	
Report of Legal and Constitutional Legislation Committee.....	15609
Immigration: Asylum Seekers .....	15609
Committees—	
Economics Legislation Committee—Membership.....	15609
Medicare .....	15609
Documents—	
Consideration.....	15627
Committees—	
Superannuation Committee—Report .....	15628
Documents—	
Auditor-General's Reports—Report No. 6 of 2003-04 .....	15633
Committees—	
Privileges Committee—Report .....	15635
Adjournment—	
Ruddock, Hon. Philip .....	15640
Industry: Textile, Clothing and Footwear .....	15642
Bonner, Former Senator Neville.....	15644
Best, Mrs Mavis .....	15646

**CONTENTS—continued**

Australian Citizenship Day.....	15647
Documents—	
Tabling.....	15649
Questions on Notice—	
Education: HECS Debt—(Question No. 1361).....	15650
Foreign Affairs: Intervention Policy—(Question No. 1681).....	15650
Health: Hepatitis C—(Question No. 1781) .....	15651
Howard Government: Senate—(Question No. 2114).....	15654

*Thursday, 18 September 2003*

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

### NOTICES

#### Presentation

**Senator TCHEN (Victoria) (9.31 a.m.)**—  
On behalf of the Standing Committee on Regulations and Ordinances, I give notice that 15 sitting days after today I shall move that the following delegated legislation, a list of which I shall hand to the Clerk, be disallowed.

*The list read as follows—*

1. Criminal Code Amendment Regulations 2003 (No. 9), as contained in Statutory Rules 2003 No. 184 and made under the *Criminal Code Act 1995*.
2. Determination No. 4 of 2003—Reporting Standards for Superannuation Entities, made under paragraph 13(1)(a) of the *Financial Sector (Collection of Data) Act 2001*.
3. Electoral and Referendum Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 188 and made under the *Commonwealth Electoral Act 1918*.
4. Fishing Levy Amendment Regulations 2003 (No. 1), as contained in Statutory Rules 2003 No. 134 and made under the *Fisheries Management Act 1991* and the *Fishing Levy Act 1991*.
5. Great Barrier Reef Marine Park Amendment Regulations 2003 (No. 2), as contained in Statutory Rules 2003 No. 200 and made under the *Great Barrier Reef Marine Park Act 1975*.
6. Marriage Amendment Regulations 2003 (No. 2), as contained in Statutory Rules 2003 No. 198 and made under the *Marriage Act 1961*.
7. Migration Amendment Regulations 2003 (No. 5), as contained in Statutory Rules 2003

No. 154 and made under the *Migration Act 1958*.

8. Retirement Savings Accounts Amendment Regulations 2003 (No. 2), as contained in Statutory Rules 2003 No. 195 and made under the *Retirement Savings Accounts Act 1997*.
9. Superannuation Industry (Supervision) Amendment Regulations 2003 (No. 4), as contained in Statutory Rules 2003 No. 196 and made under *Superannuation Industry (Supervision) Act 1993*.

As usual, I seek leave to incorporate in *Hansard* a short summary of the matters raised by the committee.

Leave granted.

*The summary read as follows—*

#### **Criminal Code Amendment Regulations 2003 (No. 9), Statutory Rules 2003 No. 184**

These Regulations insert into the list of terrorist organisations the organisation known as Hizballah External Security Organisation and its alternative titles. These regulations have a retrospective commencement date of 5 June 2003. The Explanatory Statement does not indicate the reason for the retrospective commencement. Indeed, the Explanatory Statement indicates that the regulations commence on gazettal. Nor does the Explanatory Statement deal with the matters found in subsection 48(2) of the *Acts Interpretation Act 1901*, concerning the effect of retrospective commencement on the rights of persons other than the Commonwealth. The Committee has written to the Minister seeking further information on this matter.

#### **Determination No. 4 of 2003—Reporting Standards for Superannuation Entities, made under paragraph 13(1)(a) of the Financial Sector (Collection of Data) Act 2001**

This Determination declares that all of the Reporting Standards to which it applies begin to apply on 1 July 2003. This is also stated in the Explanatory Statement. However, the Committee notes that Reporting Standards 100.0, 110.0, 110.1, 110.2 and 120.0 state that they come into effect “on 1 July 2004 or, if another date is declared by APRA, on that other date.” It is not

clear whether the declaration in Determination No. 4 constitutes "another date declared by APRA". The Committee has written to the Minister seeking clarification of the date of effect of these Standards.

**Electoral and Referendum Amendment Regulations 2003 (No. 1), Statutory Rules 2003 No. 188**

These amendments affect the continued operation of regulation 10 that permits the use of confidential elector information by prescribed Commonwealth agencies and authorities by extending the date of the sunset clause in subregulation 10(3) of the principal Regulations by two years, from 26 July 2003 to 24 June 2005. This sunset clause was previously extended in December 2001 for a further period of eighteen months (see Statutory Rules 2001 No. 340). The Explanatory Statement does not indicate the reason for the further extension of the sunset clause, nor why it is being extended for a two year period. The Committee has written to the Minister seeking further information on this matter.

**Fishing Levy Amendment Regulations 2003 (No. 1), Statutory Rules 2003 No. 134**

These Regulations amend the principal Regulations to include reference to the North West Slope Fishery and the Western Deep Trawl Fishery. The Explanatory Statement accompanying these regulations notes that the levies set for the two fisheries represent a significant reduction on the levies prescribed in previous years. The Explanatory Statement explains that previous levy amounts were set to cover the development of Management Plans which have now been put on hold, resulting in a budget surplus and that the Management Advisory Committee for the two fisheries has agreed that some of the surplus should be used to subsidise management costs for 2002/2003. The Committee has written to the Minister seeking further information on this matter.

**Great Barrier Reef Marine Park Amendment Regulations 2003 (No. 2), Statutory Rules 2003 No. 200**

The Explanatory Statement notes that one purpose of these amendments is to provide that certain offences are offences of strict liability. It is

not clear whether these amendments are simply clarifying the strict liability status of the specified offences, as a consequence of the Criminal Code, or whether new strict liability offences are being created. If new strict liability offences are being created, then the Explanatory Statement does not indicate why strict liability is appropriate. In particular, it is not clear why, under new paragraph 38(1)(a), it should be a strict liability offence to use an underwater breathing apparatus that is not a snorkel. The Committee has written to the Minister seeking further information on this matter.

**Marriage Amendment Regulations 2003 (No. 2), Statutory Rules 2003 No. 198**

These regulations specify requirements for the registration and professional development of, and the process for dealing with complaints against, marriage celebrants. New subregulation 37N(3) provides that the Registrar of Marriage Celebrants must give a marriage celebrant a notice stating the outcome of a review of the celebrant's performance 'as soon as practicable' after the review has been completed. There is no indication why a specific time limit for this notification should not be imposed. In this connection, Form 12D specifies time limits for the receipt and consideration of representations by the marriage celebrant. The Committee has written to the Minister seeking further information on this matter.

**Migration Amendment Regulations 2003 (No. 5), Statutory Rules 2003 No. 154**

Among other things, these Regulations amend the arrangements concerning temporary business sponsorship. New regulation 1.20DA provides for standard business sponsorship relating to overseas businesses. Subregulation 1.20DA(1) requires that an application for sponsorship be made under regulation 1.20C. That regulation provides that an application must be in accordance with approved form 1067, 1196, or 1196 (internet). However, paragraph 1.20DA(2)(e) refers to undertakings given by the applicant in accordance with form 1067, or 1196. The paragraph does not refer to form 1196 (internet). This contrasts with the equivalent provision in paragraph 1.20D(2)(f), which deals with standard business sponsorship. It is not clear why form 1196 (internet) is not included in paragraph 1.20DA(2)(e). The Com-

mittee has written to the Minister seeking further information on this matter.

**Retirement Savings Accounts Amendment Regulations 2003 (No. 1), Statutory Rules 2003 No. 195**

**Superannuation Industry (Supervision) Amendment Regulations 2003 (No. 4), Statutory Rules 2003 No. 196**

These Regulations were made on 30 July 2003 with a commencement date, in each case, of 1 July 2004. The Committee notes that on 17 June 2003 the Senate Select Committee on Superannuation was given a reference to inquire into the draft version of these Regulations, and to report on 21 August 2003. The Explanatory Statements to each of these sets of Regulations do not refer to this reference being given to Select Committee, nor do they indicate why they are being made before the Select Committee has reported. The Committee has written to the Minister seeking further information on this matter.

**Senator Brown** to move on the next day of sitting:

That the Senate—

(a) notes:

- (i) the claims by the Prime Minister (Mr Howard) about Iraq's weapons of mass destruction program, in the lead up to the war with that country, have proven false, and
  - (ii) that the Prime Minister failed to adequately inform the Australian public on intelligence agency warnings that a war with Iraq would increase the likelihood of terrorist activity; and
- (b) censures the Prime Minister for misleading the country in his determination to join the President of the United States of America, Mr G.W. Bush, in the war on Iraq.

**BUSINESS**

**Rearrangement**

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (9.32 a.m.)—I move:

That the following government business order of the day be considered from 12.45 p.m. till not later than 2 p.m. today:

- No. 8 National Residue Survey (Customs) Levy Amendment Bill 2002  
National Residue Survey (Customs) Levy Amendment Bill (No. 2) 2003  
National Residue Survey (Excise) Levy Amendment Bill 2002  
National Residue Survey (Excise) Levy Amendment Bill (No. 2) 2003

Question agreed to.

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (9.33 a.m.)—I move:

That the order of general business for consideration today be as follows:

- (a) general business notice of motion no. 606 standing in the name of Senator McLucas, relating to the crisis in Australia's health system; and
- (b) consideration of government documents.

Question agreed to.

**Senator FERRIS** (South Australia) (9.33 a.m.)—by leave—At the request of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I move:

That the presentation of the reports of the Legal and Constitutional Legislation Committee on the provisions of the Age Discrimination Bill 2003 and the provisions of the Migration Legislation Amendment (Identification and Authentication) Bill 2003 be postponed to a later hour of the day.

Question agreed to.

**NOTICES**

**Postponement**

Items of business were postponed as follows:

Government business notice of motion no. 1 standing in the name of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) for today, relating to the

consideration of legislation, postponed till 7 October 2003.

General business notice of motion no. 601 standing in the name of Senator Hutchins for today, relating to compensation for Hepatitis C sufferers, postponed till 7 October 2003.

General business notice of motion no. 607 standing in the names of the Leader of the Australian Democrats (Senator Bartlett) and Senator Stott Despoja for today, relating to the explosive remnants of war, postponed till 7 October 2003.

General business notice of motion no. 609 standing in the name of Senator Nettle for today, relating to the World Trade Organization meeting and free trade agreements, postponed till 8 October 2003.

General business notice of motion no. 610 standing in the name of Senator Nettle for today, relating to the free trade agreement between Australia and the United States, postponed till 8 October 2003.

**RETIREMENT SAVINGS ACCOUNTS  
AMENDMENT REGULATIONS 2003  
(No. 2)**

**SUPERANNUATION INDUSTRY  
(SUPERVISION) AMENDMENT  
REGULATIONS 2003 (No. 4)**

**Motion for Disallowance**

**Senator SHERRY** (Tasmania) (9.35 a.m.)—I move:

That—

- (a) the Retirement Savings Accounts Amendment Regulations 2003 (No. 2), as contained in Statutory Rules 2003 No. 195 and made under the *Retirement Savings Accounts Act 1997*; and
- (b) the Superannuation Industry (Supervision) Amendment Regulations 2003 (No. 4), as contained in Statutory Rules 2003 No. 196 and made under the *Superannuation Industry (Supervision) Act 1993*,  
be disallowed.

Question agreed to.

**SENATORS' INTERESTS**

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (9.35 a.m.)—On behalf of the Leader of the Government in the Senate, I ask that business of the Senate notice of motion No. 2, which proposes the engagement of counsel concerning the qualification of a senator, be taken as a formal motion.

**The PRESIDENT**—Is there any objection to this being taken as formal?

**Senator BROWN** (Tasmania) (9.36 a.m.)—by leave—Mr President, I have circulated an amendment to this motion, so I cannot agree to formality at this stage. I will move that amendment when the matter comes up for debate a little later on.

**IMMIGRATION: ASYLUM SEEKERS**

**Senator NETTLE** (New South Wales) (9.36 a.m.)—by leave—I move the motion as amended:

That the Senate—

- (a) notes that:
  - (i) there are currently more than 250 Iranians in immigration detention in Australia,
  - (ii) the Government has signed a Memorandum of Understanding (MOU) with the Iranian Government that creates a bilateral response to Iranian asylum seekers that fail to be granted refugee status in Australia,
  - (iii) a number of these detainees were, in August 2003, offered \$1 000 to return to Iran voluntarily, or face forced deportation,
  - (iv) Amnesty International has described ongoing concerns about human rights abuses in Iran, including its 2003 report on Iran which states:

Scores of political prisoners including prisoners of conscience were arrested. Others continued to be held in prolonged detention without

trial or were serving prison sentences imposed after unfair trials. Some had no access to lawyers or family. Freedom of expression and association continued to be restricted by the judiciary and scores of students, journalists and intellectuals were detained. At least 113 people, including long-term political prisoners were executed, frequently in public and some by stoning, and 84 were flogged, many in public,

- (v) at least 4 Iranian asylum seekers who were returned to Iran by Australia have reportedly 'disappeared', and one of them was reportedly killed, and
- (vi) these disappearances add to a tragic list of deaths and disappearances which have occurred following deportations and repatriations triggered by the failure of Australian authorities to correctly ascertain refugee status or monitor the situation of returnees; and
- (b) calls on the Government to:
  - (i) suspend forced deportations of Iranian asylum seekers whilst their safety cannot be guaranteed and no monitoring of returned asylum seekers is undertaken, and
  - (ii) release the details of the MOU with the Iranian Government.

Question agreed to.

### COMMITTEES

#### Employment, Workplace Relations and Education References Committee

##### Extension of Time

**Senator CARR (Victoria)** (9.38 a.m.)—I move:

That the time for the presentation of the report of the Employment, Workplace Relations and Education References Committee on the proposed budget changes to higher education be extended to 7 November 2003.

Question agreed to.

### EDUCATION: FUNDING

**Senator NETTLE (New South Wales)** (9.38 a.m.)—by leave—I move the motion as amended:

That the Senate—

- (a) recognises the inherent justice in the claim by public sector education unions for a substantial salary increase for teachers in New South Wales public schools and Technical and Further Education (TAFE) colleges;
- (b) believes that without a significant increase in both teachers' salaries and the level of respect they enjoy in the community, it will become increasingly difficult to attract enthusiastic and committed school leavers into the teaching profession;
- (c) reiterates its support for the right of all young people to a quality public education;
- (d) expresses its strongest opposition to any attempt to fund increases in teachers' salaries by efficiency gains or other sacrifices of the teaching and learning conditions in Australia's public schools and TAFE colleges; and
- (e) calls on the Government to substantially increase funding for public education, reversing the bias currently shown to private schools, to deliver much needed resources for staff, students and infrastructure in the public school system.

**Senator CARR (Victoria)** (9.39 a.m.)—by leave—This is an important motion which the opposition agrees to in terms of the spirit of it and clearly in terms of the core proposition that teachers deserve the Senate's support. However, our concern is that the motion is too narrow and requires substantive discussions before the opposition could support it. It concentrates on a particular state in terms of the current dispute within the public education and TAFE systems. I believe it should be broadened out to examine the is-

sues on a national basis. There are great concerns about the crisis within the education of school teachers—that is, we are facing a critical shortage of teachers, we have a very serious problem providing sufficient numbers of well-qualified, well-motivated teachers and we have some really serious problems getting teachers in the right subject areas.

We need to examine a whole range of issues that go to pay and conditions, recruitment incentives, investments in training, the status of teaching and the workload of teaching. In that context, I do not think it is appropriate to concentrate on one state in this particular dispute. It ought to be a national focus. We look forward to working with the Greens to develop a motion we think the Senate should be able to support that covers the full gamut of issues and confronts the particular questions that arise in the current dispute with various state governments.

Question negatived.

**FINANCIAL MANAGEMENT AND  
ACCOUNTABILITY (ANTI-  
RESTRICTIVE SOFTWARE  
PRACTICES) AMENDMENT BILL 2003**

**First Reading**

**Senator GREIG** (Western Australia) (9.42 a.m.)—I move:

That the following bill be introduced: A Bill for an Act to amend the *Financial Management and Accountability Act 1997* to encourage the procurement by public agencies of open source computer software, and for related purposes

Question agreed to.

**Senator GREIG** (Western Australia) (9.42 a.m.)—I move:

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

Question agreed to.

Bill read a first time.

**Second Reading**

**Senator GREIG** (Western Australia) (9.42 a.m.)—I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted

*The speech read as follows—*

**Preference to Open Format Software**

It is somewhat curious that in this modern world obsessed with information, we are in danger of returning to the dark ages. An age where nothing is recorded for our future and nothing is saved for future generations. Well, this is not quite right. We are recording everything. But will we be able to access it when we want to years down the track?

How many people forgot to transfer their data from five and half inch floppy disks onto hard disks? Those who didn't change their data over before they threw out their old floppy drive have probably lost it forever. The data remains, but it is unreadable.

This is a modern problem. Books written in 1690 could be read just as easily in 1990, yet data recorded on a five and half inch floppy disk in 1990 is no longer readable on today's equipment. In a few years time when the last of the five and a half inch drives is thrown out, access to that data will be lost forever. The same fate awaits data stored on three and a half inch floppy disks.

Modern technology requires that when we store anything we give consideration to recovery. This is a new consideration and unlike anything we have faced before. Unfortunately, we can do little to ensure that the data storage devices remain standard when constant technological development prevents this. However, we can make the task easier by ensuring that wherever the data is stored it is stored in an Australian-friendly format.

Approaching the problem with an old mindset will not solve anything. We must establish the ways and means of ensuring that we always have access to our national data and that we always have the means to retain control over it. This is not just a business decision but one that strikes at

the very heart of our independence as a sovereign country. Control over Australian data should rest with Australia and not with the shareholders of a company that is owned, operated and controlled offshore.

It is with this in mind that I commend this bill to the Senate. It is not anti-business or anti any particular business, it is unashamedly pro-Australia and pro-Australian control. This bill is not only needed now but will become even more important with time.

I propose to talk briefly about the first part of the bill. This section says, "Wherever practicable an Agency is to use open source software in preference to proprietary software." The key words here, and the ones that the bill's opponents seem to ignore, are the words 'wherever practicable'. This is just common sense. Why pay more than necessary? Why pay at all if it's not necessary? However, as the Institute for Software Choice says, open source and open formats are two very different subjects, and it is this difference I wish to address.

The forces of proprietary software and their supporters have tried to portray this bill as being protectionist in nature, one that tries to pick software favourites. It is in fact the complete opposite. Currently, we have a system that is largely based on proprietary formats, a system that does pick favourites. Removing this and opening up the playing field to all, is the *raison d'être* for this bill.

Unfortunately, the closed shop that exists at the moment means that those departments currently saving data in proprietary file formats, such as Microsoft's Word software, are risking locking themselves into using that software indefinitely. This closed shop protectionism can only be to the detriment of competition in the marketplace.

If any company wants to work with the proprietary formats of another company it will need a licence to do so. These can be very expensive and become another cost which inevitably passed on to the customer. This also advantages the owner of the proprietary format when bidding for any contract. It also ensures that should they lose the contract, the proprietary owner still has input to the contract and gains profit by reason of this prior ownership.

Sometimes departmental use of proprietary formats passes a direct cost to the taxpayer. For example, the Australian Tax Office's much vaunted 'online lodgement system' for example. This will not work with open formats or open source software. In other words, to use the ATO lodgement site requires paying either Microsoft or Apple. The West Australian Newspaper has estimated this cost to be \$600 for those without the latest software to support the proprietary format.

The ATO site is just one of many government and private industry sites that mandate proprietary software. This contrasts with the Information Technology Minister's position that the government is not favouring any particular type of format. The reality is that not only is the government mandating proprietary software, but it is also forcing this decision on to others. Compounding the problem is that it favours proprietary formats at the expense of true competition, and worse, the Government is actually forcing people to use non-standards compliant software.

Thus, the Government is not only mandating which software to use but also endorsing this private company's attack on internationally agreed standards and protocols. A fact found in many court cases in the United States and most recently by the European Economic Community.

Unfortunately, for the people of Australia, private companies such as the Commonwealth Bank follow this lead by mandating proprietary software, softening it on their website by providing a list of instructions that if followed, "may allow you to access some if not all of the features available in NetBank." In other words, 'unless you are using one specific company's proprietary software then you probably can't use this service'.

Similarly, Telstra's BigPond Cable site only provides official support for Windows or Macintosh systems, although I suspect that this will change following Telstra's recent adoption of more Open Source software within their organisation.

These large bodies enforce the use of proprietary systems in order to do business with them. Yet, the response from the Minister is, "Government departments do not need laws or guidelines for software procurement as they are already obliged to consider all options and select on merit." Clearly this is not happening.

Critics have attempted to deny the need for this section of the bill. However, not those who have attempted to fill out their online tax return using non-proprietary software. Senator Alston has noted repeatedly that proprietary source software can be just as operable as open source software. And indeed it can be made so, however, it isn't and nor is it likely to become so. Quite the reverse in fact.

The software required to access many sites, including that of the ATO, is Microsoft Explorer, which is currently a free download from Microsoft. Netscape Navigator can still be used, but development on this browser has been stopped following an agreement between the owners, Sun Microsystems, and Microsoft. This means that security issues will no longer be addressed. However, to avoid their non-stop battles with the US government and various US states, Microsoft is changing the status of Internet Explorer.

Internet Explorer will only be supplied as an integral part of the Office 2003 suite and therefore a costly upgrade. As noted by 'Internet.au' in its latest issue, this is part of an ongoing attempt to:

"... crush the opposition with free copies of IE for all, then begin (in effect), to charge for upgrades leaving users little choice but to jump on the Longhorn bandwagon."

Longhorn is the development name for the next version of Office. Without MS support for the Internet Explorer free edition it will quickly become such a security hazard that it will die a natural death.

It is in a proprietary company's best interests to get a company, or government, to use their proprietary formats. This is referred to as getting a company or government 'addicted' to the format. Once addicted, you can never come off. The more addicted a company is to proprietary formats, the harder it is to come off. The potential for this was most noticeable recently in Microsoft's efforts to remove its opposition in Thailand.

The Thai Government, in a commendable effort to increase computer uptake, offered a bare bones computer system complete with Open Source software for a total cost that was less than the cost of just the software from Microsoft. This use of open formats was clearly such a threat to the pro-

proprietary formats' owners that they responded with a Windows-Office bundle for just \$36.00.

This price was only available for those products in the same government offer. It appears that any loss of income with such dramatic price cuts can be made up again once the user is addicted to the format and needs to upgrade. Then the real price will come into play. The equivalent price in Australia is over \$1,000 for a Windows-Office bundle. This will be the upgrade price for the addicted.

Microsoft's actions echo the words of Henry Ford when he offered to give away his cars provided he could keep the monopoly on spare parts. It is this type of monopoly that the use of proprietary formats maintains.

This problem is exacerbated by the issue of interoperability, that is, different programs coexisting and working on the same system. Normally one company's proprietary products have a better interoperability with other products from the same vendor. Buy one of their products and in an attempt to lower costs by decreasing the potential for interoperability problems and you will find your self locked into other products from the same company. Again, forcing companies to compete on the same level playing field by mandating the use of publicly documented formats removes any non-competitive advantage that a particular company may have.

The problem is actually becoming worse with time and Government inaction will not resolve it. It is time for the ostrich to take its head out of the sand.

As part of its' Digital Rights Management, Microsoft Office 2003 has features which allow the creator of a document to specify who may copy, forward, read or print it. This may suit some governments, it may even suit shady companies worried about whistleblowers, but it troubles the Australian Democrats. Even more troubling is the fact that a document created in Office 2003 using DRM can be made unreadable by StarOffice or OpenOffice, or even by previous versions of Office. Worse, Windows may decide that a word processor that competes with Microsoft is untrustworthy and it will not therefore be allowed to run under the Windows operating system. As the Australian Unix Users Group, the peak open

source and systems user group, has told the joint parliamentary inquiry into the management and integrity of electronic information:

“Combined with Microsoft’s market power and proven anti-competitive behaviour, it is of real concern that trusted computing platforms may be misused to reduce competition and innovation.”

If Sun or OpenOffice developers try to implement Microsoft’s DRM, they can be taken to court with violating the US Digital Millennium Copyright Act. To ensure that companies get addicted to the new formula Microsoft are actually removing interoperability. For example, the new messaging system protocols are being designed to lock out anyone without a licence. Third party messaging programs such as GAIM and Trillian will be locked out.

As far as cost is concerned, the new version of MS Office will cost \$699. This cost may be increased by the fact that Office 2003 will only work with the Widows 2000 and Windows XP operating systems, which for many users will mean an operating system upgrade to get a compatible version of Windows with a minimum cost for a home user of \$408.00. In the case of older computers many will be unable to handle the increased system requirements of the new OS and many home users will therefore need to upgrade their hardware as well.

To ensure a safe system using proprietary formats could mean an expenditure of over \$1,000 in product from a non Australian company just so the taxpayers of Australia can pay their tax in the Government’s preferred manner. It is hard to believe that this government agency’s insistence on consumers using one company’s brand of proprietary software is of great benefit to the user. The taxpayer is forced to either use expensive self-funded proprietary software or be denied access to a service that they themselves pay for with their taxes. Clearly, this is discrimination.

As a comparison, if the ATO service was accessible to Open Source software there would probably be no need for any home users to upgrade their computer as Linux uses far fewer system resources. If any part of the Operating System has a security hole, then this can be repaired for free with no need to buy a new ‘supported’ proprietary

system or expensive third party software. The Office program can be upgraded independently of the OS, with no need to upgrade both, however, since Open Office is the same price as the Operating System, free upgrading is less of a problem. Another big plus with open source software is that it is backwards compatible.

The prices I have quoted are for the small user. Obviously the government does not pay the same price. However, the savings by Government of a few million dollars which will in turn force an expense many times greater than that on the Australian people, is not admirable government restraint. Business, both private and government, is increasingly being shifted to the Internet. It is the role of government to facilitate this and not use obfuscation to hide the private takeover of what should be Australian control.

There is a simple answer to the question of why there is so much cost involved in proprietary software-closed formats. If contracts were to specify that all software must use openly documented formats and protocols there would be no grounds for suggesting a preference to open source or proprietary software. Currently, the specifications are such that all contracts effectively call for Microsoft accessibility and that means MS formats. This leads to concern. As Mr Mike Wendy, public relations and policy counsel for CompTIA, the industry group representing many of the major IT companies, has said:

“When governments base their choice on a preference that takes merit out of the situation, that’s a concern to us. More options are always better.”

It should be noted that Mr Wendy was attempting to support proprietary software. However, his words should be heeded as they actually support the need for open formats. The Initiative For Software Choice, itself heavily sponsored by the proprietary software industry, has also reminded us that:

“It is important that government policy recognise that open standards—which are available to any software developers—are not synonymous with, and do not require, open source software either for their adoption or utility.”

This brings us to the nub of this bill. We do not wish to specify software. The government and its agencies already do that, and as we have seen they do it to the detriment of the Australian people. Rather, we wish to open out the software industry and make it so that all companies and not just those with a MS developers' license can bid for Australian Government software contracts. We do not wish to exclude companies such as Microsoft. In fact we would urge them to compete under the new open fairer system. Rather than endorse any one form of software production this bill seeks the best for Australia. A free and independent Australia. An Australia in charge of its own data, its own history and its own future.

**Senator GREIG**—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

## COMMITTEES

### Publications Committee

#### Report

**Senator FERRIS** (South Australia) (9.43 a.m.)—On behalf of Senator Colbeck, I present the 11th report of the Publications Committee.

Ordered that the report be adopted.

### Foreign Affairs, Defence and Trade Legislation Committee

#### Report

**Senator SANDY MACDONALD** (New South Wales) (9.43 a.m.)—On behalf of the Foreign Affairs, Defence and Trade Legislation Committee, I present the report of the committee on aspects of the Veterans' Entitlements Act 1986 and the Military Compensation Scheme, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**Senator SANDY MACDONALD**—I move:

That the Senate take note of the report.

**Senator MARK BISHOP** (Western Australia) (9.45 a.m.)—I want to take note of the report tabled by Senator Sandy Macdonald entitled *Aspects of the Veterans' Entitlements Act 1986 and the Military Compensation Scheme*, otherwise more identifiably titled 'offsetting of compensation payments for veterans and widows'. From the outset in taking note of this report, I compliment the secretariat for its industry and thoroughness in coming to grips with what is a most complex issue in one of the more difficult areas of government administration. Let me also say how this brief inquiry has contributed to the worth of the Senate committee system, not necessarily through any revolutionary outcomes but by simply doing the analysis and providing a valuable avenue in our democratic process for constituency issues of concern to be aired and investigated.

The genesis of this particular matter is that, as the result of the provision of dual eligibility of two compensation schemes for the military in 1972, very messy and highly imperfect arrangements were legislated to ensure that people injured in service could not be compensated twice for the same injury. The two schemes are the Military Compensation Scheme, set up as a replica of the Safety, Rehabilitation and Compensation Act in 1986, and the Veterans' Entitlements Act, which had its genesis shortly after World War I. This dual eligibility was compounded by the fact that the values of compensation are different with respect to what are loosely called 'scales of maims' in each scheme—that is, the same injury is worth more, over life, under one scheme than under the other, but also the VEA pays by way of a fortnightly pension and the MCRS pays by way of a lump sum. What is more, having had a claim accepted under one scheme, a separate claim can, as a matter of choice, also be made under the other at any time thereafter.

In most cases, for veterans and war widows with this dual eligibility for service between 1972 and 1994, the first port of call is the MCRS, where either a disability lump sum is paid or a lump sum is paid to the widow as part of a larger death benefit. Often the lump sum is invested in, say, a house, which is understandable, but later the advantages of a lifelong pension are better understood as invariably, over life, it is a better benefit—provided, of course, you live long enough. Inevitably, as is their right, people apply for the pension as well and are correctly told that their pension will be offset by the earlier lump sum paid under the other scheme. The reverse in some cases also applies: pensions are reduced after lump sums are sought.

What people are sometimes not told is that their pension is offset forever—it is not simply a matter of repaying the lump sum with interest for a limited period after which the pension would be restored in full. Hence, in this case, much concern by those affected has been brought to my attention—and to many others previously, no doubt—by the Retired Defence Forces Welfare Association. The view expressed was that, over time, it seemed that many veterans and war widows had deductions made from their pensions which exceeded the original lump sum—in some cases, quite substantially—hence the inquiry by the committee and this report today.

What is clear from the inquiry and the report is that, by necessity, the offsetting of lump sum payments by pensions involves detailed actuarial calculations, simply because the pension is a lifelong, tax-free benefit. Put simply, to compare like with like for accurate offsetting, the lump sum has to be converted to a pension equivalent—that is, if invested, the income stream the lump sum would produce over life, like any other actuarial calculation on any capital sum, as in-

creased by indexation. Depending on the severity of the injury compensated, and hence the size of the lump sum, the offset against a pension could be substantial. But the fact that some residual pension remains at all is indicative of the advantages of making that choice in the first place.

Work done by the Commonwealth actuary for the committee—and we are indebted for the quality and timeliness of that advice—found that, of the large sample assessed, only one group repaid more in their pension than the converted value of the lump sum. In what is a highly imperfect model, this was a decisive finding, although the sophistication and complexity of the calculations are such that it will be difficult to dissuade people that they have not been repaying more than they ought to.

I repeat, however, that this offsetting model in policy terms is flawed. Had it not been for the fact that those who opt for the pension over a lump sum are in large part advantaged, the obvious recommendation would be to remove the choice between schemes. This is in fact the proposal in the new Military Compensation Scheme, as recommended by the Tanzer review and by Justice Clarke's review earlier this year.

In the new scheme, however, the value of the lump sum and pension alternatives available for once-only choice are actuarially equivalent over life. This does not mean that a decision ought not be made to remove the choice option, and it needs to be considered that there are only 7,000 offset cases in the system from over 30 years of availability. Not too many would have their entitlements affected, but it would remove a very messy process and all the perception of unfairness.

There are, however, some other imperfections which result in rough justice and which I suggest could be removed only by removing the choice. The first is that it is clear that

the assessment of disabilities under the VEA for which a pension is paid and the assessment of the same injury under the MCRS are done on different criteria—that is, as Mr Greg Isolani pointed out in evidence, we are comparing like with unlike. Unravelling that may be well nigh impossible. Next, for the purposes of the offset, any lump sum and pension payable are deemed to have been available and paid at the same time. This of course is not the case, so calculations of offsetting amounts are imperfect. Finally, as the model is an actuarial one, those who live longer repay larger amounts, and those who benefit most are those who pass earlier than anticipated. This is the lottery of the actuarial model.

Submissions were made to the effect that, rather than use the actuarial model of lifetime conversion and offsets, the original lump sum should be treated as a loan and simply repaid with compound interest. At face value this does appear to be a practical solution but, as the actuary clearly shows, there is an added cost to the taxpayer which effectively contradicts the need for cost neutrality in offsetting. The committee therefore has been unable to support that option. Nor has the committee been able to accept the view that all offsets should be cancelled, not simply because that would be a significant budgetary matter for government but because it would also mean accepting that the system is totally unfair and unjust, which it is not.

The key finding of the committee is that, notwithstanding all the shortcomings in this offsetting process, the largest problem has been people not understanding the consequences of their choice and in fact in many cases having been misled by incorrect advice, hence the emphasis in the recommendations for greater effort on the part of the department to thoroughly advise veterans and widows of the full financial consequences of their choice. Ideally, this should be done at

the very first instance when anyone with dual eligibility first makes a claim. Hopefully, this may help those in the future but it is a pity that we have not been able to support the belief that relief is due to those who believe they are paying off more than they ought to. The facts say otherwise.

However, may I repeat that the policy basis of offsetting pensions and lump sums is very rough justice and, indeed, a lottery because of the way the actuarial pool operates. There is, however, no viable alternative except to terminate the choice. I commend the report to the Senate. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**CRIMES (OVERSEAS) AMENDMENT  
BILL 2003**

**TAXATION LAWS AMENDMENT BILL  
(No. 8) 2003**

**TAXATION LAWS AMENDMENT  
(SUPERANNUATION  
CONTRIBUTIONS SPLITTING) BILL  
2003**

**First Reading**

Bills received from the House of Representatives.

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (9.53 a.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 IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (9.54 a.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—*

#### CRIMES (OVERSEAS) AMENDMENT BILL 2003

The purpose of this bill is to protect Australians who are sent overseas by, or in connection with the Commonwealth, by extending Australian criminal jurisdiction over Australians in certain situations. These situations would generally be humanitarian or security operations.

The bill aims to close the criminal law jurisdictional gap that currently exists for certain Australians with diplomatic and consular immunities, or with immunities that arise from a person's relationship with an international organisation.

The Crimes (Overseas) Act 1964 was passed in 1964 to extend certain Australian criminal laws to Australian civilians who were deployed to Cyprus with the United Nations Force.

The Act currently provides that certain Australian criminal laws apply to conduct committed by Australians (other than Australian Defence Force members) who are serving overseas under an arrangement between the Commonwealth and the United Nations and who have immunity from prosecution in the country in which the particular conduct in question occurred.

Over recent years, the Australian Government has deployed increasing numbers of Australian civilians on overseas operations.

The changing nature of these deployments means that the terms of the Crimes (Overseas) Act 1964 are no longer broad enough to protect many Australian civilians on overseas deployments, nor does it adequately address the jurisdictional gap that has been created by the granting of various immunities to Australians in foreign countries. At the moment there may be situations where Australians have been granted immunity from prose-

cution in the foreign country in which they are deployed, and there is no applicable Australian criminal jurisdiction. In this situation, Australians would be unable to be prosecuted for crimes which were committed in that foreign country.

The bill extends the operation of the Act so that Australian criminal jurisdiction will apply to Australian citizens and permanent residents in four situations.

Firstly, the bill will extend the Act to cover the jurisdictional gap that currently applies to Australians who have been granted diplomatic and consular immunities, or who have been granted immunities due to their relationship with an international organisation.

In situations where an Australian commits an offence for which he or she is immune in a foreign country, Australia may choose to waive the person's immunity to allow the foreign country to prosecute.

However, in situations where Australia does not waive the person's immunity, Australia is currently unable to exercise broad criminal jurisdiction over that person and prosecute most offences.

The bill will ensure that Australia is able to exercise criminal jurisdiction over Australians in such circumstances, and that such people are protected by the guarantees of the Australian judicial system.

However, the bill will not interfere with Australia's ability to waive immunity in situations where it is appropriate for the foreign country to prosecute the person.

Secondly, the bill will extend the operation of the Act over Australians who are in a foreign country under an agreement or arrangement between Australia and the United Nations (or an organ of the United Nations), or between Australia and a foreign country, where Australians who may have committed an offence are immune from prosecution in the foreign country for that offence.

The bill ensures that Australia can exercise criminal jurisdiction over Australians for such offences, which closes a current jurisdictional gap for Australian civilians deployed overseas in these circumstances.

Thirdly, the bill will extend the operation of the Act to Australians who are in a foreign country under an agreement or arrangement between Australia and the United Nations (or an organ of the United Nations), or between Australia and a foreign country, which has been declared by regulation to be a 'declared agreement or arrangement' for the purposes of the Act.

The regulations may limit the extension of Australian criminal jurisdiction to a specified category or categories of persons.

This will ensure that in situations where Australia has sent civilians to another country in specified circumstances Australia will be able to exercise criminal jurisdiction.

This may usefully apply in situations where Australia has agreed with the host country that its own criminal jurisdiction will take priority over local jurisdiction, as is the case with the current Solomon Islands deployment. Where Australia is able to exercise jurisdiction over its civilian personnel, it may claim primary jurisdiction over an accused Australian, with the result that that person would be dealt with in the Australian criminal justice system, rather than by the local courts of the host country.

Currently, Australia is unable to exercise criminal jurisdiction in such circumstances, which may expose Australian civilian personnel to prosecution in local courts.

This regulation-making power would also enable Australia to comply with its obligations under forthcoming Air Security Officer Agreements, which generally require Australia to be able to exercise criminal jurisdiction over Air Security Officers in foreign countries.

Fourthly, the bill will extend the operation of the Act to Australians who are in a foreign country in connection with Commonwealth activities, where that foreign country has been prescribed by regulation to be a 'declared foreign country'.

This enables Australian criminal jurisdiction to be extended in the absence of a relevant agreement or arrangement or in circumstances where it may be desirable to extend the operation of the Act to a broader range of Australians in the foreign country.

This may include Australian officers of international organisations, who have not been deployed by the Commonwealth, but who are working in association with Commonwealth activities.

The bill also allows Australian criminal jurisdiction to operate in part of a country only, which is desirable in situations where Australia is requested to assist in restoring stability to one part of a country or wishes to work only in a narrowly defined operational area.

Australia is involved with a number of overseas operations at this time. These deployments involve a large number of civilians.

While Australian jurisdiction over members of the Defence Force is addressed in other legislation, Australian civilian personnel, including members of the Australian Federal Police who are deployed by the Commonwealth may be vulnerable to prosecution by criminal justice systems that fall short of Australian standards.

The bill ensures that Australian civilian personnel deployed by the Commonwealth will be protected by the guarantees of the Australian judicial system.

The bill also ensures that various jurisdictional gaps over Australians serving overseas are covered.

The bill also resolves a technical problem with the current application of Australian criminal jurisdiction to persons to whom the Act applies.

The bill applies the substantive criminal law of the Jervis Bay Territory extraterritorially, which is the same approach as that adopted by the Crimes at Sea Act 2000.

The bill also allows regulations to be made with retrospective application to 1 July 2003 for three months following Royal Assent where those regulations prescribe a country to be a declared foreign country for the purposes of the Act.

This is to enable regulations to be made declaring Iraq and Solomon Islands to be declared foreign countries for the purposes of the Act with retrospective effect to 1 July 2003.

The extension of Australian criminal jurisdiction retrospectively—to 1 July 2003—over Australian civilians deployed to Iraq and Solomon Islands ensures that those civilians will be protected by

the extension of Australian criminal jurisdiction over offences committed since 1 July 2003.

On 26 June 2003, I released a joint media statement with the Minister for Justice and Customs and the Minister for Foreign Affairs, stating that Australian criminal jurisdiction would be extended to Australian civilians serving in Iraq from 1 July 2003. The extension of Australian criminal jurisdiction, particularly to those personnel in Iraq and Solomon Islands will ensure that Australia is in the best position to protect Australians deployed to these countries. These amendments aim to ensure that in situations where Australian civilians may face prosecution for acts committed while they were on operations overseas, they face prosecution in Australian courts, under Australian criminal jurisdiction.

---

TAXATION LAWS AMENDMENT BILL  
(No. 8) 2003

This bill makes amendments to the income tax law and other laws to give effect to several taxation measures.

Schedule 1 to this bill amends the imputation rules in the Income Tax Assessment Act 1936 and Income Tax Assessment Act 1997 to ensure non-share dividends can be franked in the manner intended by Parliament. The amendments will ensure that entities can take into account expected profits when calculating if sufficient profits are available to frank a non-share dividend.

The amendments in Schedule 2 provide number of enhancements to the consolidation regime which will further clarify the cost setting rules and ensure that the income tax law that applies to head companies of consolidated groups also applies to the head companies of Multiple Entry Consolidated groups. In addition, this bill introduces rules to permit the transfer of any unapplied excess Franking Deficits Tax offset from joining entities to the head company.

These amendments have retrospective effect to 1 July 2002, which is the date of commencement of the consolidation regime. The amendments are beneficial to taxpayers or correct unintended outcomes. The amendments to address unintended outcomes are consistent with the original policy intent for the consolidation regime and therefore

have the same commencement date as the consolidation regime.

Schedule 3 will provide an income tax deduction for taxpayers entering into certain types of conservation covenants with government entities. This is in addition to the existing deduction for taxpayers entering into eligible conservation covenants with deductible gift recipients and prescribed private funds.

The amendment will provide landholders with greater incentives to protect and manage their land for conservation purposes.

Schedule 4 to this bill amends the Fringe Benefits Tax Assessment Act 1986 to maintain alignment between the deemed depreciation rate used under the operating cost method for valuing a car fringe benefit and the rate used for depreciation purposes under the income tax provisions.

The amendments in Schedule 5 amend the gift provisions of the Income Tax Assessment Act 1997 to remove the requirement to have a winding up clause as part of the endorsement provisions for statutory bodies that are established by the Commonwealth Parliament in perpetuity.

Schedule 6 to this bill will make it easier for primary producers to determine if an entity is eligible to issue farm management deposits. The amendments also protect the tax status of certain pre-1 July 2003 deposits and transfers that were made in good faith with non-complying entities offering products described as farm management deposits.

Schedule 7 will amend the imputation rules in the Income Tax Assessment Act 1997 to allow companies to offset a franking deficit tax liability against any future income tax liabilities. There are rules for both ordinary companies and life companies. These amendments are a further component of the simplified imputation system that commenced on 1 July 2002.

The rules will generally operate in a similar manner to the former franking deficit tax offsetting rules in the Income Tax Assessment Act 1936. However, a change as previously announced by the Government, is the replacement of the franking additional tax with a simplified penalty for over-franking. This penalty will apply to reduce a company's franking deficit tax offset entitlement

against future income tax liabilities by 30% where there is over-franking.

Full details of the measures in this bill are contained in the explanatory memorandum.

I commend this bill.

TAXATION LAWS AMENDMENT  
(SUPERANNUATION CONTRIBUTIONS  
SPLITTING) BILL 2003

The bill makes consequential amendments to the *Income Tax Assessment Act 1936* and the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* to provide for the tax consequences of the Government's election commitment to allow members to split both their personal and employer superannuation contributions with their spouse. The exact details of how the Splitting measure will operate will be specified under regulations.

Contribution splitting is a key element of the Government's superannuation reforms. It will assist families to maximise the benefits available in superannuation and provide an avenue for spouses to share their superannuation benefits. This is important for families with only one working spouse in the home or where one spouse receives a low income.

The splitting of superannuation contributions will benefit many families. It will particularly assist low income or non-working spouses to have superannuation assets under their own control and to have their own income in retirement. This measure is expected to benefit women in particular.

It will provide single income couples, including those not able to make voluntary contributions, with access to two eligible termination payments low-rate thresholds and two reasonable benefit limits in the same way as dual income families.

For taxation purposes the contributions which are split and paid to another fund or transferred to an account in the existing fund for a spouse will be considered an eligible termination payment roll-over. Also any surcharge liability that attaches to those contributions will remain with the splitting spouse (and generally will be payable by the su-

perannuation provider that received the original contribution).

Ordered that further consideration of these bills be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

Ordered that the bills be listed on the *Notice Paper* as separate orders of the day.

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

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

**First Reading**

Bills received from the House of Representatives.

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (9.56 a.m.)—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 IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (9.56 a.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—*

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

This bill establishes the Energy Grants Cleaner Fuels Scheme that provides for payment of a cleaner fuels grant to importers and manufacturers of cleaner fuels.

This bill delivers on two measures in the 2003-2004 Budget. The first of these relates to fuel tax reform and the second to the cleaner fuels com-

ponent of the Energy Grants (Credits) Scheme in line with the measures for a Better Environment commitment to encourage conversion from the dirtiest fuels to the most appropriate and cleanest fuels.

Under the provisions of the bill, an entity will be entitled to a cleaner fuel grant if they import or manufacture biodiesel or certain other cleaner fuels.

The cleaner fuel grant will offset the customs/excise duty payable on biodiesel, such that the current effective excise rate of zero for pure biodiesel is continued, with this being extended to the biodiesel components of blends, until 30 June 2008. The grant will be reduced in five even annual instalments from 1 July 2008 to 1 July 2012, raising the effective excise rate from zero, before 1 July 2008, to its final rate.

A cleaner fuel grant will also apply to domestically produced and imported ethanol from 1 July 2008. The grant rate for ethanol will also be reduced in five even annual instalments from 1 July 2008 to 1 July 2012, raising the effective excise rate from zero, before 1 July 2008, to its final rate.

These measures are part of the Government's long term reform of existing fuel tax arrangements whereby all currently untaxed fuels used in internal combustion engines will be brought into the excise (and customs) duty system by 1 July 2008. The reforms establish a broad sustainable taxation framework for fuels, by addressing a number of anomalies in the current fuel tax system and providing increased long term certainty for investors, while meeting Government commitments and providing time for industry to adjust.

The reforms will establish a fairer and more transparent fuel excise system with improved competitive neutrality between fuels. They will provide the opportunity for currently untaxed fuels to establish their commercial credentials in the market place. The reforms fulfil the Government's commitments concerning the tax treatment of fuels and deliver on the Measures for a Better Environment commitment to encourage the production of alternative and renewable fuels.

From 1 January 2006, the Government will provide grant payments for the production or import of premium unleaded petrol with less than 50 parts per million sulphur for a period of two years. Similar arrangements will be implemented for diesel with less than 10 parts per million sulphur from 1 January 2007.

These measures will encourage the production of higher quality fuels before they are mandated under the provisions included in the Fuel Quality Standards Act 2000. The initiative will be reviewed in the period prior to implementation to ensure that it aligns with the timing of new fuel standards and market conditions.

The Energy Grants Cleaner Fuels Scheme will be administered under the administrative and compliance framework contained in the Product Grants and Benefits Administration Act 2000. Claimants will be responsible for correctly self-assessing their entitlements and maintaining records to substantiate their entitlements.

The Energy Grants Cleaner Fuels Scheme will apply from 18 September 2003.

Full details of the measures in this bill are contained in the explanatory memorandum.

I commend this bill.

---

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

This bill is a companion bill to the Energy Grants (Cleaner Fuels) Scheme Bill 2003.

The purpose of this bill is to amend a number of acts to facilitate the enactment of the Energy Grants Cleaner Fuels Scheme.

Full details of the measures in this bill are contained in the explanatory memorandum already presented.

I commend this bill.

Ordered that further consideration of these bills be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

### SENATORS' INTERESTS

**Senator ALSTON** (Victoria—Minister for Communications, Information Technology and the Arts) (9.56 a.m.)—At the request of the Leader of the Government in the Senate, Senator Hill, I move the motion standing in his name:

That—

- (a) the Senate authorises the President of the Senate to engage Mr Brian Shaw, QC, to advise on answers to a list of questions relating to whether certain matters brought to the attention of the then President of the Senate by Senator Scullion on 10 May 2002 may have put him in conflict with section 44(v) of the Constitution; and
- (b) the person appointed under paragraph (a) shall be paid such fee as is approved by the President after consultation with senators.

**Senator BROWN** (Tasmania) (9.56 a.m.)—I move:

Omit all words after “That”, substitute “the following matters be referred to the Court of Disputed Returns under section 376 of the *Commonwealth Electoral Act 1918*:

- (1) Whether there is a vacancy in the representation of the Northern Territory consequent on the matters disclosed by Senator Scullion to the President on 10 May 2002.
- (2) If so, whether such vacancy may be filled by the further counting or recounting of ballot papers cast for candidates for election for Senators for the Northern Territory.
- (3) Alternatively, whether there is a casual vacancy for one Senator for the Northern Territory within the meaning of section 44 of the *Commonwealth Electoral Act 1918*”.

We are dealing with a very important matter. Senator Scullion brought the matter before the Senate on 10 May last year and it is a question of the validity of him holding the seat in the Senate. Let me say at the outset, I

like Senator Scullion and this amendment I have moved here has nothing whatever to do with the senator. Indeed, I have a great deal of difficulty with section 44 of the Constitution. You will know, Mr President, that I have moved in this place to amend the Constitution so that it does not unfairly catch up, over trivial matters in particular, people who have been involved in some contractual arrangement with the government and, moreover, so that it does not prevent millions of Australian citizens from standing for parliament simply because they are under some contractual arrangement with the government—that is, employment or other contractual arrangements such as pensions or, indeed, because they have dual citizenship.

Mr President, just a couple of months ago my bill before the Senate to rectify these matters through giving the people the opportunity at referendum to bring the Constitution up to date, while it received a majority here did not receive an absolute majority because the government—including, if my recollection is right on that occasion, Senator Scullion—voted against it. Where senators may have fallen foul of section 44 of the Constitution the process has been that the matter goes to the Court of Disputed Returns—that is, the High Court. That is the proper entity to be dealing with matters such as this.

I think we are trespassing on very unsound ground when the Senate moves to get legal advice before making that determination. I have not been party to that determination because I did not believe the process was right from the outset. I think that this is a simple matter—that is, where doubt arises about the validity of anybody holding their place in the Senate, that should be determined by the rightful authority, which is the High Court acting as the Court of Disputed Returns. I note that this matter has now taken some 16 months to get to the stage where the

Senate is, through this motion from the government, seeking legal advice from Mr Shaw QC. In my view, that is not going to settle the matter. Whatever Mr Shaw's advice may be, that will leave the matter open to other advice. Ultimately, you cannot settle this matter except through a determination by the High Court. That is why I have moved an amendment.

I think that we are in the dangerous constitutional territory of being seen to be dilatory about this matter, recognising that there is inevitably another federal election coming down the line. The efflux of time will mean that the matter is never determined. Also, and I am sure senators will contribute to this debate as to why this course of action is being taken, the Senate is ostensibly being asked to seek legal advice when the best legal advice—the determining, definitive and historical source of legal advice—has been the High Court. I do not believe that we should be acting as an intermediary in this matter in which the potential conclusion that a disinterested bystander could come to is that the matter is being truncated and held up and is going to a single source of legal advice which, in turn, can be disputed.

What is wrong here is section 44 of the Constitution. This chamber voted not to give the people of Australia the right to determine that matter when it voted against my bill just a couple of months ago—and it was the government itself that voted against that. I will be bringing that bill back because I think this is just the sort of situation we should not be in; we should have it clarified. The Constitution is unfair, not just potentially to some senators who get caught up and have my greatest sympathy. I have seen this happen time and time again, not just here but in the Tasmanian parliament, where, under the Constitution Act 1934, members of both houses of parliament were frequently caught up because they had some trivial contractual

arrangement with the government. But again, despite bringing legislation before the Tasmanian parliament more than a decade ago, it has not been fixed. There is some sort of impediment to the collective minds of members of parliament to want to go ahead and fix up a very serious glitch in a constitution such as we have here. That can be determined at some other time. I can assure you that I will give the Senate another opportunity to do that. But I hope that senators will keep this situation in mind when that occurs.

This is very unfair to Senator Scullion and so too it is unfair to the nation, which expects that the Constitution will be upheld and that, where there is some doubt about constitutional infringement, it will be settled quickly. In the case of Senator Woods in 1988, it was Senator Ray, the then Minister for Home Affairs, who moved a similar motion to my amendment because, on that occasion, there was a dispute about citizenship. Going back further still, Senator Webster's case was similar. We should not leave this situation to recur. When the Senate determines that it is not going to fix, change or give the opportunity through a referendum for a remedy to the shortcomings of the Constitution in this matter, it must live with the consequences. That is why, when doubt arises over a senator's position, it should be a matter that we refer to the High Court for determination. It is as simple as that.

**Senator FAULKNER** (New South Wales—Leader of the Opposition in the Senate) (10.05 a.m.)—The matter of how, and I stress this, the Senate as opposed to any individual should deal with the issue of the validity of the tenure of office of Senator Scullion is a matter that has been discussed by senior government and opposition senators for well over a year now. I say, and my remarks will be very brief on this matter because I think that is also appropriate, that I consider that this matter has been handled

appropriately. Senior government and opposition senators have agreed on an approach and you would know, Mr President, that Senator Hill and I wrote to you jointly to propose a certain course of action in relation to this matter. It is proper to say that the motion that is now being debated in the Senate is a consequence of the letter that Senator Hill and I sent to you.

I believe the course of action proposed in the substantive motion is in the best interests of both the individual senator and the Senate itself. It is competent for others outside this Senate to take whatever course of action they care to take—that is a matter for others. In this chamber we have to consider what is an appropriate course of action for the Senate. I believe this motion represents that appropriate course of action. It will mean that a senior member of the Melbourne Bar will be asked to advise on a range of issues—a list of questions, as it is described in this motion. Again, they are matters that have been agreed between the government and the opposition. It is proper, given that this matter has been brought on for debate, that I say that in the interests of transparency. This motion—if it is agreed to—will authorise you, Mr President, consequently to engage Mr Shaw to advise on those matters. When that advice is received, there will need to be further consideration of those matters, further consideration of those advices.

These are difficult and sensitive issues to deal with; it is true. They have an impact on an individual senator. They also have an impact more broadly on the Senate. I put it to you, Mr President, that when dealing with these matters it is appropriate to move forward in a way where as broad an agreement as possible is achieved within the Senate itself. So I think the substantive motion before the chair, moved by Senator Alston on behalf of Senator Hill, is the appropriate course of action. This will not be the last

time this matter is considered. Inevitably, there will need to be a determination following the receipt of Mr Shaw's advice. Let us receive that advice, let us consider that advice and let us then deal with the matter with the benefit of that advice. I believe that the motion represents the appropriate course of action. The opposition will support the substantive motion and oppose the amendment.

**Senator MURRAY** (Western Australia) (10.11 a.m.)—Senator Hill's motion authorises the President of the Senate to engage Mr Brian Shaw QC to advise on answers to a list of questions relating to this matter. Like the Leader of the Opposition, the Australian Democrats are of the opinion that this is the proper way this matter should be dealt with. We think Senator Brown's motion is a step too soon. We think this matter has some way to run, and we would suggest that the President of the Senate may take into account some of the issues raised in Senator Brown's motion in putting his list of questions to the QC. It is obvious that the QC could advise whether, in his opinion, these matters should be dealt with on a further basis along these lines.

Our view is that the conclusion that Senator Hill has come to has been after sensitive and sensible consultation. We feel for Senator Scullion. It is never nice to have these matters hanging over your head—it does not matter which side of the chamber you are on—and the sooner they are resolved, the better. So in that sense we have sympathy with Senator Brown trying to hurry it up but, in the other sense, we think the Senate needs to have independent, objective and qualified advice first. Therefore, we would indicate to you, Mr President, that the Democrats support the government's motion.

**Senator ALSTON** (Victoria—Minister for Communications, Information Technology and the Arts) (10.13 a.m.)—I thank

Senator Murray for his comments, which very much fit with the approach that is being proposed here. Senator Faulkner has also set out the history of the matter and the general view that is shared by government and opposition. Can I say for the benefit of Senator Brown, who started by saying that he had a great deal of difficulty with section 44 of the Constitution and indicated that it could inadvertently catch people up, that it is a difficult section. In many ways the Senate has an obligation to ensure that certain matters deserve to be brought before the High Court. The whole purpose of allowing a reference is that a discretion is vested in the Senate as to whether to refer a matter. It is not as if anyone can come in here and say, 'I think you are in breach of section 44 and the matter has to go to the High Court.' It might be frivolous or vexatious; it might be malevolently politically motivated. There has to be a consideration of the matter by the Senate, proper discretion exercised and then, if necessary, the matter is referred.

As in all these things, there can be a great deal of degree across the spectrum. There may be a strong *prima facie* case, in which case people would say: 'There doesn't seem to be any argument here. This is clearly a matter that the court must rule on immediately.' On the other hand, they may say, 'Well, it is very hard to tell here. There may have been an inadvertent catching up, in which case the Senate itself would still have the discretion to say that the matter does not deserve to be put before the highest court of the land. After all, you do not want the High Court to be caught up with matters that we might generally regard as being trivial but which, nonetheless, are matters affecting the Constitution. They must be referred.'

We think the proper course of action is to get advice from an eminent QC with very extensive constitutional experience, someone who can assess all of these issues and then

provide the Senate with a basis for deciding whether the matter ought to be referred. I simply say that the discretion is vested in the Senate, there is no automatic obligation to refer and we should not do it sight unseen. We should do it on the basis of the best-level advice that we can obtain. Then we can make a judgment. There may be a number of factors to be taken into account at that time as to whether or not the matter is of sufficient significance to refer it to the High Court—or, indeed, whether the evidence in support of the proposition warrants it. And we can do that at a later time.

Question negatived.

Original question agreed to.

#### COMMITTEES

#### Finance and Public Administration References Committee

##### Report

**Senator FORSHAW** (New South Wales) (10.16 a.m.)—I present the report of the Finance and Public Administration References Committee on recruitment and training in the Australian Public Service, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**Senator FORSHAW**—I seek leave to move a motion in relation to the report.

Leave granted.

**Senator FORSHAW**—I move:

That the Senate take note of the report.

Recruitment and training in the Australian Public Service might sound at first like a rather prosaic topic. It does not usually excite many people. But, as the committee's report shows, these are major issues facing the Commonwealth Public Service that have wider implications for Australia's economy and work force. I am pleased to say that this is a unanimous report.

The Australian Public Service is not only a key source of advice and support to government but also a major employer in the Australian work force. Some of the challenges the APS is facing—such as an ageing work force, increased competition for the ‘best and the brightest’ and lower retention rates for young people—are common to other sectors of the economy. The committee believes that the APS should be a leader for other areas of the work force in developing policies and practices to address these issues.

How the APS is managing the recruitment and training challenges it faces was the main purpose of this inquiry. In addition to the challenges noted already, the APS is contending with the erosion of the concept of a ‘career service’ and the attendant potential loss of corporate knowledge; increased staff mobility, where employees expect to spend less time in individual agencies and in the APS generally; lower recruitment and retention rates, particularly for young people, graduates and Indigenous Australians; growing demands from the work force generally for more flexible work arrangements; and, as a consequence of its ageing staff profile, the loss of a significant proportion of its work force in the next few years.

The APS has undergone major reform in recent times. Some of these changes, such as a shift towards more qualified recruits and specialised job classifications, reflect broader trends in the Australian work force and economy over at least the last two decades. Another key change to the APS, namely the move away from a centralised system of recruitment and training to a devolved environment, is of more recent origin and stems from a major overhaul of legislation with the Public Service Act 1999. The impacts of devolution on the way the ‘new APS’ is managing recruitment and training challenges are a recurring theme throughout the committee’s report. The committee acknowl-

edges that devolution over the last decade has led to greater flexibility and improved efficiencies in many areas of the APS. However, the committee also found that with devolution has come fragmentation, which has impaired the effectiveness of the recruitment and training strategies and practices of some agencies. In particular, it has weakened the capacity of some agencies to compete in the job market and also ensure their employees receive adequate ongoing training.

I wish to highlight one impact of this fragmentation that emerged in the response of government agencies to the committee’s inquiry. The committee is extremely disappointed that two key agencies, the Department of Employment and Workplace Relations and the Department of Education, Science and Training, did not even bother to make submissions to the inquiry. These two departments have a key role in promoting employment and training in the Australian work force. In the committee’s view, it is inexcusable that they should not participate in a parliamentary inquiry of this nature. In contrast, other agencies, including some not covered by the Public Service Act, were extremely helpful and provided important insights. The committee appreciates their assistance and the assistance of all of those who made submissions and appeared in our public hearings.

The committee’s report addresses the numerous complex issues that arose during what was a reasonably lengthy inquiry. The committee has made a large number of recommendations in relation to recruitment, training and, of particular concern to all members of the committee, the role of the Australian Public Service Commission in the new, devolved Public Service environment. I want to highlight some of the committee’s key findings and recommendations.

The committee believes many recruitment issues have been identified and understood but is less confident that the APS as a whole is responding adequately to some challenges. Employees, particularly young employees, are not being mentored adequately. A range of recruitment practices generally, and management of non-ongoing employment in particular, are not sufficiently understood. The committee also sees staff retention and separation issues as an ongoing challenge that agencies will need to monitor and manage for some time to come. These are particularly acute in relation to three special categories of employee: young people, graduates and Indigenous Australians.

The inquiry has revealed that there has been a strong decline over a decade in the presence of young people in the APS. The committee was also concerned to find that most resignations from the Australian Public Service are by young people. The committee believes that the APS should be promoted as a first port of call for employment for young people. Strategies to improve the APS's ability to attract young people include enhancing publicity in schools regarding careers in the Australian Public Service, eliminating any structural bias against youth in the selection test and establishing broad principles for youth employment plans with APS agencies. The committee also recommends that the government recommit the Commonwealth to significantly increasing the number of trainees employed in the Australian Public Service, a commitment that was made originally by the former Keating government.

With the shift towards a more specialised and skilled APS, the recruitment and retention of graduates has become increasingly important. Graduates will assume even more importance as the service grapples with the implications of the expected separation of large numbers of older APS employees over the next five years. The need for the Aus-

tralian Public Service to market itself to graduates as an employer of choice is therefore clear.

However, the committee heard a range of criticisms from non-APS organisations on the lack of cohesion in approaches to graduate recruitment; poor information dissemination, particularly to universities; and the complexity of the application process for graduates. The APS Commission has also observed that some agencies are not addressing graduate recruitment and retention systematically or with a long-term focus. The committee believes these problems are examples of the fragmentation that has come with the devolution of recruitment practices in the APS.

While the employment of Indigenous Australians is steady, there is a deeper problem of higher separation rates for Indigenous employees compared to non-Indigenous employees. Retention strategies are therefore critical for consolidating and strengthening the presence of Indigenous Australians in the APS. The committee recommends that the APS Commission have a dedicated budget to assist Indigenous people to gain employment in the APS and that Indigenous employees be provided with ongoing intensive support for career development and to improve retention rates. There is also a need to improve communication strategies and awareness raising with Indigenous people and their organisations about employment in the APS.

In terms of APS training strategies and practices, the committee noted that there have been many positive developments, such as the considerable effort agencies have invested in linking training priorities to corporate and business objectives, the development of accredited and articulated training programs, and the way some agencies have capitalised on the flexibility available to them under devolution to tailor training ac-

tivities to their particular business and operational needs. However, there have also been a number of side effects from devolution about which the committee is concerned. At a broad level, the expansion in training programs has been to some extent uncoordinated and has led to duplication and higher than necessary costs. Assessing the extent of this sort of fragmentation proved difficult, however, because of the lack of detailed information on training expenditure and outcomes across the APS.

The committee is particularly critical of the fact that the limited data available on APS training hampered its ability to both explore trends in training expenditure and assess the value for money of current approaches. The Australian National Audit Office, in its report *Management of learning and development in the Australian Public Service*, estimated that in 2000-01 expenditure on learning and development amounted to \$160 million. That is a huge amount of money and systems should exist to assess how effectively it is being spent. In view of the short time available, I seek leave to incorporate the remainder of my speech in *Hansard*.

Leave granted.

*The document read as follows—*

Compounding these data problems is the limited extent to which agencies evaluate their training activities. Most agencies are unable to draw a link between training results and business outcomes or performance. Few can quantify the value for money that their training budgets are producing.

The committee has made a number of recommendations to address these problems, some of which build on proposals made by bodies such as the ANAO, the Management Advisory committee and the APS Commission. In the devolved environment, the committee considers that these bodies with a service-wide perspective have complementary roles in encouraging and promoting more

effective strategies and approaches to recruitment and training across the APS.

In particular, the committee envisages a greater, more assertive role for the APS Commission on recruitment and training matters. As a general observation, the committee has concluded that under devolution the pendulum has swung too far in favour of agency autonomy and that this needs to be addressed by giving the APS Commission enhanced powers and responsibilities to ensure greater coordination of 'whole of service' issues.

The committee recommends that the APS Commission have a greater role in APS recruitment and the establishment of benchmarking of recruitment practices. It considers that additional resources should be provided to fulfil an enhanced role for the APS Commission in guiding APS recruitment strategies and practices.

There are also particular areas of training in which the APS Commission clearly should have a major role. It should increase its efforts in coordinating and facilitating delivery of centralised training programs in core-skill areas such as administrative law, record keeping, financial management and freedom of information.

To remedy some of the information problems the committee encountered during the inquiry, the committee has recommended that the APS Commission present detailed reports annually, as part of the State of Service report, outlining the progress made by each department and agency in achieving their objectives in recruitment and training. The committee considers that more systematic reporting will enable the APS Commission to identify and assist agencies to address current and emerging challenges in both areas.

More consistent reporting across the APS, built on stronger data collection and analysis, will also improve transparency in these areas and enable the Parliament itself to monitor the expenditure, activities and progress of agencies in recruitment and training.

**Senator FORSHAW**—I thank the government. In closing, I would like to thank my colleagues on the committee for their efforts on what has been, at times, a challenging inquiry and for their cooperation in producing a unanimous report. I would also like to

thank all those who assisted the committee with its deliberations, including the committee secretariat, namely Alistair Sands, Ian Holland, Matt Keele, Di Warhurst and two former staff, Catherine Rostron and Natasha Cross. I commend the report to the Senate and I urge all senators to read it.

**Senator MOORE** (Queensland) (10.27 a.m.)—I seek leave to make some remarks later.

Leave granted; debate adjourned.

**RETIREMENT SAVINGS ACCOUNTS  
AMENDMENT REGULATIONS 2003  
(No. 2)**

**SUPERANNUATION INDUSTRY  
(SUPERVISION) AMENDMENT  
REGULATIONS 2003 (No. 4)**

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (10.27 a.m.)—I seek leave to revisit notice of motion No. 1 and to recommit for a vote the motion standing in the name of Senator Sherry relating to disallowance of the Retirement Savings Account Amendment Regulations 2003 (No. 2) and the Superannuation Industry (Supervision) Amendment Regulations 2003 (No. 4), as contained in Statutory Rules 2003 Nos 195 and 196.

Leave granted.

Question put:

That the motion (**Senator Sherry's**) be agreed to.

The Senate divided. [10.32 a.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	31
Noes.....	<u>27</u>
Majority.....	4

**AYES**

- |                 |                   |
|-----------------|-------------------|
| Allison, L.F.   | Bartlett, A.J.J.  |
| Bishop, T.M.    | Bolkus, N.        |
| Brown, B.J.     | Buckland, G.      |
| Campbell, G.    | Carr, K.J.        |
| Cherry, J.C.    | Collins, J.M.A.   |
| Cook, P.F.S.    | Crossin, P.M.     |
| Denman, K.J.    | Faulkner, J.P.    |
| Forshaw, M.G.   | Greig, B.         |
| Hogg, J.J.      | Lees, M.H.        |
| Lundy, K.A.     | Mackay, S.M. *    |
| Marshall, G.    | Murphy, S.M.      |
| Murray, A.J.M.  | Nettle, K.        |
| O'Brien, K.W.K. | Ray, R.F.         |
| Ridgeway, A.D.  | Sherry, N.J.      |
| Stephens, U.    | Stott Despoja, N. |
| Webber, R.      |                   |

**NOES**

- |                   |                 |
|-------------------|-----------------|
| Abetz, E.         | Alston, R.K.R.  |
| Barnett, G.       | Boswell, R.L.D. |
| Brandis, G.H.     | Calvert, P.H.   |
| Campbell, I.G.    | Chapman, H.G.P. |
| Colbeck, R.       | Coonan, H.L.    |
| Eggleston, A. *   | Ferguson, A.B.  |
| Ferris, J.M.      | Heffernan, W.   |
| Humphries, G.     | Johnston, D.    |
| Kemp, C.R.        | Lightfoot, P.R. |
| Macdonald, J.A.L. | Mason, B.J.     |
| McGauran, J.J.J.  | Patterson, K.C. |
| Payne, M.A.       | Tchen, T.       |
| Tierney, J.W.     | Vanstone, A.E.  |
| Watson, J.O.W.    |                 |

**PAIRS**

- |               |                |
|---------------|----------------|
| Conroy, S.M.  | Macdonald, I.  |
| Evans, C.V.   | Knowles, S.C.  |
| Kirk, L.      | Ellison, C.M.  |
| Ludwig, J.W.  | Scullion, N.G. |
| McLucas, J.E. | Minchin, N.H.  |
| Moore, C.     | Troeth, J.M.   |
| Wong, P.      | Hill, R.M.     |

\* denotes teller

Question agreed to.

**SUPERANNUATION (SURCHARGE  
RATE REDUCTION) AMENDMENT  
BILL 2003**

**SUPERANNUATION (GOVERNMENT  
CO-CONTRIBUTION FOR LOW  
INCOME EARNERS) BILL 2003**

**SUPERANNUATION (GOVERNMENT  
CO-CONTRIBUTION FOR LOW  
INCOME EARNERS)  
(CONSEQUENTIAL AMENDMENTS)  
BILL 2003**

**In Committee**

Consideration resumed from 17 September.

**SUPERANNUATION (GOVERNMENT  
CO-CONTRIBUTION FOR LOW INCOME  
EARNERS) BILL 2003**

Bill—by leave—taken as a whole.

**Senator COONAN** (New South Wales—  
Minister for Revenue and Assistant Treasurer) (10.37 a.m.)—by leave—I move:

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

- (1) Clause 6, page 4 (line 13), omit “\$32,500”, substitute “the higher income threshold”.
- (4) Clause 10, page 6 (table), omit the table, substitute:

<b>Maximum Government co-contribution</b>		
<b>Item</b>	<b>Person’s total income for the income year</b>	<b>Maximum amount</b>
1	the lower income threshold or less	\$1,000
2	more than the lower income threshold but less than the higher income threshold	\$1,000 reduced by 8 cents for each dollar by which the person’s total income for the income year ex- ceeds the lower income threshold

*Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000—*

**Amendments (1) and (4)**

The Senate treats amendments which would result in increased payments under a standing appropriation as requests.

If it is correct, as stated by the Office of Parliamentary Counsel, that amendments (1) and (4) will result in increased expenditure out of a standing appropriation, it is therefore in accordance with the precedents of the Senate that these amendments be moved as requests.

**Amendment (6)**

This amendment provides for the indexation of certain income thresholds. The Senate has not treated amendments which merely index taxes, payments under an appropriation, or factors which determine such payments, as requests, because indexation does not necessarily result in an increase in those taxes or payments.

Under the precedents of the Senate, therefore, amendment (6) should be moved as an amendment.

**Amendments (3), (5), (11), (12) and (13)**

These amendments are cross-references consequential on amendment (6), which therefore also should be moved as amendments.

**Senator SHERRY** (Tasmania) (10.38 a.m.)—The Minister for Revenue and Assistant Treasurer gave us some cameos yesterday. I ask the minister: were the outcome figures she gave us in today’s dollar values?

**Senator Coonan**—They are nominal values.

**Senator SHERRY**—So they are not in today’s dollar values. Does the minister have the projections of the cameo outcomes available in today’s dollar values?

**Senator Coonan**—I will check.

**Senator SHERRY**—While the minister is checking, yesterday she gave us some projected outcomes for low-income earners, should they have \$1,000 to put into super which would be matched by the government’s \$1,000 on top of SG contributions, and I will come to that issue later. She gave us a projected outcome—to give one exam-

ple—for a person on an income of \$25,000 who gets the government's \$1,000, puts their own \$1,000 in on top of the compulsory nine per cent SG and has a 30-year working life: the outcome over 30 years is \$442,000 and the outcome over 40 years is \$956,000.

Those figures sound impressive on the face of it: \$442,000 over 30 years of working life and \$956,000 over 40 years of working life, but this is in the dollar value of 30 or 40 years time and not in today's dollar values. Any realistic forecasting should bring the figures back to today's dollar values so that people understand what the inflationary impact is over the projection period. Let me give an example: as I said \$442,000 sounds like a lot of money, but if you use the minister's inflation figure of 2.5 per cent over the 30-year period, a car that, say, costs \$30,000 today will cost in the vicinity of \$300,000 in 30 years time. That gives you a realistic assessment of the true value of these projections in today's dollar terms, which is why I have asked for the projected value in today's dollar terms not in nominal dollar terms in 30 or 40 years time.

Frankly, if a financial planner gave a projection on the basis the minister has done and did not then inform a consumer that it was in the dollar values of 30 or 40 years time but gave a value in today's dollar values, they would be misleading the consumer. The minister has done that. She has misled the Senate and the Australian public by not providing both sets of figures. I ask her to provide the value of these projections in today's dollar values.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (10.44 a.m.)—I have said I will check to see whether they are available, but I said yesterday that these projections were in nominal values. There is certainly nothing misleading about that, Senator Sherry, and I

think you are overcooking the egg a bit on this.

**Senator SHERRY** (Tasmania) (10.44 a.m.)—I would submit that, if anyone was given a projection that showed that they were going to get \$400,000 in 40 years time and you did not explain that that \$400,000 was in the value of the purchasing power of \$400,000 in 40 years time, that is misleading. In order to ensure people understand the true value of \$400,000 in 30 years time, you need to explain to them that inflation will have a very significant impact compounded over 30 years. I would suggest, Minister, that the figures you have given are misleading, they are not balanced and any financial planner who gave figures in this way would find themselves in significant trouble—and rightly so. The Minister for Revenue and Assistant Treasurer has not given us the figures in real current values. That is misleading. I would ask the minister to present the figures. I do not think we are going to have them in time for the conclusion of this debate, but they should be calculated.

**Senator Coonan**—I have them now.

**Senator SHERRY**—Excellent. I will sit down and you can give them to us.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (10.45 a.m.)—What I want to do, apart from providing these figures, is to put on the record that the amendments that we currently have before us relate to the extended co-contribution measure and simply reinforce the extent to which this government and the Democrats have moved to be able to accommodate the needs of low-income people and to extend the co-contribution accordingly. The amendments provide for an extended co-contribution scheme for people who are qualifying low-income earners and who have made eligible superannuation contributions.

People earning up to the upper income threshold of \$40,000 now qualify for a co-contribution. Previously, the amount was \$32,500. People earning up to the lower income threshold of \$27,500 will now qualify for the maximum matching co-contribution of up to \$1,000. Previously, that figure was \$20,000. The maximum co-contribution for people will be tapered at 8c for every dollar of income exceeding \$27,500, eventually phasing out at \$40,000, a taper range of \$12,500. Previously, that was between \$20,000 and \$32,500, so it has been extended significantly. There is a significantly greater incentive in the current bills than the current rebate it is replacing. It will be a direct injection into the retirement savings of qualifying low-income earners. The current rebate is a maximum of only \$100, phasing out at between \$27,000 and \$31,000. This gives the Senate a very clear picture of the extent to which this purports to be and is a very generous improvement on the low-income rebate. As a result of negotiation with the Democrats, it is of significant benefit to low-income earners.

Senator Sherry has asked for the figures based on discounted value, or today's values, in respect of the cameos that I provided to the committee in nominal dollars last night, and I can do that. It still represents a significant figure, and I can provide these figures in the following way. In respect of person No. 1 and a 30-year working life, the figure in lieu of \$389,769 would be \$185,819; and in respect of a 40-year working life, the figure in lieu of \$838,785 would be \$312,389. In respect of person No. 2 and a 30-year working life, the figure in lieu of \$442,695 would be \$211,051; and in respect of a 40-year working life, the figure in lieu of \$956,101 would be \$356,081. In respect of person No. 3 and a 30-year working life, the figure in lieu of \$450,920 would be \$214,973; and in respect of a 40-year working life, the figure in lieu

of \$981,500 would be \$365,541. Not only am I not misleading the Senate, Senator Sherry; I am providing figures as they are appropriate to be provided and on time for this debate.

**Senator SHERRY (Tasmania) (10.50 a.m.)**—Thank you. I want to make some comments about these figures. I note the minister has provided the figures after I asked for them; she did not provide them yesterday when she gave the most optimistic projections of the outcomes.

**Senator Coonan**—You really hate this, don't you; you really hate that people are going to get a good deal here.

**The TEMPORARY CHAIRMAN (Senator Bolkus)**—Minister, please do not be provoked.

**Senator SHERRY**—I will not be provoked. The interjection will be on the record. There is one other area that needs clarification. The figures you gave yesterday, Minister, included the nine per cent superannuation guarantee contribution, and I would not want the committee to get the wrong impression. It is my understanding, firstly, that the figure you gave yesterday of \$389,760—and you have now given today's real value of \$185,000—includes the compulsory nine per cent SG contribution, that it is not exclusively the \$1,000 co-contribution. Secondly, Minister—and you only need to give us the figure for the one cameo; if you have the figures for the other cameos you can give them to us—in the example I have just referred to of a projected outcome of \$389,760, you have given us a figure of \$185,000. Yesterday, you gave us a figure of the value of the \$1,000 co-contribution at \$89,000. What is the value of that \$89,000 in today's real money terms?

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (10.52 a.m.)**—Just to clarify, the

\$89,561 was the figure I said was more than the particular person would have had without the government co-contribution. I will get that information.

**Senator SHERRY (Tasmania) (10.52 a.m.)**—Thank you. While the minister is obtaining that information, I want to make another point about the projections the minister provided for us yesterday and today. They are not projections of the benefit, assuming low-income earners can find \$1,000. They are not projections of the \$1,000 plus the \$1,000 if you can find the money. They include the nine per cent superannuation guarantee contributions. I want to point out to the committee that on these cameos approximately \$8 out of \$10 of superannuation saving, the superannuation accumulation of these low-income earning Australians—it varies slightly from individual to individual—results from the compulsory nine per cent superannuation guarantee. For the record, the now government opposed the compulsory nine per cent superannuation guarantee. They opposed Australian workers receiving superannuation in this country through the compulsory nine per cent superannuation guarantee.

Taking the most optimistic figures the minister gave us yesterday, could the minister inform the committee how many Australians will be millionaires, in both the nominal value figures she gave us yesterday and in today's values, as a result of the \$1,000 co-contribution package which we are considering? How many are projected to become millionaires on that basis?

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (10.54 a.m.)**—That is a hypothetical question. None of the projections I have put before the committee entitles one to draw the conclusion that, out of the cameos I have presented, that result would follow. I am not

going to project here how many there will be, if any, or how many may be as a result of this arrangement. You have to make so many assumptions to get to that point, including the age at which somebody starts, what they are earning, how they acquired that sort of money and what other money they would be putting with their super savings. On these cameos I am not making that claim.

**Senator SHERRY (Tasmania) (10.55 a.m.)**—I think you are very wise, Minister, because on the cameos you have given us in both nominal and real value terms it is very hard to see how anyone could become a millionaire. I think it is impossible to see how anyone can become a millionaire as a result of the government's co-contribution—the \$1,000 and the \$1,000. As I say, I think you are very wise not to have claimed that. I want to draw to the attention of the committee, as I drew to the attention of Senator Coonan in question time in the Senate, the claims by the Parliamentary Secretary to the Treasurer, Senator Ian Campbell, who said last week when we were debating the placement of these measures on the *Notice Paper* for debate:

What happens to that person who is on \$27,000 a year who starts saving and getting a hand from the government is that, by the end of their working life, when they are 65, they could have over \$1 million in superannuation savings ...

We had an example of a Parliamentary Secretary to the Treasurer—the longest serving parliamentary secretary in the history of the Australian Parliament—

**Senator Eggleston**—And a very good one.

**Senator SHERRY**—After 7½ years you would expect a little better from a parliamentary secretary. You would not expect that a Parliamentary Secretary to the Treasurer would make such outrageous and misleading claims. Even Senator Cherry is laughing be-

cause my office conferred with his office to try to find out how you can get to \$1 million.

*Senator Cherry interjecting—*

**Senator SHERRY**—Okay. Even you, Senator Cherry, would not be claiming that the value of this low-income earner's contribution is \$1 million either in nominal terms or in today's dollar value terms. It is not \$1 million. I notice that Senator Cherry did not make anywhere near that sort of ludicrous claim in his press release about this matter. The point I make is that we had a supposedly responsible government senator who is Parliamentary Secretary to the Treasurer, and has been a parliamentary secretary for 7½ years, a man of considerable seniority, coming into the Senate and claiming that this measure will result in millionaires, that that will be the outcome. That is grossly misleading to both the Senate and the Australian people. That claim of the \$1 million outcome was carried on the wire service, and it was reported in a number of newspapers—how to become a millionaire. *Who wants to be a millionaire?* Senator Campbell's claim has been carried publicly and it is a misleading claim. Not even the minister claims millionaire outcomes.

The other point about Senator Campbell is that Senator Campbell's responsibilities as the Parliamentary Secretary to the Treasurer include the Financial Services Reform Act, which is the act that deals with accurate disclosure of financial projections. The parliamentary secretary responsible for developing an act to ensure accurate disclosure of financial projections comes into the Senate and makes this millionaire claim. *Who wants to be a millionaire?* by Senator Ian Campbell. I have referred to him as 'Eddie' Ian Campbell because I think that comparison is accurate. There is as much chance of a low-income Australian becoming a millionaire as of Australians winning *Who wants to be a million-*

*aire?* There is very little chance, in other words, of average low-income Australians—4½ million of them—becoming millionaires as a result of this measure.

**Senator McGauran**—You do not promote the aspirational society?

**Senator SHERRY**—I promote realistic aspirations; I do not mislead people, and it is grossly misleading to claim that low-income earning Australians will become millionaires as a result of this measure. The Parliamentary Secretary to the Treasurer, Senator Ian Campbell, should have come in and corrected the record. He has given a very seriously misleading claim—in fact, it is an absurd and wild claim that is just inaccurate—but he has not come in and corrected the parliamentary record. His claim in support of this measure was carried on the wire service and in at least a couple of newspapers, from the clips that I have seen. He should have corrected the record and he has failed to do so.

On this matter, Senator Chapman, in taking note of this millionaire claim in the debate in the Senate, defended Senator Campbell and said:

The data has been prepared not by Senator Campbell or by the government—

and the minister has admitted that she has not had anything to do with this millionaire claim—

but by the Financial Planning Association.

This worries me even more. I have not spoken to the Financial Planning Association, but I do intend to contact them to check the accuracy of Senator Chapman's claim. If the Financial Planning Association have been claiming projections of millionaire status as a result of this measure that is quite inaccurate and misleading and I will be taking up that issue with the association. It disturbs me that we could have the Financial Planning Association and the financial planners who

are members of that association going out and 'informing' the Australian public that the outcome of this measure to low-income earning Australians will be that they will become millionaires, either in nominal terms or in today's dollar value terms. We will be seeking some verification from the Financial Planning Association about this advice that they apparently gave to Senator Campbell. I certainly would have expected Senator Campbell, who is a person of experience in this area, as I indicated, to be a little sceptical about the claims made and to have checked the claims made by the Financial Planning Association.

This is not the first time the government has made very misleading, even absurd, claims and hyped up the arguments in support of its superannuation measures. On this measure we had the projection by the Prime Minister before the last election that there would be 470,000 children's superannuation accounts—this was part of the package that included the low-income earners co-contribution. The Prime Minister projected before the last election that 470,000 children's superannuation accounts would be opened. This was headlined in the election period as part of the package. We are not on broadcast and there are few members in the gallery, but do you know how many of these 470,000 children's superannuation accounts have been opened 14 months after the Prime Minister made this commitment? There are approximately 500. There is a big difference between 470,000 and 500.

When these measures were released in the government's election package, the government claimed that it would be collecting \$325 million in tax revenue from temporary residents who leave the country. Of the \$325 million Mr Howard said he would collect in tax, which helps pay for what we are considering here, only about \$15 million has so far been collected. The problem is that a sub-

stantial number of the temporary residents are backpackers. They have left the country and the government cannot find them to collect the tax. It is another wild claim made by none other than the Prime Minister. I draw those examples of other absurd and misleading claims to the attention of the Senate.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (11.05 a.m.)—Senator Sherry is correct in referring to the fact that Senator Campbell was talking about Financial Planning Association figures; Senator Campbell was not talking about the figures from the department that I have provided. Obviously, all cameos can use variable assumptions and get different outcomes. I understand from looking at the Financial Planning Association's figures that the stated figures would be in nominal dollars and that they were probably not exclusive of superannuation guarantee contributions.

I have sought during this debate to provide considered projections—they could even be conservative—based on information that I have been given by my department. They are, I think, the best and most accurate projections available that I can assist the Senate with during this debate. There is obviously a variety of views about these figures: Senator Cherry had some slightly different figures and others have come up with figures—there have been all sorts of claims in the press and otherwise—so it is a matter of how you do it. The figures I am presenting are official figures that have been prepared for the purposes of this debate by Treasury, and I think the Australian public is entitled to rely on those and entitled to look in the *Hansard* and see what has been put on the record.

I do not know that there is much to be gained by taking issue with Senator Sherry. Obviously I do not agree that anyone has been misled in relation to child accounts. We

have had a number of exchanges in relation to child accounts and I must say it is a puzzling thing that Senator Sherry can be so dogmatic about the number of child accounts there are when the data is simply not yet available because it has not been going long enough. In the circumstances where there are so many funds, where you would have to make some personal contact to find out at this stage, it is not really going to assist to have that kind of debate. Maybe we can have it at some later stage when, instead of guesses, we can have some accurate information.

The other matter I will mention is in relation to the so-called 'backpackers tax'—that is, returning superannuation to Australian residents who are departing Australia permanently. The issue there is that the collections are not linked to this measure. It is misrepresenting the position to suggest that somehow or other there is some hypothecated connection between the collections on the return of superannuation to backpackers and the passage and payment of the co-contribution measure. They are separate matters. These matters are provided for in the budget and are updated in the budget.

I have asked my advisers to complete the cameos in relation to real values. The percentage increase remains the same for the benefits. I will provide those for the record. The dollar improvements are as follows: for person 1, for 30 years it is \$42,697 and for 40 years it is \$68,235; for person 2, for 30 years it is \$40,236 and for 40 years it is \$63,398; and for person 3, for 30 years it is \$16,464 and for 40 years it is \$24,330.

**Senator SHERRY (Tasmania) (11.10 a.m.)**—Thank you for that update of the figures. I want to make a couple of final points on the figures. I think the projections given by the minister and Senator Cherry are reasonably accurate on the actuarial advice we

have had and I think it is reasonably accurate to provide figures in both nominal and real value terms. But the central point I would make is that it depends on the capacity of low-income earners—those earning less than \$27,500—to find \$1,000 out of their yearly expenditure in order to get the government's co-contribution of \$1,000. That is the great difficulty for most low-income earning Australians who earn \$27,500 or less. As I said yesterday, I have raised these issues with people back in my home state and in the area where I live, in Devonport, and occasionally they raise them with me. When you say to people, 'If you put in \$1,000 you will get \$1,000,' initially there is some enthusiasm and then people say, 'We have to find \$1,000.' They might be on an income of \$20,000 or \$30,000 or they might be unemployed. There is a very substantial proportion of the population where I live earning an income of \$27,500 or below. When you are paying off the mortgage or paying rent and paying increased health and education costs and other increased costs for your family and your kids, it is very difficult to find \$1,000 out of your existing household budget if you are on an income of less than \$27,500.

We know from the minister's figures that approximately one in nine or one in 10 Australians at the low-income level will be able to find \$1,000 or less to put into super to get the co-contribution. We have contrasted that with the measure we considered yesterday, where high-income earners—those earning more than approximately \$94,000 or \$95,000—as part of this package get a guaranteed tax cut. The contrast is that one in nine or one in 10 low-income earners who we know can find up to \$1,000 will benefit but all high-income earners get a benefit because they are guaranteed a tax cut—an exclusive tax cut for high-income earners.

If we look at Senator Campbell's claim and if we read it in a reasonable way, it re-

lates to the value of the outcome of this package—the \$1,000 and \$1,000 co-contribution. It does not include SG contributions; he did not make that claim. The amount of \$42,697 is a long way short of \$1 million—massively short. It is on that basis I would argue that Senator Campbell's claims were inaccurate and misleading. If the Financial Planning Association, who are the people who are supposed to be advising people—they are the gatekeepers, in many cases, of our superannuation system—are passing around these million-dollar projection figures which are inaccurate and misleading, then I think they will have something to answer for. That is an issue I will take up with them. By the way, Senator Campbell is the assistant minister who is supposed to take up these issues with the financial planners and make sure they give accurate projections and figures.

The only other point I would make on the cameos, Minister, is that it would have been useful to have provided them in writing before we got to the debate on the bill. We could have avoided a fair amount of time in having to go through them. I do not mind going through them in this way.

**Senator Coonan**—You could have asked me.

**Senator SHERRY**—I actually did say to Senator Campbell in the debate last Wednesday that I would be seeking figures in this area. However, I thank the minister for providing those figures. They usefully provide realistic assessment of the outcomes, notwithstanding of course that to get to those outcomes low-income earners have to find up to \$1,000 out of their household daily budgets in order to achieve the projected outcome.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (11.15 a.m.)—I will speak very briefly,

because I think the debate has been fairly far reaching and is getting repetitive. What I want to say in conclusion, before these amendments are put, is that people do not have to find \$1,000. They can find whatever they can to assist them to save. The cameos are there to provide some accurate guidance about what can happen if you are able to find \$1,000, but I think it is important to make the point in case—and we are not on broadcast—anyone ever looks at this. People do not have to find a full \$1,000 to benefit from the co-contribution. It is misleading to talk about having to find \$1,000 as though if you find less than \$1,000 you do not get any benefit. That is very misleading, particularly for those people on low incomes or under the \$27,500 threshold. I would be very distressed if I thought anyone out there thought they would be disqualified from participating in the co-contribution because they could not find \$20 a week or whatever it would be to get to the maximum figure. I want to disabuse anyone who has that view.

As to the take-up—and Senator Cherry made a contribution about this and about anticipated take-ups—I reiterate that in my department we probably err on the side of being very conservative and that is a good thing; I am not saying that that is not something we should do from the point of view of the government and Treasury. But Senator Cherry points out—and I think he is dead right—that we are looking at what sort of behavioural change the co-contribution is likely to have when it is enacted and people know about it. The take-up rate is based on the take-up rate relating to the rebate, which was the most obvious figure available. That was very low, because it was not as attractive, so we have to assume that it is likely to be higher than the estimate I am giving. I am not overstating that. I am simply saying that it is subject to behavioural change, and the projections are probably on the low side.

**Senator SHERRY (Tasmania)** (11.18 a.m.)—The minister has just claimed that there is a reasonable assumption that the figures will be higher. If that is the case, the cost is going to blow out. This issue of cost is important, because the government and this minister continually attempt to mislead the Australian people and criticise our costings and our revenue raising measures. They constantly ask how we are going to pay for our election promises, yet here we have a minister conceding that the cost of this measure will increase and blow out. She is claiming it as a virtue. If the Labor Party did that we would be hammered from pillar to post by the Assistant Treasurer and the Treasurer for undercosting an election promise.

The other issue about the costings, the matter I raised about the departing non-residents and collecting tax from them, is important because of the significant shortfall in revenue that is being collected compared with the \$325 million that was projected. When the government went to the election, Mr Howard got up and promoted this 'grand' superannuation policy, part of which were the two measures we are considering—in fact, they were central to it, together with children's superannuation accounts. Of course, there was the not unreasonable issue of how you pay for your promises. The Prime Minister, Mr Howard, said, 'We're going to collect \$325 million in tax from these departing temporary residents, including backpackers.' That was a dodgy, bodgie figure. If the Labor Party went out and made a political promise and said, 'We're going to collect \$325 million from these former temporary residents in tax,' and the money did not eventuate, then the government—including the Assistant Treasurer—would, rightly, be hopping into us and saying, 'You've made an incorrect claim; you can't pay for election promises.' Yet we had the

Prime Minister making claims prior to the last election that the main funding measure, almost the only funding measure, of their election package on superannuation would come from this taxation measure on departing residents that would raise \$325 million to help pay for all this. As for the \$325 million, Treasury are struggling to find the departing temporary residents in order to collect the tax revenue. So whilst it is not a measure hypothecated to pay for the particular measures we are debating here today it is directly linked, because the Prime Minister established that direct link prior to the last election.

If the Labor Party had come out—I am glad that we did not—and said that we were going to collect \$325 million in tax revenue from people who came to visit Australia and then had left, the government would have jumped straight on it. There is a major problem: Treasury cannot find these people. Well over a million people have left the country and Treasury cannot find a forwarding address. You have got to find a forwarding address to contact the people to collect the \$325 million in tax. If the Labor Party had made this claim, I am sure the government would have jumped straight on it and made dodgy and bodgie claims about the revenue to be raised from the tax. I submit to the Senate: if you expect to raise a tax from people who have left the country and you do not know where those people are, it is a bit difficult to collect a tax from them. That is the problem that Treasury are having. They are trying to find a million people who have left the country, and I think they have got 100,000 forwarding addresses out of the million-odd people that they want to find to collect tax from. So it is going to be very difficult to find anywhere near the \$325 million.

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer)** (11.23 a.m.)—I think Senator Sherry

has displayed a deeply flawed understanding of the government's funding of superannuation reforms. There is no funding shortfall in the co-contribution surcharge package. It has been very carefully worked out. There is certainly no specific budget link between the temporary residence measure and the co-contribution surcharge measure, as I have earlier explained.

Estimates for superannuation revenue, as indeed with all revenue estimates, are updated at budget time and I can inform the Senate that the government's budget for 2003-04 is for a surplus. I can understand how Senator Sherry might want to revisit these issues but there is no funding shortfall and there is no specific link between the temporary residence measure and the co-contribution surcharge measure. We are currently considering the great benefits that the co-contribution measure will extend to a greater number of Australians than the previous tax rebate. The projections that have been provided are based on extending the taper rates and extending the number of people who are eligible—that is all costed. The government's budget is well and truly in surplus and the revenue estimates will be updated.

**Senator SHERRY (Tasmania) (11.25 a.m.)**—That is not the point that I was making. We know that almost the only revenue measure in the election promises to assist in the funding of the proposals we are debating today is the tax on temporary residents who have departed Australia, which was projected to raise \$325 million. That was in the funding for this package.

**Senator Coonan**—It doesn't have anything to do with it.

**Senator SHERRY**—I will put it to you quite simply, Minister. It does have everything to do with it because it is contained in your own election promises. I do not have

the copy here but I have got the list. Almost the only funding measure at election time to substantially fund the measures we are considering here was a tax on temporary departing residents that was projected to raise \$325 million. Quite simply, I put to the minister: does the minister stand by the forecast of \$325 million to be collected from former temporary residents, as outlined in the Liberal Party election promises prior to the last election? Does she stand by that figure?

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (11.26 a.m.)**—It was revised as part of the budget bottom line but it is certainly not conditional or linked to the funding of the co-contribution surcharge measure.

**Senator SHERRY (Tasmania) (11.26 a.m.)**—We are making progress. The minister has admitted that that figure has been revised. Can the minister give me the latest revised figures?

**Senator Coonan**—I do not have them.

**Senator SHERRY**—The minister cannot give me the new revised figures. I assume that the figures have been revised down, not up.

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (11.27 a.m.)**—We will not know whether we reach our target until the measure is run and I have got some data available. I do not have that data available or that update.

**Senator SHERRY (Tasmania) (11.27 a.m.)**—Months after the operative date of this measure the minister does not have the data. We will pursue it at estimates at the end of the year.

Question agreed to.

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (11.28 a.m.)**—by leave—I move gov-

ernment amendments (2), (3) and (5) to (13) on sheet QG219:

- (2) Clause 7, page 4 (line 28), omit “2002”, substitute “2003”.
  - (3) Clause 9, page 6 (line 9), after “10,”, insert “10A,”.
  - (5) Clause 10, page 6 (line 16), after “sections”, insert “10A,”.
  - (6) Page 6 (after line 16), after clause 10, insert:
 

**10A Increases in lower and higher income threshold**

    - (1) This section provides for:
      - (a) indexation of the lower income threshold for the 2007-08 income year and later income years; and
      - (b) increases in the higher income threshold for the 2007-08 income year and each later income year equal to the indexation increase in the lower income threshold for that year.
    - (2) The *lower income threshold* for an income year is:
      - (a) for an income year before the 2007-08 income year—\$27,500; or
      - (b) for the 2007-08 income year—\$27,500 multiplied by the indexation factor for that income year; or
      - (c) for a later income year—the amount of the lower income threshold for the previous income year multiplied by the indexation factor for that later income year.
    - (3) The *higher income threshold* for an income year is:
      - (a) for an income year before the 2007-08 income year—\$40,000; or
      - (b) for a later income year—the sum of:
        - (i) the lower income threshold for that later income year; and
        - (ii) \$12,500.
    - (4) If the lower income threshold for an income year is an amount of dollars and cents:
      - (a) if the number of cents is less than 50—the lower income threshold is to be rounded down to the nearest whole dollar; or
      - (b) otherwise—the lower income threshold is to be rounded up to the nearest whole dollar.
- The *indexation factor* for an income year is the number calculated, to 3 decimal places, using the formula:
- $$\frac{\text{Index number for the last quarter in current year}}{\text{Index number for the last quarter in previous year}}$$
- where:
- current year* means the period of 12 months ending on 31 March immediately before the income year for which the lower income threshold is being calculated.
- index number*, for a quarter, means the estimate of full-time adult average weekly ordinary time earnings for the middle month of the quarter published by the Australian Statistician.
- previous year* means the period of 12 months immediately before the current year.
- (6) If the number calculated under subsection (5) for a financial year would, if it were worked out to 4 decimal places, end with a number greater than 4, the number so calculated is increased by 0.001.
  - (7) If at any time, whether before or after the commencement of this Act, the Australian Statistician has published or publishes an index number for a quarter in substitution for an index number previously published for the quarter, the publication of the later index number is to be disregarded.
  - (8) The Commissioner must publish before, or as soon as practicable after, the start of the 2007-08 income year, and before the start of each later income year, the lower income threshold and the higher income threshold for the income year.

- (7) Clause 26, page 21 (line 6), omit “1 July 2003”, substitute “a day prescribed by the regulations”.
- (8) Clause 27, page 22 (line 4), omit “1 July 2003”, substitute “a day prescribed by the regulations”.
- (9) Clause 33, page 28 (line 7), before “provider”, insert “superannuation”.
- (10) Clause 54, page 42 (lines 4 to 7), omit the clause, substitute:

#### 54 Reports

- (1) After the end of each quarter, and after the end of each financial year, the Commissioner must give the Minister a report on the working of this Act during the quarter or during the year for presentation to the Parliament.
- (2) A report under subsection (1) must include, for the quarter or financial year to which the report relates, the prescribed details about beneficiaries of, and amounts of, co-contribution payments.
- (11) Clause 56, page 45 (after line 12), after the definition of *Government co-contribution*, insert:
- higher income threshold* has the meaning given by section 10A.
- (12) Clause 56, page 45 (after line 23), after the definition of *income year*, insert:
- indexation factor* has the meaning given by section 10A.
- (13) Clause 56, page 45 (after line 24), after the definition of *infringement notice*, insert:
- lower income threshold* has the meaning given by section 10A.

**Senator CHERRY (Queensland)** (11.30 a.m.)—I seek some information from the minister on amendment (10), which is the amendment in respect of reports. I think the last time we considered this bill I had some sympathy with the amendment being moved by the opposition on sheet 3067, which contained an awful lot of detailed information being sought to be gathered in these reports.

The government’s amendment proposes to put these information gathering requirements into regulation. I seek some detailed information from the minister as to what would be included in those regulations.

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer)** (11.31 a.m.)—Firstly, the amendment provides for me to report to parliament about various aspects of the co-contribution measure on both a quarterly and an annual basis. As you would know, that was previously only on an annual basis. The amendment also provides further detail in clause 54 about the subject matter that would be covered by the reporting, including details about the recipients, the co-contribution measure and the extent of the benefit received. How this would actually be presented and compiled is information that will need to be prescribed in the regulations. Obviously, there needs to be some consultation about how that could be gathered and presented in the regulations in an appropriate way. I am reminded that that information would also include, for instance, the reference to spouses so that we would have better and more accurate information about how it was being taken up and by whom.

**Senator SHERRY (Tasmania)** (11.32 a.m.)—The opposition does have its own amendments on the issue that is under discussion. I will comment briefly now and I do not intend to comment when we get to our opposition amendments on this issue. It seems to the Labor Party that the major benefit to low-income earners—a substantial proportion of the people who make up to \$1,000 in contributions and receive up to \$1,000 in matching government contributions—whose income is less than \$27,500 is that a substantial proportion of those people are going to have partners who are on higher incomes. Of the number of people on a joint income, with an individual earning, say,

\$27,500 and their partner earning an income of the equivalent or less, those who would be able to find \$1,000 would not be significant in terms of the proportion of people at that income level. In other words, you can have a higher income earner giving \$1,000 to a lower income earning partner and indirectly at least the higher income earning partner will also be a beneficiary because they have a lower income earning partner.

The Labor Party is interested to know and obtain data on just who does benefit from this measure. The Labor Party does not believe that the proposed amendment and the regulations we will receive are comprehensive enough in the detail that should be provided to parliament about who benefits from this measure. Therefore, we have our own amendment in respect of this matter. I have indicated why we have our own amendment—that is, we think the report to parliament about who will benefit should be more detailed. The matter has been raised by Senator Cherry so I speak on it now. I do not intend to speak on the matter again when we get to the opposition amendments.

**Senator BROWN (Tasmania) (11.36 a.m.)**—While we are talking about information, I will take the opportunity to ask the minister if she would like to complete her remarks from last night. I did ask about the parliamentary superannuation amendment bill that Mr Peter Andren, the Independent member for Calare, has brought forward in the House of Representatives in which there is this extraordinarily generous 69 per cent top-up for members of parliament at the taxpayers' expense, which puts in the shade the benefits that low-income earners might get under the government-Democrat legislation we have here. I ask the minister what the government's view is on that legislation, which would allow MPs to opt for the same superannuation arrangement that applies or is available to other members who are em-

ployed in the public arena, and whether the government will be supporting that legislation which has been amended somewhat by Mr Andren since it first came in two years ago.

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (11.37 a.m.)**—Before I respond to Senator Brown, who reminds me that I said last night I would deal with his request, I feel I should put a couple of remarks on the record from the government's point of view. This approach to the regulations has been taken to allow the Australian Taxation Office to determine the best approach to both data collection and reporting. It was something the government agreed to do as part of the agreement with the Democrats. We are certainly committed to providing that information and making it as meaningful as we can. Obviously, the regulations are still being developed. They will cover co-contribution payments, recipients of the co-contribution payment in the various income ranges and spouses of recipients of the co-contribution payment by income ranges, and those income ranges are yet to be determined. So some development has to await the drafting of regulations. It is important that we get this information right. There must be appropriate consultations so that the information is as comprehensive and meaningful as we can reasonably get it.

In relation to Senator Brown's inquiry about Mr Andren's bill, that aspect of superannuation falls within Senator Minchin's responsibilities. With cross-portfolio responsibilities, obviously I would need to confer with Senator Minchin because I do not currently have any information about where Mr Andren's bill might be on the legislative program in the House of Representatives. So I am not in a position to say what view the government has on that bill. Certainly I do not know whether it is going to be debated or

quite where it is up to. It is not my portfolio. That is why I have not got any information about it, Senator Brown.

**Senator BROWN (Tasmania) (11.39 a.m.)**—I would be very pleased if Senator Coonan would speak with Senator Minchin about the bill because it is germane to the matters we are talking about. We are trying to establish some fairness in superannuation for disadvantaged members of the Australian community. If there is one thing that is unfair in the superannuation field, it is the top-ups that MPs get from the public purse—69 per cent compared to the eight per cent put in by other employers. The view of superannuation taken by the government ought to be seen across the board. We cannot have a blind spot with regard to the generous—some would say extravagant—provisions for members of parliament. After all, we vote for them and we can unseat them, as well.

I know the minister had time overnight to find out about this. I point out to her that, in effect, it is in the government's hands. The Independent members in the other place do not have the numbers to bring this onto the *Notice Paper*. So the challenge to the government is to bring on Mr Andren's legislation. I would be very happy to host it here in the Senate. I point out to members of parliament who might be fearful that they will be brought back to the level of superannuation top-up that every other member of the Australian community understands that Senator Andren's legislation—quite generously, I suppose—allows members to opt out, do the decent thing and have their superannuation come under the same terms and conditions, and with the same top-ups, as other members of the public might expect.

There is something amiss in the philosophy of a government that says, on the one hand, 'We are bringing in measures here to give a \$1,000 complementary payment to

people who earn less than \$27,000—who might be able to find \$1,000 but who, if they cannot, do not get the co-contribution—when, on the other hand, members of parliament are getting many thousands of dollars each year through the provisions of their own superannuation legislation without having to find \$1,000, without having to find a red cent. It is unjust. It is not enough to say that the minister does not know where Mr Andren's bill is on the legislative timetable for the House of Representatives. I can tell her where it is—it is being blocked by the government because the government has the numbers and has total say. That means it is being blocked by the executive of the Howard government. I hope that the minister, having heard the debate in here—and, indeed, the Labor Party—will move to lift that blockade on Senator Andren's legislation, and allow it to be debated and voted on, just as this legislation is being debated and voted on. We must not allow a deliberated blind spot to occur with regard to legislation because it is in our interests not to have it debated. That is bad law, and it is a bad outcome for the parliament.

**Senator WATSON (Tasmania) (11.43 a.m.)**—I have been listening to this debate in my room with a great deal of interest, having sat on the Senate Select Committee on Superannuation, which looked into this issue. The government responded positively to one of the recommendations. Senator Brown, you have spoken with a great deal of passion, and so has Mr Andren in the other place. I issue a challenge to you today, Senator Brown. You know that, when you retire from this place, you can commute 50 per cent of your pension to a lump sum. I challenge you to issue a declaration today nominating a charity, or charities, of your choice to receive this 50 per cent of the pension commuted to a lump sum. You speak knowing that you are not going to be denied that benefit. If you wished

to show your bona fides, you could do it in no better way than to issue a declaration—and put it in your declaration of interests—that, when you retire, 50 per cent of your pension commuted to a lump sum will go to a nominated charity of your choice. I issue that challenge to you today.

If you take up that challenge, your status will be enhanced quite considerably. Put it in your declaration of interests that, whether you are here for another five, 10 or 20 years, that will still be there. You can put in a caveat to deal with the effect of the legislation being changed in the meantime, but at the moment, to show your genuineness in terms of the passion with which you have spoken today, I issue that challenge. I issued it also to Mr Andren. He did not accept it. I think that needs to be put on the public record. Thank you.

**Senator BROWN (Tasmania) (11.45 a.m.)**—Senator Watson tempts me to respond, and I will. It is usual to say, ‘You do something that is going to get the monkey off our back’—in this case, that is going to get rid of the requirement that there would be under Mr Andren’s legislation for all of us to make just that decision. I think that Senator Watson will be retiring from this place quite a bit earlier than I will be and might set the example that he has now proposed. He says someone’s status will be enhanced. Go to it, Senator Watson.

I am here to back this legislation, which puts the challenge to all of us—not to exculpate MPs from facing up to the reality of the unfair legislation we have before us by simply saying, ‘I’ll move out of it and leave everybody else to take the winnings which are undeserved.’ That brings to mind the extraordinary ethical statement by Mr Ted Mack, who some time ago did just what Senator Watson suggested—although he did

not do it with 50 per cent; I think it was 100 per cent.

Senator Watson, you have this opportunity to enhance your status. You have taken an alternative option there. I gather from what you say that you are moving all you can behind the scenes to ensure—and you have more say in this than I do—that Mr Andren’s legislation does get up for debate. Bring it in and let us have a full-on debate about it. I will manage my own affairs the way I wish to. You have come up with a decision about how you are going to do it. My aim is to get this legislation in here and to get a fair debate on it—just as we are debating the legislation today. That is not too much to ask.

**Senator SHERRY (Tasmania) (11.47 a.m.)**—There is just one other issue I forgot to ask the minister about in respect of the cameo. She gave us the assumptions—an earnings rate of four, inflation of 2.5. What was the assumption on fees, charges and commissions?

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (11.48 a.m.)**—What I said in my remarks last night was that earnings by the fund have been assumed before fees and taxes are deducted at seven per cent. Obviously, we do not have information on fees and charges.

**Senator SHERRY (Tasmania) (11.48 a.m.)**—I just make the point that, given the significant impact that fees, charges and commissions can have on final superannuation accumulations over however many years, it is not unreasonable to have an assumption about the costs for management, administration, financial planning and other things involved in the provision of the superannuation policy. They do impact on the bottom line very significantly. A one per cent fee charge commission reduces the final outcome by 10 per cent over 35 years. If you do

not have the figures, you do not have the figures, but—

**Senator Coonan**—We might have something.

**Senator SHERRY**—If you can get something, that would be good. While I am on this issue, does this legislation allow a commission to be charged against the co-contribution by an individual if they find \$1,000—or up to \$1,000—to put into super?

**Senator Coonan**—I am just getting something.

**Senator SHERRY**—While you are thinking about that—

**Senator Coonan**—I am just getting some information.

**Senator SHERRY**—Senator Watson is going to help me. That will be excellent.

**Senator WATSON (Tasmania) (11.50 a.m.)**—As I said, in terms of a low-risk environment, this has to be one of the best returns available to people. It certainly aims to focus on the sector of the community that needs additional resources put into superannuation. As we all know, the earlier people put money into superannuation to get at least a 40-year time frame of compounding, the greater the benefit will be. Our system has matured a lot over the years. It still has a way to go, but it is regarded as one of the soundest in the world, with a three-pillar policy. I think that the take-up rate will be much greater than anybody in this place expects. I can imagine, for example, situations where, while low-income earners may not themselves have a capacity to put that \$1,000 in, relatives may see such an opportunity and even donate money to be put in. The money might not necessarily come from people's own savings, but with people who are interested in the welfare of their children or grandchildren I think we will find that an extraordinary amount will find its way into

these co-contribution accounts. That has to be good for savings in this country. I am just a bit worried that we are trying to lessen the impact of the huge benefits that this will bring to a very deserving group.

Those who have spoken to me anecdotally have said that people will be prepared to put money aside. It may not be \$1,000; it may be a sum less than that. But there is a lot of interest out there, and I think this debate is generating increased interest, from the number of phone calls that I am getting. People are really thrilled about it. They want to know whether it is operating now. If the way people have spoken translates to numbers, there will be huge benefits.

This will be legislation in a very short time. The legislation will operate from 1 July. It is a great opportunity for people to gather resources to put into superannuation. They will come not only from savings, I believe, but from people who are genuinely interested in assisting the welfare of a lot of low-income earners to ensure that their retirement is going to be a lot better than it would otherwise be. I congratulate the government and I wish the legislation a speedy passage.

**Senator SHERRY (Tasmania) (11.53 a.m.)**—The other question I was going to ask is: if an individual contributes up to \$1,000 and part of that goes in commission to a financial planner—and maybe I am just a touch suspicious when I see that—

**Senator Watson**—Why would you want to?

**Senator SHERRY**—Senator Watson jests, 'Why would you want to?' The fact is that a lot of people, when they receive advice from a financial planner, because we do not have the clear disclosure of fees, charges and commissions yet—it has been promised but we still do not have it—do not understand the impact of a commission applying to su-

perannuation contributions. What I am interested to know is, if a person wants to put some money into superannuation under this measure, will it be permissible for a commission to be deducted from that money? Will that be lawful?

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (11.54 a.m.)—My understanding—and I am just checking this information—is that a co-contribution, and indeed whatever somebody puts into super, would be treated no differently from other personal contributions. The original contribution, therefore, would be treated no differently from any other undeducted contribution. Whether or not that attracts a commission depends on somebody's individual arrangements, obviously.

Whilst I can appreciate the point that I think Senator Sherry is trying to make, I am not really sure that you can require the government to interfere in personal contractual arrangements of this kind. The Financial Services Reform Act 2001 requires now as a matter of law that commissions be disclosed. There is still some development going on of easy to understand forms of disclosure so that people can, as best as possible, compare like with like. Obviously that is an extremely difficult thing to reduce to a very simple statement because there are so many variables, but I think the basic principle is that these contributions are treated no differently from other undeducted personal contributions.

**Senator SHERRY** (Tasmania) (11.56 a.m.)—I thought that would be the case. In other words, a person can have a commission deducted against contributions up to \$1,000 under the measure we are debating. The minister uses the phrase all the time that 'governments should not interfere in personal contractual obligations'. I am not going to debate the issue today. I simply make the

point that the Labor Party believes that it is not interference but consumer protection to regulate fees, charges and commissions in some areas. We do not have that. We do not have, for example, the banning of massive exit fees over and above the admin costs and we do not have the banning of commissions on compulsory nine per cent superannuation guarantee products. I would argue from the Labor Party point of view that there is, at least in some areas of fees, charges and commissions, an important issue of consumer protection, not interference, where government needs to regulate very toughly some of the behaviour that goes on.

The minister has confirmed that it is possible for a commission to be charged on a contribution up to \$1,000.

**Senator Cherry**—Chair, I rise on a point of order. I really do not see how this is relevant to the amendments under discussion at the moment.

**The TEMPORARY CHAIRMAN** (**Senator Brandis**)—There is no point of order. I think it is relevant.

**Senator SHERRY**—I do not want to be too suspicious of the Financial Planning Association. I do not know whether Senator Watson has seen the claims made by Senator Chapman that the \$1 million figure was advice from the Financial Planning Association. We have to check this out. This \$1 million is the benefit of this low-income earners co-contribution. I would really worry if we had financial planners saying that you get \$1 million from the government co-contribution. If they were saying it, perhaps they are saying it because they are going to get a commission. Some of them—not all of them—are going to get a slice, or a commission, out of the \$1,000. The minister was going to give me the assumption on the fees, charges and commissions—admin costs et cetera—on the cameos.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (11.58 a.m.)—I have some information in response to question on the fees and charges that have been assumed in the analysis and the cameos that I have detailed to the Senate. That is \$200 indexed by the CPI annually. The number used by Senator Campbell, \$1 million, can be obtained by a person earning \$32,000 in a 40-year working life. In real terms that is \$375,000.

Further, in response to Senator Sherry, I realise that the debate about this matter has roved around the world and we have touched on everything that might conceivably be relevant and indeed that probably verges on the irrelevant. We can go on ad infinitum. Obviously there is not much point in us having a long debate about exit fees. We can do that but obviously the government does not agree that it is appropriate to ban exit fees. There are many reasons but one of the reasons is that funds will still incur the same costs and they would simply have to compensate by increasing other fees and reducing services to members. It would be entirely counterproductive. The focus on exit fees fails to realise that the forces of competition will very quickly sort out exit fees. In a proper environment of portability and choice, why would anybody invest with any fund that had unreasonable exit fees?

As we all know, with some of the older products, particularly the old life products, it was a condition of investment that there would be heavy fees on withdrawal. Circumstances vary enormously and you certainly cannot retrospectively interfere in contractual arrangements, sometimes of very long standing. There are many arguments—and hopefully they will occur on another day—about exit fees, but I would not want it to stand on the record that this government countenances the banning of exit fees, because it is entirely counterproductive and I

think it will simply create more problems than it is likely to solve.

**Senator SHERRY** (Tasmania) (12.01 p.m.)—I understand the government's position on that issue. I have one final question. When the government pays the co-contribution or the matching payment—whatever the figure is—would it be permissible for a commission to be debited against that payment in some form?

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (12.01 p.m.)—Do you mean directly against the co-contribution? I am not quite clear what you are asking.

**Senator SHERRY** (Tasmania) (12.02 p.m.)—Let us take the example of a \$500 co-contribution. The government is paying that and it goes to the fund. Will it then be possible, if there is a commission applying, for that to be applied to the government's co-contribution amount within the fund?

**Senator WATSON** (Tasmania) (12.02 p.m.)—This matter of co-contribution is so straightforward and so simple that I doubt any financial planner in Australia worth their salt would have the temerity to charge. The benefit is so significant—it is virtually a dollar for dollar benefit—and the procedure is so simple that people would be wasting their money paying for a service that is not necessary.

Senator Sherry, it grieves me somewhat that you have such an unfortunate slant towards all financial planners. You are really casting aspersions on a profession which has many honourable members who do the right thing. For the sake of the record I would like to say that I think the profession has moved a long way in the last decade. In fact, it has moved a long way in the last couple of years. It is moving now towards being a true profession. In the past, it is true, it has had a tail, but I would not like to let it pass that the fi-

financial planning profession is going to take advantage of this measure.

As I said, ordinary people know when they are going to get a benefit. In a sense it is a little bit like shopping. There is an intuition within most people that I think, Senator Sherry, you do not appreciate. People know when they are going to get something worth while and they know when there is a disadvantage. I think you are unnecessarily nit-picking, because it would be outrageous if a financial planner so drew up a plan as to get a commission on a Commonwealth benefit. In fact, under FSR rules that will be introduced next year I would imagine that financial planners would be in for disciplinary action should they go down that track. I think that is where the matter is best left, rather than expecting government intervention at this stage.

**Senator MURPHY (Tasmania) (12.05 p.m.)**—I have been listening with interest to some aspects of the debate and I was particularly interested in some comments that Senator Watson made with regard to financial planners, in this instance with respect to superannuation products. History does not serve financial planners well.

**Senator Watson**—We are not talking about history.

**Senator MURPHY**—Senator Watson says that we are not talking about history, but history often provides us with a very valuable insight into how people act and how we may best choose to put in place regulations that ensure integrity in a particular system for the future and that compliance exists.

As I was saying, history has not been kind to financial planners—and rightly so—because they have, on any number of occasions, sought to exploit weaknesses in the regulatory system to maximise benefits for themselves. There are, as Senator Watson has said, many decent financial planners but, as

in any game, if there are weaknesses in the system there will be those who will exploit the weaknesses and it will lead those who may well have wanted to adopt what might be called a decent approach to ultimately apply the same practice because they see the financial benefits that others are gaining. There are plenty of examples. I do not necessarily have to draw Senator Watson's attention to other areas where financial planners have (a) exploited investors and (b) exploited Commonwealth tax revenue very significantly and in very recent times.

It is my view that that continues to happen, even today. That is why any regulation that is put in place, whether in respect of superannuation or other matters—and I have been concerned that the government is still not addressing some of the issues in some other areas of financial services product—is very important. Superannuation regulation is even more so because it goes to the heart of what is important to people, particularly low-income earners, for their long-term future.

I hope that the government will give serious consideration to the issue of exit fees. It is worth noting that there has been a practice in the past, and it may well still exist, where a person has invested in a superannuation product and the service provider of the product—the financial planner or superannuation company—chooses to offer to the superannuation investor a different mix of financial investments. That practice creates a new start date for the person in respect of exit fees. It is something that financial planners, as they are now called, have used quite mercilessly to ensure that superannuants stay within a particular company's superannuation scheme.

I listened to the minister's comments about the market sorting out exit fees in the not too distant future. It has been the case that the market has had an opportunity to sort

out exit fees for a long time but it would not seem to have proven to be very useful, particularly for people involved in superannuation. We are talking about the issue of portability. It would be invaluable to superannuants, especially those involved in casual employment where they have lower amounts of superannuation paid into various funds, if they were able to take those funds and consolidate them into a single fund without losing a significant amount of their investment money to exit fees.

There ought to be a capping of exit fees and it ought to be by regulation. The market should still be allowed to play a role, because if they want to go below the cap then they can do that. It was suggested to me, during the course of the inquiry I chaired into the mass marketed investment schemes—obviously not involving superannuation but other investments—that it was a question of choice. Yes, it is, but at the end of the day a lot of people, particularly low-income earners, do not have the capacity or the knowledge to make that choice. That is why we ought to have better regulation in this area. That is why exit fees are important and at some point regulation will have to be applied to ensure fairness and equity for people investing in superannuation.

**Senator WATSON (Tasmania)** (12.11 p.m.)—There is a real problem in moving down the route proposed by Senator Murphy because in other areas where a cap is applied the market tends to move upwards not necessarily to the top but towards that cap. There are some people, generally the higher income earners, who require, as part of their superannuation planning, a sophisticated cocktail of superannuation type products to meet their needs. If such people move out within a short time, they are going to incur an administration cost plus a cost of exiting the particular investments because of that particular cocktail which is not the usual method. Are you

going to put a cap on superannuation for those particular things, as you would, say, for an industry fund where the level of service is minimal? In a sense, costs are associated in superannuation with the degree of service.

Our committee has been requesting that superannuation funds enhance their level of service at the same time as keeping costs down because some of the costs, we believe, are quite outrageous. We have put in methods whereby costs should be calculated differently in terms of equity and fairness to ensure that members get the maximum advantage from their service. We have to be very careful, it sounds very plausible, but if you put caps on these sorts of things, you will have a withdrawal from the market which we do not want. We had a debate recently about the extra regulation associated with the operation of Christmas club accounts offered by banks which are used a lot by low-income earners, who put in money on a regular basis and draw it out for Christmas, to meet their family needs at that time. As a result of the enhanced regulations, that facility will be withdrawn by banks over time.

If we follow your practice, Senator Murphy, of capping some of these fees and introducing additional regulations in terms of the sorts of administrative fees that are charged on a global basis, you will find that there will be some sorts of products which will be withdrawn from the market. With superannuation we do not want a one size fits all approach. We want something that is fair and reasonable where costs are kept to a minimum and there is absolute transparency because transparency is a detergent inasmuch as it tends to wash out the nasties. We want maximum transparency but I think you have to be very careful, Senator Murphy, before advocating that we go down the path of a single exit fee that is to apply across the spectrum of superannuation products.

**Senator MURPHY (Tasmania)** (12.14 p.m.)—In respect of the comments made by Senator Watson, there are a lot of financial products and, yes, of course there are costs associated with going into them and with exiting them. Time frames are often set for the term of an investment—when you are expected to go into the investment and when you may exit that investment with no exit fee. I accept in respect of superannuation products that, yes, of course there is a term, but what you do not want is a situation where you get lumbered on the exit with commissions and a whole manner of other costs. That is what you do not want. That is why you can have a position where, if you are talking about transparency, you can talk upfront to the consumer about the term of the investment, regardless of whether or not it is a portfolio mix in superannuation, of which there are many.

I accept the argument that, yes, of course people would want to choose variations of the blend of portfolio that they may have, particularly those people with more money. But in respect of that alone, those with more money are often more astute. This is not about those who have the capacity to understand, those who have the money to make the investments and those who make clear choices. I am talking about those people who get propositions put to them without transparency. Speaking from personal experience, long before I came to this place I had a personal superannuation scheme. I was then offered a new portfolio mix. I was not told that there was a new start date, yet when I sought to roll that superannuation fund into another superannuation fund more than 50 per cent of the money was to be consumed by exit fees due to commissions et cetera.

That is what I am talking about. You can certainly be imaginative when you put in place investment opportunities—and they come in any number of forms—but you have

to advise the person who is going to invest the money about whether it is a time frame of 12 months, two years or three years. I am not advocating that you put your money in today and withdraw it tomorrow. Of course you would have products being withdrawn from the market. I did not say that. What I was suggesting is that you have transparency to the extent that people are told that, if they put their money into this portfolio mix, this will be the term of the investment; otherwise, there will be exit fees. That is just logical. You should then say what those exit fees will be.

It is very easy to charge a lot of exit fees. As you know, Senator Watson, in respect of forestry investments some companies are charging \$10,000 per hectare and others are charging \$4,000 per hectare. They are the same trees and the same ground. Why? Because one company is making a lot more money by charging the consumer significantly more in management fees. Does the system stop that? No. That is why I say that, with regard to the great bulk of people in this country who are going to have superannuation, it is important to give them some form of protection. The system does not act in other areas, not even now, but it ought to in respect of those people with superannuation because it is such an important area of life savings for so many people. That is why I say that the government has to give serious consideration to how it deals with exit fees in the longer term.

**Senator CHERRY (Queensland)** (12.19 p.m.)—In returning to the amendments we were discussing, I want to note the response from the Minister for Revenue and Assistant Treasurer to my question about reports and to thank her for her commitment that there will be consultation with interested parties on those regulations before they are released. I would note for the record that the Democrats are very keen to see the information

gathered by income groups, income brackets, and matched against spouse incomes. There has been a lot of speculation in this debate as to how many spouses of low-income earners and how many spouses of high-income earners will receive the co-contribution.

That is an important issue, but I am not too worried about it. There has been a lot of debate in this place over a very long period of time about the extent to which superannuation discriminates against women, particularly when they are in and out of the work force. The whole notion of allowing women when they return to the work force in a part-time position to actually accelerate their superannuation, regardless of what their husband is earning, is something that I think has been understated in this debate. There has been a lot of talk about the equity of whether this measure will be picked up only by spouses of high-income earners. I think what is more likely is that it is going to be picked up by spouses of a whole range of income earners. As I said in my opening comments, I would expect women who are returning to the work force to be one of the key categories of people picking up this particular measure. It is important to collect that information. I suspect the figures will disprove the concerns raised by ACOSS and by other people in this debate that this measure will mostly go to spouses of high-income earners, and I look forward to seeing those figures reported to the parliament in due course.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (12.21 p.m.)—I have two brief matters to raise. Getting back to Senator Sherry's question about whether the co-contribution would be subject to a commission, I have sought clarification. The example was that, if \$500 were contributed to a fund, what would happen in the case of a commission? As I anticipated, there really is no way that you can effectively quarantine or ring-fence any

contribution. Obviously, whatever arrangements are set up by the fund apply. I think that deals with that point.

There is one other matter that I want to make sure is on the record, lest anybody be under any misapprehension about something I said earlier, and it is that the co-contribution payment costings and take-up that we have talked about are based on the contribution data from the surcharge reporting system, which does provide more superior data than the rebate data. The co-contribution behavioural take-up data has been built in regard for research that was undertaken by IFSA, the Investment and Financial Services Association. Otherwise, all the estimates are Treasury's. I just wanted to make sure the record was clear on that.

**Senator SHERRY** (Tasmania) (12.22 p.m.)—On that point the minister has clarified, she has explained that the projections are based on more optimistic scenarios than she was initially claiming. I want to come back to the commission. It is now clear that if a person puts \$500 into a fund it is their own money and a commission could apply. I have just been looking at paragraph 1.35 in the explanatory memorandum. The minister has not answered my question about the government contribution. Let us say that the matching government contribution is \$500. The explanatory memorandum says:

The Commissioner may determine to pay the Government co-contribution to the trustee of a complying superannuation fund for crediting to an account of the person within that fund.

That is fine. It is sensible. If the government passes the money over to the fund and if there is a commission arrangement, is it possible for the commission to be deducted from the government contribution by the fund?

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (12.24 p.m.)—My advisers will correct

me if I characterise this incorrectly, but my understanding is that what will apply to money paid on behalf of an individual will be the arrangements set up in the fund, and they apply to all contributions. That is my understanding. If I am wrong about that I will be corrected.

**Senator SHERRY (Tasmania)** (12.24 p.m.)—I do not know whether Senator Cherry has even considered this issue. My understanding is that when the government pays, let us say, \$500 to match the contribution and there is an allowance or provision in respect of the fund then a commission can be taken out of the government contribution. That could happen. It is not prohibited. It seems to me to be interesting that the government understandably is not applying the contributions tax to the government contribution—it is not going to take 15 per cent out of the \$500, let us say—but it will be possible for a commission to be taken out of the government's guaranteed matching contribution. That seems to me to be very strange indeed. Why would a government permit a deduction, a commission, out of its payment into the fund to match the low-income earner employee's contribution? It is very odd in principle that that would be permitted.

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer)** (12.26 p.m.)—People will obviously have regard to fees and charges on accounts where their money is, and choice and portability would aptly provide for situations where people face unreasonable fees and charges. That has been the whole point of the government's package, which includes the bills currently before the Senate and will in future include portability and choice. People can then have a choice. If you are in a fund that is charging unreasonable fees or making charges you think are inappropriate and you wish to move your money, you will be able to do so. The government has the recipe and

prescription ready on its legislative agenda to deal with precisely the difficulty, if indeed there is one, that Senator Sherry has identified.

As I have said, we could, not only in respect of these bills, go through the whole of the government's better superannuation package. In many respects these measures are interrelated. They all provide the opportunity for Australians to have better retirement incomes and outcomes. The whole issue of fees and charges is something that will be taken care of in a choice and portability environment. As I understand the recent Senate report on portability, there is really no issue with the fact that you should not have excessive fees and charges across a lot of little accounts. There is no doubt that if people can actually make these choices you will find very quickly that the competitive pressures will make funds comply. This is not something that is causing the government great concern. Obviously, with these matters you have to put the principles in place and you have to always be vigilant and always monitor what goes on. There is no doubt that this present legislation is set up to provide benefits to people so that they will get the benefit of not only their voluntary contributions but also the co-contribution. We would certainly like to get to a position where they can move their money and choose where to put it if they find that fees and charges are unreasonable.

**Senator SHERRY (Tasmania)** (12.28 p.m.)—That will be a debate for another day. I was interested in the terminology that the minister just used. She referred to a 'package' and said that in many respects these measures are all interrelated. I agree with her. There is one exception she attempts to exclude from the package and the interrelationship, and that is the issue I referred to earlier which is the government's failure to collect the \$325 million from the temporary

departing residents. That was part of the package.

I find it quite extraordinary that the government is going to pay a matching co-contribution, let us say of \$500—and the government has said it is not going to tax it; it seems logical to me that you do not apply the contributions tax—but it will be possible, and it will happen, at least in some cases, that a commission can be deducted against the government's contribution. I find that quite extraordinary and I do not see why it should be permitted.

**The TEMPORARY CHAIRMAN (Senator Kirk)**—The question is that government amendments (2), (3) and (5) to (13) be agreed to.

Question agreed to.

**Senator SHERRY (Tasmania) (12.30 p.m.)**—I move opposition amendment (1) on sheet 3067:

- (1) Page 6 (after line 16), after clause 10, insert:

**10A Indexation of maximum amount**

The maximum amount provided for by section 10 is indexed to rise at the rate equivalent to any increase in the consumer price index.

This amendment deals with the indexation of the maximum amount of the co-contribution to the CPI. I would have thought it quite a reasonable approach to index the \$1,000 so as to preserve its real value over time. We propose to index it to the consumer price index from the commencement of the operation of the measure. Perhaps the minister could explain why that is not the case.

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (12.31 p.m.)**—The government's view about this is that there is no need to index the amount. A lot of the debate yesterday and today has been taken up with adamant assertions that people will not even be able to af-

ford \$1,000, let alone requiring indexation. The government offer of \$1,000 is pretty well understood. We see no compelling case in the circumstances to be looking at indexation.

**Senator CHERRY (Queensland) (12.32 p.m.)**—The Democrats will not be voting for this amendment, but we do note that it is a good idea and we are pleased to see the Labor Party on the record as committed to increasing this co-contribution over time. As I said earlier in this debate, I see putting the co-contribution in place applying to voluntary contributions within these ranges and at this particular level as a first step. I would hope that the Labor Party and the government build on this base at a later stage, and I am pleased to see the opposition's amendment at least acknowledges that that is something which should be done in the future.

Question negatived.

**Senator SHERRY (Tasmania) (12.33 p.m.)**—I move opposition amendment (2) on sheet 3067:

- (2) Page 38 (after line 31), after Division 2, insert:

**Division 2A—Quarterly reports**

**51A Commissioner to prepare quarterly reports of determinations under section 13**

- (1) For the purposes of this section a *quarterly report* means a regular report setting out the information required under subsection (2) for a particular period of three months, commencing no earlier than 1 July 2003, and ending on 31 March, 30 June, 30 September or 31 December.
- (2) As soon as practicable but in any event not later than three months after 31 March, 30 June, 30 September and 31 December each year, the Commissioner must prepare and give to the Minister a quarterly report which includes:

- (a) the number of determinations made under section 13 of this Act during the period; and
- (b) the number of persons in respect of whom a determination was made who had income for the income year in each of the income groups set out in subsection (3); and
- (c) the number of persons in respect of whom a determination was made whose spouse had income for the income year in each of the income groups set out in subsection (3); and
- (d) details of the combined income of the person in respect of whom a determination was made and the income of the spouse of that person; and
- (e) any other information prescribed in the regulations.
- (3) Information provided under paragraphs (2)(b) and (c) must be presented as follows:
- (a) by income groups of \$0 to \$999, \$1,000 to \$1,999, and similar, up to the income limit specified in paragraph 6(1)(c); and
- (b) information provided under paragraph (2)(c) related to the income of the person's spouse must be presented by the income groups of the spouse as follows:
- (i) \$0 to \$999, \$1,000 to \$1,999 and similar up to the limit of \$39,999;
- (ii) \$40,000 to \$49,999, \$50,000 to \$59,999 and similar up to the limit of \$149,000;
- (iii) \$150,000 to \$199,000, \$200,000 to \$249,000 and similar up to the limit of \$499,999;
- (iv) \$500,000 to \$999,999, \$1,000,000 to \$1,499,999 and \$1,500,000 to \$1,999,999;
- (v) over \$2,000,000.
- (4) The Minister must cause a quarterly report received under subsection (2) to be laid before each House of the Parliament within 7 sitting days of that House after the receipt of the report by the Minister.
- Note: For the purposes of this section, income to be reported includes assessable income plus reportable fringe benefits total as defined in this Act.
- I have already made comment about this issue. I understand the will of the chamber, so I have nothing further to say.
- Question negatived.
- Senator BROWN (Tasmania)** (12.35 p.m.)—by leave—I move Greens amendments (1) to (4) on sheet 3084:
- (1) Clause 15, page 10 (after line 16), after paragraph (1)(d), insert:
- (da) where the person does not have a legal personal representative, a dependent of the person; or
- (2) Clause 18, page 12 (line 10), after paragraph (1)(b), insert:
- or (c) where the person does not have a legal personal representative, a dependent of the person;
- (3) Clause 19, page 13 (after line 22), after paragraph (4)(d), insert:
- (da) where the person does not have a legal personal representative, a dependent of the person; or
- (4) Clause 56, page 45 (lines 1 and 2), omit the definition of *dependant*, substitute:
- dependant* in relation to a person includes the spouse, de facto partner and any child of the person or of the person's spouse or de facto partner.
- de facto partner*, in relation to a person means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as a partner of the person.

These amendments are to bring this amending legislation into line with forthcoming amendments which would remove discrimination against same-sex couples and other people in living arrangements from the statutes. It is important that we be clear that this amending legislation does not discriminate. Therefore, amendment (4) omits the definition of 'dependant' and substitutes for it a new definition of 'dependant' and 'de facto partner'. Amendments (1) to (3) are self-explanatory. They add a rider to clauses 15, 18 and 19 for the obvious reason inherent in those amendments.

**Senator CHERRY (Queensland)** (12.37 p.m.)—The Democrats will be supporting these amendments. I do have a slight concern with the approach. I felt a legal personal representative would probably have covered this issue under state law, but we will support them at this stage of the debate.

**Senator SHERRY (Tasmania)** (12.37 p.m.)—The Labor opposition will be supporting the amendments. We did have an extensive debate yesterday and I do not want to take the time of the chamber today. The only thing I am concerned about is that we are close to the lunch adjournment. We had an unfortunate incident yesterday with the count when there was a division called so close to the lunch adjournment. Can the minister indicate if she is going to call a division?

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer)** (12.37 p.m.)—I will indicate that the government will be opposing these amendments. However, we had this debate yesterday and it is substantially the same. I would expect in the circumstances and with the indications around the chamber of support that the vote that was taken yesterday would be replicated. In the interests of expediting this

matter and facilitating the conclusion of this bill I will not be calling a division.

**Senator BROWN (Tasmania)** (12.38 p.m.)—I thank both senators who have just spoken and I will not delay the matter either, except to say again that it is historic legislation. It is coming from the three parties on this side of house. It does reflect the view abroad in the Australian community in 2003 that there should not be discrimination in matters like superannuation—indeed, in any matter at all—against people because of their sexuality or, in this case, because they have a co-dependent relationship which does not come within the narrow limits of the previous definition of marriage.

It is a challenge for the government in the coming couple of weeks to consider whether it will catch up with Australia in 2003 or whether it wants to reside, as the Prime Minister seems to want to, in the 1950s. This is socially fair legislation, it is equitable, it reflects what the states have already done, it reflects what similar countries elsewhere around the world have done, it is in keeping with the Australian people themselves and it gets rid of a very clear penalty provision against those people who have same-sex relationships. When those people come to pass on their superannuation to their partners, there is a big tax imposition in certain circumstances which will be obviated by this. Whatever, there should not be discrimination under the law, and this is part of the process. I congratulate the Labor Party and the Democrats together with my fellow Greens colleague for the support that will come in seeing this and several other amendments go through in these sittings.

**Senator CHERRY (Queensland)** (12.40 p.m.)—I want to clarify something. I know, based on the attitudes in the debate so far, that the Labor Party and the Greens are opposed to the surcharge bill. I want to seek for

the record whether the Labor Party and the Greens will be supporting the co-contribution bill if this amendment is passed.

**Senator BROWN (Tasmania) (12.40 p.m.)**—I can make it clear that the Greens support the co-contribution bill even though we think it is poorly aimed but we do not support the tax relief for the already wealthy, like ourselves. We do not see these two as tied together at all; we discriminate between them. We support the co-contribution legislation even though it is poorly aimed and it should give a break to all people in the lower-income categories, not just those who can find up to \$1,000 to take advantage of it.

**Senator SHERRY (Tasmania) (12.41 p.m.)**—As I have indicated, the Labor Party agrees with the low-income earners co-contribution even though, compared to Labor's co-contribution proposal of 1995 which this government scrapped in the 1997 budget, this represents a much more confined, much less beneficial proposal. I find it interesting that Labor proposed and had funds for a co-contribution, which this government maintained in the 1996 budget and then scrapped in the 1997 budget. This measure represents one step forward after they had taken about 20 steps backwards. Labor does not agree with an exclusive tax cut for high-income earners. I have made that point time and time again. If there is to be a tax cut on superannuation then it should apply to all superannuation fund members and not be exclusively confined to high-income earners. That is not a fair approach. I notice that we are going to have another bill that we will have to deal with as part of this package before we get to a vote, so think it is unlikely we are going to get to the vote today.

Question agreed to.

**Senator SHERRY (Tasmania) (12.43 p.m.)**—I move opposition amendment (3) on sheet 3067:

- (3) Clause 56, page 45 (lines 1 and 2), omit the definition of *dependent*, substitute:

*de facto partner* in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine basis as a partner of the person.

*dependent* in relation to a person includes the spouse, de facto partner and any child of the person or of the person's spouse or de facto partner.

Again, we have debated this issue. This is a consequence of a matter we passed yesterday. We have debated the issues widely. I think, given the time, we are not going to get to the vote, but I do not propose to make any further comments here now about the matter.

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (12.44 p.m.)**—Senator Sherry, if you proceed with opposition amendment (3) I would think that, the definitions having just been amended by the previous motion, you would end up with a conflict because they are not identical. Could I suggest, as we are obviously not going to finish this today, that you have a look and see whether or not that is a problem. I would think it would be.

**Senator SHERRY (Tasmania) (12.44 p.m.)**—Yes, we will do that.

Progress reported.

**NATIONAL RESIDUE SURVEY  
(CUSTOMS) LEVY AMENDMENT BILL  
2002**

**NATIONAL RESIDUE SURVEY  
(CUSTOMS) LEVY AMENDMENT BILL  
(No. 2) 2003**

**NATIONAL RESIDUE SURVEY  
(EXCISE) LEVY AMENDMENT BILL  
2002**

**NATIONAL RESIDUE SURVEY  
(EXCISE) LEVY AMENDMENT BILL  
(No. 2) 2003**

**Second Reading**

Debate resumed from 16 September, on motion by **Senator Ian Campbell**:

That these bills be now read a second time.

**Senator BUCKLAND** (South Australia) (12.45 p.m.)—I would like to make a few comments in relation to the National Residue Survey (Customs) Levy Amendment Bill 2002, the National Residue Survey (Customs) Levy Amendment Bill (No. 2) 2003, the National Residue Survey (Excise) Levy Amendment Bill 2002 and the National Residue Survey (Excise) Levy Amendment Bill (No. 2) 2003. The National Residue Survey (Customs) Levy Amendment Bill 2002 amends the National Residue Survey (Customs) Levy Act 1998 to restate the operative and maximum rates of national residue survey customs levy on apples and pears from a per box rate to a per kilogram rate. This move is at the request of the Australian Apple and Pear Growers Association to make the calculation of the levies easier, and it has Labor's support.

The National Residue Survey (Customs) Levy Amendment Bill (No. 2) 2003 amends the National Residue Survey (Customs) Levy Act 1998 to raise the maximum levy rate allowable on honey for the purpose of the act from the present rate of 0.3 of a cent per kilogram to 0.6 of a cent per kilogram. Labor

notes the government's advice that there is 'no plan to increase the operative rate of levy at the moment and any request to do so would only be at the behest of industry and subject to separate approval'.

The National Residue Survey (Excise) Levy Amendment Bill 2002 amends the National Residue Survey (Excise) Levy Act 1998 and also has Labor's support. It restates the operative and maximum rates of national residue survey excise levy on apples and pears and accords with industry's request.

The final bill, the National Residue Survey (Excise) Levy Amendment Bill (No. 2) 2003, amends the National Residue Survey (Excise) Levy Act 1998 to raise the maximum levy rate allowable on honey for the purposes of the act from the present rate of 0.3 of a cent per kilogram to 0.6 of a cent per kilogram. There is no plan to increase the operative rate of levy at the moment, and any request to do so would only be at the request of industry and subject to separate approval. Having made those few remarks, I indicate that Labor will support the passage of these bills.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.48 p.m.)—I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

**Third Reading**

Bills passed through their remaining stages without amendment or debate.

**Sitting suspended from 12.50 p.m. to 2.00 p.m.**

**QUESTIONS WITHOUT NOTICE**

**Employment: Job Network**

**Senator GEORGE CAMPBELL** (2.00 p.m.)—My question is directed to the Minister for Family and Community Services,

Senator Vanstone. Has the minister now checked the *Canberra Times* of 23 August, where the Minister for Employment Services, Mr Brough, claimed that 60,000 unemployed people were about to be suspended from benefits due to their inactivity in the Job Network? As the minister has also had 24 hours to check on the written advice she received from Centrelink, can she confirm that Centrelink provided her with the figure of around 3,000 facing suspension, not 60,000? Will the minister inform the Senate why the Minister for Employment Services distorted these figures so grossly?

**Senator VANSTONE**—Senator, I give you great credit for asking this question again. You have given me the opportunity, yet again, to give you the answer.

**Senator Jacinta Collins**—You didn't answer yesterday; you said you didn't know.

**Senator VANSTONE**—In relation to what Mr Brough said the other day or in August, that is right; I had not seen that. But let me answer you this way—

**Senator Jacinta Collins**—We are trying to understand the 60,000 figure.

**Senator VANSTONE**—Senator Collins, if your party is ever successful—

**The PRESIDENT**—Minister, I remind you to ignore the interjections.

**Senator VANSTONE**—If the Labor Party is ever successful in getting back into government, Senator Collins may or may not have an opportunity to answer questions. It is true that Minister Brough or, rather, the Department of Employment and Workplace Relations were concerned about the follow-up with respect to 60,000 job seekers, who at one point had not attended an interview. And it is true that we were asked to follow up on those. I encourage you to understand that Job Network and employment is a moving feast in the sense that the figures on any one day

will be different from the next day and so on. At one point in time, we would have suspended 3,000 people. The only significance of that is that it is a point somewhere between zero and about 11,000, which is the number we have now suspended. There is no significance to this 3,000 figure. I just cannot understand what you think you are onto there. So I cannot help you.

In relation to any bucket of people who have not attended an interview at any one time, when you review them you will find a number of categories, such as people who have subsequently rebooked to have a first interview. That is important because one of the big changes in this new system is that, rather than looking to immediately suspend or breach people, what we are actually trying to do is re-engage people with the network—to get them to go to the appointment to get them the help they need to get a job. In other words, our view of the welfare system is not one where it just about money and whether you have attended something; it is all about trying to re-engage you. That is why it is relevant to say that there may be people who have not attended an interview but, if they rebook for a subsequent interview, of course you would not be moving to suspend them.

You will find people in other categories, such as people who have already attended an interview, people who are exempt from doing so, and people who are undertaking other approved activities. Mr Brough was right to say that DEWR had concerns about 60,000 in the follow-up. As I said, in relation to the follow-up, any particular bucket of people you look at at any particular time will contain people in those categories that I have referred to.

**Senator GEORGE CAMPBELL**—Mr President, I ask a supplementary question. Given the minister's answer that the figure is somewhere between nought and 11,000, not

60,000, can the minister inform the Senate what steps she has taken to ensure that Minister Brough does not mislead the public again, as part of his campaign to vilify the unemployed?

**Senator VANSTONE**—I am sorry, Senator George Campbell, you just still do not understand. What I have indicated to you is that, at this point in time, we would have suspended 11,000-odd people—that is my latest advice. The only significance of the 3,000 figure that you raised that other day is that at some point when we started suspending people we would have hit the 3,000 number and then moved on from that. What I am telling you is that, as at today's date, 11,000 people have been suspended. You seem to be confusing that with another entirely different figure which is 60,000 people we were asked to look at. You are confusing those two. There is a world of difference between asking us to look at the 60,000 figure and the actual number of suspensions we have made to today's date.

#### **Australian Broadcasting Authority**

**Senator PAYNE** (2.06 p.m.)—My question is directed to the Minister for Communications, Information Technology and the Arts, Senator Alston. Is the minister aware of any threats to the integrity and independence of the Australian Broadcasting Authority and is the minister of the view that any such threats should be fully investigated by the relevant authorities?

**Senator ALSTON**—Senator Payne rightly draws attention to what I think is one of the greatest scandals in Australian politics that I can recall. We had the unedifying spectacle of John Singleton saying that Mr Carr had threatened to use the Australian Broadcasting Authority and ICAC to make sure that he and his station never held a broadcasting licence again. On the face of it, that is a very, very serious allegation. Did anyone

hear Mr Carr on *A.M* this morning? When asked if he quoted the ABA, he said, 'Yes, I referred to them in passing.' He was asked, 'What about ICAC?' and he said, 'I can't remember them, but of course I am not in a position to do anything about such threats.' You cannot possibly imagine why anyone would concede to mentioning the ABA unless it was used in the context of a threat. That is clearly what the purpose was. That is how Mr Singleton remembers it, and that is clearly what Mr Carr is admitting to before he scurries off overseas later this afternoon.

**Senator Faulkner**—How do you know—

**Senator ALSTON**—Well, he may not be going overseas after this little effort. This is a very serious threat to the democratic process. You have independent authorities charged with responsibility to issue licences and you have ICAC charged with looking into corrupt conduct, which is defined as 'any conduct adversely affecting, either directly or indirectly, the honest or impartial exercise of official functions by any public official'. So, on the face of it, this matter ought to be before ICAC right now. It certainly should be looked at by the Broadcasting Authority because, again, it raises very serious doubts about the way the ABA is protected from these sorts of threats.

The most extraordinary thing of all is that Mr Mark Latham waded into the debate this morning. He called a doorstep on something else but then unilaterally volunteered his views, which were that he was very much on the side of John Singleton. He did not for a moment criticise the ethics or behaviour of Bob Carr—which is exactly what you would expect from the New South Wales Right, because their values are non-existent. They obviously spend most of their time reading the Paul Keating manual on ethics, which tells you that the more you can belt up on newspaper proprietors or threaten or cajole

journalists the more likely they are to give the game away. Mr Carr has followed that to a tee.

What we now find is that the seldom seen Mr Crean has just been completely sidelined by the two pretenders to the crown. Mr Latham is out there criticising Mr Carr for wanting to raise a new tax on poker machines, while Mr Latham is in favour of scrapping negative gearing, increasing capital gains tax and introducing a new personal expenditure tax. We have the very unedifying spectacle of two renowned political brawlers fighting over which tax slugs they should impose on an unsuspecting public.

The Labor Party ought to take a very hard look at itself. After an initial blaze of self-indulgent publicity, and attempts by the Beazley forces to put their foot on Mr Carr's accelerator, it is now clear that the 'Bob car' was running out of gas last week. Now, after this egregious performance and display of political thuggery, it is clear that the 'Bob car' doesn't even have a roadworthy certificate. If Mr Carr is going to come to Canberra, maybe he ought to get a taxi—but he should make sure that Mark Latham isn't in it.

#### **Medicare: Reform**

**Senator FORSHAW** (2.10 p.m.)—My question is directed to Senator Patterson, the Minister for Health and Ageing. I ask: Minister, are you aware that the Department of Health and Ageing has revealed that it has not undertaken any modelling on the impact of the government's proposed changes to Medicare in any of the following areas: the increase in out-of-pocket charges to patients who do not have a health card, the changes to bulk-billing rates as a result of the package, or the inflationary impact of the package? On what basis did the Prime Minister conclude on 28 April: 'I don't think there is anything in this package to encourage doc-

tors to inflate their fees'? On what basis did he make that conclusion, when the department involved has not conducted any economic research on the matter? Minister, why have you been so slipshod in the development of your so-called A Fairer Medicare package?

**Senator PATTERSON**—Let me tell senators what has an inflationary impact on gaps in general practice. It has an inflationary impact when you do not have enough doctors in an area—when you have too few doctors in an area—and they, therefore, can choose not to bulk-bill. The areas where we have the highest bulk-billing rate are areas where there is a large number of doctors. Guess where that is? It is in the inner city areas of Sydney, Melbourne and Brisbane.

**Senator Cook**—The leafy suburbs.

**Senator PATTERSON**—It is not just the leafy suburbs. There are many suburbs in inner city Melbourne, Sydney and Brisbane that are not leafy suburbs. We inherited a maldistribution of general practitioners—far too many in the city, far too few in the country. As I have been saying for a long while, some people have never seen a bulk-billing doctor. In 1984, when bulk-billing was first brought in, Dr Blewett sent out a letter to people. Coincidentally, recently I was looking through some of the letters that went out to people. Dr Blewett wrote—and this was aimed at people on low incomes: 'If the doctors choose to bulk-bill you, then you will pay no gap. If the doctor chooses not to bulk-bill you, you will pay a gap.' It was never meant that everybody would be bulk-billed, not since the inception of Medicare. Senator Forshaw will find—in fact, I do not know whether he will find this, because I doubt he goes out to the country—that in areas where you have fewer doctors, you have less bulk-billing.

Since we came to government we have spent \$562 million on programs to get doctors into rural areas. Over the last four years we have seen an increase in the number of doctors in rural areas of 11.4 per cent—4.7 per cent in the last year alone. We have had to improve access. When I go out and talk to people, as I do, they say to me, ‘We want access to general practitioners.’ The A Fairer Medicare package also includes a significant number of nurses to work in, and assist, general practice. As I move around general practices, they keep talking to me about practice nurses, to assist them and take the load off them. We cannot create doctors overnight. We have used incentives to move doctors into outer metropolitan areas. The \$80 million outer metropolitan package was planned to shift 150 doctors over four years—I think 107 doctors now have moved—into outer metropolitan areas. Access to doctors is very important to Australians. Whether they bulk-bill very much depends on the number of doctors in a particular area.

Let me also say that, during the last six years of Labor, rebates went up by nine per cent in a high-inflation, high interest rate period. Under us, rebates and incentive payments for delivering outcomes—including giving doctors incentives to actually assist people in managing their diabetes, asthma and mental illness—have gone up by 30 per cent in the same period. The Labor Party never did anything about it. We have increased remuneration for doctors. We have actually increased incentives for doctors to stay in rural areas—\$562 million to relocate doctors; to do something about the maldistribution we inherited. The actual number of doctors has a significant effect on bulk-billing. Let me just remind Australians that almost seven out of 10 visits to a GP are bulk-billed and almost eight out of 10 visits for people over 65 are bulk-billed.

**Senator FORSHAW**—Mr President, I have a supplementary question. Given that senior health industry figures view this minister as nothing short of embarrassing—

*Government senators interjecting—*

**Senator FORSHAW**—they were their words—and given that her ministerial career is on the slide, will the minister at least give the Senate a cast-iron guarantee that the so-called A Fairer Medicare package will not lead to an increase in doctors’ fees? Will you give that assurance, Minister?

**Senator PATTERSON**—When Ms Gillard gives an assurance that doctors’ bills will not increase. We are unable to dictate to doctors what they charge, and never have. Nor did you and, I presume, nor will you. The issue is that we have too few doctors, particularly in outer metropolitan and rural areas, and they are the areas where we see larger gaps. Let me also say that, under Labor, the gap for going to see a GP increased significantly more than it has under us during the same period. Go back and look at your record on the increase in gaps.

**Australian Labor Party: Centenary House**

**Senator BRANDIS** (2.17 p.m.)—My question is directed to the Special Minister of State, Senator Abetz. Will the minister inform the Senate of the details of the leasing arrangements entered into under the previous Labor government for the use of Labor-owned Centenary House? Is the minister also aware of any new information about the lease and the mortgage of Centenary House? Finally, what is the government doing about this outrageous rental rot?

**Senator ABETZ**—I thank Senator Brandis for his question. Tuesday next week will mark a full decade of the Centenary House rent scandal whereby the previous Labor government contrived a 15-year lease for their Labor-owned property with a minimum nine per cent rent increase per annum at tax-

payers' expense. This means that, as of next Tuesday, taxpayers will be paying \$871 per square metre into Labor's coffers. This is despite the fact that a sublease of the very same area in Centenary House recently went for a mere \$314 per square metre. Yet the Australian taxpayer is still being forced by Labor to pay \$871 per square metre, or 175 per cent more than the market rate.

How does this compare to other rents? In one of Sydney's prime buildings, Grosvenor Place, you can get space with harbour views for a mere \$700 per square metre. Even in the most expensive part of New York, midtown Manhattan, the average rent is \$A867 per square metre—less than what is currently being paid for Labor's building in Canberra. This year alone taxpayers are being ripped off by Labor to the tune of \$3.5 million in excess of the market rate. Over the 15 years of the lease, Labor's sleazy and unconscionable rental rort will cost taxpayers \$36 million above market rates.

Despite repeated attempts to bring the lease back to a reasonable amount, Labor have refused. Labor claim that they cannot restructure the lease because their mortgage was based on the rental returns from fixed rental increases. However, I now have new information which exposes this excuse as a sham. On examining the mortgage, I found that the mortgage was in fact signed 18 months before the lease was signed. How could Labor have known about and planned for the nine per cent ratchet clause 18 months beforehand? There are only two possible answers. Either Labor have lied and do have the capacity to readjust the lease to market rates, or the fix was in from the very beginning and the Labor Party built the building knowing that the Labor government would force a taxpayer funded tenant to pay extortionate rates 18 months in advance. What is it to be? Are they liars or are they crooks?

**The PRESIDENT**—Senator Abetz, I believe that language is unparliamentary. I know it is in a general—

**Senator ABETZ**—No, I am referring to the Labor Party as in the organisation.

**The PRESIDENT**—I know you are, but I still do not like to hear that sort of language in the chamber.

**Senator ABETZ**—All right, I withdraw it, but I will remind you of that ruling in future. In fact, I am advised that there is no evidence to link the repayment obligations under the mortgage to the annual increases in rent of nine per cent under the lease. This government will not sit back and allow the rort to continue. As a result, I have today written to Mr Crean seeking an independent arbitration of the lease on Centenary House. This is a test of Mr Crean's leadership; a test of his character. Mr Crean has presided over the Bolkus-Wong rafflegate affair and he has presided over a Fair Go Alliance. To acquiesce in these things is to condone them. Mr Crean can redeem himself by showing leadership on Centenary House by responding positively to my letter, which I now table.

#### **Health Insurance: Rebates**

**Senator McLUCAS** (2.22 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. Will the minister confirm that the private health insurers have now received an official private health insurance circular outlining the removal from ancillary health benefits of goods and services which are primarily for the purpose of sport, recreation or entertainment? Is it true this covers benefits such as tents, relaxation CDs and golf clubs? Will the minister now act on taxpayers' money going to non-medically required products such as vouchers for vitamins or aromatherapy massage?

**Senator PATTERSON**—I direct Senator McLucas to the answer to the question I gave Senator Allison yesterday, I think it was.

**The PRESIDENT**—Order! Senator Abetz and Senator Ray, discussions across the chamber while the minister is on her feet are disorderly.

**Senator PATTERSON**—Maybe she was not listening, so I will repeat it. I find it amazing that the Labor Party will ask questions on private health insurance. When they were in government, private health insurance membership was just over 30 per cent. It was actually going down the tube. There were people fleeing from private health insurance as premiums went up, in one year at a rate of 20 per cent. They come in here and ask me questions about private health insurance when through the lifetime guarantee—I cannot remember the name of it—

**Senator McLucas**—Lifetime Health Cover.

**Senator PATTERSON**—Thank you, Senator McLucas—and with the rebate we have seen the membership go up to over 43 per cent. A significant number of people—in fact, an increase of over nine per cent—have gone into private hospitals over the last 12 months, when we saw an increase of about 2.6 per cent in public hospitals. Wendy Edmonds, the Minister for Health in Queensland, Senator McLucas's state, says that they are only doing elective surgery in private hospitals. What they are doing is over 50 per cent of breast cancer operations, over 50 per cent of chemotherapy, over 70 per cent of major hip and joint replacements and over 50 per cent of cardiac valve replacements—not elective surgery. Of the ancillary benefits that are paid for by the funds, as I have said on a number of occasions here, about 73 per cent are paid on dentistry, optometry and physiotherapy. The others are things like nursing and counselling, and other services like occupational therapy. Less than two per cent go on alternative medicines and ancillary cover.

I have written to the private health insurance industry—in fact they are meeting tomorrow—and they will be discussing the concept of a framework to decide what items should be on it and what items should not be on it. I think it is appropriate for the industry to look into it. It is very difficult to find a measure; evidence based is not always the best measure in this case.

*Senator McLucas interjecting—*

**Senator PATTERSON**—Senator McLucas rattles away. There is not even an evidence base for some of the more conventional therapies. It will take a long while before we understand all the procedures that are used in physiotherapy, for example, and where they have a direct health benefit, and all the procedures used in occupational therapy, but they are acceptable in the mainstream provision of health services. We need to look at those alternative ancillary benefits to ensure that there is a consistent and objective criteria for including or not including them.

We want to make sure that we do not end up with every fund looking just like the other. I am sure that, if Labor was in, they would so overregulate them that there would be no competition left and people would start to desert private health insurance again. We have to work with the industry, as I am doing, for that very small proportion—less than two per cent—of alternative therapies to find an objective framework for deciding what is in and what is out.

**Senator McLucas**—It costs us \$30 million a year.

**Senator PATTERSON**—Senator McLucas shouts about what it costs. Let me tell you what it cost when membership was running at 30 per cent. It cost the states an enormous amount in dealing with the queues in their public hospitals. We have taken pressure off them. The reason there are queues in

public hospitals is that places like New South Wales have reduced their public hospital beds by over 5,000 since Carr has been in government. We have taken pressure off the public hospitals. The cost to the Australian public of your failure to support private insurance was massive. (*Time expired*)

**Senator McLUCAS**—Mr President, I ask a supplementary question. I note that the minister has not confirmed that there has been an official private health insurance circular. Maybe the minister is not aware that it has occurred. When will the minister's department issue the next circular about further changes? Won't private insurers be required to make yet another separate announcement to their members about the additional changes to their cover? Isn't it the case that the minister's failure to make a clear decision about the future of ancillary cover, despite having 10 months to think about it, will result in needless administration, expense and confusion for health funds and their members? Isn't this the reason there is widespread concern in her own party that this minister simply is not up to the job?

**Senator PATTERSON**—It is interesting that when you are behind you revert to personal attacks, but that is fine; I can take that. I have been sitting next to Senator Vanstone for a long while and I have learned how to take it. The issue is that when Labor was in government, as I said before, private health insurance membership was running at just over 30 per cent. Premiums were increasing at an enormous rate. The cost to the public in terms of their premiums and the cost to the public of the pressure on public hospitals as a result of the decrease in private hospitals is nothing in comparison to the two per cent of ancillaries spent on alternative therapies. Go out and talk to the alternative health industry and see what they think. I think it is appropriate that the health funds look at these items and together make an objective deci-

sion about what goes on and what goes off. I have written to them and asked them to do that and they have indicated that they will be looking at that on Friday, tomorrow, when they meet.

#### **Education: University Fees**

**Senator STOTT DESPOJA** (2.28 p.m.)—My question is addressed to the minister representing the Minister for Education, Science and Training. Does the minister stand by his claim in the chamber yesterday that university students will pay only 27.6 per cent of total tuition costs under the government's new proposals? Can the minister therefore confirm that the government has overstated its contribution to the tuition costs by \$800 million per annum because it has included funding for university research in its calculation of the government's contribution to undergraduate tuition costs? Can the minister also confirm that the government has included the 20 per cent discount for up-front payments of HECS in its calculation, yet 80 per cent of students cannot or do not access that discount currently? Can the minister confirm that the 27.6 per cent figure is wrong and does not reflect the average contribution made by the vast majority of Australian university students?

**Senator ALSTON**—I am sure we can have an interesting discussion about what the vast majority of university students can or cannot cope with, but the facts as provided to me by the minister are these. Students will not pay around 40 per cent of their course costs through HECS by 2005. Critics who use such misleading figures fail to recognise the significant level of Commonwealth subsidy involved in HECS when calculating the student contribution level. Indeed, when the Commonwealth HECS subsidies are factored in, students currently contribute, on average, around 26 per cent of the cost of their education, with taxpayers contributing the remain-

der. The government willingly carries the burden of subsidising HECS at a present cost of around \$300 million a year in discounts, write-downs and unpaid debts to ensure that HECS places provide unhindered access to higher education opportunities. These taxpayer funded subsidies must be acknowledged in calculating average student contributions through the HECS system.

The significant level of Commonwealth subsidy involved in the HECS scheme through discounts, write-downs and unpaid debts will continue under the new higher education loan plan arrangements. Under the government's higher education reforms it is estimated that the average actual student contribution towards the cost of their education will only increase to 26.8 per cent by 2005 and 27.6 per cent by 2008, not the erroneous figure of around 40 per cent which presumably is what is inspiring Senator Stott Despoja's question. Similarly, claims that student contributions to the cost of their education under HECS have risen by 85 per cent is highly misleading in terms of the contribution students actually make. Taking account of Commonwealth subsidies, the actual student contribution through HECS, as a proportion of university operating grant funding, increased from 18 to 26 per cent between 1996 and 2001. If Senator Stott Despoja has a complex mathematical model which she would like analysed by the Department of Education, Science and Training then I am sure we would be more than happy to take it apart for her. Beyond providing that information, I do not think I can help you further at this stage.

**Senator STOTT DESPOJA**—Mr President, I ask a supplementary question. In the minister's response he referred to the subsidies provided by the government. I ask again: does that calculation that the government is using to arrive at the 26.8 per cent or the 27.6 per cent include the up-front dis-

count payment for HECS which, as I said, only 20 per cent of Australian university students access? Is it not the case that the government's base figure by which it calculates its contribution to tuition costs includes research funding of approximately \$530 million per annum for the research training scheme and approximately \$230 million per annum for the institutional grants scheme, both of which are contestable research funding programs and not undergraduate teaching programs. Therefore, does the government acknowledge that the inclusion of these funds, and the others to which I referred, overstate the government's contribution and understate the student contribution to undergraduate tuition costs? Is it not the case that the 26 per cent figure is wrong?

**Senator ALSTON**—Clearly, Senator Stott Despoja is not going to be persuaded by the information I can provide to the Senate. I will seek further advice but there has been no mention made of research training schemes or institutional grant schemes in the information I have been provided with that is the basis for the figures. I have said that the discounts, write-downs and unpaid debts are regarded as a significant level of Commonwealth subsidy to the scheme. So it is not as if these things have been ignored. If you want to know precisely how they have been taken into account then I will see what we can do for you.

#### **Health: Pharmaceutical Benefits Scheme**

**Senator ROBERT RAY (2.34 p.m.)**—My question is to Senator Patterson, the Minister for Health and Ageing. Can the minister confirm that Wendy Bloom and Associates undertook market research to test community awareness and understanding of the Pharmaceutical Benefits Scheme in February 2002? Was this quantitative research, costing \$33,000, conducted on a sample size of a mere 55 people? How representative

was the sample of 55 people? Will the minister now table the Bloom report in the Senate so that all senators can evaluate its findings?

**Senator PATTERSON**—When I came into the position of Minister for Health and Ageing I was concerned about the growth of the Pharmaceutical Benefits Scheme. It is the fastest growing part of our budget in health and, I think, across the board. It has grown from \$1 billion in 1991 to \$5 billion now. That rate of growth—one year it was 14 per cent and another year I think it was around 20 per cent—is unsustainable. If you look at the intergenerational report in the budget before last, the biggest pressure on the budget into the future was the Pharmaceutical Benefits Scheme.

I am firmly of the opinion that we should not spend the next generation's money on our needs. We were doing that when Labor was in government to the tune of \$80 billion over 13 years. Labor was using the next generation's money to purchase medications to pay for social security fraud—a billion dollars of it a year—and putting the next generation in a double jeopardy: the jeopardy of paying off our debt and the jeopardy of inheriting an unsustainable system, including the Pharmaceutical Benefits Scheme. I was aware that people did not understand the Pharmaceutical Benefits Scheme. There were a couple of initial focus groups formed to indicate whether people understood and knew about the PBS.

**Senator Sherry**—Will you table the report?

**Senator PATTERSON**—It is a question you can ask in estimates.

**The PRESIDENT**—Minister, ignore the interjections and address your remarks through the chair.

**Senator PATTERSON**—We have estimates hearings coming up and I am sure we can provide you with the information. It was

very clear that people were not aware that when they were given medication on the PBS all Australians received a benefit. They were not aware of the safety net. I would have presumed that you would have thought it was important that people, particularly those on low incomes, be aware of the safety net. It is usually people who are very sick who take that amount of medication. People were not aware of the safety net or the PBS. They were not aware that the most commonly prescribed medication costs \$80 per person per month—and most of them probably still are not aware that a drug like Glivec can cost \$6,600 a month for which those people on a health care card would pay \$3.70 and those people not on a health care card would pay \$23.10. That was the initial investigation. I believe there was some more work done; I cannot remember all the details. I am happy to give you all that information in estimates. I am sure that you will ask about that if you are there, Senator Ray. I am sure somebody else will ask: Senator McLucas will ask.

When people were asked, they said they would like to have information about the PBS. Let me give one recent example of a pharmacist in Canberra who rang our office. Somebody who had seen the PBS awareness advertisements came into the pharmacy and said, 'Could you please come out to the car, I have something I want to bring back in.' When the pharmacist went out, there were three boxes of PBS medication to the value of \$3,600—

**Senator Faulkner**—You've told this story before.

**Senator PATTERSON**—I know I have told it before but I am going to tell it again. The medication was all past its use-by date and the person was not aware of how much that had cost the taxpayer. It is our responsibility as politicians and hopefully as parlia-

mentarians to ensure that the Pharmaceutical Benefits Scheme is sustainable. One way in which the Labor Party could do that would be to agree to the modest increase in the PBS that we asked for that would give us \$1.03 billion over four years. Seventy per cent of that money would pay for the two drugs we have extended: mabthera—(*Time expired*)

**Senator ROBERT RAY**—Mr President, I ask a supplementary question. Given the minister wants us to understand the problems of the Pharmaceutical Benefits Scheme, wouldn't it be better to make available the research that she has available to her to better improve our understanding of the issue? Why won't the minister table that information? Given the fact that quantitative research was done in February, why was quantitative research also done in July? How much did that research cost? How big was the sample? Will the minister also table that further quantitative research to educate us so that we are in a better position to know whether to pass the legislation or not?

**Senator PATTERSON**—I might have heard a whisper that they might pass the legislation. What would convince the Labor Party to pass the legislation? When we were in opposition and you introduced the copayment, we thought it was fiscally responsible and we agreed with it. When you increased it, we agreed with it. When you increased it again, we agreed with it, but what did you do? You are opportunistic. You refused to increase it when Michael Wooldridge asked. The Democrats agreed. Now you are refusing again. When the Pharmaceutical Benefits Scheme is unsustainable, you know whom the public will blame: they will blame you.

#### **Defence: USS *La Jolla***

**Senator NETTLE** (2.40 p.m.)—My question is to the Minister for Defence, Senator Hill. Does the minister recollect that in late August 2002 the nuclear powered submarine

USS *La Jolla* surfaced approximately one kilometre off the Gold Coast and underwent a highly unusual emergency crew change, using locally chartered craft? Is the minister aware of advice from a UK nuclear safety analyst that such unscheduled crew changes are normally carried out in the event of an outbreak of a virulent disease and/or the exposure of the crew to unsafe levels of radiation as a result of an incident with the nuclear material on board? Can the minister please tell the Senate whether it was disease or radiation that led to the unscheduled crew change?

**Senator HILL**—I do not know of the British report but I would be confident it would be neither disease nor radiation. I would have thought it was practice. That is what exercises are all about—practicing how you deal with certain situations.

**Senator Faulkner**—Tell us the real reason.

**Senator HILL**—Do you think it was an invasion of Queensland? That will probably be tomorrow's conspiracy theory, I would think.

*Honourable senators interjecting—*

**The PRESIDENT**—Order! When the Senate comes to order the minister will continue to answer the question.

**Senator HILL**—We are pleased to exercise with our allies. We have just been engaged in a very important exercise in the same area off Queensland, which has gone extraordinarily well. It is a safeguard to the Australian people to see that the forces are at the state of readiness that they are and that we can work so cooperatively and effectively with the United States. We will continue to do so.

**Senator NETTLE**—Mr President, I ask a supplementary question. The minister is no doubt aware of the requirement for AQIS to

process all crew disembarking in Australia. Can the minister explain why AQIS has no record of this crew change? Can the minister also explain why, if this nuclear submarine surfacing and crew change was, as the minister suggested in his answer to my question in August, 'processed and approved in accordance with strict conditions', the incident is not mentioned in the Department of Defence annual report, released this month, on the monitoring of nuclear powered warships to Australian ports? Finally, can the minister assure the Senate that there exists a firm agreement between the Commonwealth of Australia and the United States obliging the United States to notify the Australian authorities in the event of any radiation leaks on board one of their nuclear vessels whilst it is in Australian waters?

**Senator HILL**—I expect it was not referred to as an incident because it was not an incident. As I said, I expect it was a training exercise. In relation to AQIS, if I take into account my recent experiences with Operation Crocodile then AQIS, Customs and other Australian agencies are involved where necessary and the United States cooperates with them. The answer to the third question is: if there was an incident then I would be confident that the United States would draw it to our attention.

#### **Health: Blood Products**

**Senator MOORE (2.45 p.m.)**—My question is to Senator Patterson, the Minister for Health and Ageing. Can the minister defend findings in the Australian National Audit Office report released on Thursday, 28 August 2003 that, in managing the plasma fractionation contract with the Commonwealth Serum Laboratories, her department showed 'a lack of appreciation of the nature of analysis required to underpin adequate advice to the Government'? Can the minister further defend her department's belief that 'it did not

even have to establish the best value for money ... before making its recommendation'? What assurance can the minister give that her department is competent to continue to administer the billions of dollars of taxpayers' money?

**Senator PATTERSON**—The national blood management system is not necessarily just the responsibility of the Commonwealth. One of the issues in the review that was undertaken was that we needed to set up a National Blood Authority to actually be able to address the issues raised in the audit report. As is often the case, because the Australian National Audit Office begins an investigation the department is made aware of issues. This happened when I was in opposition when I was looking at audit reports: by the time the audit report came down, a number of the issues had been addressed because the department was working in conjunction with the auditors.

Under our leadership, we now have a National Blood Authority which is going to improve significantly on what is already most probably one of the best blood systems in the world, and it is important to understand that it is the responsibility of the Red Cross, the states and the Commonwealth. I think it has been an enormous improvement that we now have a National Blood Authority led by the former chief medical officer, Professor Smallwood, to ensure the safety of our blood supply system and to ensure that we have sufficient supplies of products like recombinant factor. A number of the issues raised in the Auditor-General's report have been responded to. It is always an issue that the department can do better. I believe it is important that the Auditor-General looks at a department to see what they are doing. I am sure the department will respond in due course in those areas we have not yet responded to.

**Senator MOORE**—Mr President, I ask a supplementary question. Has the minister any defence for the department's actions in relation to the contractual relations with CSL making multimillion dollar decisions about the future of plasma fractionation services without any consultation with CSL? Isn't this yet another example of the minister's total incompetence in the administration of her department?

**Senator PATTERSON**—I have nothing further to add.

#### **Transport: Alice Springs to Darwin Railway**

**Senator FERGUSON (2.47 p.m.)**—My question is to the Minister representing the Minister for Industry, Tourism and Resources, Senator Minchin. Will the minister inform the Senate of the benefits for South Australia, the Northern Territory and other areas of Australia generally from the impending completion today of the Alice Springs to Darwin railway link?

**Senator MINCHIN**—As those on our side know, Tuesday was a very historic day for Senator Ferguson because he turned 60, and today, as he noted, is a very historic day for the nation because as we speak the final weld linking the existing Adelaide to Alice Springs railway with the newly constructed \$1.3 billion railway line from Alice Springs to Darwin is actually taking place in Alice Springs. As you would all know, the completion of this Adelaide to Darwin railway line is the culmination of a dream which has been held by many in this country for over a century—to finally build a north-south transcontinental railway. This is one of the biggest national infrastructure projects completed in this country since the commencement of the Snowy hydro scheme more than 50 years ago. Most pleasingly, about 7,000 direct and indirect jobs have been created during the construction of this great project, and due to

the great work force that it has employed it has been completed almost six months ahead of schedule.

Governments of all persuasions have been talking about building this railway for some 100 years. Indeed, Bob Hawke proudly boasted in the 1983 election campaign that only a Labor government could be trusted to build the Alice Springs to Darwin railway line—just like the promise that only a Labor government would eliminate child poverty. Those two great promises made by the former Labor government were broken. The particular promise to build the Alice Springs to Darwin railway line was broken as soon as the Hawke government came into office in 1983, and it has taken three Liberal governments to make sure that we deliver on that great promise.

The Howard government has contributed \$191 million to this project, and this is the reason why it has been able to be completed. It would not have been built without that commitment. We have also donated to the Tarcoola to Alice Springs line, with a replacement value of \$400 million. The former Olsen Liberal government in South Australia committed over \$150 million, and \$165 million was committed by the former Burke Liberal government in the Northern Territory. I do want to pay particular tribute to former senator and former SA Premier John Olsen, who did play an integral role in making sure this project succeeded. Without him, there would not have been the commitment from all three governments to make it possible.

Indeed, as a South Australian senator I join with Senator Ferguson in saying that this is going to be hugely important to our state and to the Northern Territory. More than \$1 billion worth of contracts have been let to companies in the Northern Territory and in South Australia, and the consortium is spend-

ing 75 per cent of the project's cost in the Northern Territory and in SA. Most particularly in my role as a former resources minister, I think the critical importance of this project is opening up the middle of Australia to the potential for great resource projects that will have available to them this north-south transcontinental railway line as a transport source for mineral developments in that region and as another alternative for freight from Australia to Asia. In terms of the passenger traffic, the consortium has already sold over \$6 million worth of tickets on the *Ghan* between Adelaide and Darwin, so it looks like being an enormous success from that point of view. I look forward to joining other senators in catching the inaugural *Ghan* in February 2004.

#### **Health: After-Hours Services**

**Senator STEPHENS** (2.51 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. Is the minister aware that on the New South Wales Central Coast recently a woman who was sick with pneumonia was told by the Munmorah Medical Centre that the doctor would not come to treat her at night unless she had \$58.80 to pay up front? Is she also aware that at San Remo in New South Wales, where there are more than 8,000 people living without a GP, a single mother on a disability pension recently paid \$110 before a doctor would come to her home to treat one of her children who had chicken pox? How is the minister going to address these increasingly massive call-out fees charged by doctors and being paid by ordinary Australians?

**Senator PATTERSON**—Unlike Labor, who did absolutely nothing about after-hours services, we have rolled out a series of after-hours programs. We rolled out an after-hours trial in southern Tasmania where we now see doctors being called out 70 per cent less—that is call outs, not just phone calls—than

when the after-hours service was not there. I have announced \$6.5 million to expand that service across the whole of Tasmania. We have just announced \$14.5 million for the Hunter Valley to address the issue of after-hours services. There has been enormous cooperation there between the divisions of general practice to ensure that we reduce pressure on GPs and enable them to have some time out and a balance between family and work life. Labor did nothing. There is a current round out now—and I can go through them: we have had one in Townsville, one in the southern part of Adelaide, one in southern Queensland and I can go through program after program. Labor did nothing. In particular, they did nothing for doctors in rural areas.

If the Labor Party were to bring themselves into this century, and people did not have to pay the whole upfront fee, they could actually give the rebate to the doctor and the doctor could charge the gap. I do not know whether Senator Forshaw and others are saying that we should dictate what doctors charge. If that is what they are saying I would be very interested for them to go and have a chat to the AMA because they would be very interested in what you are saying. If they are saying that then they are saying that they can control doctors' fees. We cannot control doctors' fees. What we can do is increase the number of doctors on the ground in rural areas. We have spent \$562 million doing that. Labor did nothing about that. We have programs to address areas of work force shortage. Labor did nothing about that. We have a program to put nurses out to assist doctors. Labor did nothing about that. We have an after-hours service rolled out in many communities in Australia and we have another round being assessed at the moment and will be announced—

**Senator Forshaw**—Mr President, I raise a point of order. The minister has been going

for close to three minutes. The question was about the Central Coast of New South Wales. She has left Canberra, gone to Tasmania, and got to Queensland. Could you actually get her back to New South Wales and back to the question?

**The PRESIDENT**—You know as well as I do, Senator, there is no point of order. I cannot direct a minister how to answer the question. The minister has almost 1½ minutes left to answer the question.

**Senator PATTERSON**—I have a reasonably good memory but there are some other services north of Sydney. They do not always overlap right up the coast but the Hunter Valley is a perfect example of rolling out over a large area. You have to get doctors to cooperate and there are some doctors—and I have talked to them—who do not want to use an after-hours service. I cannot make them do that. But we have the program there and we have seen an enthusiastic group in Tasmania, the Hunter Valley and in some smaller areas north of Sydney. The other day I was in the Hawkesbury announcing another rollout of that service, which will be done in conjunction with the local hospital. Labor did nothing about after-hours services.

I am not going to take an example of an individual case. I listened to one of the senators on the other side who told me what an organisation had said the other day. They have written and said that they did not say that. So I will not listen to individual cases. Senator Vanstone has also learnt that when the other side puts up individual cases sometimes they cannot justify or qualify them. Labor did nothing about after-hours services. Labor did nothing to assist patients to be able to see a doctor after hours.

**Senator STEPHENS**—Mr President, I ask a supplementary question. I do not think the two cases I spoke about would get any comfort from the minister's answer. Given

that high doctors' fees are now the norm rather than the exception, given that bulk-billing rates have plummeted, given that families in rural and regional Australia are copping it the hardest, and given that it is getting worse, will the minister now guarantee the Senate that as Minister for Health and Ageing she will stick up for our world's best public health care system and strongly remind the Prime Minister that in 1995 he promised Australians that he would not touch Medicare? Or is the minister going to let the Prime Minister get away with another non-core promise?

**Senator PATTERSON**—What I am not going to let the Labor Party get away with is lying to the Australian public. We have brochure after brochure going out about the fairer Medicare package saying that if people earn more than \$32,500 they will not get bulk-billing. That is wrong, that is an untruth. It is absolutely atrocious that you would tell the Australian public that. You also told the Australian public that they have to pay \$20 to go and see a doctor. That is untrue. Why aren't you telling the Australian public the truth about what we are doing—strengthening Medicare? You have no policy, you have nothing to say and all you can do is misrepresent and tell the Australian public untruths.

#### **Education: Student Unions**

**Senator LEES (2.58 p.m.)**—My question is to Senator Alston, the Minister representing the Minister for Education, Science and Training. Minister, given that voluntary student unionism introduced in Western Australia in 1995 led to a drop in membership down to just 30 per cent of students and that many services then closed down completely, and given that all universities across Western Australia have recognised the complete failure of this move and have now reintroduced compulsory fees in order to restore important

services such as career counselling, provision of legal services, child care and a raft of sporting facilities, how does this government intend to fund all these services nationally if membership of student unions and the paying of fees is made optional?

**Senator ALSTON**—The basic proposition is that if people value a service they will pay for it. They do not need to be forced to hand over the money. There was a story in the *Age* this morning about the president of the Melbourne University Students Union and his deputy heading off overseas on a trip from funds accumulated by these sorts of schemes. If you compel students to pay money into a fund over which a small group has control, you get nothing like the quality outcomes that you get if people actually value the service and are prepared to pay for it. If membership declined, that tells you they were not getting value for money, and if they were not prepared to make voluntary contributions for the service then presumably they did not think it was good enough value.

Students should have the right to unhindered freedom of association and to choose the goods and services they want and the causes and organisations they support. Qualified individuals should be able to access higher education in publicly funded institutions without up-front fees. Australian students currently pay between \$100 and \$559 a year as a condition of enrolment. So it is a fairly simple proposition: if you are offering something that people want, they will pay for it; if you are not, they won't. I do not understand why you somehow think that you have got to—

*Senator Conroy interjecting—*

**Senator ALSTON**—I know it is a condition of applying for preselection for the Labor Party that you have to pay your membership fee to a trade union. That is slightly different, because you could never compete on

the open market and, understandably, it becomes quite a good value proposition. Coughing up a couple of hundred bucks a year for a lifetime ticket to do nothing—to sit over there and criticise governments without drawing up your own policies—is a very good deal indeed, and I can well understand that that represents value for money for those who could not get a job in the real world. For students who do have a number of choices to make, I would have thought it was only sensible that they should be allowed to decide what they want and how much they are prepared to pay for it.

**Senator LEES**—Mr President, I ask a supplementary question. Is the minister basically saying that only students who are wealthy, who have the ability to pay—indeed pay, I would imagine, quite a bit of money for some of these services that are provided—have a right to them? Is the minister's real problem here, and the government's real problem, the word 'union'? If we renamed the organisations to read student 'association' and perhaps took a leaf out of the book of some 16 universities that already allow an exemption from the membership of a union but do insist that the fees are paid so that all students are contributing to services, would that find some acceptability from the government?

**Senator ALSTON**—No, it is not as simple as that. It is not a question of unionism. We do not mind voluntary unionism, but compulsory unionism is a very different proposition.

**Senator Forshaw**—What about the bar association or the law society?

**Senator ALSTON**—The ACCC is quite rightly looking at injecting greater competition into a number of professional associations. They are not afraid of withstanding competition and nor should you be. But we know that that is your ideological commit-

ment. I want to assure Senator Lees that this has nothing to do with unionism; it has everything to do with whether people are prepared to pay for the service they get and whether it represents value for money. You cannot just run off and say that you imagine that fees are too high. If the service they are being asked to pay for is too expensive, then it ought to be reduced and the students understand that they will get lesser services as a result. But you cannot have someone determining what fee is paid and how that money is spent without the students having a meaningful input. (*Time expired*)

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

**QUESTIONS WITHOUT NOTICE:  
ADDITIONAL ANSWERS**

**Foreign Affairs: Indonesia**

**Senator Hill** (South Australia—Minister for Defence) (3.03 p.m.)—On 15 September Senator Stott Despoja asked me a question regarding the Tanjung Priok incident in Jakarta in September 1984. I can now provide some further information. On 15 September 2003 the Indonesian Ad Hoc Human Rights Tribunal commenced hearings into the incident. On the first day of hearings, 11 officers were charged in relation to the incident. Major General Sriyanto was not among those charged. In any event, whilst not wanting to understate the significance of the incident, being charged is not a finding of guilt. The matter will be kept under review.

**Defence: Health Services**

**Senator Hill** (3.04 p.m.)—On 11 September 2003 Senator Marshall asked questions relating to the process of outsourcing health services in Victoria. I undertook to find out what the cost of the process had been to date. I am advised that an accurate cost of market testing ADF health services in Victoria is not available at this time because

the Defence personnel involved have been working on a number of projects concurrently. I am also advised that the estimated cost of market testing ADF health services in Victoria, including the full cost of uniformed and APS employees, is approximately \$3 million. The Commonwealth is considering its position in relation to the recovery of costs from Mayne Health and has sought legal advice on this matter.

**Defence: Funding**

**Senator Hill** (3.05 p.m.)—On 11 September 2003 Senator Crossin asked questions relating to Army combat clerks and storemen at bases around Australia. The matter had not previously been brought to my attention nor to the attention of Minister Vale as the minister responsible. ADF salary and allowances are set by the independent Defence Force Remuneration Tribunal established in 1984. I have been advised that, following a restructure of the infantry trades in 1996, the DFRT approved pay group 3 for infantry clerks and storemen, while rifleman trades were approved at pay group 4. Through an administrative oversight, clerks and storemen were not delinked from the infantry trades and they were paid at the higher level approved for infantry trades. The DFRT is expected to hear a new case in December this year. The matter will be further addressed at that time.

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

**Medicare: Reform**

**Senator STEPHENS** (New South Wales) (3.06 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Health and Ageing (Senator Patterson) to questions without notice asked today.

This afternoon I would like to reflect on the answers given to the Senate by Senator Patterson about the very important issue of the

future of the health system of Australia and, in particular, her responses to the questions about Medicare, bulk-billing and the shortages of doctors in rural and regional Australia.

This afternoon we saw an extraordinary performance from someone who has learnt the art of doublespeak. When we hear from the Prime Minister and he says, 'Never, never,' of course he means: 'Whenever I can.' When he says, 'We absolutely guarantee,' he means: 'Don't hold your breath.' When he says, 'I don't believe we're facing a crisis,' as he recently did on radio 2GB, he means: 'I always said I was going to get rid of Medicare, and this is it.' And when he rules it out, he is definitely ruling it in. So when he praised the minister's performance the other day we know he means to get rid of her. He certainly ordered the word 'bulk-billing' to be deleted from the government's vocabulary. He campaigned on a slogan 'For all of us'—and we know that Medicare is intended for some of us. He told us that changes were to protect bulk-billing and make health care more accessible, but he really means that bulk-billing will collapse and Australian families will struggle to access basic health care.

The facts are there for everyone to see. There is no disputing the figures from the minister's own department: bulk-billing rates have declined by more than 12 per cent under this government, whereas bulk-billing rates rose every year under Labor. They have plummeted by the 10 million GP services each year that were bulk-billed under a Labor government but that are now being paid for up front by ordinary Australians. I travel all over New South Wales and I hear the same stories. There are fewer and fewer doctors offering bulk-billing, and the average copayment charged for a visit to a non bulk-billing GP is now more than \$13. There are many practices where that copayment is \$20

or \$25 and I have heard of one case where it is \$40. After-hours consultation costs are horrendous. In some cases, such as the one I mentioned today in question time, we have heard that people are being charged more than \$100. How do you think a distressed parent with a child having an asthma attack in the middle of the night or with a raging fever responds to the notion that a doctor will not come unless they can pay an up-front fee like that?

What we have before us in the government's A Fairer Medicare package is a recipe for an entrenched two-tiered system where, as is always the case with this government, families in the middle get squeezed. Families and those not entitled to a health concession card or pharmaceutical benefits assistance will pay and pay. We have had evidence to the Medicare inquiry where people have told us that they have had to make the most diabolical choices: do I go to the doctor or feed the kids; do I pay the doctor, knowing I cannot afford the medication; do I hang on for a few days and see if I am going to feel better; do you think this pain in my chest might go away? This is not what Australians want from a health system. Senator Patterson has admitted that. 'It is not the package that I originally would have wanted,' she said.

Under the Howard government's so-called Fairer Medicare package, bulk-billing will be available to concession card holders—no one else. How could that be described as fair, either for the paying patients who have to have money in their pockets before they can visit a GP or for the concession card holders who can easily find themselves moving to the end of the queue—and we have heard examples of this happening in Victoria—and only being fitted in when the paying patients have been attended to? The government's package means that only those who can afford to pay up front can afford to get sick. Those who struggle to get by, ordinary de-

cent working Australians who pay their Medicare levy and their taxes, will feel like second-class citizens if this legislation is passed. Shouldn't people have access to the best medical care we can afford when they need it? Under Senator Patterson's plan they will need to keep their wallets well stocked just in case of an emergency. Health care costs have increased by 7.2 per cent in the last 12 months according to the ABS, faster than any other CPI group, yet the senator insists that that is not going to happen. We know that it is and it will, and that is something Labor will not tolerate.

**Senator McGAURAN (Victoria)** (3.11 p.m.)—In rising to challenge the previous speaker, Senator Stephens, I know that the Labor Party seek to focus on health as something they think they can dent the government on as we enter an election year. But, in truth, the government welcomes any discussion with regard to the health area because we are in the very good position of having runs on the board. We have shown our hand, our reforms. When we entered government in 1996 we introduced in that year's budget the 30 per cent health rebate and we have introduced many other reforms since then, right up to this day, as Senator Patterson has properly outlined.

But we are yet to see the Labor Party's policy on health, even on the most fundamental question of policy on which they attack the government day by day: are the Labor Party or are they not going to abolish the 30 per cent tax rebate which amounts to \$750 million directly in the pockets of Australian families? Until they can come into this chamber and answer even that one single policy question, what shred of credibility have they got in the health debate? So we welcome any discussion on health. As I said, one of the first reforms this government introduced, against the opposition's will—they voted against it—was the 30 per cent rebate.

We came into government with a Medicare system under duress, with private health insurance collapsing to a dangerous point—and, if my memory serves me well, former minister for health Senator Richardson even benchmarked the crisis point for private health: it would be reached if it fell below 35 per cent. Private health uptake fell well below 35 per cent—I think it fell to below 31 per cent—so the government had to, as a necessity, introduce reforms to reverse that trend. That trend has now been reversed. I challenge the opposition and the next speaker to tell us what they are going to do with the 30 per cent rebate. I have heard interjections with regard to this; they are mixed and muddled. But I think, in reality, they are going to abolish that 30 per cent rebate. They should put that on the table if we are going to have an honest debate.

The government have also introduced other reforms to reverse that trend. To take the pressure off the Medicare system we have introduced Lifetime Health Cover. The government have also introduced many other incentives to get people back into the private health system so as to preserve Medicare. We are the best friends of Medicare. This line that the opposition trots out that we seek to undermine or even abolish Medicare is absolute rubbish. Every reform the government have introduced has been to preserve Medicare, to prop up Medicare, to take the pressure off the public health system and the hospital system.

Senator Stephens—and, no doubt, speakers following will do this—dragged across the red herring of bulk-billing. This is somewhat of a red herring, at least within the city metropolitan areas, because well over 80 per cent of pensioners over 65 years of age and low-income people receive bulk-billing. Yes, there is a problem in the country areas, but that is directly related to a shortage of doctors. The government have introduced incen-

tives through the A Fairer Medicare policy to address that, but that is not going to happen overnight. It is very much a cultural problem to get doctors back into the rural and country areas, into the bush—a term I like, which I know many of my country constituents do not, but I cannot help it; it is such an Australian term. It is very much a long-term policy. We have introduced a number of issues—*(Time expired)*

**Senator MACKAY (Tasmania)** (3.16 p.m.)—Early this week in the chamber Senator Barnett took issue at some work that Michelle O’Byrne has been doing in her electorate of Bass in my home state of Tasmania. I notice that Senator Barnett is not in the chamber contributing to this debate—he is in fact the deputy chair of the Senate Select Committee on Medicare—but I did see him giving some instructions to Senator Colbeck before he left, and I am sure Senator Colbeck appreciates the instructions he got. Michelle O’Byrne said that John Howard wants to destroy Medicare, and Senator Barnett said that that was nonsense. Let us have a look at what John Howard has said for himself about Medicare. John Howard has threatened to ‘pull Medicare right apart’ and to ‘get rid of bulk-billing’. He has described bulk-billing as ‘an absolute rort’. That is not us saying that. It is the Prime Minister of Australia saying that.

**Senator McGauran**—Mr Deputy President, I raise a point of order. Are we to believe the direct quotes of the speaker? Those quotes have not been dated. She said that they are attributed to the Prime Minister, John Howard. I would ask her to put a date on those quotes, and she knows very well that, whatever the truth of those comments, they have been repudiated.

**The DEPUTY PRESIDENT**—There is no point of order. That is a debating point, but I will pass it back to Senator Mackay.

**Senator MACKAY**—I will provide the sources to Senator McGauran; in fact, I will table them later on today if he would like. Actually, I was quite surprised to hear Senator Barnett on Monday speaking about bulk-billing, because I thought, as does Senator Stephens, that bulk-billing was now a proscribed set of words and that John Howard had ordered them to be deleted from the government’s lexicon. I hope Senator Barnett does not face disciplinary action from his leader over this—but, then again, John Howard is not all that strong in enforcing his own rules, is he? It seems that the government, in particular John Howard, has belatedly realised that the people of Australia do want Medicare.

**The DEPUTY PRESIDENT**—Order! You should be referring to the Prime Minister as Mr Howard or Prime Minister Howard.

**Senator MACKAY**—Thank you, Mr Deputy President. They want a system that provides access to health care for everyone irrespective and regardless of their ability to pay. That is what the people want. So now we have Mr John Howard and Senator Barnett trying to convince the Australian people that they do want Medicare and that they even want the B word—bulk-billing. Honestly, they do—John Howard has said they do. They want it so much that they have introduced a package that has been described by practically everyone who has looked at it as a complete failure which will do nothing to restore bulk-billing rates and will only result in a less equitable system.

Senator Barnett is good at bandying figures around. He is certainly not bad at doing the numbers—we see that at the moment in Tasmania—carefully selected to conceal the truth. However, I am not sure he always gets them right. He said on Monday that, in the six years to 1996, under Labor the gap charge rose at a higher rate than for the six

years from 1996 under Mr John Howard. I have had a look at the Medicare figures and it seems that from 1989-90 to financial year 1995-96 the charge went from \$6 to \$8.32, a rise of 39 per cent. We have an average gap now of \$13.24, a rise of 59 per cent since this government came into office. I say to Senator Colbeck, since Senator Barnett is not here, that in my maths book 59 is a much bigger figure than 39. Let me tell you where I got the figures from. They are the June 2003 figures from the Department of Health and Ageing's Medicare statistics and also sourced from the HIC.

As well as getting his sums wrong—but we do concede he is not bad at doing the numbers—there are a few other figures that Senator Barnett missed out. He forgot to tell the chamber that Tasmania has the second lowest bulk-billing rate in Australia and that the bulk-billing rate of GPs in Tasmania since Labor left office in 1996 has fallen from 66.2 per cent to 54.9 per cent. That is a 17 per cent drop.

What are the people of Bass, who Senator Barnett seems so keen to shield from this information, saying about their access to health care? If Senator Barnett had read the submissions to the Medicare inquiry, of which he is the deputy chair, he would know what they are saying. I do not have time now to quote from them but I would be happy to provide that information to Senator Julian McGauran if he wants. The Liberal package to save Medicare is a failure because ideologically Mr John Howard has already indicated he is opposed to bulk-billing.

Labor is not opposed to it. Labor believes in Medicare. Labor has a package that will save Medicare. So I say to Senator Barnett, putative government minister in the Senate, in concluding my remarks, that we do not really care whether it is Senator Abetz or Senator Barnett who is No. 1 on the Senate

ticket. We are quite happy with either of those. We would like to make them de facto members of the Labor Party campaign committee in Tasmania. But, whatever the government does, we would request that you do not promote Senator Colbeck, because he actually does not do a bad job.

**Senator McGauran**—The kiss of death!

**Senator COLBECK (Tasmania)** (3.21 p.m.)—That is exactly right, Senator McGauran, the kiss of death. There is no pressure at all—thank you, Senator Mackay. Senator Mackay speaks as though there were no problems at all with the health system when Labor left office—that it was A-okay. She was just talking about figures that were dropping. She obviously did not mention the private health insurance figures which were plummeting under Labor—in fact they were in free fall—and finished at an unsustainable 30.1 per cent when Labor left office. The figures have now climbed to 43.4 per cent, and that has taken enormous pressure off the public health system, through the use of private health and the private health system, and made much more finance available for the operation of the public health system.

Mind you, having the states strip beds out of the public hospital system at an alarming rate is having a very negative impact, and a very concerning impact, on the accessibility of the public health system. Waiting lists all around the country are rising due to accessibility issues. This is one of the things the Howard government is looking to see: a health system that provides access. Labor was all about stripping away the private health system.

Senator Stephens quoted from people in her area looking to access the health system. I will put on the record some quotes about how people feel about the 30 per cent health rebate. Senator McGauran mentioned the fact that that particular element of the health

system is under threat from Labor. Labor have not said that they will keep it. In fact I think it is quite realistic to suggest that Labor will get rid of the 30 per cent health rebate and, I would have to say, that would be much to their detriment. This is what some people think about the private health rebate. One person from Queensland has said:

I am a single mortgagee on a low income. I have already stopped payment on my personal income protection after 10 years due to the fact that I could not afford it together with my private health cover. I will not give up my private health cover after witnessing what happened in particular to my father at a public hospital.

Another person has said:

Please do not abolish the 30 per cent rebate. I feel strongly that it is an incentive for us to continue to have medical insurance instead of relying on the already overcrowded and long waiting lists in public hospitals for treatment and other medical attention.

It is quite clear that people value the private health system and the Howard government's 30 per cent rebate that supports it. Another person said:

We are aged pensioners that are battling to find the premium for private health cover as it is now. If we had to pay 30 per cent more we would have to join the queue at public hospitals. If we developed something serious we would probably die before we were seen by any kind of specialist due to future governments wanting a health system to be more overcrowded than it already is, with years waiting for treatment.

There is absolutely no doubt that the private health rebate is something that is very much valued by the Australian community, and Labor should be prepared to say quite openly and quite freely whether or not they are going to get rid of it. They have been totally silent on that and it is quite reasonable in respect of that silence to consider that they will get rid of the 30 per cent private health rebate. If they do, you will see the participation rate plummet to the levels that they were

when Labor were last in office and this will make the private health system completely unsustainable.

Today Senator Patterson mentioned several things that the government had put into place to assist the health system. One of the things that I have seen particularly in Tasmania in my area on the north-west coast is the Rural Clinical School, which has been designed to encourage doctors to train in rural and regional areas. It is highly valued not only by the trainees that are there but also by the communities. It is placing training professionals into regional areas—(*Time expired*)

**Senator DENMAN (Tasmania) (3.26 p.m.)**—I rise to take note of the answers given by Senator Patterson. In 1995 Mr Howard told Australians:

We absolutely guarantee the retention of Medicare. We guarantee the retention of bulk-billing.

Yet now in 2003 the Howard government's proposal for A Fairer Medicare seeks to undermine the entire Medicare system. Prime Minister Howard's plan does nothing to halt the falling rates of bulk-billing, particularly in rural and regional areas such as the north-west coast of Tasmania where both Senator Colbeck and I live. It does nothing to encourage GPs into rural areas. It does nothing to address the critical shortage of nurses in these areas. On the north-west coast we have a very high unemployment rate and a high proportion of working poor, most of whom are one-income families. People on the north-west coast are severely disadvantaged by the breakdown of the Medicare system under the Howard government and the demise of bulk-billing in particular.

Since the Howard government came to office in 1996, Tasmania's bulk-billing rate has decreased by 17 per cent to 54.9 per cent. Almost half of Tasmanian GPs do not bulk-bill. The two-tier system proposed by Mr

Howard means that any family earning over \$32,000 a year will not have access to a health care card. The Prime Minister's plan means that these working poor will increasingly be forced to weigh up whether to go to the doctor or to put food on the table.

Very recently I had a phone call one evening at home from a woman who had been to the doctor that day with her husband and three children. They were from a single-income family. They all had the same viral infection and, because they had to pay up front fees to the doctor, they could not afford the medication. So she phoned me to see whether there was anything that we could help her do about that.

As it stands, these Tasmanians cannot afford GPs because of the lack of bulk-billing and a rise in the cost of a visit to a GP. That means worse health outcomes as people put off visiting the doctor. In some cases it means higher costs as people wait until the condition is serious enough to take them to a hospital emergency room, putting further pressure on the public system—and our public system on the coast is very stretched because of this. This is compounded by the GP shortage in Tasmania due to some GPs retiring because of the medical indemnity crisis.

The doctor-patient ratio in Tasmania is now over 1,000 patients per doctor, which means doctors are overworked and patients cannot get access to the treatment they need. Labor believes that all Australians should have access to health care when they need it, regardless of their ability to pay. How does Labor plan to fix the damage the Howard government has done to Medicare and defend bulk-billing rates from more attacks? We have announced a \$1.9 billion package to reverse the collapse in bulk-billing by lifting the patient rebate rate for bulk-billing for all Australians, no matter where they live or how much they earn.

Doctors in rural and regional areas will receive an additional \$22,500 each year for bulk-billing 70 per cent or more of their patients. We will provide GPs in the areas that need them, particularly in rural and remote areas, and more nurses to assist GPs in their work. Labor will deliver a \$5 increase in the rebate for bulk-billed consultations. Australians know that Medicare is the best health care system in the world. They will not be fooled by the government's pretended commitment to Medicare. Labor built Medicare; Labor believes in Medicare and only Labor has a plan to save Medicare.

Question agreed to.

#### MATTERS OF URGENCY

##### Indigenous Affairs: Children

**The DEPUTY PRESIDENT**—I inform the Senate that I have received the following letter, dated 18 September, from Senator Ridgeway:

Dear Mr President,

Pursuant to standing order 75, I give notice that today I proposed to move:

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

The requirement for the Australian Government to act to ensure that it is meeting its obligations to Indigenous children under the Convention of the Rights of the Child, given that the UN Committee on the Rights of the Child is holding a general discussion on the rights of Indigenous children on Friday, and the Committee has identified Indigenous children as a group which most suffers from discrimination and which is confronted by various forms of violence both in the home and in society at large.”

Yours sincerely,

Aden Ridgeway

SENATOR FOR NSW

Is the proposal supported?

*More than the number of senators required by the standing orders having risen in their places—*

**Senator RIDGEWAY** (New South Wales) (3.33 p.m.)—I move:

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

The requirement for the Australian Government to act to ensure that it is meeting its obligations to Indigenous children under the Convention of the Rights of the Child, given that the United Nations Committee on the Rights of the Child is holding a general discussion on the rights of Indigenous children on 19 September 2003, and the Committee has identified Indigenous children as a group which most suffers from discrimination and which is confronted by various forms of violence both in the home and in society at large.

This is a particularly important moment, given that the UN Committee on the Rights of the Child will be holding their global discussions tomorrow about Indigenous children all over the world. I think it is timely that we deal with these issues, particularly in the context of what we are doing here in Australia—that is, reflecting upon some of the circumstances of young Indigenous children in this country as they relate to questions of them suffering discrimination and the various forms of violence they are confronted with as well as the requirement of the Australian government to act to ensure that it is meeting its obligations under the Convention on the Rights of the Child. This being the case, we do need to ask ourselves and the government whether Australia is indeed meeting its obligations in relation to that convention.

As I have mentioned on a number of other occasions, Australia's Indigenous population contrasts significantly with the rest of the population. Of the 410,000 Indigenous Australians, it is important to keep in mind that about two-thirds are under the age of 25 and about 40 per cent of those are under the age of 15. So we have a very young population and I think that exposes young people to a range of circumstances that need to be dealt

with somehow. That fact alone means that every effort must now be made to ensure that, over the decades to come, the inequalities between Indigenous and non-Indigenous people do not widen any further; otherwise, further generations of Indigenous Australians are likely to face a severe lack of life opportunities as adults. I think that, if nothing else, the statistics are obvious in making a call for the government to respond appropriately in looking at the circumstances of young Indigenous children.

The UN Committee on the Rights of the Child has identified Indigenous children as a group that suffers from discrimination in relation to most rights enshrined in the convention and regularly calls on states to fulfil their right to enjoy their own culture. According to article 30 of the convention, an Indigenous child:

... shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

The other significant parts of the convention relate to non-discrimination; the best interests of the child; the right to life, survival, and development; and respect for the views of the child. The convention obliges parties, including Australia, to prevent discrimination against Indigenous children, to recognise cultural specificity of Indigenous children and requires states to provide them with special protection in order that they are able to exercise their rights and enjoy their own culture, language and religion.

Generally, these issues amount to equality. The term 'equality' means a situation where Indigenous people enjoy all of the rights and privileges that the rest of the population currently enjoys. Improving the human rights of Indigenous children is not merely about formal equality; it is about outcomes and can only be measured by the end product—that

is, whether Indigenous people do actually enjoy all of the rights and privileges that are enjoyed by the rest of the population. The simple answer at the moment is no. If we are going to turn the situation around, one of the things that the government must do is take a leadership role and be accountable for addressing the human rights concerns surrounding Indigenous children.

It is true to say that Indigenous people, across every measurement of socioeconomic status—wellbeing, age, geographical circumstances and gender—are severely and disproportionately disadvantaged when compared to the rest of the population. This disadvantage is a human rights issue. Much of it is historically derived through institutional as well as overt discrimination. Whilst I do not want to go to the raft of depressing statistics concerning Indigenous Australians, there are a number of the features of Indigenous life which have a profound effect on the livelihood and the human rights of Indigenous children. Take living standards alone. A survey in 2001 revealed 56 Indigenous communities where water testing had failed. There were nearly 1,000 communities that were not connected to the state grid electricity and another 1,000 communities with septic or other non-town sewerage systems. These issues, as well as the high infant mortality rate and low birth weight, create further health problems for Indigenous children.

Education is another item on the governments 'practical reconciliation' agenda. Not only are the participation rates for Indigenous children far lower than the rest of the population at all levels of education; but in the Northern Territory alone it has been estimated that around 5,000 Indigenous children do not have access to secondary education, with the closest schools being at least two hours away. I think that is appalling. If those 5,000 children were here in Canberra, or in any of the states on the Eastern sea-

board, the situation would be seen as a crisis and would not have been allowed to occur.

In relation to child protection, Indigenous children are overrepresented in the children's care and protection systems across Australia, at over three times the non-Indigenous rate. Indigenous children are placed under care and protection orders and in out-of-home care at six times the non-Indigenous rate. As Indigenous children get older, before they become adults, they may encounter the juvenile justice system. Indigenous juveniles now make up 43 per cent of all juveniles in detention, despite comprising less than four per cent of the total juvenile population. This is an overrepresentation and is 20 times the non-Indigenous rate.

At present there are many strategies aimed at trying to overcome these problems, but we have to ask whether they are addressing or ignoring the human rights of Indigenous children. For example, in Western Australia the Premier recently announced that a curfew would be imposed on children who were not home by 10 p.m.—children found in the streets after this time would be detained. This move followed a high speed car chase involving Indigenous youth and a stolen car. Tragically, a 12-year-old boy was killed. This strategy is not targeted specifically at Indigenous children, but in Northbridge, where the curfew is in place, it is likely to affect a higher proportion of Indigenous children. It is a reactionary, quick fix solution to what is a very complex problem. While on the surface these types of strategies have widespread appeal in terms of cheap law and order politics, any government that was serious about trying to address these issues would focus on the causes rather than the symptoms. Other notable policy and human rights failures include mandatory sentencing laws, drinking bans in Indigenous communities and, most notably, policies etched into the

government's practical reconciliation framework.

The various strategies that do not respect the human rights of Indigenous people focus instead on individual responsibility and are based on the view that, because the many legal or visible barriers to equality are no longer in place, this equates to equality itself. While I agree that individuals should take responsibility for their actions and that parents should take responsibility for their children, the government needs to realise that, as well as being individuals, children are also members of families, and families are members of communities. An emphasis needs to be placed on strengthening these families and communities and taking a proactive approach that promotes and respects Indigenous human rights. As well as taking a proactive approach, the need for a holistic approach has been advocated, at least in the last 30 years, and particularly since this government came to power. So in negotiation with the aspirations of Indigenous people and in conjunction with governments at all levels, this government has to make a more concerted effort to progress strategies to build a better future for Indigenous children.

The government cannot shy away from the types of problems I have talked about and must step forward and show strong leadership on these matters. It is not enough to say that funding is being increased if there is no commitment to be accountable for where it is going. I would say, however, that leadership will require smarter funding because it is not always necessarily a question of more resources and making sure that targets are set and goals are being achieved. This issue is being dealt with through the COAG process in the context of looking at national benchmarks and standards. I have some concerns about that as a result of evidence put forward in an inquiry being conducted by the Senate. The process of looking at benchmarks and

standards is not about creating the incentive of setting goals to be achieved, but about evaluations after the fact. We will always have a hit-and-miss approach in trying to respond to what is a crisis within Indigenous communities, especially for children.

Further spending on bandaid solutions to complex problems is doomed to fail. That is the message the government needs to hear. Unless the government hears these calls, the situation for Indigenous children, both current and future, will be fraught with further difficulties and relations between Indigenous and non-Indigenous are likely to deteriorate.

**Senator JACINTA COLLINS (Victoria)** (3.42 p.m.)—I am very pleased that Senator Ridgeway has turned our minds to the Convention on the Rights of the Child. Childhood violence has received a lot of press coverage recently. Tragic deaths and violence to children are occurring with, on some occasions, several children involved. To take a step back, it was the Keating Labor government that signed the convention in January 1991. Labor has always, and will always, put the needs of working people and of the less advantaged at the forefront of the political agenda. Indigenous children are one of the most disadvantaged groups in our community. Senator Ridgeway referred to some of the statistics. I also note that we have seen over and over again the data in reports and the press consistently repeating that there is a massive overrepresentation of our Indigenous community in the juvenile justice system. This must continue to concern us.

Today's UNICEF report highlighted that poverty and stress, drug and alcohol abuse and poor levels of education were major triggers for child abuse and neglect and that biological parents were the abusers in 80 per cent of cases. In Indigenous communities, the poor levels of education are a significant contributing factor to all levels of abuse, in-

cluding child abuse. The poor level of education in Indigenous communities was evidenced in the report to the Senate in March 2000 of the inquiry that I chaired into the effectiveness of education and training programs for Indigenous Australians. This report, back in 2000, demonstrated the appalling levels of education in these important communities. But the more concerning issue was that, whilst there had been some progress in relation to, for instance, year 12 retention rates and school participation rates amongst 16- and 17-year-olds, further progress appears to have slowed or stalled in more recent years. This is one area where, because of the significant differences and discrimination between Indigenous communities and the broader Australian community, we need to continue to make significant advances. We cannot afford to stall progress in these areas.

This is where we come to Senator Ridgeway's point about leadership. A report released on 3 September by Families Australia highlights the point very well. It presents a case for Commonwealth investment and national leadership in the prevention of child abuse and neglect. In his discussion, Senator Ridgeway also referred to the problems with care and protection orders and the report that the rate of Indigenous children on orders was 5.9 times higher than the rate for other Australian children. There were 4,263 Aboriginal and Torres Strait Islander children in Australia on care and protection orders in June 2002. Any number is too many, but this number needs to be dealt with.

It is helpful, though, to refer back to the convention and its focus on our commitment to each child. The convention stresses 'each child' and that we should be providing for their development to their fullest potential. Article 30 specifically highlights attention to be paid to persons of indigenous origin. I

thank Senator Ridgeway for bringing our attention back to those issues today.

This morning, I reinforced—and I repeat it now—the fact that Labor are committed to the establishment of a national commission for children and young people to protect the rights of our children. This is relevant here. We agree with Families Australia that we need concerted national leadership in this area. It is not always a question of funding but rather a question of how that funding is distributed, the strategy behind it and the commitment behind it.

Labor are pleased to support this important matter of urgency, especially given that Australia signed the agreement so long ago. The United Nations Committee on the Rights of the Child has hit the spot. Indigenous children are a group who suffer from discrimination and are confronted by various forms of violence, both in the home and in society at large. Australia needs to clean up its act in this area. We need national leadership. I hope the Howard government will listen.

**Senator JOHNSTON (Western Australia)** (3.47 p.m.)—In rising to speak to Senator Ridgeway's motion, I commend the honourable senator for presenting this matter to the Senate. It is a matter of great importance and of urgency. In the brief time that I have available to me, I propose firstly to set out the tenor and meaning of the convention insofar as it is applicable to Indigenous children in Australia and then to set out what has been, and continues to be, done by way of government response.

I agree with Senator Collins that, given the long and troubled history of the rights of Indigenous children in our great country, there can never be a point when we say the job has been done. The Convention on the Rights of the Child applies to all children equally. The convention does, however, rec-

ognise indigenous children as specific rights holders as set out in articles 17, 29 and 30. These articles identify the rights of indigenous children with respect to such matters as culture, religion, language, education and information.

The committee overseeing the convention has a special focus upon the various forms of violence and abuse which confront indigenous children right around the world, both in their homes and in their communities. In Australia there are numerous issues confronting Aboriginal children which are often endemic and peculiar to the communities in which they live. My personal experience tells me that the main problems arise and relate to the following subject headings: domestic violence between parents, between siblings and between families; substance abuse such as petrol and solvent sniffing, drug abuse and alcohol abuse; and predominantly health issues such as diabetes, glaucoma and obesity on the one hand for some suburban dwelling children, or malnutrition for children in the more remote communities around our country. According to the Australian Institute of Health and Welfare, approximately 3,000 Indigenous children are found to have been abused or neglected each year, with Aboriginal children six times more likely to be removed from their families by welfare authorities for neglect or abuse than non-Indigenous children. That is a very sorry, sad and appalling statistic.

I pause to bring to the Senate my first-hand experience of the product of petrol sniffing, particularly in the central desert regions of Western Australia. This is not a subject that many people know about, and I am sad to say it is not a subject that many people really want to know about. When I first commenced work in Kalgoorlie in 1979, I instantly became aware of the problem when five Aboriginal boys died from drinking duplicating fluid at a settlement some

long distance east of Laverton in Western Australia. I have seen the end result of chronic, endemic petrol sniffing and the addictive and destructive practice that it is. Unfortunately, it irreversibly rendered the practitioners of this very sorry, sad and damaging pastime permanently brain damaged, as you would expect with the long-term ingestion of lead that is contained in most petrol, particularly in the 1970s and 1980s in Australia. These children are to be seen in the hospitals, courtrooms and community facilities around Western Australia, particularly, as I say, in the central reserve.

There is no quick fix solution to this problem. However, I am pleased to say that education within the communities has created a level of understanding which has enabled tribal and semitribal Aboriginal people to enact by-laws and educational programs for children—and when I say children I mean very young children, as young as two and three years of age. I have actually seen them sipping petrol as they walk around their communities. It is a most tragic, sad and sorry situation.

I drew the Senate's attention to the Gordon report from Western Australia, which is a significant signpost, a landmark decision that put forward some 197 recommendations, conclusions and findings. The state government of Western Australia has begun to respond to it, but I must say, without wishing to bring politics into it, that the response has been very slow. The inertia has been great. We are a year down the track and I must confess to not being able to see many things happening which have been recommended through the very good work of Sue Gordon and her landmark report.

What has the Howard government done with regard to these various issues? The last budget allocated \$2.7 billion to Aboriginal affairs, with a specific emphasis on young

Indigenous Australians. That amount is one-third more, in real terms, than what was delivered in 1996. The total cost of new initiatives for this financial year is \$110 million, payable over four years. This expenditure will yield 1,000 new CDEP employment places in remote communities. Of course, that is where the problem really lies. A package that provided assistance to universities and other higher education institutions in targeting services to Indigenous youth, called Backing Australia's Future, was announced by the Minister for Education, Science and Training, Dr Nelson. It provided \$10 million to the Indigenous Support Fund and inaugurated a scholarship scheme to financially assist Indigenous students to undertake higher and other types of education in their formative years.

More importantly, a longitudinal study has been funded. This study will track 4,000 Aboriginal children living in remote locations around Australia over the coming nine years, with the object of being able to benchmark where the problems lie and how we should begin to tackle them so we can more accurately target policies and programs with an expectation of more significant outcomes. I believe that study will be a significant first step in moving towards making good, sound, hands-on, roll up the sleeves policy decisions that will yield tangible results in terms of addressing Aboriginal domestic violence and child abuse.

Minister Ruddock announced that \$6 million will be provided for a flexible funding pool to support COAG governments in a whole of government approach to assist 10 Indigenous communities in the central reserve regions of Australia. The government has allocated a further \$19.7 million each year, commencing this year, to the Primary Health Care Access Program to improve individual health care systems in Aboriginal communities throughout Australia. That, of

course, is a very significant amount of money and will go a significant way towards assisting the health and wellbeing of young people.

*Senator Crossin interjecting—*

**Senator JOHNSTON**—That is just this year. I am talking about the most recent initiatives. These initiatives have been going on since 1996. For Senator Crossin, who was not here, I said we have increased the funding to \$2.7 billion this year, which is one-third in real terms more than we spent in 1996.

In June this year, the minister launched a practical resource kit designed to help Indigenous families and communities deal with family violence and child abuse, entitled *Through young black eyes*. This resource kit gives Aboriginal communities and governing councils within those communities good and practical tools for working towards preventing child abuse before it starts and showing people how to respond correctly when it does occur. Last month Senator Ruddock launched ATSIC's family violence strategy, which is a strong and determined partnership between government and ATSIC to show leadership in this battle. The strategy includes a well thought out and feasible long-term plan to arrest family violence. The plan is entitled the Family Violence Action Plan.

I must confess that it is crucial that Aboriginal people undertake these strategies themselves. It is not adequate to simply prescribe for them the way things should be. It must be hands-on from their point of view and the understanding must flow with it if we are going to be successful. Senator Crossin seems to have a number of simplistic solutions and wants to turn this into a political football. I am very saddened by that because I think this issue is well and truly beyond any political carping and point scoring.

In closing, the Prime Minister has undertaken directly, in a hands-on way, to approach this issue and to understand it. I am very happy to say that I am very confident that the government is on the right track in addressing what is a long-term, difficult problem. We are initiating a whole host of programs and accurately targeted, focused expenditures which, I am very pleased to say, I believe will yield a much better outcome than what has been achieved over the last 20 or 25 years. (*Time expired*)

**Senator CROSSIN** (Northern Territory) (3.57 p.m.)—I want to place on record recognition of Senator Ridgeway for bringing this before the Senate this afternoon. It is, I think, sometimes an issue that is within the conscience of most people in this country—that is, the plight of Indigenous people. But sometimes it does not get the due recognition and the spotlight that it deserves, as we can see particularly if we have a close look at what is happening with Indigenous children and Indigenous youth around this country. It is correct that the United Nations Committee on the Rights of the Child decided at its 31st session to devote its 2003 day of general discussion to the rights of Indigenous children. That is, in fact, due to happen tomorrow.

While the Convention on the Rights of the Child applies to all children equally, it is the first international human rights treaty to specifically identify Indigenous children as a group of rights holders. In 1993 the General Assembly proclaimed 1995 to 2004 as the International Decade of the World's Indigenous People. Tomorrow, as I understand it, there will be a number of matters up for discussion by the Committee on the Rights of the Child at the United Nations. One of those matters is going to concern the various forms of violence that Indigenous children may confront both in the home and in society at large.

Let us look at what is happening with Indigenous families and, in particular, Indigenous children. In 2001, the Australian Bureau of Statistics reported in the *Health and welfare of Australia's Aboriginal and Torres Strait Islander peoples* that Aboriginal and Torres Strait Islander children were more likely to be the subject of abuse, neglect or harm than any other Australian children. In 2000-01, in all jurisdictions except Tasmania, the rate for Indigenous children was substantially higher than the rate for other children. In Victoria, for instance, the rate for Indigenous children who were the subject of substantiations was nine times higher than the rate for other children. In Western Australia, it was 7.6 times higher and in South Australia 7.3 times higher. Indigenous children are severely overrepresented among children who are on care and protection orders or in out-of-home care. For example, in June 2002 the numbers showed that Indigenous children were 5.9 times more likely than other children to be on care and protection orders and 6.1 times more likely than other children to be in out-of-home care. In Victoria, Indigenous children were more than 10 times more likely to be on care and protection orders.

The rate of death from family violence in Indigenous communities was 10.8 times higher than that for the non-Indigenous population. Aboriginal women in remote communities were 45 times more likely to be the victims of abuse than other women. No doubt this impacts severely on the images in the minds of young Indigenous children, particularly when their mothers are involved. We know that family violence accounts for a staggering 63 per cent of all Indigenous homicides in Australia, compared to 33 per cent of non-Indigenous homicides over the same decade.

Our Prime Minister has recently discovered the plight of Indigenous people in this

country and has decided to do something about the situation regarding domestic violence in Indigenous communities. He has only recently allocated \$20 million to that. And this year an extra 1,000 CDEP places were to be used specifically to address Indigenous violence. Apart from that, in the seven years that this government has been in power, only \$6 million has been committed, through the Partnerships Against Domestic Violence initiative, to addressing family violence in Indigenous communities. We know that not all of those funds have been spent. As far as we can ascertain, the Howard government since 1996 has spent only \$6 million on addressing violence in Indigenous communities. This works out to a total of \$14.63 per Indigenous person that has been spent since this government has been in office. On an annual basis, that works out at just \$2.44 per Indigenous person.

Do not let me stand here and put up with Senator Johnston telling us how wonderful this government has been about addressing the plight of Indigenous families and, in particular, Indigenous children in this country. Let us talk, for example, about the Primary Health Care Access Program that Senator Johnston was boasting about just a few minutes ago. We know that this program has been on the books for the last four years, but we also know that not one Indigenous person in this country has got even a panadol out of it. They have not even had access to panadol—let alone has this government shown any sign of leadership and strength in moving this agenda along. This government is more interested in ensuring that its money goes into having lots of white people sitting around and deciding what is going to happen with Indigenous health in this country.

**Senator Ferris**—They might be the best qualified, Senator Crossin!

**Senator Crossin**—For four years, Senator Ferris, you have sat around the table with state and territory governments trying to decide who is going to share the power in this and exactly what is going to happen with this money. Indigenous communities are saying, ‘Set up health boards, give us the money and let’s just get going with this.’ To this day, not one Indigenous person has got a panadol out of the billions of dollars that you have put into the Primary Health Care Access Program. In fact, that money was supposed to see an increase in funds per capita, per region. It works fine in Central Australia, where you have fewer than 2,000 people per region. This government has decided that the extra funding for health is going to be in that program but that it is going to limit it to only 2,000 people per region. That works well in Central Australia because there are in fact 2,000 people per region. The country has been carved up into 21 zones.

But the government says, ‘Whoops! Sorry. There is a bit of a problem in the Darwin region because there are 9,000 people there.’ Is this government so committed to addressing Indigenous health for Indigenous people that it is going to make the bucket of money larger? No. When it comes to the Darwin region, the equivalent amount of money that is allocated to 2,000 Indigenous people in Central Australia is going to be squashed and shared amongst the 9,000 Indigenous clients. This is not about addressing the needs of Indigenous people. This is about continuing to use scant resources.

We know that Indigenous infants, for example, are twice as likely to be born underweight. We know that Indigenous children are at twice the risk of the national average of dying within 12 months of life. We are one of the most developed nations in the world. We have a high standard of living. Why is it, then, that in my electorate I continually see communities that are struggling

with Third World conditions? That is because we have a government with no leadership, no outlook and no positive forward thinking when it comes to Indigenous people. This government talks about practical reconciliation. Senator Ridgeway and I have been involved in a committee that is looking at the progress towards reconciliation. This government uses the term 'practical reconciliation' to mean raising the benchmark for Indigenous people to the common standard we all enjoy. Putting additional resources into assisting Indigenous people to get to the standard that you and I enjoy is not practical reconciliation; it is just ensuring those people have the standard and quality of life that you and I both enjoy.

This government is about ensuring that bureaucrats do not look beyond the boundaries, that there are still constraints placed on the bureaucracy. For example, let us take communities that have road funding. This government allocates funds for highways and the local government allocates funds for communities, and we continually hear about the squabble over who is going to pay for the road in between. That has gone on for more than 20 years in the Territory, as far as I am concerned. Once in a while someone needs to step outside the square, accept there is a problem, decide to put the funds towards it and fix it up. There is not strong and decisive leadership coming from this government. We know that two per cent of the population is Indigenous, so why does only two per cent of the health budget go towards them? If we were going to look at making life better for Indigenous children, we would ensure that was not the case. (*Time expired*)

**Senator FERRIS (South Australia)** (4.07 p.m.)—There are two tragedies in this issue: the first is the tragedy of these children and the second is the tragedy of bone-pointing about whose fault it is. It is not the fault of this government or that government or

ATSIC. The fact of the matter is there is not a person in this country who does not care about the tragedy of Indigenous children and what happens to them. Today Senator Ridgeway very eloquently outlined the tragedy of these children. There is not a person in this country who does not care about what happens to these children or how it is that these happy little children turn into tragic unemployed and unemployable adults who are not able to read, write, get a job or live a life where they have a reasonable expectation of health and happiness.

Everybody in their own way can tell a tragic story of the children in remote communities. I have driven to Darwin and have been to remote communities. I have gone out with the night patrols: the grandmothers and the Indigenous police workers who have been intervening—quite successfully, I might say—in family violence. I will never forget the sight on Mindil Beach in Darwin at midnight one night, when I went out with an Indigenous night patrol and we found beside a fire a tiny Aboriginal baby deserted by its parents, lying in the sand centimetres from a burning fire, alone, lying in the wind and wrapped in some rags. We took that child to a centre where Indigenous health workers cared for it.

I have sat with grandmothers in Indigenous communities. I have heard the stories of these elderly women who, at their age, can quite rightly expect to know that their grandchildren are going to be well looked after. They have seven, eight or nine grandchildren in their care because the parents are not able for one reason or another—sadly, usually substance abuse related—to care for those children. But for God's sake, let us not point the bone at this state government or that state government for being at fault.

I remember when ATSIC had to be dragged, kicking and screaming disgrace-

fully, to put some money into substance abuse and family violence programs—and that was not very long ago. It was during the period when Senator John Herron was the minister for Aboriginal affairs—not very long ago. ATSIC put a paltry amount of money into a family violence program. It was such a small amount of money.

The drug rehabilitation house that I work with in a voluntary capacity in Adelaide has programs for Indigenous substance abusers. We all know the issue. We all know the problem. But there is a wider issue here—not just the issue of funding. There is a greater question to be asked. As President of the Bennelong Society, three weeks ago in Canberra we had a conference which considered the question in relation to Indigenous communities: has the time come for us to in some way set programs in place to decide whether perhaps there are times when children need to leave those communities to get the health, the welfare and the education services that are available in the cities and the regional centres?

Just three weeks ago, one of the speakers—the Hon. Dr Gary Johns, a former Labor minister in this place—posed the question: are there issues related to those small, remote Indigenous communities that cannot be answered by simply providing more services, by trying to provide health, education and welfare services to 15 or 20 children who are very remote from areas where better services could be provided? Former Aboriginal affairs minister Peter Howson has written extensively on this issue. Former Indigenous community worker Chris Marshall talked about the problems of remote communities where he had been a worker. Gary Johns has touched on this issue in articles that he has recently published and in a speech which he gave internationally.

We unanimously raised the question: when do remote Indigenous communities become unviable for the children? Is there a point at which those 15, 20 or 25 children need to leave those communities? When do the basic services fall to such a level that those small communities can no longer function? For how much longer can we justify Aboriginal children growing up in those communities where the opportunities are so limited? Peter Howson eloquently said in his speech to the Bennelong conference that Aboriginal children have to be given choice. Education is the key to this choice. How do we deliver education to a remote community with little or no services? Former policies have removed this choice. It has been so difficult for some of those children to get access to education. The Australian government has put millions of dollars into these programs but, as Senator Ridgeway said today, money is not the only issue.

I have been to Cape York and have seen the programs up there. One of the things that I will never forget is funding that was given to young children in a remote community for football jumpers and an Indigenous footballer who went up there, took the time to put together a footy team and bought a football so those children could enjoy a sense of purpose and a sense of fun. That did not require much money; it required the commitment of those people and it required access to that community by someone who was prepared to spend the time.

Previous speakers here today have outlined the amount of money that this government has spent, that the previous government spent and that ATSIC is spending. It is not just about the money. It is about the priorities. It is about helping the grandparents. It is about helping those children learn. It is about their health, welfare and access to the services that the rest of us have. I am sure there is not a person here who does not care about

Indigenous children and is not as heartbroken as I am when I go to a remote community and see children sitting just outside of the camp sniffing petrol with rags wrapped around their wrists. You have an overwhelming sense of powerlessness about how to deal with that. This government is tackling that. We are trying; we are working with the communities. There is no point in playing politics on this. It is an issue for all Australians.

**Senator MOORE (Queensland)** (4.15 p.m.)—Thank you, Senator Ridgeway, for giving us the opportunity to focus our minds on this really important issue. Too often these issues are lost in the overall debate and caught in large and very voluminous reports. Most people in this place have been blessed by receiving reports which have key chapters on what the government is doing on Indigenous issues. Recently, I was part of the Senate Community Affairs References Committee inquiry into poverty and financial hardship. That committee travelled across Australia, talking with people from all backgrounds and from all parts of our community in Australia about the issue of poverty. We received, naturally, a detailed response from ATSIC, the body formed by a previous government to look at the political and social sides of Aboriginal governance in this country. They introduced their submission to us with the following statement:

Tackling Indigenous poverty is a fundamental issue facing all Australians, Indigenous and non-Indigenous, if the nation is to meet its obligations to ensure fair and equitable social, economic and cultural living standards for its citizens. No matter what facet of Indigenous disadvantage is considered, whether it is health, housing, educational attainment, alcohol and substance abuse, social dysfunction, over-representation in the criminal justice system, or unemployment, poverty lies at the heart of the issue.

We have heard in this debate about, and we have seen in reports, the statistical evidence. Those statistics are very important, and we have heard many quoted today. During the hearings of the poverty committee we were told to handle those stats with great caution because there are always questions about how stats can be used, how relevant they are and what they actually mean. Senator Ferris was able to point out in this debate what the statistics actually mean. In the way that Senator Ridgeway has phrased his motion, the focus here is on Indigenous children. The statistics we are talking about today are kids—kids who are facing a lifetime over which they must be in control and over which we must be not directional but supportive.

The core aspects of the UN Convention on the Rights of the Child—and there are many articles and many pages in that convention—are respect and life. Those are the arguments. Those are the issues for children. When you actually meet with Aboriginal children and Aboriginal families, what they are asking for is respect and life. How we actually work with the communities to attain that is the challenge. It is a challenge for all elements of government—local, state and federal—and we must be accountable for what we are doing to support that activity.

As we have said, and as ATSIC said in its submission to the Senate committee, the core issues are access and choice. Over the past three years, particularly in the past 12 months, there have been numerous public statements about the issue of violence in Aboriginal communities. I want to read a quote. It is quite lengthy, but I use it often because it sums up to me quite visually the kinds of confrontations we have when we are talking about Aboriginal communities. This quote was used by Professor Mick Dodson in his paper *Violence, Dysfunction, Aboriginality*. It is a quote from Peter Sutton, who

describes a scene of devastation at a remote locality in our country:

The cemetery there reminds me of the Australian war graves cemetery at Villers-Bretonneaux in France, white crosses, many of them fresh, stretch away seemingly for hundreds of metres. In my time with this community eight people known to me have died at their own hands, two of them women, six of them men. Five of these were young men. From the same community in the same period thirteen people known to me have been victims of homicide, eight of them women, seven of them men, and twelve others have committed homicide, nine of them men and three of them women. Most of these again were young people, and most of the homicides occurred in the home settlement of both assailant and victim. As far as I knew there was only one homicide and one suicide in this community between 1960 and 1985.

That sums up a community that does not have respect and does not have life. In fact, it sums up a community that does not have hope.

We have heard in debate today about volumes of money that have been poured into communities under various plans. Certainly, the government is accountable for looking at funded programs to various communities, but unless you compare those funding programs with that visual image of a community without hope and without life we are not moving forward. The object of our debate must be the future—moving forward. When we are making our response as a government to the UN about what we have achieved under the Convention on the Rights of the Child, we must be able to link our lists of statistics, our lists of programs and our competitive political standards to the vision of a child who is looking at the community that I described. Until we can do that, until we can take the name of the report through the eyes of a child, we are not getting our message across.

In the evidence we received in the Senate committee inquiry into poverty we heard about issues of health in the various communities. The higher ratios of health risk at all levels in the communities and the various programs that have been put in place to change that have been well documented, but the end result, the statistic that remains clear in the health debate, is that things have not got better; the data have not improved. Those faces that Senator Ferris described are still looking at us and they are still facing a future where their health options are not as well resourced as those of other people. That does not meet our obligations to the UN Convention on the Rights of the Child.

We heard from Senator Crossin about the issue of education, which is another core element of the UN Convention on the Rights of the Child. The data is not improving. There are key programs designed to encourage Aboriginal and Islander children into classrooms, to stay at school, to develop their opportunities and to take up tertiary education. The figures are not getting better, but the faces are still looking at us. They say to us that we cannot respond to the UN positively when they are not receiving the benefits of the programs that have been put in place.

No child can have options for the future if they are not secure and safe in their environment. The image that I described earlier of a community where there are homicides and domestic violence does not build strong, secure families. It does not give hope to the children who live there. That is their home. Talking about removing children takes us back to a previous century, and I am surprised that I heard that in today's discussion. Nonetheless, we need to be sure that we give practical options to people so that those faces that Senator Ferris referred to can look at us and see that we are sharing, that we are responding and that we understand.

When the government reports formally to the UN, we know what will be in it. Senator Ridgeway has read many of these. There are pages of program documentation and graphs that show what has happened. I think there should be pages of stories and photographs that show the people about whom we are talking, because until we can convince the communities that these programs are successful it does not matter whether or not we can provide data to the UN. Sometimes I think we feel that we have accepted our obligations and done the job if we can give a response with data and statistics. That is not doing the job. Until we can work with the communities, be accepted by them and show the respect that I spoke about earlier in this brief speech, we have not done the job and we should not be claiming that we have done the job. This debate is not a competition. It does not matter who wins the 'competition' of providing program funding or who has given more. This debate will be considered to have been successful only when the people about whom we are talking say, 'Yes, I think the job has been done and I am part of the success.' I want to quote Nelson Mandela, because I always like to. He said:

There can be no keener revelation of a society's soul than the way it treats its children.

That sums up how we must respond to the UN Convention on the Rights of the Child. Can we honestly say we have met that challenge?

**Senator PAYNE** (New South Wales) (4.25 p.m.)—There are only a few short moments left to me to make a contribution in this matter of urgency on the rights of Indigenous children this afternoon, and I welcome the opportunity to do that. I am interested in the motion that Senator Ridgeway moved this afternoon, particularly pertaining to the vulnerability of Indigenous children to discrimination and violence in the home and in society at large that I imagine it would be

more than accurate to say they confront on a daily basis.

There are a number of aspects of the federal government's contribution in this area that I wish to highlight. I also want to say that government, in and of its nature, is a very clumsy machine. Because of the role that it has to fulfil, particularly at the federal level, it is not a particularly refined tool. As a result, I think we are most effective when we work well at all three levels of government and with the communities we seek to support and to help. A number of the initiatives that have been taken, starting with the resolution in the COAG process more than two years ago now, show how effective we can be when we coordinate in that manner. I agree with Senator Moore that we need to see results on the board, and hopefully those results will be visible in a very short period of time.

As part of the Senate's inquiry into reconciliation—I think also a motion of Senator Ridgeway's—the Legal and Constitutional References Committee has taken considerable evidence but not yet reported. On many occasions I have found it to be of great practical interest to hear from people who work in Indigenous communities with children, and their evidence about what actually works, and on initiatives that you can identify with and translate more broadly, is very relevant to this motion before us this afternoon. For example, sisters gave evidence to the inquiry—it is on the *Hansard*—about the system they run at a primary school in the far north of Western Australia near Kununurra. It is an initiative and stimulus based system that actually works to assist the children to want to come to school. So truancy has already been dealt with, to some degree at least, and to a greater degree than it would have been otherwise, by very practical initiatives taken in that small school. I have not yet completed forming my views as a result

of that inquiry, but it makes me think that you can take small and effective examples and, hopefully, see them writ large across towns and communities in this country so we can address the horrific issues that Senator Ridgeway's motion raises.

On the issue of Indigenous family violence and child abuse, it is very important to put on the record the leadership of recent times, most particularly the Prime Minister's convening in July this year of a meeting of Indigenous leaders to discuss the issue of violence and abuse in Indigenous communities and, most particularly, to address the tragic consequences of the abuse of women and children. That meeting also looked at issues of alcohol and drug abuse. It is a small but very important step to have people around the table who can tell government—the clumsy tool of government—what works at the grassroots community level and what does not. Where programs do not work, we should not pursue them for the sake of pursuing them. We should acknowledge that we have confronted a barrier or a problem, work out whether it can be refined and move on. If it cannot, we should take another decision. The trials that are happening in 10 local communities on a number of levels through ATSI's and COAG's leadership are also very important initiatives in this area and give us that local feedback that otherwise we do not get. It is a shame that the states and territories chose to leave the most recent COAG meeting before this issue could be discussed.

Question agreed to.

#### MINISTERIAL STATEMENTS

##### **Building and Construction Industry Improvement Legislation**

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (4.30 p.m.)—I table a statement on behalf of the Minister for Employment and

Workplace Relations, Mr Abbott, on the release of an exposure draft of the Building and Construction Industry Improvement Bill 2003.

#### COMMITTEES

##### **Rural and Regional Affairs and Transport References Committee**

###### **Report: Government Response**

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (4.31 p.m.)—I present the government's response to the report of the Rural and Regional Affairs and Transport References Committee entitled *Airspace 2000 and related issues*, and I seek leave to incorporate the document in *Hansard*.

Leave granted.

*The document read as follows—*

###### **Recommendation 1**

The Committee recommends that Airservices Australia ensure that there is an extensive and rigorous consultation process with all sectors of the aviation industry on the provisions of the Lower Level Airspace Plan.

The Government accepts the thrust of this recommendation and agrees that a proper communication process must be conducted with all interested parties before airspace reform is implemented.

The Government would like to draw attention to some significant developments in relation to airspace reform since the Committee tabled its report.

The Special Aviation Reform Group (ARG) was established by the Deputy Prime Minister and Minister for Transport and Regional Services, the Hon John Anderson MP, in February 2002 to consider the most appropriate model for airspace reform in Australia. The current members of the ARG are the Secretary of the Department of Transport and Regional Services, Mr Ken Matthews (ARG Chairman), Chairman of CASA, Mr Ted Anson, Mr Dick Smith, the Chairman of Airservices Australia, Mr John Forsyth and the Chief of the Royal Australian Air Force, Air Marshal

Angus Houston. Mr Anson and Mr Forsyth are serving in their individual capacities.

The ARG was asked to examine two proposals for reforming Australia's low level airspace viz. the Airspace Working Group's Low Level Airspace Reform Plan (LAMP), and the National Airspace System (NAS) Australia.

In coming to its recommendations, the ARG considered matters such as:

- cost effectiveness;
- degree of industry support and comments of the industry stakeholders on the merits of LAMP and NAS;
- ability to implement within a reasonable timeframe;
- degree of harmonisation with ICAO airspace classifications; and
- degree of harmonisation with international best practice.

On 13 May 2002, the Government agreed to adopt the National Airspace System (NAS) Australia as the model for reform of Australian airspace.

An Implementation Group (IG) has been established to implement the NAS model. The IG is undertaking an extensive communication and education programme with all affected parties.

Implementation of the first stage of the NAS model was completed on 20 March 2003. It is expected that the NAS will be fully implemented by end- 2004.

#### **Recommendation 2**

The Committee recommends that Airservices Australia establish clear guidelines how CAGRO services interrelate and operate in conjunction with surrounding air traffic service sectors.

The Government does not accept this recommendation.

The establishment of guidelines is not required as CAGRO services do not interrelate, or operate in conjunction with, surrounding air traffic service sectors.

#### **Recommendation 3**

The Committee recommends that Airservices Australia seek formal legal advice on whether

CAGRO services constitute an ATC service within the provisions of the Civil Aviation Act 1988.

The Government does not accept this recommendation.

CASA has obtained external legal advice, which supports the view that these services could not be held to be an ATC service.

#### **Recommendation 4**

The Committee recommends that the Minister for Transport and Regional Services appoint an independent consultant to assess any impact that the application of competition policy may have had on the delivery of aviation services to rural and regional communities. In particular, the Committee recommends that the independent consultant assess how the net community benefit test has been applied by Airservices Australia.

The Government does not accept this recommendation.

There are currently no Airservices' functions that have been opened up to competition by the Government. Airservices remains a legislated monopoly for its core function- the provision of ATS. However for a number of Airservices' other functions, there is no legislated monopoly, for example in areas such as ATC training and maintenance services.

It would be incorrect to assume that matters such as Location Specific Pricing (LSP), the provision of CAGRO services or the introduction of additional providers for ATC training are results of the implementation of National Competition Policy (NCP).

The point needs to be made that NCP does not require that Airservices contract or compulsorily tender out its services.

Australia's NCP was agreed on between the States/Territories and Commonwealth Governments with the aim of promoting and maintaining competitive forces that increase economic efficiency and community welfare, while recognising other social goals. NCP is not solely concerned with the introduction of competition. Rather, the various Australian Governments adopted a set of principles to facilitate and encourage national competition.

The Government would also take the opportunity to correct the incorrect suggestion that the new safety regulatory framework for the provision of ATC and ARFF services has been established to facilitate the application of competition policy. The Government became aware of the absence of a legislated safety regulatory framework to govern the provision of services provided by Airservices and asked CASA to develop regulations to address this gap. It should also be noted that the development of this framework is consistent with our international obligations pursuant to the Convention on International Civil Aviation 1944.

Having made the point that the matters considered by the Committee, which resulted in this recommendation, are not a result of NCP, the Government wants to dispel any remaining confusion by commenting on the following matters considered by the Committee in Chapter Three of its report titled 'Competition Policy'.

#### **Air Traffic Control (ATC) Services**

The Committee's position was that privatisation of ATC services would represent the transfer from one monopoly provider to another monopoly provider of the income stream. The Government must point out that contestability has not been introduced for the provision of ATC services, and therefore there has been no impact at any Australian airport served by Airservices.

#### **Certified Air Ground Radio Operator (CAGRO) Services**

The Government notes the position of the Community and Public Sector Union (CPSU) that CAGRO services constitute an Air Traffic Control (ATC) service. However, legal advice obtained by this portfolio is that a CAGRO service is not an ATC service.

The Government's position is that the introduction of CAGRO services at Yulara and Broome enhance safety. The Government has been advised that as the CAGRO service is provided during periods when the nature of traffic is such as not to require an ATC tower service, safety is enhanced by the provision of a CAGRO service.

The introduction of CAGRO services is completely unrelated to NCP. Airservices' core product at airports is the provision of a tower control service. Airservices has never provided CAGRO

services and currently has no plans to provide them. The airports themselves arranged for independent, suitably qualified persons to provide these services.

In short, the introduction of CAGRO services does not in any way represent a scaling-back of service provision by Airservices. Rather, it is an enhancement to air safety during hours or at places where an ATC service is not provided at regional and GA airports.

#### **Air Traffic Control Training**

The Committee quoted the Minister's statement that the UK-based SERCO may provide an international ATC training centre in Australia. To date, SERCO has not progressed this proposal and it is not clear that SERCO will be doing so in the foreseeable future.

The Government agrees that Airservices' Melbourne-based training college is a world leader in its field. The Committee should note that following the notice of disallowance issued against the new safety regulatory framework by the Opposition last year, regulatory amendments were made to address the Opposition's concerns. In relation to providers of air traffic control training services, an independent provider of these services can only be approved by CASA if it is to provide the service in cooperation with, or by arrangement with Airservices.

#### **Contestability of Maintenance Services**

In 1999 Airservices Australia decided to market test a number of internally provided support services. This decision was not made because of NCP.

Market testing provides a means of assessing the relative merits of the current way of doing things versus the alternatives. It does not automatically mean that the service being market tested will automatically be outsourced. The aim was to compare the relative merits of in-house bids with external bids in order to achieve the best result for Airservices.

The most significant proposals concerned the National Airways System support services. Following Airservices invitation to potential providers to register interest in responding to a request for proposal, the Community and Public Sector Union (CPSU) mounted a strong campaign

through the Australian Industrial Relations Commission (AIRC) and with staff to stop the process. After many months of consultation and management deliberations and in light of the events of September 11 and the Ansett collapse, management decided to proceed with an alternative market testing package. This includes an external review of internal value for money, international benchmarking and a review of internal information transfer on the costs of services. Ultimately, however, decisions will be made based on safety, value and the technical merit of the alternatives.

The Committee reported CPSU advice about the lack of any CASA regime for regulating contestability of Airservices Australia's maintenance services. The Government has interpreted this advice as referring to the lack of a safety framework governing the provision of aeronautical telecommunications and radionavigation services. In response, the Government advises that on 26 June 2002, the Governor-General in Council made a new regulation viz. Part 171 of the Civil Aviation Safety Regulations 1998—Aeronautical telecommunication service and radionavigation service providers. Part 171 commenced on 1 May 2003 and will address the gap identified by the CPSU.

The Committee should note that following the notice of disallowance issued against the new safety regulatory framework by the Opposition last year, regulatory amendments were made to address the Opposition's concerns. In relation to aeronautical telecommunication service and radionavigation service providers, an independent provider can only be approved by CASA if it is to provide the service in cooperation with or by arrangement with Airservices Australia.

#### **Competition Policy and the provision of services to GA and Regional airports**

The Government fully agrees with the Committee's observation there are 'essential community benefits from ensuring that proper ATC services are maintained at GA and regional airports.' However, the Government disagrees with the Committee's position that cross-subsidisation is the most cost-effective way of doing this.

The Government's approach to retaining these benefits is to firstly cap prices at these airports,

and secondly to directly subsidise Airservices for losses arising from the capped charges. On 22 May 2001, the Government announced that it would continue to subsidise the provision of Terminal Navigation (Tower) services at 14 regional and GA airports. This subsidy, which was introduced in 1998, was scheduled to expire in June 2001. The Government decided to extend the subsidy for a further two years in recognition of the additional cost burden faced by operators at these 14 airports and the potential effect on regional communities of the Location Specific Pricing policy. The Government announced that that the subsidy has been extended until June 2004 as part of the 2003/04 budget package.

The detail of this mechanism is explained in the Government's response to Recommendations 5 and 6.

#### **Competition Policy and air safety**

The Government's position is that CASA is responsible for ensuring that aircraft operations are conducted in a safe manner. CASA cannot compromise safety standards, even if complying with them imposes costs that a particular operator may deem high. The Government has every confidence in the performance of CASA in carrying out its responsibilities.

The Government takes the opportunity to address the specific suggestion raised in this chapter that safety was compromised in relation to the granting of a category remission for BAE 146-200 aircraft.

The ARFF category for each airport is determined by CASA, which has adopted the relevant ICAO standards. The determination of ARFF category for a particular airport is based on aircraft length and width. However, movements also have a bearing on the category rating.

The standard starts at the highest category of aircraft determined by length and width. Before the category is set the first 700 movements for the busiest consecutive three months of the year are assessed to identify the number of the highest category aircraft movements at the airport. Should movements of a lower category aircraft be identified in this exercise the ARFF category can be lowered by a maximum of one category from the highest category aircraft movement.

In the case of the BAE 146-200 aircraft (which is a category 6 aircraft since it is around 60 centimetres above the upper limit of category 5 aircraft) CASA gave a dispensation to treat these aircraft movements as category 5 at Mackay and Rockhampton.

On 26 June 2002, the Governor-General in Council made a new regulation viz. Sub Part 139H (Aerodrome Rescue and Fire Fighting Services) of the Civil Aviation Safety Regulations 1998, which commenced on 1 May 2003. There is now no provision for the one category remission approach. That is, the ARFF category will be set with regard to the highest category aircraft using the airport.

In conclusion, competition policy has not had any impact on the delivery of aviation services by Airservices to rural and regional communities. The only regulated service that is currently open to competition is the provision of ARFF services at Commonwealth leased airports. Pursuant to amendments sought by the Opposition to Sub Part 139H of the Civil Aviation Safety Regulations 1998, ARFF providers who may be approved by CASA are limited to current providers, persons acting on behalf of or under an arrangement with Airservices Australia, or persons providing ARFFS under an arrangement approved by the Minister under s. 216 of the Airports Act 1996.

As discussed previously, the new regulation, Sub Part 139H of the Civil Aviation Safety Regulations 1998 commenced on 1 May 2003.

#### **Recommendations 5 and 6**

The Committee recommends that the Government consider funding ARFF and TN services at GA and regional airports through some degree of cross-subsidisation where a demonstrable community benefit can be shown.

The Government does not accept these recommendations.

The Government is particularly sensitive to access and equity issues in regional Australia, and is determined to find ways to alleviate any disadvantages which may exist. The Government was fully aware that Terminal Navigation (TN) and Aerodrome Rescue and Fire Fighting (ARFF) services at several regional and General Aviation (GA) airports would not be affordable to the vast

majority of users, if fully commercial rates were charged.

To address this position, the Government introduced capped TN charges, in recognition of the burden that Location Specific Pricing (LSP) would impose at these regional and LSP airports. Currently, this is charged at \$7.42 per tonne Maximum Takeoff Weight (MTOW).

This rate is not commercially sustainable for Airservices, which provides TN services at these locations. The Government has therefore been compensating Airservices directly through a subsidy. The subsidy is funded by a fuel levy of 0.26 cents per litre of aviation turbine and aviation gasoline fuels.

The Government's position is that a direct subsidy is more transparent and is more likely to deliver efficiencies over the long-term than cross-subsidising the provision of these services at regional and GA airports.

The Government does not subsidise the provision of ARFF services at any location. However, ARFF charges are only payable by aircraft with a Maximum Takeoff Weight (MTOW) greater than 2.5 tonnes. ARFF services are provided at only four of the fourteen 'LSP subsidy' airports. Since the vast majority of GA users at these four airports operate aircraft with an MTOW less than 2.5 tonnes, they do not have to pay ARFF charges.

The Government's position is therefore that the impact of LSP for the provision of ARFF services at regional and GA airports is relatively marginal.

#### **Recommendation 7**

The Committee recommends that Airservices Australia conduct a detailed costing of services at GA and regional airports, again with the view to possible cross subsidisation of costs where a demonstrable community benefit can be shown.

The Government does not accept this recommendation.

The Government advises that Airservices already conducts a detailed costing of services to General Aviation (GA) and regional airports, in order to determine the Location Specific Pricing (LSP).

Airservices introduced LSP for its Aviation Rescue and Fire Fighting (ARFF) service in 1997 and

for its Terminal Navigation (TN) service in 1998. Since the introduction of LSP, Airservices has been calculating prices for TN and ARFF services with regard to the costs incurred in providing those services and the level of aircraft activity at each location. The pricing process therefore, naturally focuses on detailed costings on a location by location basis.

These costings are commercially sensitive and any disclosure of Airservices' detailed costings may undermine its position in any future competitive market.

On 22 May 2001, the Government announced it would continue to subsidise the provision of control tower services at 14 Regional and General Aviation airports until 2002-2003. The Government has paid a subsidy for this purpose since the introduction of LSP (1998/99), and has ensured that charges have been capped at these airports. The subsidy has been further extended until June 2004 as part of the 2003/04 budget.

Airservices provides these services at a price (including Government subsidy) that is less than full cost recovery.

**Response to Dissent by Sen. Winston Crane and Sen. Jeannie Ferris**

The Government fully agrees with the thrust of the dissenting note written by Senators Crane and Ferris, except for their support of Recommendation 4.

The Government's response to this recommendation is contained in the main response to the recommendations of the Committee.

Response to Additional Comment by Sen. Kerry O'Brien and Sen. Sue Mackay

The Government agrees that the Minister for Transport and Regional Services has a responsibility to ensure the effective delivery of aviation services to regional Australia and the Government is committed to this outcome.

**Appropriations and Staffing Committee  
Report**

**The ACTING DEPUTY PRESIDENT (Senator Brandis)**—I present the annual report for 2002-03 of the Standing Committee on Appropriations and Staffing.

Ordered that the report be printed.

**PARLIAMENTARY ZONE**

**Proposal for Works**

**The ACTING DEPUTY PRESIDENT (Senator Brandis)**—In accordance with the provisions of the Parliament Act 1974, I present a proposal by the Joint House Department for works within the Parliamentary Zone, together with supporting documentation, relating to the installation of a commemorative plaque to the victims of the Bali atrocity.

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (4.32 p.m.)**—by leave—I move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the Joint House Department for the installation of a commemorative plaque to the victims of the Bali atrocity.

Question agreed to.

**TRADE: LIVE SHEEP EXPORTS**

**Return to Order**

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (4.33 p.m.)**—by leave—This statement is on behalf of the Hon. Warren Truss, the Minister for Agriculture, Fisheries and Forestry. The order arises from a motion moved by Senator Bartlett, as agreed by the Senate, on 17 September 2003 and relates to the *Cormo Express* shipment of sheep. I wish to inform the Senate that, due to the sensitive nature of the ongoing negotiations surrounding the *Cormo Express* and its cargo, the minister is of the view that it is not in the public interest, or in the interest of the animals on board the *Cormo Express*, to provide detailed information to the Senate at this time. The minister will provide further information to the Senate when the matter has been resolved.

**AGE DISCRIMINATION BILL 2003****Report of Legal and Constitutional Legislation Committee**

**Senator PAYNE** (New South Wales) (4.34 p.m.)—I present the report of the Legal and Constitutional Legislation Committee on the provisions of the Age Discrimination Bill 2003, together with the *Hansard* record of proceedings and submissions received by the committee

Ordered that the report be printed.

**MIGRATION LEGISLATION AMENDMENT (IDENTIFICATION AND AUTHENTICATION) BILL 2003****Report of Legal and Constitutional Legislation Committee**

**Senator PAYNE** (New South Wales) (4.34 p.m.)—On behalf of the Legal and Constitutional Legislation Committee, I present the report of the committee on the provisions of the Migration Legislation Amendment (Identification and Authentication) Bill 2003, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**IMMIGRATION: ASYLUM SEEKERS**

**Senator NETTLE** (New South Wales) (4.35 p.m.)—by leave—I table a letter to the Senate from Iranian detainees that has previously been circulated to all whips and those on duty in the chamber.

**COMMITTEES****Economics Legislation Committee****Membership**

**The ACTING DEPUTY PRESIDENT (Senator Brandis)**—The President has received a letter from a party leader seeking a variation to the membership of a committee.

**Senator COONAN** (New South Wales—Minister for Revenue and Assistant Treasurer) (4.36 p.m.)—by leave—I move:

That Senator Cherry replace Senator Murray on the Economics Legislation Committee for the committee's inquiry into provisions of the Taxation Laws Amendment (Superannuation Contributions Splitting) Bill 2003.

Question agreed to.

**MEDICARE**

**Senator McLUCAS** (Queensland) (4.36 p.m.)—I move:

That the Senate—

- (a) notes, with grave concern, the crisis in Australia's health system, including:
  - (i) bulk billing rates falling by more than 12 per cent since 1996,
  - (ii) 10 million fewer services being bulk-billed each year by general practitioners than in 1996,
  - (iii) the 59 per cent rise since 1996 in the average amount patients are required to pay to see a general practitioner (GP),
  - (iv) the largely unaddressed GP workforce shortage, which government policies have exacerbated,
  - (v) the unaddressed shortages in nurses, dentists, radiographers and other vitally-needed health professionals,
  - (vi) emergency departments in public hospitals being strained by the increasing numbers of patients who could have been attended to by a GP, and
  - (vii) frail aged people being accommodated in acute hospital beds because there is nowhere else for them to go; and
- (b) calls on the Government to respond to community concerns about its health policies, as evidenced by tens of thousands of petitions, by:
  - (i) addressing the health crisis in co-operation with the states,
  - (ii) strengthening Medicare by taking steps to ensure universal access to bulk-billing, and
  - (iii) ensuring that enough GPs, nurses, dentists, radiographers and other

vitaly-needed health professionals are trained and retained in the health system.

This motion provides the Senate with an opportunity to focus on the health of Australia's health care system. Medicare is a key part of our health system designed to ensure that all Australians can afford quality health care, regardless of their income. This issue cuts at the very heart of the Australian way of life. Medicare is not a welfare scheme and was never designed as such. One of its architects, Mr John Deeble, put it this way:

Medicare ... is an insurance system to which everyone contributes according to their income. They then have a universal right to coverage. That solves all the problems of protecting pensioners, the unemployed, other low-income earners, large families and the chronically ill with equity, dignity and less intrusion into their affairs than any alternative.

What is most shameful is that Minister Patterson has crafted the misnamed A Fairer Medicare reform package, which cuts at the very heart of primary health care provision, at a time when we should be and we could be discussing how to best strengthen the health care system in this country.

The budget is in surplus. The Prime Minister yesterday made his position very clear. If Treasury's forecasts on the size of the surplus are revised upwards, as expected, the Prime Minister's view is that we should continue to fight to the bottom of the tax barrel, we should continue to tighten government expenditure, we should continue to let market forces prevail and we should consider tax cuts as a means of equitable distribution. Tax cuts will not lessen the impact of the Medicare crisis on most Australian families. No one is advocating an irresponsible fiscal approach with respect to the projected minimum surplus of \$2.2 billion. But let us be very clear: the government's proposed Medicare package is to be funded by decreasing

the allocation to public hospitals under the Australian health care agreement by \$918 million, and that was shown in the Commonwealth's 2003-04 budget papers. Clearly, now is the time when the government could afford to invest in the future of Medicare.

The Senate Select Committee on Medicare has taken evidence from right around Australia, and it is clear that Australians overwhelmingly support Medicare. Today we have seen further evidence of this support, where Labor caucus members have collected signatures on petitions from over 160,000 Australians for lodgment in this chamber and the House of Representatives. This is one of the largest mass lodgments of petitions in the history of this parliament. These petitioners, like most Australians, believe the government's package is unacceptable and that it undermines the basic principles of Medicare.

A person called Albert recently sought assistance from my office. His difficulties illustrate the holes that Senator Patterson has ripped through Medicare's safety net. A couple of years ago Albert lost his job after being injured. His medical circumstances are complex. His income is now limited to Jobstart. Because of the decline in bulk-billing, Albert's medical options are extremely limited. He lives in a rural area near Cairns. He cannot afford the copayments; therefore, he has to choose between having consultations in one of the city's very few practices which continue to bulk-bill or waiting for very long periods at the base hospital's emergency department. He rarely sees the same doctor twice. Therefore, management of his case, which involves a complex cocktail of prescription drugs and a raft of medical and psychological issues, has been nonexistent. Protecting decent people like Albert from pain and despair is why Labor implemented Medicare in the first place. People like Albert who have contributed to Medicare

through the taxation system should also be able to depend on it to protect them. They want and need access to a quality bulk-billing GP who can manage their health care needs over time. But, sadly, this scenario is no longer the norm.

Under this government we have seen a massive decline in bulk-billing rates, which rose every year under Labor and which have fallen every year under the Howard government. Nationwide, bulk-billing has fallen by 12 per cent—from over 80 per cent in 1996 to 68.5 per cent—while copayments continue to rise. The cost of going to a doctor has risen dramatically. The average gap payment in June 2002 was \$13.24. In regional areas this figure is often higher. In fact, since this government took office, out-of-pocket costs have risen by 59 per cent as fewer and fewer GPs can afford to bulk-bill.

We are also seeing fewer doctors choosing to become GPs and this government's package, according to the medical profession, will do nothing to address what AMA President, Dr Bill Glasson, describes as the 'disappearing doctors phenomenon'. Declining bulk-billing rates and rising patient costs mean that we are now witnessing a decline in the number of visits that Australians are making to their GP. This is because they cannot afford to go or there are too few doctors to attend to them rather than any sudden improvement in the health of the nation. The decrease in affordability of, and access to, general practitioners has meant that increasingly people are seeking services at public hospital emergency departments. In other words, as bulk-billing rates decline and visit costs rise, emergency department visits that could otherwise have been treated by a GP have increased dramatically. On 26 August the Queensland health minister, Mrs Wendy Edmond, told the inquiry:

... activity in Queensland public hospital emergency departments has grown from 674,000 to

747,000 patients over a couple of years. That is 10.94 per cent growth. That is way ahead of any population growth and is totally unsustainable.

The New South Wales submission to the inquiry reinforces this point and also highlights the difference between towns with routine access to bulk-billing GPs and those without access in the use of public hospital emergency departments. Their submission states that New South Wales research shows:

... that in NSW towns where GPs don't bulk bill, people use public hospital emergency departments at a rate of around 60% more than those towns where GPs do bulk bill.

We have also heard evidence to the effect that increasing numbers of nursing home patients are now presenting to emergency departments. So it is clear that Medicare indeed is very sick and the reform agenda has simultaneously stalled. Minister Patterson, in her speech of 27 August to the National Press Club, said:

The recent argy-bargy about funding has distracted my State colleagues from the reform agenda.

What cheek! It was the Commonwealth, not the states, who walked away from the reference group process in the lead-up to the signing of the Australian health care agreements. It was Senator Patterson who failed to attend the meeting held recently in Canberra by the national health care summit about the future of health financing and delivery in our country. It is Minister Patterson who is charged with the responsibility to fix Medicare and reform the health system. And the minister's so-called 'fairer Medicare' package offers us no real solutions, nor does it reflect community views on how we should reform the health care system.

And we should not forget that we learnt at estimates last June that the misnomer 'fairer Medicare' actually cost the government over \$20,000 in consultancy fees for advice on what to call the package. No wonder senior

members of the health profession have labelled the minister as having very little idea of what is happening, being a captive of the department, allowing suggestions to go over her head and having a lack of knowledge that is quite staggering. There are now strong signals to suggest that the Prime Minister also believes Senator Patterson—and, by implication, the package—is inadequate. Why else would he appoint one of his own former advisers, Mr David Gazard, to run her office after she lost eight staff members in the last year? Why else would the AMA publicly point to the fact that the Prime Minister is taking a major role in health policy? The government is clearly worried about Senator Patterson's performance. Her inability to relate effectively with consumer groups, the pharmaceutical industry and the private hospital sector has compromised her capacity to understand what is really needed.

The government's package as it currently stands will see bulk-billing levels continue to drop. We have had that evidence repeatedly in the inquiry. Departmental evidence given before the inquiry shows that no bulk-billing projections have been modelled. If that is not extraordinary enough, the official who gave us the evidence said:

... we have never been asked to provide advice to government on that issue.

Addressing the falling bulk-billing rates is not even on the minister's own reform agenda. In fact, as we saw from her leaked memo, the word 'bulk-billing' is not even in her lexicon. That is why she is offering inadequate incentives for GPs to bulk-bill. The \$333.3 million real allocation to the incentive program, when spread across all GP attendances, results in an average payment increase of \$1.04 per visit, or average growth of 1.2 per cent per annum—well short of expected practice cost increases. And GPs, as we have heard, are voting with their feet. Recent surveys of doctors indicate that the

vast majority will simply not sign up to the minister's package.

The Australian Divisions of General Practice Chair, Dr Rob Walters, has indicated that the minister's coercive style does not cut the mustard when it comes to his members having to choose whether to opt in or to opt out of the package. He said on 15 May:

GPs have also rejected the requirement that all GPs in a practice must decide whether or not to opt in to the package, with incentive payments going to the practice, rather than the individual GP.

He went on to say:

A majority of GPs have rejected the bulk billing incentives offered by the government.

The inquiry has heard no evidence from any quarter that the package will decrease costs to consumers. In fact, *Australian Doctor* recently quoted a general practice manager who said:

... the key advantage of the Coalition plan was that participating practices could offset the cost of bulk-billing concessional patients by charging other patients extra.

Many witnesses to the inquiry have said that it is self-evident that out-of-pocket costs for non-concession card holders will rise. GPs tell us that the proposed rebate in the package will not cover costs so, in order to balance the books, they will simply have to charge those without a concession card more.

This raises the very real prospect of inflationary impacts. And yet, shockingly, the government has failed to examine the potential inflationary impact of the package. At estimates on 2 June this year an officer from the minister's department indicated that modelling had been done in conjunction with Finance related to medical inflation, but that it was not being made available to the committee. One has to wonder: why not?

The head-in-the-sand approach to this matter goes even further. The evidence put

before the inquiry was so scant that the committee has had to commission its own independent research. The government, as we have heard in this place, has resisted this, and some senators have indulged in what I think are quite contemptible personal attacks on the credibility of the award-winning public health researcher Professor Stephen Duckett and the research team at the AIPC. The committee is due to receive this report—which the government should have commissioned itself—tomorrow.

The key element of concern is that Senator Patterson's reform package directly undermines the principles of Medicare. The uncapped copayment will create a two-tiered health system: one of choice and access for those who can afford it and a separate system with limited choice and access for those who cannot. This will mean that, for some Australians, the only guarantee of free and accessible care will be public hospital emergency departments.

Labor, by contrast, has a plan for a new deal to meet Australia's health care needs and to save Medicare. Labor's \$1.9 billion package will reverse the collapse in bulk-billing by lifting the patient rebate for bulk-billing for all Australians, and that is the significant difference. This increase will be to 100 per cent of the schedule fee—an average of \$5 per consultation. Doctors, under Labor's plan, will be offered powerful financial incentives of up to \$22,500 to meet bulk-billing targets, which are realistic and achievable. Labor's plan will also see more medical places in our universities, more training places for doctors who will work in areas that need them, more university places for nurses and more practice nurses to assist GPs in their work. Our plan is fully costed. Our approach to consumers and the profession is open and consultative. Our intention is to restore the average national bulk-billing

rate to 80 per cent or more, where it was when Labor left office.

We have a health system that is the envy of the rest of the world. It is something we must protect, and that view is shared by most of the witnesses who have appeared before our inquiry. We simply cannot sit back and watch Medicare be dismantled. At present we are witnessing the actions of a minister and a government who are prepared to sacrifice Medicare on the ideological altar of a free market—free for all. Australians do not want a health system that makes massive social distinctions and yet, if Minister Patterson gets her way, we are almost certain to see the approach now being taken by the interestingly named Holistic Health House in Fawkner, in Melbourne's northern suburbs, become more widespread. This practice runs a three-tiered billing system to cater for the time-poor and money-rich. At this clinic, if you can afford to pay \$30 above the rebate, you can walk straight in and see a doctor. With an extra \$15, you are guaranteed an appointment on that day. But bulk-billed patients must make appointments days in advance and can face long waits as the better-off jump ahead of them in the queue.

This example provides us with a shocking microcosm of general practice in the future if the government's changes are implemented. This, sadly, is the minister's and this government's real vision for Medicare: if you have time and no money, you can wait. Labor believes Medicare must remain a system within which your access to a GP depends on your health needs and not on how much cash is in your pocket. Labor's plan is supported both in the profession and in the community, and Labor's plan will deliver a Medicare which all Australians cherish and believe should be retained. I commend the motion to the Senate.

**Senator HUMPHRIES** (Australian Capital Territory) (4.54 p.m.)—I am very proud to be a member of a government that is prepared to recognise and act upon the problems facing Australia's health system at present. I, unlike senators opposite, am prepared to be part of the solution to the problems facing our health system. If we in this debate discuss the issues and not throw personal barbs at the Minister for Health and Ageing, I think we will discover that a great deal of wisdom resides in the solutions which have been produced in this place and which are part of the A Fairer Medicare package.

I think that the motion draws attention to a range of problems and pressures in our health system, and problems and pressures in our health system are the very things which have triggered a range of solutions and a range of responses on the part of this government. These very issues have given rise to timely, appropriate and affordable solutions for the Australian community. Senator McLucas says that health reform in this country has stalled, and to some extent she is right: it has stalled here on the floor of the Senate, because the solution to Australia's health problems in large part rests upon an additional investment in Australia's health system. That investment comes in the form of the \$917 million A Fairer Medicare package. That is an investment in the future of Australia's health—and the sooner the Senate passes that package, the sooner those benefits will begin to flow to the Australian community.

In this debate Senator McLucas has drawn attention to bulk-billing rates. It is true that bulk-billing rates have fallen in recent years. The opposition draws attention to bulk-billing rates since 1996, but the minister explained today in question time that the reason that bulk-billing rates are falling is far more complex than those opposite would acknowledge. A great deal of the explanation

for falling bulk-billing rates in this country is a shortage of doctors—not a shortage of rebate, not an inadequacy in the rebate, but a shortage of doctors. Those doctor shortages are addressed in the package which the opposition and its colleagues hold up today in this place. If you pass the Fairer Medicare package, you will deal more decisively than in any other way with the shortage of doctors in Australia and you will deal in turn with the problem of bulk-billing in certain and particularly rural and regional parts of Australia.

Senator Cook in an interjection today referred to high bulk-billing areas of Australia as 'leafy suburbs'. That is not the case. There are high bulk-billing rates in a range of areas of metropolitan Australia, including a number of Labor electorates, but the real effort to reduce the shortage of doctors and increase bulk-billing rates in rural and regional Australia and even in some outer metropolitan areas is about getting doctors onto the books in those places. What has the government done? What is the government going to do, if this package is passed, to fix that problem?

We have already announced 234 additional medical school places to be based across Australia and bonded to rural and regional areas and areas of shortage. GP training place numbers will be increased with an additional 150 places every year over the next four years. An additional 457 full-time nurses for GP practices located in outer metropolitan areas of work force shortage will benefit something like 800 GP practices, giving doctors the capacity to deal more effectively with the problems in their practices. There will be 195 medical practitioners enrolled in the five-year scheme designed to encourage extra overseas trained GPs to work in rural districts of work force shortage. In December last year, changes to immigration arrangements enabled graduating Australian trained international medical students to stay on at and work in public hospi-

tals during their intern year and beyond. In 2003, over 100 additional interns are working in public hospitals as a result of this government's measures. Negotiations are still under way with states and territories to make sure that this kind of measure can continue on a permanent basis.

In the 2002-03 budget, the government announced the More Doctors for Outer Metropolitan Areas measure to improve access to medical services for people living in outer metropolitan areas of the six state capitals. So far, 105 doctors in Australia are taking part in that program. The \$80 million package over four years aims to get an additional 150 GPs into outer metropolitan areas by providing them with a relocation incentive to address the imbalance in health care delivery compared with their inner metropolitan neighbours.

Doctors are not the only area of shortage or the only area where a problem exists. The government is also doing all it can to get additional nursing places into Australian universities. Nursing has been identified as one of the initial key areas of national priority to ensure an adequate supply of high-quality graduates for Australian hospitals. An allocation of 210 new nursing places has been made for 2004. That will increase to 574 over the four years until 2007. Regional campuses were identified as the priority for new nursing places in 2004.

That is the kind of exercise that Australia needs to undertake to deal with the shortage of doctors and nurses, particularly in rural and regional areas of Australia and in outer metropolitan areas. That is the kind of measure which this government has already taken and which will be advanced if this place passes the Fairer Medicare package. The choice is very clear. Members opposite can whine, complain, stamp their feet, pose and wring their hands in the national media about

this problem, or they can take a step today to deal with the problem: they can pass the investment in the future of Australia's health care which this government has put on the table in the form of that \$917 million package.

The interesting omission from the motion before the chamber today is the complete absence of any reference to the contribution which has been made by the states to problems facing Australian health care. You would think from reading this document that the Commonwealth government had responsibility for Australia's public hospitals. You would think that there was no problem with the level of investment on the part of Australian states in their own health care systems. That, sadly, is not the case. What we have seen in recent years is a decision—a very deliberate and very calculating decision on the part of most states in Australia—to wind back the level of expenditure, particularly in public hospitals, as Commonwealth increases in those areas have cut in.

Let me be quite clear: there have been significant increases in all areas of the health system under this government. Since 1996-97, when this government came to office, there has been 51 per cent real growth in spending on health care by the Australian government—not by the state governments but by the Australian government. Since that year, this government's expenditure on Medicare—which has been described in this debate as being under attack—increased by 17 per cent in real terms. I do not know how that is an attack on Medicare. It sounds like we are loving it to death: a 17 per cent increase in real terms, and \$8.6 billion provided in Medicare benefits this year.

The Pharmaceutical Benefits Scheme has been referred to by many in this place as an area under attack by this government. In fact, funding for the scheme has been increased

from \$2.6 billion in 1996-97 to \$5.1 billion in 2003-04—a real growth of 64 per cent. That is hardly an attack on access to pharmaceuticals for the Australian community. We have, of course, provided a 30 per cent rebate for Australians investing in their own private health insurance cover. We have increased funding for aged and community care from \$3.3 billion when we came to office to over \$6 billion this financial year—a growth in real terms of 51 per cent. It is a significant investment in the future of this country's health, and part of that investment is being held up today in the Senate.

As I have said, this motion overlooks the very serious role of the states in winding back in real terms investment in Australia's health system. It fails to acknowledge the considerable additional dollars being placed into health by this government. It purports to ignore the benefits being conferred by the A Fairer Medicare package and, frankly, it constitutes a political attempt to divert attention from other issues facing the Australian opposition at the present time. It is highly ironic that personal attacks are being made on the minister for health under the guise of defending the quality of Australia's health care system, when in fact a great deal of this has to do with the question of leadership—not of the government's health program but of the federal opposition. I think this motion is inappropriate and I think that the Senate should reject it.

**Senator FORSHAW** (New South Wales) (5.06 p.m.)—If you want to hear the ultimate in political hypocrisy you would have to sit and listen to a lecture on Medicare from the Liberal Party. Let us remember that it was the Labor Party, in government in 1975, that introduced the first universal health scheme in this country: Medibank. The Liberal government of Malcolm Fraser destroyed it. The Liberal government under Malcolm Fraser left us with a legacy of over a million people

in this country who had no capacity, either through private health insurance or through Medibank, to cover their health costs. A Labor government under Bob Hawke reintroduced Medicare and brought back the concept of a universal health scheme—a scheme that is regarded world wide as the leader in the provision of universal health coverage. It was a Liberal Party opposition, led by Mr Howard, that year after year, election after election in the 1980s, threatened to destroy Medicare if it ever got to office. They said it not once or twice but dozens of times. Their ideology would not allow them to accept the concept of a universal health scheme.

The Liberal Party having rejected the concept on so many occasions, when the Howard government came to office in 1996 what was one of their core promises? The Prime Minister said, 'We will retain Medicare.' He said that no Australian would be worse off under this government. We now know what the situation is. We have had to sit here and listen to arguments such as those just mounted by Senator Humphries, which are the ultimate in hypocrisy. I have a great deal of respect for Senator Humphries; he is the member of the Senate Select Committee on Medicare and I believe he has contributed to that inquiry in a very useful way. On occasions he has asked questions that suggest that he is aware of the problems that Medicare and the health system are facing in this country. Having had the experience of being Chief Minister in the ACT government, he is aware of the problems that state and territory governments have had under this government in respect of health care. He is aware that when Dr Wooldridge was the Minister for Health and Aged Care, and the states and the Commonwealth were negotiating the health care agreement some five years ago, the ACT government would not accept the Commonwealth's offer—just as, recently, all of the states and territories were not prepared

to sign up to the Commonwealth's offer until they were threatened with financial penalties. Senator Humphries knows in his own heart the history of this government when it comes to Medicare.

Let me turn to some of the issues that are raised so well in this motion by Senator McLucas. Each of the items that are contained in this notice of general business that we are debating today highlights in stark terms the crisis that is facing the Australian health sector and the crisis that is facing Medicare. Let me deal with bulk-billing. I do not want to repeat all of the arguments that have been put by Senator McLucas. They have been put on many occasions in this chamber. We are all aware of them, but they need to be reiterated to this extent. Bulk-billing rates under Labor grew to 80 per cent when we left office in 1996. The government and Senator Humphries have tried to run the line on other occasions that bulk-billing was never intended to apply to 100 per cent of Australians, so therefore apparently it is okay that bulk-billing today is only at the level of 68 per cent and has declined by 12 per cent under this government. They rationalise away the dramatic decline in the level of bulk-billing across this country by saying, 'It was never really intended to be available for 100 per cent, so it does not really matter what the figure is.' This seems to be the logic of the government's defence.

We all know that the federal government does not have the power to force doctors to bulk-bill. Therefore, the objective of 100 per cent coverage is probably not attainable. There will probably always be at least one doctor out there who will not want to bulk-bill. But you have to look at the policy of the government and its commitment to Medicare, because Medicare was intended and was established as a universal health care system.

**Senator Humphries**—What does that mean?

**Senator FORSHAW**—What does 'universality' mean, Senator Humphries asks? Universality means that it was available, and should be available, for all Australians to access, irrespective of income or any other consideration. Universality meant that all Australians paid for this health system through their taxes: firstly through the general taxation and secondly through a specific levy which obviously meant that those on higher incomes paid more. It was universal in that all Australians contributed. It has also been pointed out that all Australians paid for the introduction of Medicare in another way. With the Hawke government, I was part of the negotiations for the Accord back in 1983-84, when the union movement accepted a reduced increase in the national wage in order to accept the introduction of Medicare. Workers accepted a reduction in the national wage increase that would otherwise have been awarded consistent with inflation at that time, in return for the introduction of universal health coverage through Medicare.

The Labor government got bulk-billing rates up to 80 per cent—a fantastic achievement. Today they are at 68 per cent and have been falling dramatically in the last two years. The government has tried to argue that it is really about ensuring bulk-billing for the low paid and those on health cards and concession cards. That is a real problem because those people increasingly are finding that they cannot access a bulk-billing doctor. We have had evidence from the medical profession that, even in circumstances where they have stopped bulk-billing patients who are not health card holders and people who they feel are not low-income earners, they may have continued to bulk-bill people who are less well off. But increasingly they are even

ceasing to bulk-bill those people. The government recognises that.

The government does recognise that there is a problem. We would not have this package before us if the government did not recognise that. I acknowledge that Senator Humphries recognises that there are problems. But the issue with this government's package is that, whilst it recognises that there is a problem, its package is not the solution. The package is not going to the inherent fundamentals of Medicare. As I have said, bulk-billing is the universality principle upon which Medicare is based. Ways have to be found to increase bulk-billing across the board—not just for low-income earners or people on health care cards, as deserving as they are, but for all.

**Senator Humphries**—How?

**Senator FORSHAW**—I will come to how in a minute, Senator Humphries. The government has also argued that the decline in bulk-billing has nothing to do with the level of the rebate, and there is nothing in this package that the government has put forward that does anything about the level of the rebate. I have heard the government argument that says, 'When bulk-billing rates were going up through the eighties and early nineties under Labor, the rebate was not increasing by as much as it is today. Today, under the Liberal government, bulk-billing has been declining but the rebate has been increased by more than in the past, so there is really no relationship between the level of the rebate and bulk-billing.' That is an absolute furphy. It ignores two key principles.

Firstly, what happened under the Labor government after it introduced bulk-billing was that the government was actually committed to getting the medical profession to accept bulk-billing, and that is why you saw, over a number of years, the trend going up. The medical profession, it has to be ac-

knowledged, was never terribly enamoured of bulk-billing. When Medicare was introduced, they did not like it; that is on the public record. People who led the AMA, Dr Bruce Shepherd and others, opposed it strongly and campaigned against it. But over time, when they understood and saw that the government was totally committed to keeping Medicare and to promoting bulk-billing, they accepted it. It took a number of years but it became entrenched, and so bulk-billing rates got up to 80 per cent.

That is the distinction. This government, while it pays lip-service to supporting Medicare, has done nothing to try to maintain the level of bulk-billing at 80 per cent. It has allowed it not just to slide but to run downhill very fast in the last two years. This government waxes lyrical about the decline that occurred in the level of private health insurance. Apparently it was important when there was a downward trend in the level of private health insurance, but when they are asked about the decline of bulk-billing, an inherent part of Medicare, they say, 'That's irrelevant, it doesn't matter; we should only really target the low paid—those on health care cards.'

Secondly, the rebate is also critical for another reason. Under the years of the Labor government, the level of increase in health costs was nowhere near as high as it is today. Today, as the evidence shows, health care costs are increasing by around seven per cent or more per year. This is two to three times the rate of inflation. All the evidence that we have heard from the GPs in the Medicare inquiry is that the point has been reached where the costs of running a practice and the pressures on a practice are such that they cannot continue to bulk-bill all their patients with the level of the rebate as it is. It has reached a critical point. The government has to do something about the rebate as well. The Labor Party package that has been put for-

ward does do something about increasing the rebate.

The Labor Party package has a number of elements, two of which I will mention. Firstly, it targets bulk-billing and it seeks to promote increases in bulk-billing right across the board. We will make payments available to doctors who reach specific targets in bulk-billing their patients. We have deliberately skewed it so that in those areas where bulk-billing rates are low at the moment, particularly in outer metropolitan, rural and regional areas, the target is lower than it is in the metropolitan areas, where generally bulk-billing rates are higher.

In metropolitan areas, under our proposals, doctors will receive an additional \$7½ thousand each year if they bulk-bill 80 per cent or more of their patients. In outer metropolitan areas and major regional centres, they will receive an additional \$15,000 per year if they reach the target of bulk-billing 75 per cent or more of their patients, and in rural and regional areas they will receive an additional \$22,500 each year for bulk-billing 70 per cent or more of their patients. Our proposal puts substantial amounts of money towards boosting doctors' incomes to encourage an upward movement in bulk-billing right across the spectrum. That is a good thing. We have to get the levels of bulk-billing up. The other aspect of the Labor Party proposal is that we will increase the level of the rebate. We will initially increase it to 95 per cent and eventually to 100 per cent.

Just a moment ago, Senator Humphries mentioned the views of the doctors. Senator Humphries has been on the Medicare inquiry and has heard time and time again that the medical profession does not like the government's package. They have rejected just about all the elements of it. When it boils down to it, about the only aspect of the gov-

ernment's package that they have really got on board with is the swipe card method. Why is that? It is because the swipe card method is a proposal whereby doctors will be able to charge a co-payment, something which, up until now, has been prevented. They will be able to charge their patients the total fee for the consultation but split the bill into two. At the time of the consultation they will be able to accept the rebate from Medicare direct by having an automatic system whereby patients can swipe their Medicare card—that is the first part—and then on top of that doctors can charge the extra co-payment from the patient.

All the evidence presented to us demonstrates that that is a measure which over time, combined with the other government proposal which deliberately targets bulk-billing for low-paid and concession card holders, will lead to a position where a small proportion of the population may be bulk-billed and the rest of the population would not be. Doctors have even rejected that part of the government's package that is trying to increase bulk-billing for low-paid people and concession card and health card holders, because they say it is just not worth it to have to sign up to bulk-bill all the patients that fit into that category for an additional \$1 per consultation. They have simply said that it is a nonsense proposition and they do not want it.

Madam Acting Deputy President McLucas, there are many aspects to this excellent motion that one could go to. You and Senator Humphries know, as we have travelled around the country hearing evidence and reading the submissions, that people have brought before us a large number of instances of the problems they have faced. I also heard about these problems—and I know you did, Madam Acting Deputy President—as a member of the committee looking at poverty and financial hardship. I believe

Senator Humphries is a member of that committee too. People were pointing out to that committee that the increasing costs of health care and the problem of the absence of any national dental scheme are some of the biggest problems they are facing in terms of making ends meet today, and their health care is suffering because of it.

This is a serious issue. The health of the people of this country is something that we have always been able to be proud of. We had the best health care system in the world, created by a Labor government and recreated and reintroduced by a Labor government. I urge this government to treat this issue seriously and to get on board and do something about restoring bulk-billing and protecting Medicare for all the people of Australia and for the future generations to come.

**Senator ALLISON (Victoria) (5.25 p.m.)**—Twenty minutes is hardly sufficient time to do justice to such a complex motion. However, I will do my best to speak to it on behalf of the Democrats today. The Democrats agree that free point of service access to primary health care is essential and that the ability to pay for that service should never be a consideration. Having said that, I am not altogether sure that our Medicare system is in crisis. Some of the indicators are not good. We have falling rates of bulk-billing, serious shortages of doctors in some areas and increasing gap payments, and they all tell us that access to free or low-cost primary health care is diminishing. It is clear that something must be done.

Some communities have not been able to attract doctors to their towns. For them, this is a crisis and a very serious one. We would, however, have enough doctors, according to some calculations, if they were more evenly distributed and if they did not leave the profession, as they are currently doing. Some

communities have overcome the problem of doctor shortages by employing doctors rather than relying on them to come and be small businesses within their towns. Some have managed to do that by offering doctors generous salaries and other conditions. Some doctors have told our inquiry—which the Democrats initiated—that they have reducing incomes and increasing costs and that that is a crisis because, for them, if the situation continues they may well join other colleagues in exiting general practice altogether. But I must say that the evidence on the question of incomes was not all that clear. Some doctors described the reduction of their incomes as being very significant but others said that, even with the majority of their patients being bulk-billed, they felt they could make a reasonable income.

Doctors have said to our inquiry that good primary health care cannot be delivered in eight-minute bulk-billing consultations, which is what their accountants say are necessary for them to make ends meet. I think this is a really serious issue. Doctor and patient dissatisfaction is the likely result of churning people through the system. People are more likely to be medicated, and the underlying cause of their problem is unlikely to be identified, if they are simply shunted through the system. Many doctors have told our inquiry that they will not go back to bulk-billing no matter how much extra they get in their rebate. They prefer to choose who should be bulk-billed and who should not. Many doctors hold the view that a modest gap payment is a good thing. I do not necessarily share that view but, nonetheless, whilst we have a system where doctors determine for themselves whether or not they bulk-bill, we must listen to what they say and assume that they will act on what they have indicated to us.

What we do know is that many patients cannot afford to pay any sort of gap fee. For

them, this situation is certainly a crisis. I am not sure that we know the extent of that problem, but we must listen to the submissions that have been put before the committee and the individual cases that have been relayed. We must assume from the very large number who are now accessing primary health care through emergency departments in public hospitals that a substantial number of people cannot afford to pay a gap fee. These are people who in many cases are prepared to wait hours and hours. We heard that a four-hour wait is not unusual for people who may not have an emergency health situation but who nonetheless need to see a doctor. This is their only choice because either they cannot get into a GP or the ones they can get into charge a fee they cannot afford. What we know about that is that they, or their children, may not seek health care at a time when they need it.

Others have come to our hearings saying that the system is basically sound but that there is room for improvement and a need for an increase in the rebate provided to doctors for both bulk-billing and other consultations. I think there is general agreement that this is the case and that the government's package will not achieve what we would like to think would be its end—that is, increasing the rate of bulk-billing. Others say this is a good time to look outside the square and at alternatives to our current system of fee-for-service.

The Democrats are on the record both in the parliament and in our press releases as saying that we believe the Medicare package the government has proposed has the potential to create a two-tiered system, because of the differential rebate for pensioners; to be inflationary, in that it removes disincentives to charge a copayment; and to entrench disadvantage by the replacement of public insurance funded by our taxes with private health insurance. We are not alone. In fact,

only the private health insurance sector embraced the government's proposals. Doctors said it would make no difference and that trends of shortages and moves away from bulk-billing would continue. Consumers said they were worried about increasing costs, particularly for those with chronic illness or on low incomes—that is, on incomes that are low but not low enough to have health care cards and to qualify for the safety nets the government proposes.

No-one wants to return to the bad old days or to go down the path of the United States, where costs have risen and fewer people have access to health care. We do not want to go back to the 1950s system of medicine, where there was private health insurance for most and charity dealt out to the poor. That system lasted only about 20 years—thankfully—after having replaced a much better system where doctors were remunerated by friendly societies on a capitation system. In fact, the earlier system of health funding was much more radical than the current one. Doctors were responsible for the health of their patients, whom they were funded for. They were not funded by treatment or consultation, nor were they given incentives to see more patients. They were responsible for maintaining the population's health. The system effectively changed when doctors formed a kind of trade union. They formed a competing private health insurer where doctors were remunerated on a fee-for-service basis, and this became the dominant model. Doctors then regarded themselves as small businesses and were divorced from any integrated system of health.

I think it is useful to remind honourable senators that a 1969 report, commissioned by a Liberal government that was facing extreme dissatisfaction from the electorate, found that private health insurance did not offer good value. I have no doubt that that is as true today as it was then. It found that it

was complex and that people paid high and ever-increasing premiums and ended up with high out-of-pocket costs for treatments. We need to ask why the Prime Minister, who we know is driving this agenda, is nostalgic for this system. I think it suggests that he has forgotten the fact that, under it, 16 per cent of people in 1974 were not covered by any scheme. Perhaps he yearns for a system that insists that people are responsible for themselves and where people can buy advantage—dressed up, as we see in the hospital system, as a choice of doctor. If the two-tiered hospital system is anything to go by, it means that getting ahead of the queue and getting better treatment is what that two-tiered system is all about. Of course, paying extra does not guarantee better treatment, which is why so many people with private health insurance go to public hospitals when they are actually sick.

I return to Medicare. We think it is important that, in the 21st century, Medicare moves on. The sorts of health problems facing Australia over the next 20 or so years are likely to be substantially different from those of the last two decades and are likely to require a very different response. The system of people turning up to their doctor when they are feeling ill, getting treatment and not coming back again unless they are ill is, I think, largely outdated. We need to be able to do this and we need to be able to have a more integrated system that looks at the key risk factors facing particular communities. We need a system that focuses on preventative and holistic responses, and we need to be much more proactive in maintaining good health; we need a wellness approach, if you like. For this I think we need a new structural approach to health. We need changes which go to the very basis of our system.

On 6 March this year, before the Democrats-initiated inquiry into Medicare, I raised the issue of shortages in the allied health

work force. I think we need to look at allied health when considering new approaches to our health system. We also need to consider allied health when we look at work force shortages because the shortages of professionals like physiotherapists, radiographers and pharmacists are such that it is becoming increasingly difficult for our public hospitals—on which most of us rely—to recruit sufficient numbers. It is also the case that there are shortages in private services of psychologists, podiatrists, physiotherapists and the like. Dieticians are also in short supply.

Whenever we have raised the issue of work force shortages, the minister has shown her proficiency at passing the buck. Recently she said that work force issues relate to the portfolio of the Minister for Education, Science and Training. When questioned, she indicated that they are a matter for the states also, and that they relate ‘not a whole lot’ to her area of responsibility. In response to my supplementary question about whether understanding the health work force was fundamentally a national issue, the minister disagreed, saying that it was ‘a combined responsibility’. This is symptomatic and indicative of what has become an embedded political response—a lazy way out when things are difficult. A proper response is difficult. Buck-passing, cost shifting and political wrangling between the Commonwealth and the states have reached mammoth proportions and are a major barrier to getting a better system of health care. People are sick of it and they have every reason to be so.

I do not want to suggest that this is an easy portfolio; it certainly is not. I believe the minister has a very difficult task on her hands and some of her biggest challenges are to do with demonstrating national leadership and pulling together the states. This means enunciating a clear aim of what the health system is about. I choose my words carefully as I believe that we should have a national

health system rather than some fragmented free market arrangement, as occurs in the United States. It means establishing benchmarks for work force, for access, for ratios of medicos to the population and monitoring those—setting targets and looking at whether we have achieved those targets.

Of course, the difficulties for this minister are due in part to the underlying philosophy of the government. Greater free market emphasis on education and training means that insufficient emphasis is placed on ensuring that there are adequate graduates in health services and on providing some vision for the future about what might be needed. Universities would prefer to offer courses that cost less than the health sciences, and graduates in a free market environment will operate accordingly. Who in their right mind would pay \$20,000 or more for a higher education place in a profession that will earn significantly less than a private sector job, unless sufficient attention is placed on job satisfaction, career paths and mobility?

This free market philosophy has significantly undermined the capacity of governments to steer health policy, because health is not a free market, as I have already indicated. The minister will need to extend her work force policy to go beyond shortages in the medical work force, not only of GPs but also of specialists, and to look at allied health work force numbers as well. Given the lack of responsiveness of AMWAC to shortages, some questions need to be asked about the effectiveness of this body. What is the quality of their advice if we are now facing shortages in some of the specialties on which most of us when ill will be critically dependent?

The response to date, which has been to recruit overseas trained doctors, has not been successful. I am aware of hospitals in rural areas who have adopted policies of not ac-

cepting overseas trained doctors because of serious concerns about their ability to operate in the Australian system. First of all, it is a totally new regulatory and cultural environment that has to be negotiated. We heard evidence of doctors from overseas, particularly developing countries, coming to Australia and being totally unfamiliar with our lifestyle health problems and unaccustomed to the sorts of diseases that they were seeing. Secondly, and more importantly, there are often concerns about the level of English of some overseas trained doctors and consequently their communication skills with other staff members and their patients. This can become vitally important in emergencies or situations where communication skills are essential to diagnosis and treatment.

Another issue is the morality and the ethics of accepting large numbers of doctors from developing countries. Outside of the UK, the countries from which most temporary or overseas trained doctors are recruited are China and India. The Democrats regard it as unfair that we allow the global market in doctors to prevail when these people are clearly much needed in their home countries. No doubt they improve their situation by coming here: I am sure the wages are higher, even though they are lower than those for local doctors. But it is the case that we are relying on developing countries that can least afford to be spending a great deal of money training doctors only to have them leave their countries to come to Australia where salaries might be higher.

It has not been possible to do justice to all of the terms of this motion, but I argue that we do have very significant problems. The government's proposals will not fix them. The evidence that has been brought to our committee has indicated that in large measure. We do need to look outside this package and imagine what our health system might need to be like in the long term—it certainly

will not be as expressed in this package. It is incumbent on us in this place to examine solutions to the short-term problems that we know exist right now, to stem them and to make sure that our health system is a good one well into the future—one that can serve all strata of society very well and make sure that our health is at an optimum level.

**Senator NETTLE (New South Wales)** (5.44 p.m.)—The Australian Greens are alarmed at the raft of problems besetting the country's health system: the continuing fall in bulk-billing rates by general practitioners, with as few as three in 10 services bulk-billed in some places; the shortage of doctors in areas of our major cities and in country towns and rural centres; the strain that public hospitals are under and the long waiting times for elective surgery; the federal government clawing back \$1 billion from the public hospital system on the unfounded premise that the rise in private hospital admissions has reduced pressure on the public system; the government's desire to increase the cost of essential medicines provided under the Pharmaceutical Benefits Scheme by 28 per cent, whilst it leaves open the prospect of higher prices as a result of negotiations with the United States in the free trade agreement; the paucity of funding for preventative health measures; the appalling health outcomes for Indigenous Australians; the reluctance of governments to provide sufficient funding for mental health services; the exclusion of dentistry and other critical services from our national health insurance scheme, Medicare; and the Howard government's intention to destroy Medicare. We are particularly alarmed that, in the light of these and many more problems, the coalition government is prepared to plough \$2.3 billion of public money every year into the private health insurance rebate—and it seems the Australian Labor Party is not prepared to oppose such a move.

The provision of health and medical services to all people is a fundamental right and is recognised in article 12 of the International Covenant on Economic, Social and Cultural Rights, part of the so-called 'international bill of rights', to which Australia is a signatory. Health and medical services should be provided on the basis of clinical need, not on the capacity to pay, and they should be funded by progressive taxation. Senator Chris Evans spoke in the chamber last week about progressive taxation. He suggested that some people thought it was unfashionable. The Australian Greens do not consider the idea of progressive taxation to be unfashionable.

The Minister for Health and Ageing, Kay Patterson, said in question time this week that she thinks it is insulting to say that the Australian Greens support socialised medicine. We think it is something to be proud of. Most health economists agree that the most efficient way to purchase health care is through a central buyer such as the government, to place a check on prices and to guarantee equity. That is what we have in the Pharmaceutical Benefits Scheme when it comes to purchasing essential medicines.

Most of the state and territory governments agree that the private health insurance rebate is misdirected, and many of them in their submissions to the Senate inquiry called for the abolition of the private health insurance rebate. Most Australians agree with the Greens that the public sector should be the chief provider and source of funding for health care. They are prepared to pay more tax to fund health services. That was indicated in the *Sydney Morning Herald*, when 77 per cent of Australians said they would rather not have the \$4 a week measly tax cut; they would rather see that money invested into public services like health and education. But the government would prefer to

take Australia down the road of privatised health care with its unfair Medicare package.

The government claims that its Medicare package is aimed at encouraging doctors to bulk-bill low-income earners, but the proposals do not guarantee this. The focus of the government's measures is people with health care cards, not all of whom are low-income earners, thanks to the coalition's decision to extend eligibility for the card to self-funded retirees earning up to \$50,000 a year. Most concessionary patients are already bulk-billed. Those who are missing out are people on low incomes who do not qualify for a health care card: people with young children, those with chronic medical conditions and people living in areas where doctors are in short supply, let alone doctors who bulk-bill.

Senator Patterson has accused critics of the government's plan of being fixated on the bulk-billing rate, as if it were unimportant. Bulk-billing is important because for many people it provides a guarantee of access to health services. This is especially so for general practitioners, who are often the first point of contact when someone is ill. The Australian Greens believe that it is vital to ensure people are not prevented from seeing a general practitioner because they cannot afford the fee being charged. The average copayment is often cited as being between \$12 and \$15, but we know that in regional centres, where there are shortages of doctors, the copayment is as high as \$20. Bulk-billing is a way to ensure that people are not discouraged by a fee. There is no evidence that people are abusing bulk-billing by unnecessary visits to GPs, and certainly the government has not claimed that this is the case. In fact, the number of per capita visits to GPs has fallen in recent years. This would not of itself be a concern if it were evidence of a lesser need, but we know that people are attending public hospitals for treatment that a GP could provide either because GPs are not

available or because of the copayments patients face when they visit GPs. Preventative health care delivered at a community level is the best investment we can make in the health of this nation's people. Proposing changes that would undermine this is poor policy and will not improve health outcomes nor save money in the long term.

The private health insurance rebate is a glaring example of the government's hypocrisy when it comes to health funding. We are constantly lectured that the health dollar is stretched, but somehow there is \$2.3 billion a year to subsidise private health insurance, even though the rebate does not pay for a single health service—instead, it buys insurance—and procedures performed on patients with private insurance cost more than similar procedures performed on public patients. Most of the rebate goes to high-income earners.

The Greens want an end to the private health insurance rebate, and we want to see this \$2.3 billion of public funds redirected into the public health care system, in particular to increasing the rebate for standard GP services—something one of the previous speakers talked about as being a way in which we can promote bulk-billing—and other measures such as paying incentive payments to GP practices that are bulk-billing a certain percentage of their patients. The funds could also be used to ensure that dentistry and more mental health services are covered under Medicare so that we do not have the ridiculous situation where those people who can afford private health insurance have their dental cover subsidised through the taxpayer and through the rebate, whereas when those people who cannot afford private health insurance need to go to the dentist they either have to pay through their teeth or have to go without the service. If they are low-income earners they can sometimes wait for years at the end of the

queue to get state dental services that are provided rather than having a Commonwealth dental scheme as used to exist in this country before the coalition government came in and abolished such a scheme.

The Australian Greens know that \$2.3 billion could buy a lot more health care services for a lot more people were it directed into the public health care system rather than buying private insurance for those people who can afford private health insurance. The Senate had the opportunity last week to make the right decision and to abolish the rebate when I, on behalf of the Greens, moved an amendment that would do such a thing to the [Health Legislation Amendment \(Private Health Insurance Reform\) Bill 2003](#). Despite opposition senators reading out lists of reasons why we should withdraw the subsidy, the Labor Party refused to support the Greens amendment to abolish the rebate. This week, we saw Senator Collins read into the *Hansard* calls by the Combined Pensioners and Superannuants Association for the private health insurance rebate to be scrapped.

This week, the government and the opposition have also raised questions about the medical benefits of natural or alternative treatments and therapies that private health insurance funds have recognised and which attract the private health insurance rebate. Natural therapies have been caught up in a political battle between the Labor Party and the coalition over the cost of private health insurance. Seeking to align natural therapies with the lifestyle benefits that funds offer under ancillary health cover fails to take seriously the potential and proven benefits of alternative approaches to health care. The real issue is the amount of public money being spent on private health insurance, not the extent to which private health insurance covers a number of these ancillary issues. But the government refuses to accept the over-

whelming weight of evidence that the rebate has failed to achieve its stated policy objectives and that it is a poor investment of public funds. We continue to see membership of private health insurance funds dropping, even at a time when the government is putting this \$2.3 billion of taxpayer money as a subsidy straight into the private health insurance rebate. Instead, the government wants to extend the private health insurance rebate to out-of-pocket expenses for non-hospital services as a part of its unfair Medicare package.

The private health insurance industry has been lobbying for years for this extension to cover greater services, and it would not continue to do this unless it envisaged that it could make money out of this measure. When we look at the insurance industries that are profiting out of the private health insurance rebate without delivering the universal health outcomes to the people of Australia, I find it incredible that we continue to put billions of public dollars into a private industry that simply is not providing us with value for money and efficient health services for all Australians.

Instead of instilling a lack of confidence in people about the ability of our public health system to provide timely and quality care, this government should heed the wishes of the Australian people to invest more public funds in public health care. I have spoken before in this chamber about the low- and middle-income earners who put out exorbitant amounts of their wages in order to continue to have private health insurance. They often do that because they are fearful that, when they are sick, the public health system simply will not be able to address their needs as they occur. They pay for the private health insurance so that they can jump the queue in hospital waiting lists and so that they can have their health concerns addressed.

Why should the government continue to feed this insecurity amongst people and force them into the private health insurance industry rather than investing the public money into the public health insurance scheme so that we can provide quality health care for all Australians and so that low- and middle-income earners do not need to feel uncertain or fearful about the capacity of the public health system to cater for their needs? Instead of pushing people into private health insurance through a mixture of subsidies and financial penalties, the government should be building up our public health sector. Instead of wasting this \$2.3 billion of public money each year on the private health insurance rebate, the government should redirect it into public health to ensure that all Australians receive the medical treatment that they need, based on their clinical needs rather than their capacity to pay.

The private health insurance rebate is integral to the government's strategy of privatising health care in this country. It undermines Medicare and it must be abolished for the equity, for the efficiency, for the economic reasons and for the social justice reasons that the Greens have continued to put in this chamber and in the community. Australians recognise that there is this \$2.3 billion—this pot of public money sitting there waiting—that could be invested into our struggling public health system, yet there is no budge either from the government or, indeed, from the opposition to recognise this call from the community to invest in our public health system. We need to see this response. It is something the community continues to call for, and it is time for both the government and the opposition to heed that call for the community.

**Senator BARNETT (Tasmania)** (5.59 p.m.)—I have about 60 seconds to respond. The Greens want to abolish the 30 per cent health insurance rebate. That is a retrograde

step. It will impact on over 8.5 million Australians, nearly 44 per cent of the adult population. The Labor Party has a position which is a non-position. It is a big policy vacuum and it will not commit. We know what the state and territory Labor governments wish to do, and they want to abolish it.

With regard to the commitment to public hospitals, I remind Senator Nettle and others in the chamber that the Australian government has made a historic commitment—the largest in Australian political history—which is a \$10 billion increase over the next five years in support and funding to the public hospital system. That is \$42 billion over the next five years—the biggest ever in Australian history—and a 17 per cent increase in real terms over that period. I think that the government should be congratulated.

**The ACTING DEPUTY PRESIDENT (Senator Lightfoot)**—Order! The time allotted for the consideration of general business has expired.

## DOCUMENTS

### Consideration

The following orders of the day relating to government documents were considered:

*Roads to Recovery Act 2000*—Roads to Recovery programme—Report for 2002-03 on the operation of the Act. Motion of Senator Murphy to take note of document agreed to.

Defence Housing Authority—Statement of corporate intent 2003-04. Motion of Senator Murphy to take note of document agreed to.

APEC—Australia's individual action plan 2003. Motion of Senator Cook to take note of document agreed to.

Natural Heritage Trust—Report for 2001-02. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document agreed to.

Defence Force Remuneration Tribunal—Report for 2002-03. Motion of Senator Crossin to take note of document agreed to.

*Housing Assistance Act 1996*—Report for 2001-02 on the operation of the 1999 Commonwealth-State Housing Agreement. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document agreed to.

Australian Postal Corporation (Australia Post)—Statement of corporate intent 2003/04-2005/06. Motion of Senator Tierney to take note of the document agreed to.

General business order of the day no. 5 relating to government documents was called on but no motion was moved.

## COMMITTEES

### Superannuation Committee

#### Report

Debate resumed from 10 September, on motion by **Senator Watson**:

That the Senate take note of the report.

**Senator HOGG** (Queensland) (6.02 p.m.)—I note that this report by the Senate Select Committee on Superannuation on the draft Superannuation Industry (Supervision) Amendment Regulations and the draft Retirement Savings Accounts Amendment Regulations has already been before the chamber for debate. I just want to make a few comments. I notice my colleague Senator Ray is here. It is worthy to note that the Senate Select Committee on Superannuation has been wound up, having been in existence for a long period of time, in some instances to the dismay of a number of people and in other instances to the joy of a number of people.

**Senator Robert Ray**—Hear, hear!

**Senator HOGG**—I take Senator Ray's interjection to my last statement. Having said that, I thought it was important to note that

this was the final report of the committee. In my view, the committee over a period of time has been fairly effective. I say that with a little bit of bias, as I was a member of the committee from late 1999 to early 2002. The amount of work that was considered by the committee over that period was substantial indeed. The committee chair, Senator Watson, invariably tackled the issues head on and was very fair in the way he approached many of the issues—sometimes, I believe, at odds with the policy and wishes of the government on issues that were before the committee. And, of course, from our side, Senator Nick Sherry ably assisted the committee in its deliberations. My experience on the committee showed me that those two were, by far and away, the most knowledgeable people in this chamber on the issue of superannuation.

I just want to make a couple of brief comments about the report. The issue of superannuation has been before the chamber this week through the legislation the government put forward on the surcharge reduction and the co-contribution. Whilst I am not going to comment on either of those pieces of legislation, I just want to note that at one stage during the debate one excited government member got up and started to blame the industry funds of being union funds. That was a leftover from the early 1980s. That was the sort of rhetoric around at that time. The industry cold war—and cold war is quite right, Senator Marshall—was unfortunate indeed.

I have had particular involvement with a very large industry fund indeed, REST, which looks after people in the retail and fast food areas. It was certainly not a union fund. The genesis of the fund came more from the retailers' side of the industry—that is, from the employers' side—rather than from the union side. But the union and the retailers were able to meet together and bring about

one of the most vibrant and best industry funds in Australia. It could under no circumstances be described as a union fund. I think that is the experience with all of the superannuation funds. They are certainly not union funds: they are not dominated by the unions. It is unfortunate that that sort of narrow rhetoric still prevails today.

A couple of other misconceptions still hang around as well: some people consider that the money that is paid under the SG is in effect the employer's money. Whilst it may well be the employer who pays the money, in conformity with federal legislation, once having been paid it is the employee's money—it is no longer the employer's money. It is certainly not money which belongs to any superannuation company and it is certainly not money that belongs to any financial adviser or the like; hence the value of industry funds over those which are run by private insurance companies and the banks through RSAs. The industry funds of course have very much at heart the welfare and wellbeing of the employees of the industry whose money needs to be invested wisely such that those people can have some chance of security and dignity in retirement.

I turn to the draft report on the Superannuation Industry (Supervision) Amendment Regulations 2003, and the draft report on the Retirement Savings Accounts Amendment Regulations 2003. There was an agreed report, with the exception of some additional comments by Labor senators. I think the comments in the report are worthy of note to this chamber because they go to the issues of portability and choice. At 13.5 of the committee's report, it states:

Labor has stated clearly that it will support a safe choice regime that contains strong protections and safeguards to protect consumers.

That is very important, given that I said in my lead-in that superannuation is about peo-

ple's security in retirement. It is about giving them dignity in retirement. Even with the current SG of nine per cent and the initiatives that the government are proposing with respect to co-contributions, none of those will go far enough to give people a total independence of the age pension or some form of social security, even if they have made a full contribution over a working life of 30 to 40 years. So the statement made by Labor senators in the committee's report is important indeed. It goes on:

Consequently, it expects the same protections and safeguards to be in place before it will accept a portability regime that leaves the consumer open to exploitation by the more aggressive elements of the financial services industry.

That is very important. In England, the experience was that, where an open regime came about, the superannuation resources of a number of people were plundered—and I think that is the only word that can be reasonably used—and there were no proper constraints and proper protection in place to overcome the possible exploitation by these aggressive elements in the financial services industry. As I said, the money is clearly the employee's money. It is not a superannuation company's money. It is not a financial adviser's money. It is no-one else's money other than the employee's. Those people who sit on the board of funds such as REST are trustees of that money and they have the onerous obligation of investing that money wisely to provide the retirement that people can expect after a long and hard working life.

The report went on to list a number of other matters that needed consideration if one were to introduce the issue of portability: consolidation of multiple accounts and costs of funds, education and disclosure, fees, charges and commissions and death and disability insurance. These matters were outlined in greater detail further on in the report, and I would commend the additional com-

ments in the report made by Labor senators to the Senate. (*Time expired*)

**Senator WATSON (Tasmania)** (6.12 p.m.)—This is the final report of the Senate Select Committee on Superannuation. I thank all my colleagues who, over the years, have been part of that very important committee, particularly the long-serving deputy chair of the committee, Senator Sherry, who in 1991 or 1992 was the first chair of the committee. I also take this opportunity of thanking Senator Hogg for his remarks. The final report of the committee, which is being debated tonight, is about portability. The concept was to change the regulation to extend access to portability of superannuation in Australia. For those listening to the broadcast, perhaps it is important to get the terminology right. Portability is quite distinct from choice. Choice refers to the ability of employees to choose the fund into which their employer directs future superannuation contributions, whereas portability of superannuation refers to the ability of members of superannuation funds to roll over or transfer existing superannuation benefits from one regulated super fund, approved deposit fund or retirement savings account to another.

Having established that, we are confronted in Australia with over nine million people in the work force who have well over 20 million accounts. The committee unanimously agreed to the principle of portability—that is, for individuals to be able to consolidate their superannuation accounts. It does make sense because having multiple accounts does attract fees and charges. The committee were of the view that it is best dealt with in two stages and that, in fact, portability can stand alone. We believed it was important to give individuals the ability to consolidate inactive superannuation accounts into either an inactive account or their active account. The committee believed that, providing this was accompanied by a targeted education cam-

paign—after all, the government has set aside money for education in terms of choice, and this is almost ancillary to choice—we would achieve a reduction in the number of superannuation accounts in Australia, and that was a desirable method.

We ran into some difficulty with the proposal to extend the concept of portability to an active account, because we believed that was very close to choice, if not choice, and, as such, it would be better dealt with by legislation than by regulations. We implore the Senate to follow the pathway that the Senate committee has shown, by providing either amended or new regulations, because consolidating their accounts will benefit millions of people in Australia.

Why did we go down the pathway that we did? We felt that where a person's death benefit is significantly greater than the member's account balance some concerns were raised, and this was a matter that we believed had to be dealt with by legislation. The committee were also concerned that portability out of an active account at the moment could actually lead to an increase in superannuation account numbers in Australia, due to the need to maintain multiple accounts. But I think the government is starting to develop a framework now, whereby it is almost time for the Senate, if we get it right, to proceed—not only with portability, which I think can stand on its own, and I would like to see some regulations for that. We have given the pathway; we have a unanimous report from the Democrats, Labor and the coalition government as to how it can be done. Thank you, Mr Acting Deputy President Lightfoot, for your role on the committee. I have appreciated the support that you have given over the year.

There is the possibility, in terms of the revised regulations which were tabled during the committee's sittings, that the number of

superannuation accounts in Australia may increase as a result of that measure. I am of the view, however, that overall, if we go down this path of portability, we will get a great reduction. There has been a lot of focus and attention, and we have moved a long way in the past five years or so since these issues became important.

I think this is a great report. There are issues there and guidelines as to how it can be achieved. With the goodwill from the Democrats and the Labor Party—because, in principle, we all agree with the concept of portability—we have provided a pathway of how it can be achieved. I look forward to some regulations coming in, in the not too distant future, to enable a lot of that consolidation of the 25 or 26 million accounts, I think it is—isn't it, Senator Sherry?

**Senator Sherry**—Twenty-five.

**Senator WATSON**—There is something of that order to be reduced. That will make a big difference in reducing fees and charges and thereby have the potential, over a period of 30 or 40 years, to substantially increase the amount of savings available for the people.

It has been an interesting time. I think we have had some great achievements over the years. If I can digress a little, I think of the role we have had in the solicitors mortgage funds in Australia, where we have made life a lot happier for a lot of mortgagees. We have set a framework in introducing ASIC to look at all the solicitors mortgage funds right across the country. I think that was a great achievement. The investigations we have had into some of the Queensland problems have resulted in two regulators taking action, and there are a number of people now facing court over their activities. The whole thing is starting to come together pretty nicely.

We have had a lot of problems in trying to push along APRA over the years. We are

hoping, under the new leader at APRA, that matters will improve. I must use this opportunity to express my sorrow at the impending resignation of Mr David Knott, the head of ASIC, with whom we have had a lot of dealings. We have found him to be a fine man, one of the great regulators in Australia, and he is indeed going to be hard to replace. I am at a loss as to why he left so suddenly. I think it is unfortunate. He has made a great contribution and I think if he had been head of APRA, earlier, we would not have encountered nearly so many of the problems that happened in the last few years. I take this opportunity to wish David Knott well in his future career, and I wish the new CEO, Dr Laker, all the very best in the big job that he has before him in leading APRA in a challenging world.

**The ACTING DEPUTY PRESIDENT (Senator Lightfoot)**—Thank you, Senator Watson, and congratulations on the tabling of your final report on superannuation.

**Senator SHERRY (Tasmania) (6.21 p.m.)**—That is a sentiment I share. I wish to speak on the same report. I think the last report of the Senate Select Committee on Superannuation is an excellent report. Before I go to the issues dealt with by that committee, I do want to place on record, as Senator Watson and my colleague Senator Hogg have done, that this select committee has been in existence since 1990, when I first entered the parliament. In fact, I was the first chair of the committee for its first three years, and Senator Watson was the deputy chair. When I ceased to be chair and left the committee, Senator Watson became the chair. The committee's life has been approximately 12 years with, I think, a 2½-year break.

I want to put on record my thanks to Senator Watson, in particular, as chair and all the other members of the committee over the years for their very hard work. Senator Wat-

son has a very thorough and detailed knowledge of the issues that the committee had to consider, and I thought he did an excellent job in bringing together the differing views of committee members. We did not always agree, but generally we were able to reach unanimous conclusions based on the evaluation of the evidence put before the committee.

I want to acknowledge former senator Sue West and former senator Bruce Childs from the Labor side, who were also on the committee for its first three years. One other member of the committee was Senator Kernot, who was not of course a Labor senator at that time but subsequently joined the Labor Party. It is interesting to note that this committee made the name of Senator Kernot, I think, because it was the committee that had to determine the future of the then Labor government's proposed compulsory nine per cent superannuation guarantee legislation. Senator Kernot, I think it is fair to say, captured significant media attention with her performance on the committee.

I want to acknowledge the work of Senator Buckland and Senator Wong, who were on the committee. Prior to that, there were two other Labor senators who are still in the Senate who also served on the committee, my colleagues Senator Hogg and Senator Chris Evans. I also want to acknowledge the work of the staff of the committee over many years. Senators cannot do their jobs adequately without the support of effective staff. We were very fortunate with the secretarial and research staff that we had over those years.

I do want to refer to a very unfortunate comment about the committee that was made on Tuesday by Senator Coonan in the debate on the superannuation co-contribution surcharge tax package. During that debate I referred to the committee lapsing after some 12

years and to the barbecue that would take place to commemorate the final report of the committee. When I said this, Senator Coonan said, 'Driving a stake through its heart!' I was a bit taken aback by this comment, to which I said, 'The committee or Senator Watson?' Senator Coonan responded, 'I don't think it will be dead until you cut off its head and stick an apple in its mouth.' I think they are a particularly unfortunate couple of comments. I think even Senator Chapman, who was chairing the Senate while it was in committee, was somewhat taken aback. Senator Chapman is also a member of the select committee, and I think he was a bit taken aback by the unnecessarily vehement comments by Senator Coonan towards the committee. I think that is an indication that the committee and its reports over the years kept the minister on her toes and contested the minister's view of the world.

**Senator Hogg**—And the former minister who knew nothing about it.

**Senator SHERRY**—Yes. Moving to the issues in this last report, the report dealt with what were initially draft regulations on so-called portability. I say 'draft regulations' because we had an unfortunate episode which again, I think, reflects Senator Coonan's view of the world. When the committee sat down in Sydney to have its first day of hearings on the draft regulations, without the committee being informed we discovered through the witnesses that the minister had gone ahead and gazetted the final regulations. So the committee is meeting to consider the draft regulations, waiting to hear evidence, having gathered submissions, and—bang!—the minister had gazetted the regulations without even waiting for the committee report. I think that was a contemptuous approach by the minister, and I have never seen such a display of contempt and arrogance towards the processes of the Senate in my 12 years in this place.

At the present time in Australia we have some 25 million superannuation accounts for nine million fund members. We have an average of 2½ to three accounts per superannuation fund member; some individuals have more than that—three, four or five accounts. What is interesting is that portability does exist. The person leaves a job or leaves a fund, and they do not transfer their money. They have portability—they can transfer money from inactive accounts into their last active account, but they do not do it. Portability exists, so it was incorrect for the minister to claim that these regulations were introducing portability. We already have portability—the problem is that Australians do not exercise portability. In most cases they do not gather together their lost superannuation accounts. We need to ask ourselves why they do not do that.

Firstly, most Australians do not know they can actually consolidate their lost superannuation accounts. Secondly, a lot of Australians cannot find them. Thirdly, they have to fill in forms and contact the fund. There is significant red tape to go through to consolidate your superannuation accounts. This inertia means that millions of Australians do not pool together or roll over their superannuation moneys, and that is at the heart of the problem. So the so-called portability regulations the minister tabled simply do not overcome that problem. Of course, in some cases—and I have to acknowledge that it is a small minority of cases—there are exit fees which are barriers. The committee gathered evidence of what I would certainly consider excessive exit fees, well above what would be considered a reasonable administrative cost and, in some cases, of thousands of dollars. On an account with a \$5,000 balance, the exit fee might have been \$4,500—a massive exit fee which acts as a barrier. But that is in a minority of cases.

So the claims made by the minister were simply incorrect and inaccurate. The committee unanimously found that the portability out of active superannuation accounts could lead to an increase in superannuation members in Australia due to the need for multiple accounts, because what the minister and the government had proposed in these regulations was also so-called portability out of active accounts. If you did that you had to leave \$5,000 in your initial accounts. That would have led to more accounts, not less—a not unreasonable conclusion. The committee unanimously made, I believe, quite correct observations about the need for the regulations to be withdrawn and amended. That was not going to happen—the minister told the Australian Democrats that that would not happen—so they were, consequently, disallowed in the Senate today, and I think that that is a good thing.

The Labor Party has argued for automatic consolidation of superannuation accounts where they are lost; the banning of exit fees other than to cover basic administration costs; clear, simple, comparable and enforceable disclosure of fees, charges and commissions; and the banning of commissions on compulsory superannuation guarantee nine per cent super contributions. Labor believes that these are effective safeguards in a portability choice regime. (*Time expired*)

Question agreed to.

#### DOCUMENTS

##### Auditor-General's Reports

##### Report No. 6 of 2003-04

**Senator SHERRY** (Tasmania) (6.32 p.m.)—I move:

That the Senate take note of the document.

Once again, this is an important report carried out by the Australian National Audit Office into the prudential regulator of superannuation funds in this country—that is, the

Australian Prudential Regulation Authority, known by the acronym APRA. In my view, nothing could be more important than maximising the security and safety of superannuation savings—retirement income—in this country. Basically, the ANAO report identified four major problems with respect to the work of the prudential regulatory authority. It identified that performance information on funds needed to be included in the APRA annual report. It said that there should be risk assessments of all funds and approved trustees. It said that there needed to be a timely allocation of risk rating and approval of supervisory action plans and, finally, that there needed to be a consistent supervisory approach. I am pleased to say that the Prudential Regulation Authority has accepted those recommendations and will implement them.

APRA was created approximately four or five years ago. Initially, it was an amalgam of a number of other regulatory authorities—the old Insurance and Superannuation Commission was one of them—that had responsibility for regulating superannuation. It was very clear to the Labor Party, and to me and to Senator Conroy—we have taken a particular interest in this area over the years—that initially APRA had significant structural, staffing and funding problems. There were many occasions at Senate estimates where, when questioning representatives from APRA, it was clear to us that APRA as a regulatory body was not functioning as efficiently and as effectively as it should have been. That was also clear from the complaints we were receiving.

Over that first two or three years, my colleague Senator Conroy and I raised matters with respect to what we believed was the poor regulation of superannuation and insurance in this country. There were issues of staffing: APRA lost some 40 per cent of the previous staff of the old ISC. In some cases, there were issues in relation to finding new

staff who had adequate experience and knowledge—for example, in the area of actuarial assessments, which is very important in calculating liabilities of insurance companies and superannuation funds. My colleague Senator Conroy and I consistently raised hundreds of questions with APRA about these issues.

We were regularly criticised by the Treasurer, Mr Costello; the previous Assistant Treasurer, Senator Kemp; Senator Ian Campbell; and Mr Hockey in the other place, who would regularly recite the line: 'APRA is the world's best regulator.' I do not know how many times we heard this line. We heard it ad nauseam over those two or three years while they continually rejected the issues and problems that Senator Conroy and I had identified with respect to the operation of APRA. As history has shown, there were significant problems with the regulatory body APRA. There were two particular cases: the HIH insurance collapse, and the superannuation theft and fraud case—known as Commercial Nominees—that occurred approximately two to 2½ years ago.

When we look at the reports into the collapse of HIH—I do not have them with me—it is clear that a significant level of criticism and adverse findings were laid at the feet of APRA, the prudential regulatory authority. Following on from the royal commission into the collapse of HIH Insurance, the government agreed to adopt, I think, most of the recommendations that went to the improvement in regulation of insurance in this country, including a set of recommendations that went to improving the prudential regulatory authority and its performance. Additional moneys were allocated to the budget of APRA in order for it to employ additional and more-qualified staff. The report of the Audit Office, which has just completed its examination of APRA, has identified—and I went through this earlier—a further five ar-

that APRA needs to make improvement in respect of its regulatory supervision.

That is fine. I just wish that the concerns in respect of APRA—not just those expressed by Senator Conroy and I, but those expressed by other critics—about the difficulties, the struggles and the problems it was having performing its regulatory function had been heeded a little earlier. I wish that greater notice had been taken a little earlier. The problems that occurred with the HIH Insurance collapse and Commercial Nominees may have been detected somewhat earlier. I do not think that APRA would have prevented the theft of superannuation funds from Commercial Nominees or stopped the collapse of HIH but I think they probably would have identified the difficulties some months, if not years, earlier.

The Labor Party believes that whilst the improvements that the Auditor-General has identified—which have been accepted by APRA—are appropriate, there needs to be further additional funding allocated to APRA, and I have not seen a statement from the government on an allocation of additional funding. I certainly hope to see it in the supplementary estimates or in the budget next year. The Labor Party does not believe that just beefing up APRA—its regulatory powers of inspection and supervision, and moneys—in itself is sufficient to protect Australians' superannuation. Superannuation is compulsory in Australia. It is long term; it is for retirement. I have argued on behalf of the Labor Party that when theft and fraud occurs—as occurred in the Commercial Nominees case—the victims of theft and fraud in a retirement income fund, which is what superannuation is, should be fully compensated, not partly compensated, as the minister, Senator Coonan, has delivered. There should be full compensation in the event of theft and fraud of superannuation funds.

Labor has argued that full compensation should be extended where a business failure or bankruptcy occurs and there are outstanding superannuation moneys. That is part of our employee entitlements protection policy, which has already been announced. I have also argued for the broadening of the grounds for such compensation. It should not simply be confined to theft and fraud but where the trustees have allowed a serious breach of the Superannuation Industry (Supervision) Act that should also be compensatable. Finally, I have argued that we need to extend the compensation in the event of theft and fraud to certain pension and annuity products: post retirement products. The irony is that we have some compensation for superannuation up to the point of retirement but we do not have the same level, albeit inadequate, for post retirement superannuation, pension and annuity products. It would seem to me that the improvement in compensation provisions is even more urgent, more important and more critical at that stage of a person's life once they have reached retirement. Nothing would be worse than if you were in retirement and your money was stolen and it had been in the form of a private pension or annuity and you could not get compensation. That would be quite catastrophic and it should be compensatable if the worst ever happened.

Question agreed to.

## COMMITTEES

### Privileges Committee

#### Report

**Senator ROBERT RAY** (Victoria) (6.42 p.m.)—I present the 115th report of the Committee of Privileges, entitled *Persons Referred to in the Senate (Board members of Electronic Frontiers Australia Inc.)*.

Ordered that the report be printed.

**Senator ROBERT RAY**—I seek leave to move a motion relating to the report.

Leave granted.

**Senator ROBERT RAY**—I move:

That the report be adopted.

This report is the 43rd in a series of reports recommending that a right of reply be afforded to persons who claim to have been adversely affected by being referred to, either by name or in such a way as to be readily identified, in the Senate.

On 17 September 2003, the President received a letter from Ms Irene Graham, Executive Director, Electronic Frontiers Australia Inc. on behalf of the board members of Electronic Frontiers Inc. relating to remarks made by Senator the Hon. Richard Alston and Senator Brian Harradine during a debate in the Senate on 9 September 2003. The President referred the letter to the committee as a submission under privilege resolution 5. The committee considered the submission on 18 September 2003 and recommends that it be incorporated in *Hansard*.

The committee reminds the Senate that in matters of this nature it does not judge the truth or otherwise of statements made by honourable senators or persons. Rather, it ensures that these persons' submissions, and ultimately the responses it recommends, accord with the criteria set out in privilege resolution 5. I commend the report to the Senate.

Question agreed to.

*The response read as follows—*

17 September 2003

The Hon. Paul Calvert

President of the Senate

Parliament House

CANBERRA ACT 2600

Dear Mr President

We, the individuals listed below, seek redress under the resolution of the Senate of 25 February 1988 concerning the protection of persons referred to in the Senate (Privilege Resolution 5). We are readily identifiable as the persons referred to by Senator Harradine and Senator Alston during the debate on the Communications Legislation Amendment Bill (No. 1) 2002 on 9 September 2003 (*Hansard* pages 14049-14061 inclusive), that is, the members of the Board of Electronic Frontiers Australia Incorporated (EFA):

Chair Mr Greg Taylor, B.Sc, B.Econ, Dip.Inf.Proc., Grad.Cert.Law

Vice Chair Mr Danny Yee, BSc (Hons)

Secretary Mr Nick Ellsmore, B.Com (ISM), CISSP, MAIC

Treasurer Mr Dale Clapperton, J.P. (Qual.)

Ordinary Members Dr Roger Clarke, BCom (Hons I), MComm (Hons), PhD, FACS

Mr Kimberley Heitman, B.Juris Llb, AACS, MAICD

Mr Andrew Pam

Mr Craig Small, BE (Hons), GradDip Management, MBA, MIEEE

Executive Director Ms Irene Graham

Senator Brian Harradine stated that we are "the spokespeople of the porn industry". Senator Richard Alston, Minister for Communications, Information Technology and the Arts, stated that we want to access and then peddle sites involving child pornography; that we are the "ultimate doctrinaire libertarians"; that we support "unrestricted access to offensive material in all its manifestations"; that we "do not believe in trying to find a sensible way of dealing with offensive material on the Internet" and implied that we are dishonest and not a word we say should be believed.

All these allegations are unsubstantiated and false. The Senators' remarks impugn our individual good characters, reputations, honesty and integrity, and those of the thousands of members and supporters of the organisation we represent. In addition, the Senators' remarks are factually incorrect. We hereby seek the opportunity to set the record straight.

The following facts are pertinent.

1. Senator Brian Harradine stated:

“Electronic Frontiers Australia are the spokespeople of the porn industry”. (p.14052)

Senator Harradine’s statement is factually incorrect. EFA does not speak for the porn industry and never has done so.

Evidently some commentators inadvertently or otherwise confuse Electronic Frontiers Australia Inc. (“EFA”) with the adult goods and services industry association, which recently changed its name from The Eros Foundation to The Eros Association Inc. Electronic Frontiers Australia is and always has been a completely separate organisation from The Eros Foundation/Association. The two organisations have quite different aims, objectives and policies. Further, EFA policy on censorship is not the same as that of The Eros Association, for example the two organisations had different positions in relation to the “NVE” Bill in 2000.

Electronic Frontiers Australia Inc. is a non-profit national organisation representing Internet users concerned with on-line freedoms and rights. EFA was formed in January 1994 and incorporated under the South Australian Associations Incorporation Act in May 1994. EFA members come from all parts of Australia and from diverse backgrounds. They are people concerned about matters such as censorship, privacy and intellectual property.

EFA’s major objectives are to protect and promote the civil liberties of users and operators of computer based communications systems; to advocate the amendment of laws and regulations in Australia and elsewhere (both current and proposed) which restrict free speech and to educate the community at large about the social, political and civil liberties issues involved in the use of computer based communications systems.

EFA is independent of government and commerce, is not a subsidiary or affiliate of any other organisation, and is funded by membership subscriptions and donations from individuals and organisations with an altruistic interest in promoting civil liberties.

EFA policy formulation, decision making and oversight of organisational activities are the re-

sponsibility of the EFA Board of Management. Board members are elected by the members-at-large each year and act in a voluntary capacity; they are not remunerated for time spent on EFA activities. The Executive Director is a non-voting member of the Board appointed by and reporting to the Board. Board members are subject to compliance with a Board Code of Conduct approved by the members-at-large which ensures, in addition to the provisions of the S.A. Associations Incorporations Act, that in the event of any Board member having a conflict of interest in relation to any matter under consideration by the EFA Board, that they are not entitled to vote in relation to that matter.

2. Senator Alston stated:

“Senator Lundy said:

‘The idea that FOI could allow people to access and then peddle sites [- for example, that could relate to child pornography-] is completely absurd.’ I do not why it is completely absurd. That is precisely what this EFA outfit wanted to do. ... They wanted access to the sites that have been subject to take-down orders. Why would you want to see all that material? They want the URLs and the content.” (p.14056)

Senator Alston’s claim is factually incorrect. EFA’s FOI application did not request copies of content of any description whatsoever, nor did EFA want URLs relating to content involving child pornography. EFA has previously addressed such false claims in the Frequently Asked Questions [1] page on our web site which includes the following:

‘Was EFA seeking information identifying content containing child pornography?’

No. While many of the ABA’s arguments against full release of the 129 documents appear to imply that the documents refer to child pornography, EFA believes that some 117 of the documents do not contain information about such material. If the ABA had only claimed exemptions for documents that credibly seemed likely to refer to such material, EFA would not have appealed the ABA’s decision.

EFA expects that the ABA would refer content involving child pornography to police. According to a speech by Mr Gareth Grainger (then Deputy Chair of the ABA) on 10 March 2000 [2], at that time only “four (4) of the complaints investigated have involved material that has...been referred to the police for investigation”. However, information the ABA and AAT exempted from disclosure concerns many more than 4 complaints received by the ABA before the end of February 2000.’

Furthermore, EFA informed the Administrative Appeals Tribunal (“AAT”) during the hearing in July 2001 that we considered the Australian Broadcasting Authority (“ABA”) should be required to point out to the AAT which documents concerned material involving child pornography and that information should be exempt from disclosure. (A relevant extract from the AAT hearing transcript is available in EFA’s media release of 13 June 2002 [3].) The information deemed by the ABA and the AAT to be exempt from disclosure included information relating to content the ABA had determined was not prohibited content and also to material that is legally available to adults in cinemas, videos and offline publications.

3. Senator Alston stated:

“Organisations such as the EFA are the ultimate doctrinaire libertarians. They do not believe in any form of censorship. They do not believe in trying to find a sensible way of dealing with offensive material on the Internet.” (p.14056)

and

“You are in favour of giving them the URLs and the pornographic content. ... You were in favour of the EFA. You clearly, therefore, are on the side of unrestricted access to offensive material in all its manifestations.” (p.14061)

Senator Alston’s statements concerning our views are factually incorrect. EFA’s position on censorship is not that of “doctrinaire libertarians” and we do not support “unrestricted access to offensive material in all its manifestations”.

EFA does not support availability of, nor access to, material depicting child sexual abuse and accordingly we have never opposed laws prohibit-

ing production, publication, distribution and knowing possession of such material. We also do not oppose laws prohibiting publication of various other types of material, one example of which is material directed to inciting or producing imminent lawless action that is likely to incite or produce such action.

We have consistently made our views known to Senator Alston’s department (and parliamentary committees) since at least as long ago as 1997 in EFA’s response to the proposed Principles for a Regulatory Framework for On-line Services in the Broadcasting Services Act 1992 issued by the (then) Department of Communications and the Arts. As stated therein “The precise definition of [content that is universally condemned] in a new Internet-illegal guideline statement would be the appropriate response by an Australian government intent on making a effective contribution to dealing with criminal content. Obviously, the narrowest definitions of illegal content are most likely to be successfully prohibited—a wide definition that includes material routinely available in other countries and protected as free speech in the United States would be pointless and unenforceable. ... EFA submits that the only material that can be plausibly prohibited is that which is prosecuted in the USA and in all major countries—specifically authentic child abuse images and text which is criminal under laws of general application (for example death threats or terrorist conspiracy).”

Senators Alston and Harradine should by now be well aware that our principle objection to the Commonwealth Internet censorship regime arises from the fact that it makes a broad range of material that is legal offline in Australia, illegal online.

Senator Alston’s statement that we “do not believe in trying to find a sensible way of dealing with offensive material on the Internet” is also factually incorrect. EFA has been contributing suggestions and comments to the numerous government and parliamentary committee inquiries into ways of dealing with “offensive” material, and protecting children online, since EFA’s formation in 1994. There is no universally agreed definition of what is “offensive”, globally or even within Australia, and EFA’s position in regard to such contentious material has been and remains in

accord with the long established principles in Australian offline censorship law that:

- “adults should be able to read, hear and see what they want”;
- “minors should be protected from material likely to harm or disturb them”; · “everyone should be protected from exposure to unsolicited material that they find offensive”.

The Commonwealth Internet censorship regime does not achieve any of those objectives. Hence, EFA opposes the regime.

4. Senator Alston stated:

“I would not believe a word the EFA said, even if they said, ‘We’re just going to keep it to ourselves for “research purposes”’, but they have not said that. They just wanted access to it, ... and then make it available to all the world. Of course, what would you do? You would simply load it onto an offshore web site and you would stand there thumbing your nose at the authorities and saying, ‘There, there, we’ve put it beyond your reach.’” (p.14056)

Senator Alston provided no justification for his implication that not a word EFA says should be believed. Furthermore, it appears apparent from other remarks made by Senator Alston that he has been misinformed regarding EFA’s views and what EFA has and has not said in the past.

Allegations that EFA intended to publish URLs of prohibited content, if released under FOI, apparently originate from a newspaper article in 2000. As EFA informed the AAT when the ABA’s Counsel quoted the newspaper article during the AAT hearing, that article contained incorrect information misrepresenting EFA’s intentions. Moreover, EFA did not seek copies of prohibited content under FOI and hence clearly had no intention or wish to receive material that could, theoretically, be loaded onto any site. Furthermore, EFA does not and would not publish information in breach of Commonwealth and/or State/Territory laws.

5. Senator Alston stated:

“...all we ever get is this ridicule about the global village idiot which, as I recall, was a term used by someone who wandered out

here from the American Civil Liberties Union as a guest, I think, of Electronic Frontiers ... It was just the usual sort of abuse as you are going to the airport”. (p.14055)

The President of the ACLU did not visit Australia as a guest of EFA and EFA had no involvement whatsoever in her visit. The ACLU President was in Australia as a guest of the University of Melbourne to speak at a seminar on ‘Censorship Versus Free Speech on the Internet’ which was

organised by the University’s Centre for Media, Communication and Information Technology Law, according to the information in UniNEWS Vol 8 No 30, 30 August 1999 [4] and The Law Report, Transcript, ABC Radio, 9 November 1999 [5].

6. Finally, remarks by Senator Richard Alston appear to imply that EFA is, or is associated with, “the Lions Foundation” (p.14052). We have no association with any such organisation, nor with the “Lion club” or the “Lion forum” which were also mentioned by Senator Alston (p.14055). We had not even heard of such organisation/s prior to reading Senator Alston’s remarks.

We tender the above in good faith and request that our response be incorporated in the parliamentary record.

Yours faithfully

Irene Graham

Executive Director, Electronic Frontiers Australia Inc.

on behalf of the Board members of Electronic Frontiers Australia Inc.

1. Frequently Asked Questions about EFA’s FOI Request to ABA [http://www.efa.org.au/FOI/faq\\_foi\\_aba.html](http://www.efa.org.au/FOI/faq_foi_aba.html)
2. Speech by Mr Gareth Grainger, Deputy Chair of the ABA, 10 March 2002 Co-regulatory scheme for Internet content: Operation of Australia’s online-hotline [http://www.aba.gov.au/abanews/speeches/online\\_serv/pdftrf/gcaudit\\_2000.pdf](http://www.aba.gov.au/abanews/speeches/online_serv/pdftrf/gcaudit_2000.pdf)
3. EFA’s media release of 13 June 2002 Veil of Secrecy Remains Over Internet Censorship <http://www.efa.org.au/Publish/PR020613.html>

4. UniNEWS Vol 8 No 30, 30 August 1999  
<http://www.unimelb.edu.au/ExtRels/Media/UN/archive/1999/430/internetcensorship.html>
5. The Law Report, Transcript, ABC Radio, 9 November 1999  
<http://www.abc.net.au/rn/talks/8.30/lawrpt/stories/s64808.htm>

#### ADJOURNMENT

**The ACTING DEPUTY PRESIDENT (Senator Lightfoot)**—Order! There being no further consideration of committee and other documents, I propose the question:

That the Senate do now adjourn.

#### **Ruddock, Hon. Philip**

**Senator TCHEN (Victoria) (6.44 p.m.)**—Tonight I rise to speak about a person who— if we were to believe those who hold themselves our moral guardians and whose main occupation is to write hateful letters to editors—would have to be arguably the most hated person in Australian public life. However, as it is true that a person's quality should be judged from the quality of his enemies, Philip Ruddock, the longest serving member of this parliament and an outstanding Minister for Immigration and Multicultural and Indigenous Affairs in the history of this country, a country that was built and continues to be built by migrants, can rest assured that he well deserves the honorific of 'the Honourable'.

Philip Ruddock has been elected and re-elected by the people of his electorate 13 times since 1972. Next Monday he celebrates the 30th anniversary of his election. This is an occasion the joy of which we all share and, appropriately, Sydney's migrant community—the largest migrant community in Australia—will host a 1,000-guest public dinner in his honour. Unfortunately, we cannot all be there, so I must pay my tribute to him in advance.

A person of deep and thoughtful commitment to the ideals of social justice, and possessing a powerful intellect, during his dis-

tinguished—and happily continuing—parliamentary career, Philip Ruddock has demonstrated interests and expertise in many social policy fields including Indigenous affairs and social security, in which he has held portfolio responsibilities as a minister or a shadow minister. His interests are not limited to these fields, however. As a demonstration of his capacity for hard work and the energy and focus he brings to his work, when he gave his first speech in the House of Representatives chamber back in 1973, instead of reflecting on his personal history and aspirations as most new members and senators would have done, Philip Ruddock addressed the House on the estimates of the Department of Urban and Regional Development—one of the many Whitlam Labor government's failed brave new world dreams—and on the environment and the future of Sydney airport, two issues on which the Labor Party, 30 years later, are still trying to find their way.

Notwithstanding his encyclopaedic range of interests, Philip Ruddock has always displayed a strong commitment to address the complex humanitarian challenges facing the international community. Even prior to becoming the Minister for Immigration and Multicultural and Indigenous Affairs, Philip Ruddock's personal interests compelled him to visit many countries to learn first-hand of the appalling conditions in which refugees around the world were forced to live. Throughout the 1980s, when he was shadow minister, he visited refugee camps in Pakistan, Malaysia, Austria and Hong Kong. One trip was as part of a parliamentary delegation, but most were initiated by his own desire, during his holidays, to gain a genuine understanding of the plight of refugees world wide.

The misery he witnessed then and in subsequent visits had a profound effect on him. As the Minister for Immigration and Multi-

cultural and Indigenous Affairs, Philip Ruddock embarked on an ambitious reform agenda which has seen Australia nominated by the OECD as an immigration country par excellence, and included in this is a humanitarian program recognised as one of the most generous in the world. On Philip Ruddock's watch, Australia's refugee programs have been responsive to changing world protection needs. Not only are we one of the very few countries in the world with a working humanitarian resettlement program, we are the only country that has shifted the focus of our international resettlement activity to Africa, where the plight of refugees is the greatest. In the first five years of the Howard government, on Philip Ruddock's watch, between 1996 and 2001, according to the census, Australia's East African population—that is, the people from Eritrea, Ethiopia, Kenya, Somalia and the Sudan—increased by 54.9 per cent, including an increase of 102 per cent from the Sudan. During the same period, people from the West Asian conflict zones—that is, Afghanistan, Iran, Iraq, Kuwait and Pakistan—increased by 50.4 per cent. That included more than 10,000 people from Iraq who settled in Australia. At the same time, more than 10,000 Bosnian Muslims came to Australia. These figures are irrefutable.

These outstanding results were achieved before the difficult challenge posed by international people smugglers became a threat to Australia's security. That is an issue that we have overcome as a result of Philip Ruddock's steadfastness. As a result of his success in combating unauthorised arrivals, balance has been restored to Australia's humanitarian program so that visas go to those deemed by the UNHCR to be the most vulnerable and in the most desperate circumstances. This year, Australia granted its highest number of offshore refugee and humanitarian visas for five years. In fact, 93 per cent

of the total number of humanitarian visas were granted to people applying overseas.

History will bring clarity to the importance of Philip Ruddock's contribution to the stability of Australia's multicultural, diversely productive and cohesive society. But I am pleased to note that the majority of thinking Australians have already endorsed his work. If the test of social justice is whether the idea will remain true if the positions of the protagonists are reversed—if justice applies to everybody regardless; if the test of compassion is whether the idea remains true if the magnitude of the subject multiplies—whether it is the first boat or the 200th boat; if the test of humanity is whether the ideas remain true despite distance—whether the refugees are unauthorised arrivals on your doorstep or 10,000 miles away in a refugee camp; if the test of wisdom is whether the idea remains true over time—whether it is true today or true in 20 years time, then Philip Ruddock has passed all four tests. I am proud to serve in the same parliament as him, and I hope—although it is probably unlikely—that he will have another 30 years of service to Australia.

Before I finish, let me say that last Thursday night I gave an adjournment speech in which I sought to incorporate the list of participants in the National Youth Roundtable 2003. However, due to an oversight, I did not show it to the Opposition Whip prior to my speech and Senator Campbell, perhaps not being familiar with the National Youth Roundtable, challenged me. During the confusion, although he gave leave afterwards, the *Hansard* record showed that I attempted to table rather than incorporate the document. I now seek leave to incorporate the document in my adjournment speech of last Thursday.

Leave granted.

**Industry: Textile, Clothing and Footwear**

**Senator MARSHALL** (Victoria) (6.53 p.m.)—I rise to address an issue of great concern and importance to thousands of Victorians directly and many more indirectly: acceptance by the government of the Productivity Commission's recommendation that tariffs for most textile, clothing and footwear industries be phased out by 2013. Cutting the TCF strategic investment program will lead to catastrophic job losses throughout Victoria, particularly in rural and regional Victoria. All indications presently point toward the Minister for Industry, Tourism and Resources and the government accepting the Productivity Commission's recommendation that will lead to the loss of up to 19,000 jobs in Victoria, with little to no benefit to the Australian economy in return. The lowering of tariffs for most TCF industries and the eventual scrapping of tariffs by 2013 will severely impact on an industry that is worth \$9 billion to the Australian economy. Cuts in tariffs of the magnitude recommended by the Productivity Commission in such a short period of time will send a shock wave through the TCF industry as well as the Victorian and national economies.

Victoria currently has 34,000 people employed in the TCF industries, 44 per cent of the total people employed in TCF in Australia. There are 2,000 businesses producing TCF products in Victoria, with \$4.4 billion in turnover, representing 2.6 per cent of state production and 5.9 per cent of all exports from Victoria. With more than half of TCF jobs in Victoria expected to disappear if these recommendations are accepted, the negative impact on the Victorian economy cannot be underestimated.

Of particular concern is the impact this will have in rural and regional Victoria. The five worst affected regions in terms of employment and regional activity identified by

the Productivity Commission are all in Victoria and include the regions of Barwon, the Wimmera, Central Highlands and the Ovens Murray region. A reduction in tariffs to levels recommended by the Productivity Commission at the very least requires government to assist the industries concerned in innovation and competitiveness, but there appears to be no indication of any assistance forthcoming. Rather, the government seems set to cut the strategic investment program, which it acknowledged has been responsible for assisting new investment and innovation in the \$9.2 billion TCF sector. On 6 November 2002, the Minister for Industry, Tourism and Resources noted:

It—

the strategic investment program—

is strongly focused on encouraging the investment and innovation which will drive future growth.

If the minister has recognised the benefits from assisting TCF industries in their ability to compete and innovate, I ask why he is then prepared to accept a recommendation that will see this assistance decreased or scrapped.

The impact on the state and national economies will be significant, but it is the impact on the thousands of workers that will become retrenched by the government in accepting the recommendations of the Productivity Commission that surely must make the government reconsider its position. TCF industries have already witnessed over 23,000 job losses since 1995, with surveys demonstrating that those retrenched during this period find it difficult to recover financially and find alternative forms of employment.

Findings by the Centre for Work and Society in the Global Era, referred to as WAGE, suggest that the majority of retrenched workers have not been able to find comparable levels of employment to that experienced

whilst employed in TCF industries. WAGE found that, with an average of 39 months since retrenchment, only 54 per cent of respondents to its surveys had been re-employed. Of those who had been re-employed, only 21 per cent had been employed on a full-time basis. Prior to retrenchment, 91 per cent of respondents worked full time.

Having worked in TCF industries most of their working lives, many having been in the one job throughout their career, retrenched workers have found it difficult in developing job-searching skills and have not developed work skills needed to assist in finding alternative employment. The inability to find alternative employment has led to many retrenched workers suffering from adverse side effects: feelings of depression, a loss of confidence, a deterioration in health, an increase in stress and anxiety, and panic attacks.

The personal and financial cost to retrenched workers and their families is difficult for many of us to comprehend. Retrenched workers from TCF industries have reported that they feel they have been placed on the scrap heap, with many people over 40 years of age finding it near impossible to find another job and communicating that they felt age was definitely a factor in having applications for employment declined.

The cost to the Australian public is also a factor that the government must consider when acting on recommendations from the Productivity Commission. It is estimated that the federal government has spent approximately \$150 million on unemployment and other benefits for the 23,500 TCF workers retrenched in Australia between 1997 and 2003. These costs will escalate if the Productivity Commission's recommendations are accepted. Whilst members of the government, such as Senator Colbeck, have shed crocodile tears in attempts to legitimise their

expected actions in supporting the recommendations of the Productivity Commission, Labor has offered a real alternative that would see the industry protected at a level that will allow it to increase innovation and competitiveness.

Senator Colbeck has come into this place claiming that he understands the impact lowering tariffs will have on TCF workers in Tasmania and suggesting that Labor senators and MPs have failed to act on the issue. He feels that his submission to the Productivity Commission is enough to justify and legitimise the fact that he is endorsing these recommendations by supporting the actions of the minister in adopting the recommendations of the Productivity Commission.

Senator Colbeck has named several ALP senators and MPs in this place, suggesting they have not taken an active interest in the issue because they have not made submissions to the commission. While he has been writing submissions—of one page with just a number of dot points—that failed to offer any real alternative to what we all knew the commission was going to recommend, ALP senators and MPs have been meeting with members of the TCF work force and discussing strategies for how best to ensure TCF industries continue to innovate and increase competitiveness as well as maintain jobs. In consultation with members of the TCF work force, the ALP has promoted a policy that will assist in developing an innovative and thriving industry that will secure high-wage, high-skill jobs for Australians.

Labor believes that the Labour Adjustment Program, scrapped by the Howard government, should be reintroduced to help workers improve skills, retrain or find new employment if necessary. Labor opposes the government's plan to cut industry assistance and believes that the commission has failed to make a case for further tariff cuts in the

TCF industries. The Productivity Commission's own modelling has suggested there is little to no benefit to the Australian economy in reducing tariffs to levels promoted by the commission. However, there will be a significant and high cost to TCF workers in Victoria and across Australia, and much-needed jobs in rural and regional areas will disappear completely. If senators opposite were serious about developing and promoting policy that would encourage and assist innovative change in TCF industries, they would encourage the minister for industry to reject the Productivity Commission's recommendations and adopt Labor's job-creating, as opposed to their job-destroying, policies. Senator Colbeck made his comments in a speech in the adjournment debate on 20 August this year. He put to the Senate:

Here we have another situation where you cannot believe what Labor says but you should take note of exactly what it does.

I remind Senator Colbeck that he is in fact part of the government. It is the government that is introducing policies that are going to destroy the jobs in this industry. It should be him standing up for these workers; he can make a difference—and he should be judged by his actions and not just his words. If he does achieve that, I will come into this place and thank him. He is the one who needs to stand up, not shed crocodile tears. He is the one in the government who needs to convince the government that accepting the recommendations of the Productivity Commission will be bad for thousands of workers not just in Victoria but across the country.

**Bonner, Former Senator Neville**

**Senator RIDGEWAY** (New South Wales) (7.02 p.m.)—Last Monday, 8 September, marked the anniversary of the first speech of a very noble and distinguished Liberal senator from Queensland, the late Senator Neville Bonner. That first speech was given 22 years

ago. I want to put on record that he was the first Indigenous Australian to take a seat in the federal parliament and to acknowledge his contributions to the parliament. He was from the Jagera people of south-east Queensland. I recently had cause to read over his speech, and I was struck by the similarities between the issues he raised in 1971 and the issues about which I and many others continue to speak in 2003.

He came to the Old Parliament House without the benefit of a university education or a high school education and with only a brief stint at primary school. At that time the education system was officially segregated and there were no schools for Aboriginal children where he lived in northern New South Wales. When the family moved to southern Queensland, his grandmother was able to convince the local authorities to allow him to attend a school with non-Indigenous children. By the time he attended primary school, he was 14 years of age. He went to school for a year, and that was the end of his formal education. Yet he went on to become extensively involved in administration, business, Aboriginal politics and mainstream politics, which eventually led to his filling a Senate vacancy for the Liberal Party in 1971 and contesting elections in ensuing years. In his first speech, he broached the subject of skin colour as an indicator of Aboriginality. Public discussion then was still firmly entrenched in the eugenic racism underpinning the stolen generations, and it unfortunately has not broadly advanced in the past 32 years. He went on to say:

In my experienced opinion, all persons who desire to be so classified, regardless of hue of skin, and who have flowing in their veins any portion, however small, of Aboriginal or Torres Strait Islander blood, are indigenous people.

It does not necessarily follow that the degree of one's emotional scars matches the darkness of personal pigmentation or that the lightness of

one's skin necessarily indicates a lessening of knowledge of and belief in Aboriginal or Torres Strait Islander culture and tradition.

Some are shocked by the intensity of the then senator's passion for his people, as history has generally—and unfairly, I believe—cast him as a conservative with little political conviction or teeth. Yes, he was fundamentally conservative and a well-known monarchist; yet, when a senator, Neville Bonner crossed the floor several times to vote with the Labor opposition on Aboriginal issues. Bonner's time in the Senate highlighted the unique difficulties potentially facing Indigenous people when they need to choose between their political parties and the priorities of their people. His ability to stay true to his personal and cultural views as an Indigenous person whilst being a representative of a mainstream political party makes him something of a role model for me. These are very difficult times but, thankfully, I represent not the Liberal Party but the Australian Democrats—a party with an honest and open record in Indigenous affairs.

In his speech Neville Bonner also spoke at length about the issues of communal moral rights and the importance of economic development for Indigenous people, an issue we are still struggling with today. Neville Bonner searched for somewhere in the copyright or patents acts that would allow the design of the boomerang to be registered and/or protected. That space does not exist even to this day. As a former maker of boomerangs, Mr Bonner felt both culturally and economically offended by the cheap overseas boomerangs that flooded the Australian tourism market. That is a too-familiar story today, but there is now a wider range of art and cultural objects subject to this treatment. The then senator said in his first speech:

I have made inquiries about the possibilities of a patent over the boomerang and have been advised that, as it is by no means a recent scientific inven-

tion, it would not be possible for anyone to take out a patent for it.

Likewise, I understand, the law of copyright would apply only to individual design on an artefact. I have been told that the word 'boomerang' cannot even be registered as a trade mark as the term is probably too deeply entrenched in the English language to be legally registered now as distinguishing the goods of particular manufacturers or traders. If some solution to this problem can be found it may be one small way of fostering an Aboriginal enterprise which I know surely has considerable potential.

He then became the first senator to give a boomerang-throwing demonstration outside the building to showcase the superior quality of the local product. But Bonner was not all boomerangs and big hair. In 1975, he moved a motion successfully in the Senate urging the then government to admit Indigenous prior ownership and introduce legislation to compensate Indigenous people. When Senator Bonner was at the peak of his federal political career in 1983, the Liberals dropped in to an unwinnable spot on their Senate ticket. And the rest is history. The federal parliament was without an Indigenous representative until 1999 when I took my seat here in the Senate.

More genuine efforts must be made on the part of our political parties to attract Indigenous people into political life of the nation, irrespective of the party, by preselecting them for safe seats or via the consideration of dedicated seats for Indigenous people as exist in New Zealand or following the Canadian example of Aboriginal electorates. First, there must be an acknowledgement of the historically derived nature of Indigenous disadvantage and of the requirement to adopt special measures to provide Indigenous people with equality of opportunity in a very real way. Special measures are necessary and fair so that Indigenous people can catch up. Governments need to do more than simply pass non-discrimination legislation if they

are serious about removing disadvantage. Special measures do not lead to separate rights; rather, they are temporary measures designed to remove disadvantage. As Aristotle said, 'There is nothing so unequal as the equal treatment of unequals.' Bonner's home state of Queensland has only seen one Indigenous person elected to its parliament in 130 years: Eric Deeral, who held the northern seat of Cook from 1974 to 1977. Neville Bonner said in an interview in 1995:

I would not recommend with a clear conscience that Indigenous people join any one of the major political parties, because political parties in this country want bottle drawn seats, hands in the air at the right time. You have no freedom to express yourself against the party, I can tell you.

Twenty-two years on, on the occasion of the anniversary of his first speech, as the first Indigenous person in federal parliament and as someone who is recognised in the history books of this country, we should never forget the path that Neville Bonner blazed in this place, the price that he paid or the legacy that he has left for so many people who have followed.

#### **Best, Mrs Mavis**

**Senator TIERNEY** (New South Wales) (7.09 p.m.)—I rise tonight to pay tribute to a great Australian. It is said that we can see so far because we stand on the shoulders of giants. The shoulders that we Australians now stand on are those of the generation who built our country between the 1930s and the 1960s—people who experienced in turn depression, war and finally prosperity. These conditions forged a people who were resilient, resourceful and civic minded. This generation is now passing.

Tonight I pay tribute to one of the last of their number—Mavis Best. I am doing this to record for posterity the contribution to our nation of a great Australian citizen. I am doing this because, as one of the millions of

unsung heroes of that remarkable interwar generation, no-one will ever write a book about her contribution to our nation. So I place this on the Senate record tonight.

Mavis grew up in an era when the opportunities for women were much more limited than they are today. One career path was teaching. It is said that, if you drop a rock in the middle of the Pacific, the ripples will go on and on to the shores of the ocean. By choosing teaching, Mavis Best made a difference in the lives of young people that will ripple on and on, down the generations. Some indication of her profound effect on her charges was that, 20 years after retiring as the Principal of Auburn Girls High School in Sydney in 1984, former pupils such as Roderick West, the Principal of Trinity Grammar School in Sydney, would visit her in her nursing home. Mavis had taught him Latin at Drummoyne Boys High School. The apprentice became the master and eventually the headmaster. Roderick West, the chair of the 1997 West review of higher education, is currently in Italy and greatly regrets being unable to attend the funeral tomorrow.

Mavis had a similarly profound influence on many of her pupils. She was a gifted teacher. Most of us here, I am sure, can recall teachers in our own lives and the ways in which they shaped our future. That is the gift of teaching. Mavis Best was very well prepared for her vocation. A graduate of Sydney Girls High School, she was one of the 'Elizabethans', attending the school site on Elizabeth Street before it moved to Moore Park. Mavis graduated from Sydney University as a classical scholar and taught Latin in a wide range of schools including Grenfell, Gosford, Drummoyne Boys High School and North Sydney Girls High School and finished her career as Principal of Auburn Girls High School.

The teaching of the classics and dead languages like Latin is no longer fashionable in education. The world of education has moved on, but in a way we might have lost something. The essence of the classical versus modern education debate is crystallised in the book and the movie *Goodbye, Mr Chips*. A new principal arrives at Chips's school, Brookfield, in the early part of the last century, determined to modernise the curriculum and remove Chips's discipline of Latin. Chips's eloquent defence of a classical education won the day and eventually Chips became the principal—like Mavis.

A good classical education for people as highly intelligent as Mavis Best empowered her to empower others. Imbued in her was a love of Western culture. She regularly attended the opera, the ballet and the symphony orchestra. It was from this rich classical and cultural base that she influenced the lives of thousands of pupils. Mavis did not have any children of her own, but she had a profound effect on her extended school family.

Her passing generation were the great volunteers of Australia, and Mavis Best was no exception. One of her areas of involvement was as a volunteer for the Liberal Party. Mavis retired to her family home in Hurlstone Park in Western Sydney where, because of demographic shifts, the Liberal Party was losing ground. But Mavis stayed and fought the good fight. Former state Liberal Party Director Peter Kidman, who had been a field officer in the area, said if you ever wanted a job done, from stuffing envelopes to organising election booths, Mavis could always be relied upon. Mavis Best always worked behind the scenes. She never sought political office for herself but, with her sharp mind, she let her views be known in the councils of the Liberal Party, including those in her region, the Women's Council and the education policy forums.

Former Women's Council president Marie Wood said that Mavis Best, through her long involvement with the Women's Council, kept up with the issues and let her strong views be known. In doing so, she helped inspire a new generation of women in politics. Thirteen years ago there was a dinner in her honour, where tributes were paid to her work by many party luminaries, including the late the Hon. Dr Marlene Goldsmith MLC and Senator the Hon. Peter Baume. She has been described by the former local member for Evans, John Abel, as a rock in the Liberal Party. Sadly, over time, even a rock crumbles physically. I visited with her in the nursing home. Even through her developing disability, she could still display glimpses of that sharp mind that had made such a great contribution to the youth and the polity of our country. Vale, Mavis Best, a great Liberal, a great Australian: you are greatly missed.

#### Australian Citizenship Day

**Senator MASON (Queensland)** (7.16 p.m.)—I rise tonight to respond—

**Senator Mackay**—Mr President, I rise on a point of order. It is now the Labor Party's slot on the adjournment.

**The PRESIDENT**—I have a list here.

**Senator Mackay**—The government speaker has sat down and I am now taking the remainder of the slot.

**The PRESIDENT**—I had already called Senator Mason.

**Senator Mackay**—I was on my feet, Mr President.

**The PRESIDENT**—I have a list in front of me, and that is what I go from. I know it is an unofficial list.

**Senator Mackay**—This was not cleared with us. I was on my feet.

**Senator Tierney**—Mr President, I rise on a point of order. I was given 10 minutes; I ceded four minutes to Senator Mason and

reduced my time, so our side is still having the same amount of time.

**Senator Mackay**—Mr President, on the point of order: the convention in this place is that senators take it in turns to speak on the adjournment debate. If somebody wishes to cut their time short, then you call the speaker from the other side. I was on my feet when Senator Tierney sat down.

**The PRESIDENT**—The convention in this place is that the President, or whoever is in the chair, calls who he thinks he should call. I have a list in front of me that I assume has been agreed by the whips. This is nothing unusual. I have been in the position before when senators have split their time.

**Senator Mackay**—Mr President, on the point of order: it is an informal arrangement with the government; it is not something that the Labor Party has any say in or control over. I was on my feet when Senator Tierney sat down. There is time remaining in the adjournment debate for me to speak and the next speaker should be, as is protocol, from the Labor Party. I understand your situation.

**The PRESIDENT**—The fact is that I have called Senator Mason. The matters you have raised should be taken up with the Procedure Committee—if there is going to be a change of arrangements when senators split time, which they have done before. As I said, I have been given a sheet that I thought was agreed to and I called Senator Mason on that understanding. Senator Mackay, I hear what you say and it is something that I think has to be sorted out. Senator Mason, you have five minutes.

**Senator MASON**—I rise tonight to respond to Senator Ridgeway's comments last night about the speech I gave in this chamber on Tuesday regarding Australian Citizenship Day. Senator Ridgeway's response to my speech saddens me. It is not, I think, typical of him. He accused me of being a bigot—

worse still, a lazy bigot. This saddens me because I have always found it best to play the issue and not the man. For Senator Ridgeway to accuse me of sloppy and lazy research in pursuance of my alleged bigotry is doubly unfortunate, for he himself seems not to have read my speech in the first place. The result is that Senator Ridgeway totally misrepresented what I said and spent 10 minutes attempting to demolish a straw man he himself had constructed.

Senator Ridgeway accuses me of bigotry for allegedly 'slamming the acknowledgment of Indigenous peoples' and being 'divisive'. No-one believes that we should exclude Indigenous Australians from the welcome we give to new Australians at citizenship ceremonies. I certainly do not. What I proposed in my speech was for a more inclusive and positive acknowledgment of our debt and gratitude to our ancestors regardless of their race, religion or colour. I proposed this as an addition to the acknowledgment of Indigenous contribution, not in substitution of such an acknowledgment. What is bigoted about wanting to be more inclusive? Let me remind Senator Ridgeway of what I actually said:

I believe it is right and it is proper to acknowledge and recognise the Indigenous contribution to Australia.

I said that our new citizens should learn about the importance of Indigenous history, which I described as considerable and unique. But I also suggested that new Australians should also learn about our debt to all other Australians who contributed to building this country. Finally I said:

So when we recognise the undisputed and valuable contribution of Indigenous Australians to our history, our culture and our society let us also add words such as these: 'I would also like to acknowledge our debt and gratitude to all our forebears: the men and women of all races and religions who through their courage, hard work and

determination made Australia one of the freest, fairest and most prosperous countries on earth.'

That is what I said. What is so bigoted, I ask, about wanting to acknowledge in an inclusive and positive way the contribution to the building of our nation by, among others, convicts, pioneering men and women, the Anzacs and the migrants who flocked to this country after World War II? It might seem tiresome to repeat tonight yet again my words, but I am doing so to underline one very, very simple point: bigotry stems from ignorance born of laziness and the desire to exclude some Australians from recognition. I will leave it to all my fellow Australians to decide who is lazy and who is bigoted.

**Senate adjourned at 7.24 p.m.**

#### **DOCUMENTS**

##### **Tabling**

The following documents were tabled by the Clerk:

Australian Crime Commission Act—Regulations—Statutory Rules 2003 No. 236.

Australian Meat and Live-stock Industry Act—Regulations—Statutory Rules 2003 Nos 234 and 235.

Australian Security Intelligence Organisation Act—Regulations—Statutory Rules 2003 No. 233.

Civil Aviation Act—Civil Aviation Regulations—Instruments Nos CASA 398/03 and CASA 423/03.

Corporations (Fees) Act and Corporations Act—Regulations—Statutory Rules 2003 No. 241.

Customs Act—Regulations—Statutory Rules 2003 No. 237.

Energy Grants (Credits) Scheme Act—Regulations—Statutory Rules 2003 No. 242.

Higher Education Funding Act—Determinations under section 15—Determinations Nos T16-2003 and T17-2003.

Parliamentary Entitlements Act—Parliamentary Entitlements Regulations—Advice under paragraph 18(b), dated 16 September 2003.

Public Service Act—Public Service Commissioners Amendment Directions 2003 (No. 2).

Statutory Declarations Act—Regulations—Statutory Rules 2003 No. 238.

### QUESTIONS ON NOTICE

The following answers to questions were circulated:

#### Education: HECS Debt

##### (Question No. 1361)

**Senator McLucas** asked the Minister representing the Minister for Education, Science and Training, upon notice, on 27 March 2003:

Can a state-by-state breakdown be provided of accumulated Higher Education Contribution Scheme debts for the years 1995 to 2001 inclusive, in the same format as provided in the answer to question no. E689 03 taken on notice by the department during estimates hearings of the Employment, Workplace Relations and Education Legislation Committee.

**Senator Alston**—The Minister for Education, Science and Training has provided the following final answer to the honourable senator's question:

#### HECS DEBT BY STATE/TERRITORY FROM 1995 TO 2001\*

State/Territory	1995	1996	1997	1998
ACT	\$110,524,254	\$125,997,600	\$143,416,223	\$158,541,569
NSW	\$1,160,438,560	\$1,333,961,612	\$1,516,375,079	\$1,665,272,682
NT	\$33,283,474	\$38,896,273	\$44,681,282	\$48,606,300
QLD	\$596,991,882	\$701,668,029	\$821,760,683	\$931,669,784
SA	\$272,007,862	\$320,320,701	\$370,214,640	\$412,353,819
TAS	\$69,023,906	\$80,857,521	\$93,973,596	\$106,180,577
VIC	\$1,122,675,404	\$1,305,358,838	\$1,494,395,445	\$1,656,749,582
WA	\$344,330,260	\$398,380,977	\$454,379,113	\$501,371,866

State/Territory	1999	2000	2001
ACT	\$158,724,941	\$191,841,132	\$212,357,994
NSW	\$1,666,560,082	\$2,052,436,416	\$2,328,234,609
NT	\$48,097,550	\$57,100,716	\$61,851,062
QLD	\$952,265,785	\$1,229,047,968	\$1,445,160,726
SA	\$419,693,226	\$524,210,849	\$603,180,904
TAS	\$109,990,158	\$142,448,894	\$168,546,331
VIC	\$1,664,752,983	\$2,029,605,251	\$2,276,304,404
WA	\$506,692,293	\$634,363,212	\$731,344,479

\* Debt level at 31 December each year; does not include overseas resident HECS debtors.

#### Foreign Affairs: Intervention Policy

##### (Question No. 1681)

**Senator Brown** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 1 August 2003:

- (1) What are the common principles and criteria underpinning the Government's decisions to intervene in East Timor, Iraq and the Solomon Islands.
- (2) How does the situation in Zimbabwe compare with East Timor, Iraq and the Solomon Islands, against these principles and criteria.
- (3) Is intervention in Zimbabwe by Australia, similar to that undertaken in East Timor, Iraq and the Solomon Islands, an option.

**Senator Hill**—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator's question:

The Government's policies in relation to interventions in East Timor, Iraq and the Solomon Islands are clearly on the public record, as is our position on Zimbabwe.

**Health: Hepatitis C**  
**(Question No. 1781)**

**Senator Hutchins** asked the Minister for Health and Ageing, upon notice, on 18 August 2003:

- (1) With reference to the answer to question on notice no. 1352 (Senate *Hansard*, 15 May 2003, p. 11332), concerning the number of Australians directly notified of the risk of Hepatitis C exposure from contaminated blood, in which the Minister advised that the department did not have the requested information but had sought this information from the Australian Red Cross Blood Service: What were the figures which the Australian Red Cross provided to the department with regard to the number of Australians who have been notified of the risk to Hepatitis C exposure from contaminated blood.
- (2) Can the Minister assure Australians that all those exposed to the deadly virus Hepatitis C from contaminated blood transfusions and blood products are now traced and that they have been directly notified.
- (3) Is the Minister aware that the Queensland branch of the Australian Red Cross Blood Service was recently contacted by a blood donor with Hepatitis C.
- (4) Given that the individual in paragraph (3) above was infected with Hepatitis C in 1978 and that, in 1995, unaware of their infected status, they made numerous blood donations to the Australian Red Cross: Will the Minister order an immediate investigation into: (a) why this person was not informed by the Red Cross of their infected status; (b) how many hospital patients received their blood; and (c) whether any of these patients were infected as a result.
- (5) Are there any reports of Hepatitis C infections as a result of blood transfusion during or after 1995.
- (6) (a) Does the Minister agree that Australia is self-sufficient in the supply of blood and blood products; (b) at what periods in the past has Australia not been self-sufficient in the supply of blood and blood products; (c) what blood products have been imported into Australia since 1975; (d) what quantity of each blood product has been imported; and (e) what are the names and countries of business registration of the companies that manufactured the imported products.
- (7) (a) Is the Minister aware that the Australian plasma fractionator CSL Ltd. has, in the past, imported foreign-sourced plasma into Australia which was used to make medical products for therapeutic use in Australia; and (b) can a list be provided of the countries from which the formerly government-controlled CSL, and the currently privatized CSL Ltd., bought plasma.
- (8) (a) Is the Minister aware that the practice of accepting blood from prison inmates has occurred in Australia; and (b) on what date was this practice stopped; and (c) what are the names of the prisons where this practice occurred and the time periods in which this practice occurred at each prison.

**Senator Patterson**—The answer to the honourable senator's question is as follows:

- (1) The Australian Red Cross Blood Service (ARCBS) has advised that as at April 2003, 2,456 potentially exposed recipients have been notified and tested for Hepatitis C as a result of ARCBS, State and Territory health department and hospital Lookback investigations.
- (2) The ARCBS has advised that the majority of implicated recipients have been traced and notified at this time. The ARCBS has noted that it is recognised internationally that targeted Hepatitis C Lookback programs cannot identify 100 per cent of the recipients of potentially 'at risk' donations.

- (3) The ARCBS has advised that ARCBS Queensland was contacted by a former donor in 2003. Based on information from the donor, the ARCBS initiated a Donor Triggered Lookback (DTL) to search for and investigate the donor's previous donations.
- (4) (a), (b) and (c) The ARCBS has advised that ARCBS Queensland records show that the donor referred to in question 3 above gave 2 donations three months apart in 1995 and each was tested for Hepatitis C. On both occasions, the donor's donation tested negative for Hepatitis C using a sensitive 3rd generation screening test for hepatitis C (3rd generation testing for antibodies is still used in 2003). On the basis of this information there is no justification for me to order further investigation into this matter.
- (5) The ARCBS has advised that there are 13 reports of Hepatitis C infection as a result of blood transfusion during or after 1995, derived from seven donors. The 13 recipients were identified through ARCBS Donor Triggered Lookback, where a donor is either found to be Hepatitis C positive at a subsequent donation or has notified the Blood Service they have become Hepatitis C positive subsequent to their last donation. While no definitive causal link has been established in these 13 cases, it is ARCBS policy, in the absence of other reported risk factors for Hepatitis C, to regard the Hepatitis C infections as resulting from the blood transfusion.
- (6) Australia's aims in relation to blood and blood products are set out in the recent National Blood Agreement between the Commonwealth and State/Territory Governments where one of the policy aims is "to promote national self-sufficiency".

Blood products are of three basic types: (i) fresh blood products derived directly from blood donations and manufactured in blood centres and similar facilities. These include red cells, platelets, fresh plasma for transfusion, white cells and haematopoietic progenitor cells; (ii) plasma derived products from industrial fractionation of human plasma; and (iii) alternatives to blood products such as recombinant factors for haemophilia and growth factors for anaemia.

(a) Australia is self-sufficient in all fresh blood products except for, first, occasional requirements for haematopoietic progenitor cells where rare tissue types in patients mandate access to overseas donors through the International Bone Marrow Donor Registry, to which Australia also actively contributes and, second, for patients with very rare blood types where international registries are searched for compatible donors. Plasma derived products are mainly supplied from the domestic blood supply through products manufactured by the national fractionator (CSL Limited). In some cases, clinical need cannot be met through the domestic supply and then products are imported. Australia does not aim for self-sufficiency in alternatives to blood products, which are not generally manufactured in Australia and are imported from overseas.

(b) For fresh blood products, see 6 (a). For plasma derived products, Australia has not been fully self-sufficient in the past, either because insufficient product is manufactured in Australia to meet clinical need or because there is a small number of products which CSL Ltd. does not manufacture. Self-sufficiency is not relevant to alternatives to blood products.

(c) For fresh blood products, see 6 (a). For plasma derived products, details of actual products imported are not held by the Commonwealth Government. However, since the introduction of the Therapeutic Goods Act in 1991, overseas-sourced plasma products have been placed on the Australian Register of Therapeutic Goods (ARTG) or have been approved for use through the Special Access Scheme (SAS) provisions as detailed in the table below.

No	Product	Company	Origin	Approval
i)	Intravenous Immunoglobulin products	ZLB Bioplasma	Switzerland	ARTG
	Sandoglobulin Intraglobin F	Biotest	Germany	

No	Product	Company	Origin	Approval
ii)	Immunoglobulin anti-D : Winrho SDF	Cangene	Canada	ARTG
iii)	Fibrin Sealant – Tisseal Duo	Baxter	Austria	ARTG
iv)	Immunoglobulin anti-rabies	Aventis-Pasteur	France	ARTG
v)	Factor VII concentrate	Baxter Bio-Products Laboratory	Austria UK	SAS
vi)	Factor VIII concentrate – Immunate	Baxter	Austria	SAS
vii)	Factor IX concentrate Immunine Alphanine	Baxter Alpha	Austria USA	SAS
viii)	Factor IX complex – Proplex-T	Baxter	USA	SAS
ix)	Factor XI concentrate	Bio-Products Laboratory	UK	SAS
x)	Factor XIII concentrate – Fibrogammin P	Aventis-Behring	Germany	SAS
xi)	Alpha-1 anti-trypsin concentrate – Prolastin	Bayer	USA	SAS
xii)	C1-esterase inhibitor concentrate	Baxter	Austria	SAS
xiii)	Antithrombin III concentrate	Baxter	Austria	SAS
xiv)	Intravenous immunoglobulin: Gammagard Endobulin	Baxter Baxter	USA Austria	SAS
xv)	Albumin – Buminat	Baxter	USA	SAS

For alternatives to blood products, the following table provides details of products listed in the ARTG

No	Product	Company	Origin	Approval
xvi)	Recombinant Factor VIII Recombinate Kogenate Refacto	Baxter Bayer Wyeth	USA USA USA/Europe	ARTG
xvii)	Recombinant Factor IX – Benefix	Wyeth	USA	ARTG

(d) This information is not held for any of the three types of blood products by the Commonwealth Government. Prior to 1 July 2003, the ARCBS managed arrangements relating to the infrequent importation of fresh blood products, and each State and Territory had individual contractual arrangements for the supply of imported plasma products and alternatives to blood products.

(e) This question is answered at 6 (c).

(7) (a) and (b) Advice from CSL has been sought on this question.

- (8) (a), (b) & (c) Since the introduction of the Therapeutic Goods Act in 1991, the collection of plasma for manufacture into therapeutic goods is an activity, which requires a licence from the Therapeutic Goods Administration (TGA). Since 1991, the TGA has not issued any licences to prison facilities. Additional advice from the ARCBS has been sought on this question.

**Howard Government: Senate****(Question No. 2114)**

**Senator Bartlett** asked the President of the Senate, upon notice, on 16 September 2003:

- (1) Is the President aware of the following statement made by the Minister for Small Business and Tourism (Mr Hockey) in a Meet the Press interview aired on 14 September 2003 'What I do know is the Labor Party and the Democrats are holding up a vast amount of legislation that the Government has put in place in the Senate'.
- (2) Does the President accept the *Australian Concise Oxford Dictionary's* definition of 'vast' as 'immense, huge, very great'.
- (3) Does the President accept that in trying to beat up a climate for a double dissolution election, the Government is attacking the Senate unjustly and engaging in gross distortion by making remarks of this kind.
- (4) Can the President: (a) provide a list for the Senate of all bills that could conceivably be regarded as being held up, as described by Mr Hockey; and (b) give his reasons for making that judgment.

**The PRESIDENT**—The answer to the honourable senator's question is as follows:

- (1) to (4) It is not appropriate for the President to become involved in any political debate about progress of legislation through the Senate. There are a number of documents produced by the Department of the Senate as an aid to honourable senators in checking on the progress of legislation, and other Senate business. Among these is the Bills List (produced at the end of each sitting fortnight), the Daily Bills Update, Business of the Senate (produced half-yearly), the Senate Daily Summary, and the Statistical Summary (produced at the end of each sitting week). Each of these documents is produced in paper and electronic form, for the use of senators and for the general public.