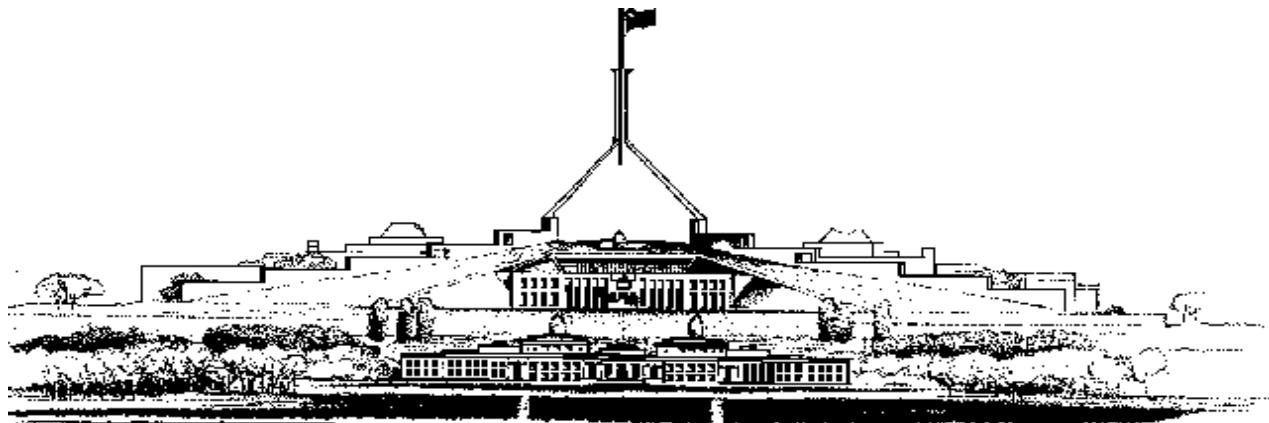




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**PARLIAMENTARY DEBATES**



**SENATE**

**Official Hansard**

**No. 14, 2002  
MONDAY, 18 NOVEMBER 2002**

FORTIETH PARLIAMENT  
FIRST SESSION—THIRD PERIOD

BY AUTHORITY OF THE SENATE

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*Monday, 18 November 2002*

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

**BUSINESS  
Rearrangement**

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (12.31 p.m.)—as amended, by leave—I move:

That, on Monday, 2 December 2002:

- (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to midnight;
- (b) the routine of business from 7.30 pm shall be consideration of the government business orders of the day relating to the Prohibition of Human Cloning Bill 2002 and the Research Involving Embryos Bill 2002; and
- (c) the question for the adjournment of the Senate shall be proposed at 11.20 pm.

Question agreed to.

**SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) BILL 2002**

**SUPERANNUATION LEGISLATION AMENDMENT BILL 2002**

**Second Reading**

Debate resumed from 11 November, on motion by **Senator Kemp**:

That these bills be now read a second time.

**Senator SHERRY** (Tasmania) (12.31 p.m.)—We are dealing with both the Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 and the Superannuation Legislation Amendment Bill 2002 cognately. One introduces a co-contribution scheme for low-income earners and the other reduces the surcharge tax for high-income earners. Labor supports the bill to introduce a co-contribution measure for low-income earners, with a certain amendment that we will obviously get to in committee, but Labor will not support the measure to reduce by approximately one-third the surcharge tax on contributions which will apply only to those Australians who earn more than \$90,500 surchargeable tax income. In other words, the Liberal govern-

ment's proposed tax reduction will apply only to high-income earners.

Let me deal with the surcharge tax reduction first. The particular provision that the Liberal government is proposing is highly inequitable. It will only apply to those on a surchargeable tax income of over \$90,527 in 2002-03—a group that represents approximately four per cent of the working population. The highest tax cut applies to those on a surchargeable income of over \$109,900. The tax surcharge is the Liberal government's very own tax, which they introduced in 1996. In the lead up to the election in 1996, it was Mr Howard, the Prime Minister, who promised on behalf of the Liberal Party on 1 February 1996:

We are not going to increase existing taxes and we're not going to introduce new ones.

That was a very clear promise which the Liberal Party broke just six months later by announcing a new tax on superannuation. At that time, the Liberal government justified this new tax as an equity measure. The Treasurer, Mr Costello, stated in his budget speech on 20 August 1996:

The measures I am announcing tonight are designed to make superannuation fairer.

A major deficiency of the current system is that tax benefits for superannuation are overwhelmingly biased in favour of high-income earners. For a person on the top tax rate, superannuation is a 33 percentage point tax concession while a person earning \$20 000 receives a 5 percentage point tax concession. High income earners can take added advantage through salary sacrifice arrangements that are not available to lower income earners.

The Government is remedying this situation.

...                    ...                    ...

For high income earners the superannuation contributions will still be highly concessional but are more in line with concessions to middle and low income earners.

Another important feature of the Treasurer's justification for this measure is contained in his comments on 27 August 1996, when he said:

... the point I'd like to make is that on Budget night the first Treasurer in history—me—stood up and put a surcharge in respect to high income earners and applied it to himself and every other

politician, you know, we're the good guys in relation to this.

The Treasurer, who was on TV, then went on to dance the macarena. It is a matter of fact that the current Liberal government is cutting the tax by almost one-third, and it is the judges and politicians that Mr Costello referred to earlier who are the most significant beneficiaries of this tax cut because of the particular design features of their own scheme. Of course, Labor opposes this surcharge tax cut so, hopefully, there will be no benefit to any parliamentarian or judge as a result of this proposal and, hopefully, there will be no benefit to anyone else who is on a surchargeable tax income of more than \$90,500. This is a very exclusive tax measure that only the Liberal Party could dream up—a tax cut for the top four to five per cent of Australian income earners.

I am sure that those who are following this debate will want to know if the Liberal government will rule out this outrageous windfall at a time of considerable budget pressure—indeed, the budget was in deficit last year. We know that this year the Treasurer, Mr Costello, discovered that we have an ageing population. It was a centrepiece of the budget that he released earlier this year. Of course, the Liberals' way of tackling the ageing population is to offer an exclusive tax cut on superannuation to high-income earners. Labor believes that this is not a fair approach, given the problems that we face with the ageing population.

One of the biggest problems with the way the Liberal government tried to hide the fact that they were increasing taxes back in 1996 was that they called it a surcharge and this so-called surcharge is extremely difficult for superannuation funds to implement. In terms of administrative costs, the surcharge is unacceptably expensive. It is in fact Australia's most expensive tax to collect. In the first year of operation, superannuation funds incurred as much as 30 per cent of the revenue collected from the tax as associated administrative overheads.

While that estimate reflects implementation costs as well as ongoing costs, ongoing costs are themselves very onerous. To this must be added the collection costs incurred

by the Australian Taxation Office—which are considerable—and also the significant employer costs. The administrative burden of the surcharge means that all fund members meet increased costs regardless of their incomes. One way or another, the associated monitoring, collection and compliance costs must be met and are likely to reduce the overall accumulation for all fund members, not just those on whose behalf the surcharge is levied. So reducing the rate of the surcharge tax on superannuation does absolutely nothing to redress this situation. If anything, a reduction in the surcharge rate each year for each individual surcharge member turns up the heat again on administrative costs.

As I said earlier, Labor is not simply being negative in opposing this exclusive and unfair tax cut that will apply to high-income earners. Labor has put forward a positive and fairer alternative approach to the reduction of tax on contributions, and we believe this is the best way to deliver a higher retirement income to millions of working Australians, not just to high-income earners.

The Treasurer, Mr Costello, believes it is impossible to cut the contributions tax. He said in a radio interview on 22 October 2001: It's pretty complicated. The taxing of contributions on the way in started back in the mid eighties ... and I think now that it's started that's going to always be with us ... So it's still better to put money into superannuation, than to take it as income. But that system having commenced 15 years ago would be incredibly complicated to unravel now.

The Labor Party does not agree. We know that cutting the contributions tax can be done with a minimum of fuss, as confirmed by the many industry representatives we have spoken to over the last few months. We now have an opportunity to implement a fairer proposal which will improve the budget and boost retirement savings. However, this chance will be lost if the Liberal government get away with these unfair changes.

Labor has proposed two alternative propositions. Option one is to cut the superannuation contributions tax for all Australians who pay it—which is most of them—from the present 15 per cent to 13 per cent. An alternative, option two, is to cut the current 15

per cent tax to 11.5 per cent for people aged 40 and over. Either option would add many thousands of dollars to retirement incomes. Both are economically and budget responsible.

Let me give an example. Matthew, aged 20, earns \$40,000 a year over his career. He gets an extra \$7,128 in a boosted retirement nest egg under option one—that is the general contributions tax cut. Under option two, he gets \$4,748. Matthew would receive absolutely nothing under the Liberal government's proposal to reduce the surcharge. Another example for someone already well into working life is Heather, who is 40 and earns \$60,000 a year for the rest of her career. Heather gets an extra \$4,069 under Labor's option one and \$7,122 under option two. Again, Heather would receive nothing under the proposal to reduce the surcharge. These examples are on present values so they reflect the value in today's terms. The benefits would be substantially more in the dollars of the future. The Labor package for a fairer superannuation system is revenue neutral.

Of course, the Liberal government's response to the ALP plan was almost immediate. They did not like it because it meant that they had to start arguing that a tax cut for the select few was better than a tax cut for millions of working Australians. They chose a different route. They went with what they thought would be much easier: that Labor got the figures wrong. However, during the estimates process, Treasury officials admitted that they had made mistake after mistake in their 17 May costing, and yet they still refused to hand over the revised costings that they gave the Treasurer when they realised just how wrong they had got it. Even now, six months later, the Liberal government will not allow Treasury to publicly correct the record and release the figures which would prove our plan is affordable and revenue neutral.

Since we exposed the Treasury costings for the fraud they were, the Liberal government have fallen pretty silent about this particular issue. It is fairly difficult to enter into an argument publicly about how it is better to cut taxes to the superannuation of only four to five per cent of Australia's taxpayers—

those earning surchargeable incomes of more than \$90,500—than it is to cut the superannuation tax for millions of working Australians.

Let me turn to the co-contribution measure. The current co-contribution offered in the second bill is a pale imitation of the much more extensive co-contribution arrangement proposed by the Labor government in May 1995—Savings for our future. Those proposals included the government matching contributions of up to three per cent of average weekly ordinary time earnings, and these did not phase out until the member achieved a wage of twice average weekly ordinary time earnings or \$89,492 per annum currently. The current Treasurer, Mr Costello, committed an incoming Liberal government to implementing the 1995 ALP co-contribution proposals. The Liberal government subsequently reneged on that promise in 1997, implementing instead a fairly wacky savings rebate which in turn was quickly abolished.

The inquiry into these bills by the Senate Select Committee on Superannuation heard many submissions that raised concerns in relation to the effectiveness and equity of the proposed co-contribution scheme, as well as in relation to the access to the co-contribution by particular groups of persons and the administrative costs of the proposal. The Labor Party is concerned about submissions to the committee that the proposed co-contribution arrangements leave considerable scope for abuse in that comparatively well-off people will be making contributions in respect of family members in low-income, part-time employment. The ability of single or sole breadwinners in the salary target range to afford to make contributions to superannuation in order to qualify for the matching co-contribution is untested, as was attested before the Senate committee, and unlikely for most people in that range. The number of people estimated to receive the full \$1,000 is only 75,000 out of 4.4 million.

The Liberal government are offering an incentive of \$1,000 to those Australians who have incomes of \$20,000. The major problem with this incentive is that there are very few Australians on an income level of

\$20,000 who can actually find \$1,000 to put into superannuation in order to achieve the maximum matching contribution from the government of \$1,000. I reiterate those figures: only 75,000 out of 4.4 million Australian taxpayers with incomes of less than \$32,500 will be able to take maximum advantage of this scheme.

Another important consideration is that the Liberal government announced on 20 June this year that they intended to remove the surcharge tax reduction amendments from the superannuation bills they had before the Senate at that time and to shift them to the bills we are considering today. Senator Coonan stated that the change was due to the government's desire to highlight the fact that the government's superannuation initiatives are designed as a 'balanced set of measures'. That is just a blatant political stunt which is aimed at trying to justify their unfair tax cut for higher income earners by pretending the measure was linked to co-contributions. This is a complete furphy and if this Liberal government were serious about helping those most in need of assistance in accumulating a retirement nest egg, they would have placed the co-contributions measure in a separate bill.

Let me highlight the contrasting impact of the two particular pieces of legislation. The tax of high-income earners earning more than \$90,500 in surchargeable income—we know it is between four and five per cent of Australian taxpayers—will be cut by one-third. It is an exclusive tax cut of \$370 million for those high-income earners. For people earning between \$32,500 and \$90,500 there is absolutely no benefit at all in this particular legislation. Again, that involves millions of Australian taxpayers. If those 4.4 million Australians who earn less than \$32,500 can find \$1,000 to put into superannuation, then this government propose a maximum of \$1,000 in matching superannuation contributions. Out of those 4.4 million Australians, we know that only 75,000 will access the maximum \$1,000. This legislation is highly skewed, highly biased, towards an unfair tax cut—a guaranteed tax cut—for high-income Australians.

The Labor Party will move an amendment to the *Superannuation (Government Co-contribution for Low Income Earners) Bill 2002* to include in the legislation a provision that would require the government to closely monitor and report to parliament on the operation of the co-contribution arrangements. The purpose is to ensure that only those who are genuinely in need receive the co-contribution and to establish the proportion of the target group who are accessing the co-contribution.

In relation to the so-called surcharge tax reduction, I move:

At the end of the motion, add "but the Senate is of the opinion that the bill should be withdrawn and redrafted to:

- (a) ensure that the proposed surcharge tax reduction to high-income earners, the splitting of superannuation contributions and the closure of the public sector funds do not proceed; and
- (b) provide for a fairer contributions tax cut that will boost retirement incomes for all superannuation fund members to assist in preparing the nation for the ageing population".

Before I conclude, I reiterate: here we have a Liberal government proposal at its very worst. It is extremely unfair and I am a little concerned that the media, in particular, have not focused any attention on this issue whatsoever. We have a Liberal government proposing to slash taxes on superannuation for high-income earners by almost one-third. It is an exclusive tax cut for high-income earners which delivers them an additional \$370 million on their superannuation savings. It applies only to high-income earners who earn more than a surchargeable income of \$90,500. The remaining Australians—well over seven million Australians—who earn incomes of less than \$90,500 do not get a cent.

This is a highly unfair measure. All it does is boost the retirement savings by reducing the tax of those earning more than \$90,500 a year in this country. You could not have a more stark, more unfair tax cut. It is one of the most unfair tax cuts that has ever been presented before this Senate. I say very firmly that the Labor Party will not be sup-

porting such an exclusive tax cut. We have offered a fairer and positive alternative to apply a tax cut to most Australians who pay tax on their contributions and the Labor Party will not be backing down from this. I make it very clear: we will not support an exclusive tax cut which is only for high-income earners.

**Senator CHERRY (Queensland)** (12.51 p.m.)—The Senate is debating the *Superannuation (Government Co-contribution for Low Income Earners) Bill 2002* and the *Superannuation Legislation Amendment Bill 2002* as a package. It is a pity, in the Democrats' view, that the Senate is debating these two bills as a package. One measure, which increases superannuation assistance to low-income earners, has widespread support. The other measure has widespread opposition because it reduces the taxes paid by high-income earners.

The government has made it clear that these two propositions must proceed as a package and that, for the government to agree to give \$95 million a year to low-income earners, the Senate must also tick off \$200 million a year for high-income earners. One, we are told, is contingent on the other. The Democrats reject this political blackmail attempt by the government. The government's proposed tax cut for high-income earners on super surcharge is simply too big and too unfair, and as such we cannot support it.

The government's proposed contribution for low-income earners is a fairly modest affair: a \$1,000 dollar for dollar rebate on voluntary savings for very low-income earners, replacing some existing rebates. Treasury estimates that only 10 per cent of eligible low-income earners will make voluntary contributions to super. Many of these are already making contributions through defined benefit funds such as the public service funds. Many others are likely to be low-income spouses of high-income earners. The extent to which the measure will actually help genuine low-income earners is, frankly, uncertain.

Indeed, in its submissions to the Senate superannuation committee, the Association of Superannuation Funds of Australia and

the Australian Council of Social Service both suggested that the measure should be targeted more effectively, by introducing a cap on family income as well as individual income. This would eliminate low-income spouses of high-income couples from receiving the benefit. The Democrats suggested in correspondence that the government consider this idea, but our proposal was rejected.

The co-contribution replaces a little-used superannuation tax rebate for low-income earners. The new co-contribution provides dollar for dollar payments for people on incomes up to \$20,000, phasing out at 8c per \$1 up to \$32,500. The maximum rebate will be \$1,000, phasing out to zero by \$32,500. Most superannuation groups have been supportive of the co-contribution, but they question whether it will do much good because it cuts out at an income level that is too low.

The Investment and Financial Services Association presented to the Senate committee modelling by savings expert Dr Vince FitzGerald that found that the government had probably understated the response rate; the measure is likely to cost somewhat more—probably half as much more than the government estimated, at around \$134 million a year. It found that a 50 per cent rebate, rather than a 100 per cent dollar for dollar rebate, would produce a similar savings response for around half the cost. It also found that extending the scheme to higher incomes would produce a strong savings response from middle- to low-income earners.

Based on FitzGerald's modelling, this would increase the cost of the contribution by about \$98 million, but still generate about \$134 million in extra contributions if we extend the co-contribution up to \$40,000 as an income cut-off. FitzGerald estimates that for the cost of the government's scheme, it produces an 82 per cent increase in savings—that is, a \$100 million government contribution produces an equivalent \$82 million in additional savings. Such a significant increase in personal savings will reduce reliance on the age pension and hence the likelihood of superannuants slipping into poverty in retirement.

The savings incentive would be even higher if the rebate were extended up the salary scale to average incomes of around \$40,000. Indeed, FitzGerald's research found that, even as a 50c to the dollar rebate, the savings incentive was strong and raised as much again in additional savings as it cost the government in rebates. Most witnesses who gave evidence to the superannuation committee agreed with this analysis and suggested that the rebate should be moved up the income scale and made more broadly available. This of course costs money. Based on FitzGerald's work, the Democrats estimate that building a 50c to the dollar rebate for incomes between \$20,000 and \$40,000, while leaving the dollar for dollar rebate below \$20,000, would cost Treasury around \$100 million extra a year. It would increase the number of people eligible for the \$1,000 maximum co-contribution, from 200,000 to one million, at double the cost of the co-contribution based on FitzGerald's figures. And, for a total cost of around \$200 million to government, it would increase national savings by a total of \$480 million, with more than half of that coming from new individual contributions encouraged by the co-contribution.

In a tight budget, one would need to ask where that \$100 million would come from to fund such a worthwhile extension because it clearly has a positive national savings effect. The answer is obvious: reducing, or even not proceeding with, the cut in the surcharge the government plans for high-income earners. In fact, halving the government's proposed cut would have paid for it. In that way, two-thirds of the new concessions, which we were told were in the package, would have gone to low-income earners and just one-third to high-income earners. Indeed, I put that very proposition to government a month or so ago, but the government rejected the proposition. The Assistant Treasurer's response left no room for compromise, as she wrote to me:

I wish to restate that the Government sees these election commitments as a balanced package and will not accept the passage of one measure in isolation of the other.

This response I found very disappointing, for it is not a balanced package when two-thirds of the benefits go to high-income earners in an already regressive taxation concession system. It said to me that the government were never particularly serious about the low-income earners co-contribution other than as a political cover for their real agenda, which was delivering a cut in the high-income earners surcharge for their Liberal accountant friends.

I was reminded of Liberal President Shane Stone's famously leaked memo of early last year when he described this government as 'mean, tricky and out of touch', and cited three key tax measures—BAS, petrol excise and the super surcharge—as being very unpopular in the Liberal heartland. Two of those have since been fixed, at enormous cost to the budget, and this was obviously the pay-off for the third. As an election cover, a few crumbs were to be thrown at low-income earners who would get around half the benefits which would flow to a very small number of high-income earners.

Then came the Senate superannuation committee investigation, which found that the co-contribution actually had some real potential to do some good, particularly if it were extended into low- and middle-income ranges. There are some targeting issues, which Senator Sherry referred to, but they could be fixed. I will move a second reading amendment drawing the government's attention to the real potential that the co-contribution could make to savings policy and the need to look at those targeting issues. The Democrats are ready to back the co-contribution right through this debate and certainly encourage the government to go further. I move:

At the end of the motion, add "but the Senate notes that analysis provided to the Select Committee on Superannuation shows that extending the co-contribution to workers on average earnings would have a significant positive effect on national savings, and that this could be funded by better targeting of the Government's superannuation measures".

If need be, we are even prepared to cop a small reduction in the surcharge as the political price for getting the rest of this package

up and running, but not the 4.5 per cent tax cut that the government wants to deliver. This package is too slanted towards the interests of high-income earners and as such cannot be supported as it stands.

The Democrats will be supporting the amendments to be moved by the opposition excising the surcharge cut from the legislation. We backed the introduction of the high-income earners surcharge, over, I might add, Labor opposition in 1996. We did not think that it was a particularly well-designed tax—as any tax superannuation fund administrator will tell you—and certainly the Senate super committee has pointed this out on many an occasion.

As a tax equity measure, the surcharge was sound policy. The flat tax on superannuation contributions creates a whole range of tax anomalies. For a low-income earner, the concession on superannuation contributions is just 3c, which is the 18c marginal rate, less the 15c contributions tax, plus the relevant rebates. For a middle-income earner, the concession on superannuation contributions is 16.5c, which is the 31.5 per cent marginal rate, less 15c. For high-income earners, the concession rises to 33.5c, which is the 48.5c marginal rate, less the 15c contributions tax. So for every dollar that a high-income earner puts into super, their tax benefit is 10 times that of a low-income earner. That is why the Democrats support making the superannuation contributions tax much more progressive. We were a little disappointed when we saw the Labor Party's policy, which Senator Sherry spoke about, which is a cut to contributions tax across the board. We do not believe this particularly adds to the progressivity of the superannuation taxation system, although we do acknowledge that it is an improvement on providing a cut solely to high-income earners.

Superannuation tax concessions are highly regressive, which is why we supported the introduction of the surcharge and, I might add, why we support the low-income earners co-contribution, which seeks to rebalance that in a fairly aggressive form. But to give two-thirds of the funding for this package to high-income earners and only one-third to low-income earners is to add to the regres-

sive nature of the superannuation tax system. That is why the Democrats would be prepared to back a package which reduced the regressiveness of superannuation tax concessions where the benefits to low-income earners exceeded, and preferably substantially exceeded, those offered to high-income earners. That is something the Democrats have offered the government in negotiations, but it has been rebuffed.

I hope that the government will be prepared to carefully consider the Democrats' second reading amendment and will carefully consider the comments which we are putting on the record today. When this bill is reconsidered by the House of Representatives, we hope that the government will see fit to allow the co-contribution to sail through so that we can start the process of reducing the regressiveness of superannuation taxation. If the government wishes to come and talk to the Democrats about a more balanced package, we will certainly be ready to listen.

With those short comments, I make it clear that the Democrats will be supporting the co-contribution through the Senate and we will be supporting the Labor Party's proposal for quarterly payments reporting. We will also be supporting the Labor Party's amendments to delete the surcharge from the second bill, as that is a measure which we cannot support on the basis of this package. We will not be supporting Senator Sherry's second reading amendment on the basis that his proposal for a cut to the contributions tax across the board is something that the Democrats do not support as the best way of dealing with the \$200 million saving.

**Senator WATSON (Tasmania)** (1.02 p.m.)—Today we are witnessing an extraordinary situation where, firstly, the Senate is in the process of denying tax cuts. Secondly, it is denying the first opportunity of reducing the infamous up-front contributions tax introduced by a previous Labor government. Thirdly, it is denying low-income earners a valuable rebate whereby low-income earners can get up to \$1,000 from the government for every \$1,000 that they contribute. If they do not have \$1,000, a \$500 after-tax contribution will get a \$500 contribution from the

government. If they do not have \$500, a contribution of, say, \$200 will attract a \$200 government contribution. That is a 100 per cent return. I find it quite extraordinary that we are finding opposition to these sorts of proposals in the Senate. The opposition parties are denying Australian taxpayers these three important incentives, because they are part of a package.

**Senator Sherry**—That's not right. You didn't listen. We're supporting it, John.

**Senator WATSON**—It is all very well to say, 'We're accepting some parts but not other parts,' but in these debates they have to be taken as a whole. I remind the Senate that the *Superannuation (Government Co-contribution for Low Income Earners) Bill 2002* and the *Superannuation Legislation Amendment Bill 2002* were part of a superannuation package presented to the Australian electorate prior to the last election and were warmly endorsed by the Australian electorate at that election. In fact, these initiatives were put forward by the previous Assistant Treasurer, Senator the Hon. Rod Kemp, a man who also has a keen grasp of political realities, knowing how important it is to provide support and tax relief to low-income earners, as well as to reduce the so-called notorious surcharge.

These two bills before the Senate are actually part of half a dozen or more superannuation measures that, when presented before the election last year, found the initial press support somewhat mild—and surprisingly mild, given their generosity. The initiatives, however, as people appreciated the extent of the benefits, were warmly endorsed by the Australian people. It is an endorsement that this Senate is going to deny today. I go further and say that the initiatives, which were put forward by the coalition at the last election and which are included in the budget measures that we are debating today, were part of the Liberal-National Party success at the last election. In other words, they contributed very significantly to our election win because the Australian people realised how generous they were, how important they were and how they would change the dynamics of superannuation in future years. This is important.

These bills, according to the government, must be passed together. In other words, we cannot cherry pick. We cannot have one part but not the other. In other words, support for one part and not the other would result in the loss of both measures. If the opposition parties want to have it that way, it will not only deny tax cuts and rebates to low-income earners but give the government some additional revenue at a time when it is suggested that perhaps extra money is needed in terms of defence and social security issues. What will be achieved? It will just assist the government in achieving budget surplus measures.

The *Superannuation (Government Co-contribution for Low Income Earners) Bill 2002* is designed to improve the arrangements and facilitate the government's ability to pay contributions to low-income earners, and the *Superannuation Legislation Amendment Bill 2002* is designed to lower the surcharge—a very unpopular tax—over the next three years. Perhaps no-one has been more vocal in this place in condemning the surcharge than my colleague Senator Sherry. In previous years there was hardly a speech of Senator Sherry's that did not condemn the problems associated with the surcharge. Yet here is the first opportunity to have a reduction in that surcharge and he and his party are denying taxpayers that opportunity. I find it quite extraordinary that people can be so critical but when the real test comes to vote on a reduction they walk away from it. So much for the rhetoric! People who make statements in this house are judged subsequently by how they vote. How they vote in relation to this issue is going to be very significant. It makes all those pious statements in previous years about the need for governments to lower the surcharge rather hollow.

While the surcharge does have an impact on high-income earners, unfortunately its administration impacts on every member of a superannuation fund where there is even just one member subject to a surcharge. So that is a denial that I think people will long remember. I think the generosity of the government is seen in terms of this co-contribution measure—\$1,000 will be available for a \$1,000 contribution. That is a very generous meas-

ure. As I mentioned, for people who cannot afford \$1,000, any contribution up to \$1,000 will result in an equal co-contribution.

What better return could anybody expect from a government? They get \$1,000 from the government for \$1,000 in undeducted contributions that they put in. As part of the package there will be a repeal of a low-income rebate that currently provides a rebate for eligible low-income earners, who are entitled to a maximum rebate of \$100. You can see that the measure that is being repealed is small fry compared with what has been offered. That was based on the previous measure of 10 per cent of contributions up to \$1,000. Here it is not 10 per cent but \$1,000 for \$1,000 investment.

When I speak about this in the clubs and the pubs—which is often a test in these sorts of things—everybody states that it is a generous offer. It has to be a generous offer. The evidence before our committee has suggested that the popularity of this measure has been underestimated by the current government. If there is a criticism from the opposition benches, it may be that the government has underestimated the take-up rate. In terms of the many submissions and the people who have spoken on this issue, I think this is quite a possibility.

What will it do? It will substantially enhance the superannuation savings of a lot more Australian people. In fact it has been suggested that rather than providing tax cuts to the most needy, the low-income earners, a co-contribution tax is the way to go. The co-contribution need not necessarily be on a dollar for dollar basis. It has been suggested that even 50c from the government for every dollar of investment would almost attract the same sort of interest. That is an interesting observation. So the minister perhaps should put forward to the shadow Treasurer that in future this is a measure that should be built on by the Senate, not destroyed by the Senate.

This sort of denial is extraordinary. Again, it was unfortunate that speakers spoke about taxable incomes in terms of the surcharge because the taxable income is the starting point. The surcharge includes fringe benefit tax measures and golden handshakes. So it

does mean that a lot of people whose actual regulated ordinary income is very much below this figure—particularly women who come back into the work force—can find themselves subject to a surcharge. In other words, when the adjusted taxable income exceeds \$109,924, it is subject to the full 15 per cent surcharge. However, there are phased-in measures where the adjusted taxable income for surcharge purposes is above \$90,527.

I remind the Senate that in the Senate committee that took evidence on this matter there was widespread—not unanimous, but widespread—support for this measure because, as I mentioned earlier, this is the first attempt by the government to reduce front-end taxes on superannuation that were introduced by the previous Labor government. I repeat: this is the first opportunity for this parliament to reduce front-end taxes, a concept that was introduced by the previous Labor government. When did the surcharge come in? It came in when the coalition came to power and discovered that it had inherited an undisclosed deficit of \$10 billion. So a range of measures had to be introduced immediately to fund that deficit and, as part of that, to ensure that people right across the spectrum were covered. Some of the consequences of the Labor Party's excessive spending—reckless spending—had to be covered quickly.

A surcharge, or surtax, was brought in. This was expected to be of short-term duration. The coalition government has now recognised the need to get rid of this inefficient, very costly tax that affects every member of every superannuation fund where a member of that fund is subject to the surcharge. It is also quite unfair because of the way it impacts on certain classes of people within defined benefit funds. For some people, unfortunately, the surcharge is not necessarily limited to 15 per cent but can be considerably higher. I think it is unfortunate that these people are denied an opportunity for reductions. It was interesting that all members supported the concept whereby parliamentarians' tax was limited to only 15 per cent while at the same time denying other members of defined contributions funds that

limitation and not putting a cap on those particular people.

Most witnesses before the Senate Select Committee on Superannuation argued that the equity measures in the superannuation contributions are already addressed by contributions limits. Therefore you do not need the surcharge. It is an unnecessary imposition because equity measures are already addressed by things such as contributions limits—and there are three step-up scales of contributions limits—reasonable benefits limits, and now this added low-income contributions scheme, an initiative by this government that is going to be denied to low-income earners by this Senate.

What is the proposal that the government has put up? The government initiative is that the surcharge will reduce by one-tenth in each of the next three years—that is, for 2002-03 the surcharge will reduce to 13.5 per cent, down from 15 per cent. The following year, the surcharge will reduce to 12 per cent. In 2004-05, it will reduce to 10.5 per cent. I am not sure whom senators listened to, but I also sit on the parliamentary contributions scheme. I have received literally dozens of representations about the cost, inefficiency et cetera of the surcharge applying to the parliamentary superannuation scheme. I find it quite extraordinary that the spokesman on superannuation in this place is arguing against that reduction while, on the other hand, in secret, his colleagues are asking for measures to do away with the surcharge.

I spoke about the difference between the public rhetoric and what else goes on behind the scenes. Hopefully, as a result of this debate, the opposition parties will come to their senses and agree to this measure to reduce the surcharge, as announced by the government. It is not the prerogative of the Senate to set the taxation agenda of any government. This is always a dangerous precedent. It is a precedent that the Senate will have to watch very carefully if it is successful in cutting out these measures, because governments are formed in the lower house and taxation measures are determined in the lower house and not by the Senate. There can be certain minor refinements in the Senate, but they cannot set new taxation agendas,

which the Senate is attempting to do here today. It is completely setting new taxation agendas. As I said, the Senate select committee upon which Senator Sherry, Senator Cherry and others sit, reviewed both bills. All agreed that there was widespread support, especially for the co-contribution initiative.

There was also widespread recognition of the need to reduce measures to increase benefits of superannuation for low-income earners, because it was widely acknowledged that this would promote superannuation savings. Support came from diverse groups such as the Industry Funds Forum, the Association of Superannuation Funds of Australia Ltd, the Australian Bankers Association, Mercer Human Resources Consulting and even the local West Tamar Council in Tasmania, as well as support in principle from the Australian Council of Social Service. All agreed it could be improved, but it is a first step—a pioneering step and a very important step—in helping low-income earners and ensuring tax justice, tax equity and a fairer superannuation system.

In fact, most witnesses believed that there would be a very strong uptake, and even the Investment and Financial Services Association argued that the measure's popularity would greatly exceed what was allowed for in the budget figures. Others argued that perhaps the threshold should be lifted to about \$40,000. Others suggested that perhaps the money could have even gone further, with a 50c government co-contribution for each dollar invested and so on. These are all issues that, if accepted, future governments will be able to build on. I am also aware of a lot of anecdotal evidence of the enthusiasm for these measures. I think it is disappointing that the Labor Party have indicated that they will not be supporting the package of measures that have been put up by this federal government. (*Time expired*)

**Senator WONG (South Australia)** (1.22 p.m.)—It is interesting that in their public announcements and here in the Senate the government have referred to the *Superannuation (Government Co-contribution for Low Income Earners) Bill 2002* and the *Superannuation Legislation Amendment Bill 2002* as

a balanced package. The proposals set out in the two bills before the Senate, which deal with co-contribution and/or a cut to the surcharge on superannuation contributions, are anything but a balanced package. They are unfair and skewed towards benefiting higher income earners at the expense of low- and middle-income Australians. It seems extraordinary that the government can come into this place and continue to argue that this is a balanced package when they are in effect providing a tax cut to Australians who earn significantly high incomes, certainly higher incomes than many of the electors who put us in this place.

As previous speakers have said, there are two bills before the Senate. The first deals with co-contribution. Contrary to the lecturing of Senator Watson, we are supporting this legislation, as Senator Sherry has indicated on behalf of the Labor Party. It has also been said that we think it is a somewhat poor imitation of the 1995 Labor Party proposals to extend co-contribution arrangements to benefit low-income earners. Nevertheless, despite its failings, we are supporting that measure. It is incorrect for Senator Watson and others in this chamber to suggest that the Labor Party are not supporting low-income earners in relation to these superannuation measures; we are.

I will indicate that there are some issues that should be put on the record in relation to the proposed co-contribution—that is, that it does not extend as far as it ought to. Evidence presented to the Senate Select Committee on Superannuation by ASFA, the Association of Superannuation Funds of Australia, estimated that the number of people who would receive the full \$1,000 in co-contribution is only 75,000. This estimate is based on ATO evidence of a total pool of 4.4 million Australians with incomes of less than \$32,500. If this measure is only going to fully benefit around 75,000 people out of 4.4 million Australians, one has to question to what extent it is actually of significant benefit. Nevertheless, despite its failings, we are supporting that aspect of the two bills before the Senate, as Senator Sherry has indicated.

What we are not supporting is the tax cut for wealthy Australians. This is, of course,

the reduction in the superannuation surcharge, a tax which was put in place by the government. Despite having promised in 1996 that they were not going to introduce any new taxes, the government imposed this tax on superannuation contributions. The reduction in the superannuation surcharge is a tax cut for those who earn over \$90,500 per year and provides the highest benefit to those earning over \$109,900 per year. Are these really the Australians whom the government ought to be advantaging in terms of cuts to tax—in an environment where we are constantly lectured about fiscal pressure by government ministers? However, the government are intent on proceeding with a tax cut for extremely wealthy Australians. It seems extraordinary that the government choose to link this tax cut with a measure that is good, albeit insufficient, for low-income earners in an attempt to provide political cover and that they consistently continue to describe this as a balanced package. It is not a balanced package; it is a tax cut for wealthy Australians and provides some minimal benefit to low-income Australians.

For the reasons that have been set out by Senator Sherry, the Labor Party is opposing the reduction in the surcharge tax. There has been some discussion in the public about Labor's alternative proposals, which are far more equitable and would provide tax relief and superannuation contribution incentives for a far greater pool of Australians. Two options have been discussed. The first is a reduction in the superannuation contributions tax for all Australians, from the present level of 15 per cent to a level of 13 per cent. The second option involves cutting the contributions tax to 11.5 per cent for people aged 40 and over. Obviously, that category of people will be retiring in a shorter time than those under 40, and there are good public policy arguments in favour of enhancing the savings measures and incentives targeted to those Australians. In any event, both of the options that I have described would be far more equitable than the government's proposal, which unfairly benefits high-income earners, people earning over \$100,000 per year, rather than low-income earners.

It is extraordinary that the government come to the Senate saying: 'This is a balanced package. We're not going to tinker with it. If you want to pass the measures which are of benefit to low-income Australians, then you have to also pass a tax cut on to Australians earning over \$109,000 a year.' That is not an appropriate approach for the government. There are good measures in the co-contributions legislation, and the Labor Party is supporting them. These measures are of benefit to people who are on lower incomes and deserve some sort of incentive and support to boost their retirement income. Superannuation is a significant source of wealth for many Australians, now and in the future. For many Australians it will be their largest asset, and it will be a significant source of retirement income in the years to come. The challenge for governments is to ensure that public policy actually benefits all Australians, not simply the wealthy. Unfortunately, the government appear to have failed that test.

**Senator CHAPMAN (South Australia)**  
(1.29 p.m.)—Concerning the *Superannuation (Government Co-contribution for Low Income Earners) Bill 2002* and the *Superannuation Legislation Amendment Bill 2002*, we have just heard from Senator Wong that the Labor Party is opposing the legislation to reduce the surcharge on higher income earners—and I say 'higher income earners' advisedly. Senator Wong refers to them as 'high-income earners', but at the level of income from which the surcharge applies you could hardly call them high-income earners. However, the incomes certainly are higher than those to which the surcharge does not apply. Senator Wong's argument is that the Labor Party will not support the surcharge because it benefits, in her terms, 'high-income earners'; in other words, because it is a tax cut for 'high-income earners'. She completely ignores the fact that these 'high-income earners' already pay a higher rate of income tax on their earnings because of our progressive income tax system and therefore are paying 50c in the dollar in personal income tax on a very significant proportion of their incomes.

**Senator Cherry**—Unless they've got a trust.

**Senator CHAPMAN**—You do not know much about trusts, Senator Cherry, because they have a very limited impact on the payment of income tax. The other point that Senator Wong ignores is that these individuals will continue to pay a higher contributions tax even after this measure to reduce the superannuation surcharge is fully operational after three years. It reduces the surcharge by nearly five per cent over three years, from the current level of 15 per cent down to a level of 10½ per cent. That means that, at the end of three years, the people to whom this surcharge applies will still be paying a contributions tax of 25 per cent. This compares with those on incomes below the threshold, who will be paying a contributions tax of 15 per cent. So, again, those on the higher incomes are still paying a higher rate of contributions tax as well as the higher tax rates which apply to them in general terms, which I mentioned a few moments ago.

What we need to recognise is Labor's utter hypocrisy on this issue of the surcharge. It was the Labor Party in government that initiated front-end taxes on superannuation. Of course, it was the Labor Party in opposition that opposed tooth and nail the introduction of this surcharge—a surcharge that was introduced, as Senator Watson said a few moments ago, as an equity measure at a time when the government needed, on the one hand, to restrain spending and, on the other, to increase revenue, to rid this country of the massive annual budget deficit that we inherited from the Labor Party. The incompetent financial managers that made up the previous Labor government left us in 1996 with an annual budget deficit of some \$10 billion and a total government debt that had accumulated over their time in office—an accumulated debt as a result of successive deficits—to almost \$100 million.

Our government had to restore balance to the government's finances and to get them in some semblance of order, and we sought to do that in an equitable way through equitable measures by not only cutting spending and achieving savings through efficiencies in the

operation of government departments but also applying this superannuation surcharge to those who were on higher levels of income. Senator Wong describes them as 'high-income earners'; I would describe them as those earning 'above average incomes' but by no means necessarily high incomes, at the level at which this surcharge cuts in. Nevertheless, it was regarded by the government as an equity measure so that people at those income levels would be making some contribution towards overcoming the regrettable mess that was inherited from the previous Labor government.

Of course, Labor opposed that surcharge tooth and nail. Senator Sherry is sitting over there talking to Senator Cherry; it was Senator Sherry who, I recall, day after day in this chamber asked questions about this surcharge of the then Assistant Treasurer, Senator Rod Kemp—now the Minister for the Arts and Sport—and who argued day after day that this was an additional and unnecessary tax. Now, lo and behold, some years later when, having restored the government's financial position, the government is in a position to reduce some taxes and has taken the decision to reduce this surcharge as a consequence—because it was, as Senator Watson said, only a temporary measure to try to solve some of those financial difficulties—the Labor opposition, having opposed tooth and nail its introduction, now opposes tooth and nail its reduction.

**Senator Abetz**—You just can't believe them, can you?

**Senator Eggleston**—Quite unbelievable.

**Senator CHAPMAN**—You cannot believe them, as Minister Abetz says. They are quite unbelievable, as the Deputy Government Whip, Senator Eggleston, says. It is the ultimate example of the Labor Party's hypocrisy. This is a tax they opposed tooth and nail when it was introduced. We now want to reduce it—just reduce it, not try to eliminate it at this stage, although I would certainly like to see that happen down the track when the government is in a financial position to do that—and now they are opposing that reduction tooth and nail. What hypocrisy!

**Senator Abetz**—Opposition for opposition's sake.

**Senator CHAPMAN**—It is interesting that you mention that, Minister Abetz, because that is a note I have written here in my scrawly handwriting. I see the words here among the notes I jotted down while I was listening to Senator Wong: 'Opposition for opposition's sake.' It is no mystery why the Labor Party are currently being treated with absolute disdain by the Australian community—they do not want a bar of the Labor Party. The polls show that Labor's community support is at one of the lowest levels ever. The Labor opposition are being treated with absolute disdain by the Australian community. The reason is that they offer no alternative to the present government—quite apart from the fact that the present government is doing a great job in providing the policies, the initiatives and the economic and social environment that this country needs and that the Australian people want. So, admittedly, there is not much that the Labor Party can offer as an alternative, because of the good job that the government is doing.

But, having said that, let me tell you that they do not offer anything. They offer no policies: 6½ years in opposition and they still have not knuckled down to do the hard policy work that is needed if a party is ever going to present itself as an alternative government to the people of this country. They have not done the sort of work that we did during our years in opposition, when we reviewed what had happened when we were previously in government, reviewed our policies and initiated a whole raft of new policies, from taxation reform to workplace relations reform to trade reform—a whole raft of new initiatives which our government have taken since we came to office 6½ years ago, based on the hard yakka that we did in opposition to develop and analyse the policy position, to have those policies to put forward to the Australian community and to have them endorsed at elections. But the Labor Party have done none of that work. All they can do is adopt a position of opposition for opposition's sake. Of course, that is exactly what they are doing with regard to their opposition to this legislation to reduce the

surcharge on superannuation. That needs to be understood in this chamber and it needs to be understood by the Australian community.

The two pieces of legislation that we are debating this afternoon are very important for the future of superannuation in this country. The Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 enacts legislation to establish the arrangements for the government to pay superannuation co-contributions to eligible low-income earners. The legislation outlines how the government will determine those who are eligible for a co-contribution, the amount of the co-contribution, the method of payment of the co-contribution and how the government will determine adjustments where necessary. It also includes the information gathering arrangements for the Australian Taxation Office in relation to eligibility for the co-contribution, the method of review of decisions and other administrative matters.

Importantly, this bill, together with the Superannuation Legislation Amendment Bill 2002, will fulfil an election commitment, which was announced on 5 November 2001 in A Better Superannuation System—the government's policy at the last election. Again, even in government, the Liberal and National parties continue to do the hard yakka on policy development. They have specific new policies to present to the people for their endorsement at elections—as we did with our policy for A Better Superannuation System at the election last year. This policy was designed specifically to further assist low-income earners to save for their retirement. We had Senator Wong, as I said, a few moments ago opposing the surcharge. She said this government is only interested in superannuation changes that will help high-income earners. She completely ignored the issue with respect to the other piece of legislation we are debating, which does make up a balanced package of two bills—quite contrary to what Senator Wong was saying. We are, through this co-contribution bill, providing a better system whereby low-income earners can also gain the benefits from superannuation for their retirement. The specific purpose of this legislation is to

assist low-income earners to save for their retirement.

The government co-contribution is expected to increase the numbers of low-income earners making personal superannuation contributions and to increase the level of contributions being made by existing contributors. More generally, the government co-contribution will boost the retirement savings of low-income earners. It is important to recognise that, in the future to enjoy an adequate level of retirement income, people at all income levels, to the extent that they are able, will need to save for their retirement. People at the lower end of the income scale will need to rely on three sources of retirement income: the age pension, their own contributions to superannuation through being assisted by this co-contribution legislation, and the superannuation guarantee required to be paid on their behalf by employers. They will need all of those three sources of income to enjoy an adequate retirement income. So this initiative is extremely important in terms of encouraging low-income earners to make their own contributions towards their retirement incomes.

The government co-contribution will replace the existing taxation rebate for personal superannuation contributions made by low-income earners. It will be more generous than the rebate it is replacing. So, again, this government is being more generous than the previous Labor government by putting in place a system to encourage low-income earners to contribute to their retirement income. The maximum co-contribution of \$1,000 compares more favourably with the maximum rebate of \$100 that was previously in place. Low-income earners who are not entitled to claim a deduction for their personal superannuation contributions will be eligible to receive the co-contribution if they meet the eligibility criteria.

The government co-contribution will match personal superannuation contributions made on or after 1 July 2002 by eligible people with incomes less than \$32,500 a year. The maximum co-contribution of \$1,000 will be payable for those on incomes of \$20,000 or less. The maximum co-contribution will reduce by 8c for every dollar of income over

\$20,000 and will phase out once incomes reach \$32,500. On an income of up to \$20,000, a person will receive full co-contribution funding of \$1,000 from the government. Between that amount and the cut-off point of \$32,500, the co-contribution rate reduces by 8c in the dollar for each dollar the income rises, but everyone on an income up to \$32,500 will receive some co-contribution from the government in relation to superannuation contributions which they themselves make. Also, a minimum co-contribution of \$20 will apply as long as the person is below the income threshold and as long as they have made some personal contribution to their superannuation fund during the year.

The income test for the government co-contribution will be based on assessable income plus reportable fringe benefits and this is consistent with the existing rebate. To be eligible for the government co-contribution, a person will need to have employer superannuation support, be aged less than 71 years on 30 June of the year in which the personal contributions were made, and not be eligible for release of benefits upon permanent departure from Australia.

Small business people who are self-employed will be unaffected by this proposal, as they will be able to continue to claim a tax deduction for personal superannuation contributions. One of the government's other election commitments increases from \$3,000 to \$5,000 the amount of personal superannuation contribution that is fully deductible for this self-employed group. Similarly, those with superannuation support but not employer superannuation support will be eligible for a taxation deduction for superannuation contributions. The government co-contribution will be treated as an undeducted contribution. This means that the co-contribution will not be subject to contributions tax when paid into the fund and will also not be taxed when paid out to a person as an end benefit: a very important point to remember. This is an undeducted contribution; it will not be subject to taxation either when it is deposited or, importantly, when it is drawn out by the superannuation beneficiary. In situations where it is paid directly to the person, it will be treated as ex-

empt income and therefore will not attract income tax.

The Australian Taxation Office will use contribution and account details provided by superannuation funds, together with the income details from low-income earners' tax returns, to assess and pay the co-contribution directly to the person's fund. That is, there will be no need for eligible people to apply for the co-contribution. It will be, in fact, automatic. This delivery mechanism is the most seamless option for low-income earners and is designed to ensure that low-income earners who are eligible for the co-contribution receive their correct entitlements. While funds will need to report new information from that currently required, this requirement will not commence until 1 July 2003. This will provide superannuation funds with a window in which to implement any necessary system changes.

Half of this balanced package of important legislation will establish this generous co-contribution to be provided by the government, which, as I said earlier, was a specific commitment made as a result of policy work on superannuation done in the lead-up to the last election. The other half of this balanced package is that to which I addressed some remarks at the outset in dealing with comments made by the Labor opposition—that is, the Superannuation Legislation Amendment Bill 2002, which amends a number of taxation and superannuation laws not just in relation to the co-contribution measure, which I have just been discussing, but also in relation to reducing the maximum superannuation and termination payment surcharge rates from 15 per cent to 10.5 per cent over the next three years.

That measure is, as I have already said, fully justified. It is important to remember that the surcharge was a temporary measure. It was introduced by the government as part of necessary budgetary measures to overcome the substantial annual deficit that we were left with by the Labor Party and to begin to pay off what was nearly \$100 billion of accumulated debt—a very successful achievement of the government. The minister might correct me, but we now have that accumulated debt down to about \$30 billion,

as I recollect. That is an outstanding performance by the government in sound economic management and in restoring the government's financial position, and it has had a major positive impact on the strong rate of economic growth this country has enjoyed over the last several years. The rate of growth has been better than that of any other developed country over the last few years and has been reflected in real wage increases of benefit to all workers, particularly to low-income earners. This, in turn, provides them with a better opportunity to save for their retirement. This package of measures is very important, and the incentives it contains will encourage that very important saving for retirement to ensure that people will be able to enjoy adequate income in retirement. *(Time expired)*

**Senator ABETZ** (Tasmania—Special Minister of State) (1.49 p.m.)—I move:

That the debate be now adjourned.

**Senator Sherry**—Mr Acting Deputy President, I rise on a point of order. Just before we put that question, I would like to point out to the Senate that the Labor Party and, I understand, the Australian Democrats were informed that we would be going into committee on the bill we are considering. That has not happened. The government wants to get its program dealt with, which is fair enough, but when we have bills unexpectedly pulled in the way that the government is doing it is not exactly the hallmark of cooperation.

**Senator Abetz**—It is not unexpected—

**The ACTING DEPUTY PRESIDENT** (Senator Bolkus)—Order, Senator Abetz!

**Senator Sherry**—It was unexpected, Senator Abetz, and we know we had a fill-in from Senator Chapman, a filibuster, a speech of 20 minutes. He was not on the speakers' list; he was pulled in at the last minute. We know what a filibuster is all about: it is about wasting the time of the chamber. If the program is under pressure, Senator Abetz, because of these tactics, look at your own contribution in terms of planning a debate.

**The ACTING DEPUTY PRESIDENT**—Senator Sherry, you have made your point of order. Senator Abetz, there is

no capacity to debate the question that the debate be adjourned.

**Senator Abetz**—I understand that Senator Sherry was given leave to speak without asking for it. However, I would seek leave—

**The ACTING DEPUTY PRESIDENT**—Senator Sherry raised a point of order. Senator Abetz, if you wish to do the same then you can do so, but I cannot imagine what it would be about.

**Senator Abetz**—Mr Acting Deputy President, just as much as Senator Sherry did not have a point of order, I would rise on a point of order to indicate that there was contact with the Opposition Whip's office some 10 minutes ago.

**The ACTING DEPUTY PRESIDENT**—There is no point of order.

Question agreed to.

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

**HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 3) 2002**

**Second Reading**

Debate resumed from 11 November, on motion by **Senator Kemp**:

That this bill be now read a second time.

**Senator CARR** (Victoria) (1.52 p.m.)—I am speaking today on the **Higher Education Legislation Amendment Bill (No. 3) 2002**. This is the bill that closes down that bunch of frauds, those shonks, those shysters, out at Norfolk Island, whom this minister has defended for the last four years. We have a situation where the Labor Party has raised certain matters concerning these people for four years through Senate estimates and the government has been defending them. Now the government has been forced to bring in a bill to close down this shonky operation. We applaud the government for finally realising what a hopeless bunch of administrators they are. At the last Senate estimates the government said that I was the '\$3 million man'. Remember that? On and on the government went about the amount of money spent through the Senate estimates as I was trying to force this government to be accountable. Well, this is the sort of work that Senate estimates actually produces: a situation where

the government, despite the unbelievable stupidity of the ministers on the other side of this chamber, has been obliged to act.

I say that \$3 million, which is an extraordinary figure even by the government's amazing calculations, in that context demonstrates that this government is able to be held accountable through the work of this Senate. I say this in a context where we have an international export industry worth about \$4 billion per annum, and it is the failure of this government to protect that industry—its failure to ensure that serious quality assurance measures are actually in place—that has put that industry at risk. The international education industry in Australia has been put at risk by the actions of the Greenwich so-called 'University', this mob at Greenwich, the cuckoo in the nest of Australian higher education. Of course, they were never a university, but they were allowed to exist and to trade on the international education market as a result of the blunders of this government and the debacle by the ministers for territories and education in this parliament. We have seen these ministers referred to in many quarters as the galahs of international education in this country because of their failure to accept the evidence presented for some years in this chamber. They were being duped. They were being led up the garden path by the Norfolk Island legislature—all nine good men and true out there and I think I have seen a couple of women there as well. They were being misled by that body. We had a minister that accepted the advice that an Internet university would only work on one island. The Internet, according to Senator Macdonald, would only apply on Norfolk Island—an extraordinary proposition.

The ministers were led up the garden path by some shadowy figures. There is, for instance, the Duke of Brannagh—one Dr John Walsh, the so-called chancellor of the university on Norfolk Island. Dr Walsh—'the duke', as he has been infamously known throughout recent years in education circles—has seen this Internet outfit kicked out of two states of the United States, Missouri and then Hawaii, and kicked out of New Zealand and Victoria but accepted by this government. It was accepted by the people

within this government who do not seem to know day from night when it comes to education. The duke got really lucky when he found that Senator Macdonald had been appointed the Minister for Regional Services, Territories and Local Government and that there was a minister, Dr Kemp, who was more than happy to accept any advice from Norfolk Island's legislature on this issue. The councillors of Norfolk Island were of course playing right into the hands of the duke at Greenwich University, because they were operating in cloud-cuckoo-land.

Greenwich University have never been a real university. They have been up to some extraordinary practices over time which have made Australia the laughing stock of the rest of the international education community. They ran courses in advanced alchemy, new mysticism and intuition. They ran some orthodox courses as well, but the courses were established in such a way that we saw the chair of an ad hoc committee, established through the department of education and the Commonwealth, challenge the bona fides and indicate, through Senate estimates, that there were in fact operations at Greenwich that were frankly not up to the standards of a high school course on the mainland—yet they were claiming themselves to be a university! We had a situation where they were not able to operate on the basis of a normal year 12 standard to be found anywhere else in the country.

We had a strange litany of staff employed at Greenwich. There was a person who was employed as the head of the consciousness studies department, Dr Weiss Miller PhD. He had a doctorate from—you guessed it—Greenwich University and he was a member of the Association for Past Life Research and Therapies. I think that is a remarkable qualification for an academic in any university; nonetheless, he was given this special appointment. We had the Reverend Carl Lindgren, who was a member of the International Order of the King's Daughters and Sons and a member of the Sovereign Order of Orthodox Knights Hospitaller of St John of Jerusalem and an ordained chaplain of the Rose Cloister. These may be important qualifications in a university, but only this govern-

ment would see them as being necessary for employment at a university in this country. We cannot really believe some of the actions that I have referred to. We have Dr Walsh, who, as I remember, bought the royal titles to the Russian throne and also the French throne and managed to organise himself in this way. Interestingly enough, he was deputy chair of the Internet gaming commission on Norfolk Island as well, so I think we can understand how he can apply these creative talents to more commercial ventures as well. He had attracted a number of degrees from the Columbia Pacific University, a university which was forced to close by the US government. The big clincher was of course the Vice-Chancellor of Greenwich University, a Dr Ian McKechnie, who was a convicted embezzler. He knocked off \$220,000 from the Brotherhood of St Laurence in Victoria—quite an achievement indeed for a vice-chancellor!

The Commonwealth government allowed this shonky operation to continue for four years on the basis that advice was given by the department that the ministerial adviser in Dr Kemp's office, Mr Phil Norton, said, 'Look, there are so many shonky universities operating in Australia at the moment that one more won't matter.' What a tragedy! The tragedy is that the government took four years to wake up to itself and chose to defend this outfit for that period. Now the parliament is seeking to redress the problems created by this government. It is, as I said, a great tragedy that it took so long for that to occur. I think we ought to bear in mind, however, the comments made by people in this chamber, Senator Tierney being one. He described the comments made by the Labor Party as 'outrageous behaviour' which was defaming the staff of Greenwich University and said that we were grasping at straws in attacking this organisation.

Debate interrupted.

#### QUESTIONS WITHOUT NOTICE

##### Medicare: Bulk-Billing

**Senator CHRIS EVANS** (2.00 p.m.)—My question is directed to Senator Patterson, the Minister for Health and Ageing. Does the minister have any explanation as to why the

September quarter Medicare statistics show a further 2.7 per cent decline in the rate of bulk-billing by GPs and why only 71 per cent of GP visits are now being bulk-billed? Can the minister confirm that the decline reflected in the latest figures was the largest ever quarterly decline and the second consecutive largest annual decline since the introduction of Medicare, amounting to a drastic fall of 9.4 per cent since the election of the Howard government? Minister, why is it becoming harder and harder to see a bulk-billing doctor under the health policies of the Howard government?

**Senator PATTERSON**—One of the main reasons that it is becoming harder to see a bulk-billing doctor is because of Labor's neglect of the health system when they were in government for 13 years. You do not create doctors overnight. You do not grow doctors overnight. It takes a minimum of five or six years. If they do a postgraduate course, it can take eight years to get them out into general practice and then three more years for general practice training. The seeds of this problem were planted under Labor. We have put 160 more students into medical training since 2001. Every year we will graduate 160 more students but, again, that takes time. We have spent \$560 million on programs to get doctors into rural areas.

A low bulk-billing rate in rural areas is not new. There were low bulk-billing figures under Labor, but did Labor care? One of the issues that affects bulk-billing is the number of doctors. The higher the number of doctors, the higher the rate of bulk-billing. You can go into some electorates and the rate is 90 per cent or so, because that is where you have a higher number of doctors. We have seen an 11 per cent increase in doctors in rural areas in the last four years—an estimated full-time doctor quota of 4.3 per cent. It is the first time that we have seen a turnaround. But that \$560 million is going to take a significant period of time to have an effect. As I said, Labor neglected it. When Labor's figures in 1990 were the same as they are now, I did not hear them say, 'We should be doing more to increase bulk-billing.' They did nothing to increase it.

Mr Smith goes out and claims that we have done nothing to GP rebates. Over the last four years, GP rebates for short consultations have gone up 14 per cent and, for long consultations, they have gone up 20 per cent. There has been an overall increase in incentive payments for doctors to stay in rural areas. We have seen a significant increase in practice incentive programs. Mr Smith has a solution. He will increase it by most probably reducing the rebate. What is that going to do? That is going to put enormous pressure on public hospitals. The Labor Party are going to fund GPs by reducing the rebate.

They talked about reducing the rebate on ancillaries. Fifty per cent of the rebate on ancillaries goes to dental treatment. So talk to the pensioners who go and get their dental treatment with ancillaries because the states do not do enough about dental treatment. Talk to the states about why people take out ancillaries to have dental treatment because the states do not do it. Mr Smith is talking about getting rid of ancillaries. Nobody knows whether he will get rid of the private health insurance rebate. I was in a hospital on the coast of Queensland just recently—I think that I mentioned it the other day—and the staff there said that, without the rebate, their hospital would have gone under. What is that service doing? It is offering an after-hours service for GPs so that GPs can stay in areas and be relieved of the pressure.

We have done an enormous amount to address the issue, but it is because of the neglect. The thing is that Mr Smith does not seem to care about access and equity. That is the issue that I am talking to doctors about. In some areas, people are bulk-billed and, in other areas, people are not. That is the issue that is of concern to me. That is the issue that I am working on with general practitioners. I would like Mr Smith to come and talk to me and say, 'This is an issue which needs addressing.' We need to ensure that we overcome the deficiencies that Labor put in place by not providing sufficient training places for doctors and by not providing sufficient training places in universities. Rebates went up a lot less under Labor than they have gone up under us. We also have to ensure that we

get proper outcomes like immunisation, which we have without payments for GPs, going from a Third World country level to a First World country level. (*Time expired*)

**Senator CHRIS EVANS**—Mr President, I ask a supplementary question. I am sure that listeners are as confused as I am by that answer. The question was about why bulk-billing rates have reduced under the Howard government. We had a rave about the Commonwealth Dental Scheme, which the Howard government abolished, and something about Labor's neglect. Minister, the question was: why, after six years, is the bulk-billing rate falling? Why is it in the largest decline in its history? Why can ordinary Australians not get to see a bulk-billing doctor? Surely these figures must concern you. What are you going to do about arresting the decline in bulk-billing? Surely you can answer that direct question.

**Senator PATTERSON**—One of the reasons that we have a decline is that the number of doctors that are now practising has declined in terms of the population. We have 160 new people in training places. Labor neglected the distribution of doctors. There were more doctors in inner-city areas and fewer doctors in country areas.

**Senator Faulkner**—You have been in government for nearly seven years.

**Senator PATTERSON**—Senator Faulkner interjects, 'You have been in government for six years.'

**Senator Faulkner**—I said 'nearly seven years'.

**Senator PATTERSON**—Let me say, again, that it takes six, seven or eight years to train a general practitioner. We put 160 new GPs in training in medical schools in 2001-02, and next year there will be another 160 medical students. They will graduate and they will begin to have an effect. But we also have a program to get doctors into rural areas—an outer metropolitan area program of \$80 million to rectify the damage that Labor left. (*Time expired*)

#### Indonesia: Terrorist Attacks

**Senator EGGLESTON** (2.07 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister

update the Senate on the cooperative efforts between Australian and Indonesian law enforcement agencies to bring those responsible for the Bali attack to justice? Will the minister also comment on suggestions that the government might have had some prior warning of the Bali bombings?

**Senator ELLISON**—I thank Senator Eggleston for a very important question. I will start by referring to the latter part of Senator Eggleston's question first, and that is the question of prior notice in relation to the Bali attack. The weekend *Sydney Morning Herald* implied that the Australian government might have had some prior warning of the Bali bombings. Mr President, this is incorrect. The Attorney-General has made a statement in relation to this, as has the Prime Minister. The government had no warning of the Bali attack. If they had of course everything possible would have been done to divert it. As the Attorney-General has said, he has gone back to the agencies concerned, he has checked again, and he stands by his previous statements. The government was aware of a potential threat in the region and of course we made public a number of statements in relation to that. As has been stated previously, advice from intelligence agencies is that the only possible reference to Bali in recent intelligence reporting was its inclusion, along with a number of other tourist and cultural locations across Indonesia, in possible terrorist activity against Western interests. This intelligence was assessed by the relevant agencies and the view formed by them was that the existing high threat assessment level applying to Indonesia should not be altered.

Since the attack, the United States government has also made clear that it had no specific information in relation to a planned bombing in Bali. In fact, when I was in Jakarta, the United States ambassador indicated to the foreign minister and me that he had staff who were in Bali on the weekend of the attack. No doubt there will be continued speculation in relation to warnings and security arrangements, but it should be made clear that there was no prior warning in relation to this attack. Bill Blick, the Inspector-General of Intelligence and Security, has

been asked to examine all the relevant intelligence material and to report to the Prime Minister on his findings. And of course we will act on anything that is reported to the government in that regard.

As far as the investigation is concerned, we are now entering our sixth week and there has been progress I believe which we had not envisaged. Amrozi still remains in detention. Yesterday, photos and sketches of six suspects were released to the community in an attempt to help identify the whereabouts of the suspects. A cache of firearms has also been located. It included three military style firearms, two older style weapons, two pistols and approximately 5,000 rounds of ammunition. Whilst these have been linked to the suspects, they are not directly linked to the Bali bombing. I would add that the cooperation we have received from the Indonesian police has been crucial in the progress of this investigation. Six weeks ago when the attack occurred I do not believe that people envisaged we would be this far down the track.

As far as victim identification is concerned, 56 Australians have been repatriated and returned to their next of kin. Sixty-nine Australians have been confirmed dead and there are now 18 whom we have serious concerns for. As we have said before, we are now getting down to the more difficult stages with disaster victim identification and the process, unfortunately, will be slower than that experienced to date. We still have experts in Bali who are working on this and we have some 87 law enforcement officials from the Australian Federal Police and around the country who are working continuously not only on disaster victim identification but also in relation to the investigation into the bombing.

#### **Medicare: Bulk-Billing**

**Senator DENMAN** (2.11 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. Can the minister confirm that since the election of the Howard government in 1996 the average cost to a patient to see a GP has gone up by a staggering 51 per cent? Under this government, why is it becoming more and more expensive to see a doctor who does not bulk-bill?

**Senator PATTERSON**—With all due respect to Senator Denman, I did indicate that one of the major issues affecting whether doctors bulk-bill or not is the number of doctors—competition. In inner city areas where there are higher numbers of doctors, you get much higher levels of bulk-billing. In areas where there are fewer doctors, you get lower bulk-billing. We have put in place a program of over \$560 million to ensure an increase in the number of doctors in rural areas. We have seen an 11 per cent increase in doctors in rural areas—I have forgotten the exact figure, but there were something like 5,700 doctors in 1997-98 in rural areas and now there are 6,363. It is the first time we have seen a turnaround in the number of doctors in rural areas.

What I am on about is access and affordability—to enable people to actually get to a doctor. Bulk-billing in rural areas has always been low and the Labor Party is carrying on as if bulk-billing rates have always been up at the levels they have been over the last four or five years. One of the things that contributes to decreasing bulk-billing is fewer doctors. We have put in place over \$560 million of incentive programs and programs to give scholarships to young people to study and commit themselves to rural areas. We have an \$80 million program to get doctors into outer metropolitan areas. We have to get this into perspective. Seven out of 10 people are still bulk-billed and a significant number—almost eight out of 10 people who are over 65—are bulk-billed. I commend the general practitioners who are ensuring that eight out of 10 people over 65 are bulk-billed.

Mr Smith said that the Howard government has effectively kept the screws on the rebate for a six-year period. I ask Mr Smith to get his facts right. In the last six years of the Labor government, the Medicare rebate for a standard GP consultation increased by \$1.70. Under the Howard government, it has increased by \$4.20—a significant increase compared with the Labor's increase. A D-level consultation under Labor went up from \$62 to \$65.20, and it has gone up in the last six years under this government from \$65.20 to \$80.40. So for Mr Smith to come and say

we have kept the screws on the rebates is absolutely incorrect.

In addition to those increases in rebates—14 per cent for short consultations and 20 per cent for long consultations—we have seen three out of four GPs receive a practice incentive payment for dealing with chronic illnesses like diabetes, asthma and mental illness, and for vaccinating our children. When Labor was in government, 53 per cent of our children were vaccinated and we had children dying of preventable diseases. By giving doctors increased payments for outcomes—and Mr Smith has not talked about that at all—we now see a vaccination rate which is one of the highest in the world. We are world leaders. We have increased the Practice Incentive Program. We have allocated \$242 million to the program—\$49 million more than last year. We have increased payments to general practitioners. What we need to ensure now is that we have access and equity and that we locate doctors in appropriate places. We have to get them into outer metropolitan areas, we have to continue to increase the numbers in rural areas and we have to ensure that people on similar incomes in different areas are treated in the same way. That is not what Mr Smith is talking about, and that is what I am working with doctors on.

**Senator DENMAN**—Mr President, I ask a supplementary question. Don't the figures show that, as the rate of bulk-billing by GPs has fallen by almost 10 per cent since the Howard government came to office, the cost of seeing a doctor has also risen by more than 50 per cent? Why is the government content to see increasing medical costs quickly becoming a massive burden on Australian families?

**Senator PATTERSON**—I do not consider that a supplementary question; it is exactly the same question as the question I answered. The answer is very clear: we need to ensure that people on similar incomes have equal access. Under Labor, that was not the case in rural areas. Bulk-billing was very low. We need to ensure that we have doctors appropriately remunerated and located and that we have appropriate outcomes. None of that was happening under Labor. We had a

maldistribution of doctors. We have seen a significant increase in rebates under us and an increase in payments to ensure that we get the sort of health outcomes we need—immunisation of our children and the management of asthma, diabetes and mental illness. Under Labor, for people in rural areas there was no access. Now, with the incentive payments, people have access to doctors in rural areas who can deliver programs to assist them with mental illness.

### **World Trade Organisation**

**Senator SANDY MACDONALD** (2.17 p.m.)—My question is to Senator Hill, the Minister representing the Minister for Trade. Minister, will you inform the Senate of the beneficial outcomes of the World Trade Organisation meeting in Sydney last week? What actions has the Howard-Anderson government taken to ensure that Australian exporters gain fair access to foreign markets?

**Senator HILL**—I thank the honourable senator for his important question. Trade is vitally important to the future prosperity of all Australians, and Australia continues to play a leading role in developing and implementing the WTO agenda on issues of international trade. Since 1996, Australia's exports have grown more than 50 per cent, from \$99 billion to over \$154 billion, creating more than 250,000 jobs. In all, one in five jobs is related to export industry—one in four in fact within regional Australia.

Last week the Minister for Trade chaired the WTO informal meeting of trade ministers in Sydney and, I might say, he did so particularly successfully. This meeting delivered a very positive injection of political momentum into the Doha Round negotiations. Interestingly, ministers agreed on the issue of access to medicines for developing countries to treat HIV AIDS, tuberculosis, malaria and other epidemics. This meeting, organised by the Howard government, has ensured that this issue—an important social issue—now has the required political momentum and has underscored the fact that WTO talks are not solely about trade but also concerned with humanitarian issues.

The meeting also demonstrated strong political will to meet the deadlines of the Doha

declaration for opening up world markets, including agriculture, industrial goods and services. Increased world access is the core business of the WTO. It is one of Australia's highest priorities and we are encouraged that all members represented at the meeting stated their commitment to make proposals on how the WTO can and should liberalise trade.

We are also committed to improving access to Australian exporters on a regional basis, particularly within South-East Asia and the East Asian region. I draw your attention particularly to the recently concluded free trade agreement with Singapore. I also remind you of the agreement between the CER countries, Australia and New Zealand, and the AFTA countries of ASEAN which is designed to further expand trade opportunities and to attack in particular non-tariff barriers within our region. I also remind you that Australia continues to work with Thailand, Japan, Korea and China on similar issues.

Bilaterally, but outside our region, we are also pursuing agreements. The decision by the Bush administration to pursue Australia's push for a free trade agreement with the US will deliver significant benefits for Australia. The US is our biggest trading partner with about \$45 billion of trade every year. Economic modelling has found that removal of tariff barriers between the US and Australia could increase Australia's GDP by as much as \$4 billion annually. Of course, rural and regional Australia will again be a major beneficiary of such an agreement with agriculture squarely at its centre. Therefore we are committed to a trade policy that has as its cornerstone the creation of new and more open markets for exports, which will contribute to a growth in our economy, employment and our standard of living. We will continue to pursue this agenda multilaterally, regionally and bilaterally through the appropriate fora in order to protect and advance Australia's trading interests.

### **Indonesia: Terrorist Attacks**

**Senator FAULKNER** (2.21 p.m.)—My question is directed to Senator Hill, representing the Prime Minister and the Minister for Foreign Affairs, and follows on from the

earlier question to Senator Ellison. Minister, was the Prime Minister aware of warnings from a senior Western diplomat regarding specific Jemaah Islamiah plans to mark the anniversary of the war in Afghanistan with the bombing of soft targets, before or after the publication of such claims in last Saturday's *Sydney Morning Herald*? In promising to have these matters inquired into, has the Prime Minister referred these new claims to the Inspector-General of Intelligence and Security? Can the minister say when it is anticipated that the parliament will be informed of the outcomes of all such inquiries?

**Senator HILL**—Senator Faulkner must have missed the media reports over the weekend, because the Prime Minister was asked that very question. He repeated the fact that the government had no specific warnings in relation to the bombings in Bali. He indicated that he was not aware of the warnings as had appeared in the media over the weekend, which were put to him by Australian journalists in turn over the weekend. He repeated that all aspects relating to the intelligence are being looked at by Mr Blick, and Mr Blick has the responsibility to use his own enterprise to ensure that he has all available material before him. To the extent that the government can help and facilitate him in doing so, it obviously would wish to do so. I do not think that there is a time limit for his inquiry because, while we want it to be completed promptly, we want it to be done properly. As I have said once before, I would expect that there would be a public statement arising out of his inquiry.

**Senator FAULKNER**—Mr President, I ask a supplementary question. It is true, Minister, that you said once before that you would come back to the Senate in relation to the terms of reference for the inquiry conducted by Mr Blick, the Inspector-General of Intelligence and Security. In fact, you undertook to do that more than a month ago, in answer to a question I asked in this chamber. When will you, as Leader of the Government in the Senate, provide the terms of reference for the Blick review?

**Senator HILL**—When I was last asked that question, I understand that the terms of reference had not then been drafted. I under-

stand that Mr Blick is now working to specific terms of reference, and I will ask that they be made available to the Senate. It might be, as on some other occasions, that they in fact are provided with the response of Mr Blick to the inquiry.

#### Health: Pharma-Foods

**Senator STOTT DESPOJA** (2.24 p.m.)—My question is addressed to the Minister for Health and Ageing. Is the minister aware of the so-called pharma-foods that have been in the news lately—edible crops that are modified to carry pharmaceuticals, which can include vaccines or contraceptives? Can the minister advise if there are any pharma-foods that are being developed or tested in Australia? Does the Commonwealth government have a policy in relation to either the testing or the use of pharma-foods in this country?

**Senator PATTERSON**—With regard to foods and food standards, the states, the Commonwealth and New Zealand are involved. I do not know the exact answer to the exact question that you asked. Patricia Worth, my parliamentary secretary, deals with food standards and food standards issues. In order to give you a proper, appropriate and detailed answer I will get back to you. I know some of the details about the advertising of foods and foods that have additives but I am not entirely sure about pharma-foods. I know that it was a news item yesterday but I will ask Trish Worth and the department to provide you with a detailed answer and I will table it in the Senate as soon as possible.

**Senator STOTT DESPOJA**—Mr President, I ask a supplementary question. I thank the minister for taking that on notice and I ask: when she gets that further information could she inform the Senate as to whether or not the government will rule out providing open-field trials of any pharma-food that is proposed for use in Australia in order to ensure that there is no contamination of food crops or wild plants?

**Senator PATTERSON**—On the question of ruling in or ruling out, I will need to double-check the role of the states and the issue of states' responsibilities in terms of whether

they grow those sorts of foods, and I will have that included in the answer. I am not going to rule in or rule out anything. I will give you the details about the Commonwealth's responsibility, the states' responsibility and the New Zealand-state-Australian agreements regarding food and food standards.

#### **Health Insurance: Premiums**

**Senator KIRK** (2.26 p.m.)—My question is to Senator Patterson, Minister for Health and Ageing. Can the minister confirm that patients with private health insurance are hit with out-of-pocket gap costs for one in every five medical services provided in hospitals? Is it not also the case that the average out-of-pocket gap payment for medical services for privately insured patients was \$74.28 in the June quarter, up from \$67.38 per service in March this year? Isn't it the case that, despite the government's supposed no-gap policy approach, a significant gap problem continues to exist which undermines the value for money that Australians with private health insurance receive?

**Senator PATTERSON**—Let me begin by saying that under Labor private health insurance was falling over. Private hospitals have told me over and again that, had we not introduced incentives to ensure that people took out private health insurance and brought it up over 40 per cent, it was not viable. A previous health minister, former Senator Richardson, said that when private health insurance dropped below 35 per cent or 30 per cent—I cannot remember what the figure was—private health insurance was not viable.

What we have done is put in place an incentive for people to go into private health insurance that has meant that people can now have access to private hospitals. We have seen a 12 per cent increase in admissions to private hospitals and we have seen a reduction in the gap that was there when Labor was in. Also, the number of people leaving private health insurance meant that those who were sicker, those who were more likely to need it and those who were older were left in and they were paying higher and higher premiums which were unaffordable. With the rebate of 30 per cent, which the Labor Party

is now threatening, the average family has a \$750 reduction in the cost of their private health insurance.

We have seen, as I have said, a 12 per cent increase in private hospital admissions and a minus one per cent increase during the last financial year in public hospitals. We have seen private health insurance take enormous strain off the public hospital system. What we have seen is a reduction in the number of people who have to pay gaps under our private health insurance system. Of course some people will pay gaps. Some doctors will not participate in the no-gap scheme but there are many doctors who do. I appreciate the fact that many doctors participate in the no-gap scheme.

Let me say that under Labor, especially when they are threatening a 30 per cent rebate, private health insurance will go into a downward spiral and fewer and fewer people will be able to afford it and more and more pressure will be put on public hospitals. We now have more than 50 per cent of breast cancer operations and, I think, more than 50 per cent of joint replacement operations being undertaken in private hospitals. That is what people want to do. They do not want to sit in hospital queues. The state governments, with a \$3 billion windfall, which we did not take back from them when private health insurance went up, still have people sitting in hospital queues for elective surgery. They are now able to have that done in private hospitals, without waiting and with a rebate, and there has been an increase in the number of people being able to have those sorts of procedures undertaken.

Senator Kirk ought to go back and look at Labor's history of private health insurance, look at what gaps people were paying, look at how few people were in private health insurance, and talk to the private hospitals and find out that they were about to go under. They were not building more beds, and they were not increasing their numbers; they were closing down because people were going out of private health insurance in droves.

**Senator KIRK**—Mr President, I ask a supplementary question. Is the minister aware that all privately insured Australians

could face additional out-of-pocket gap expenses as high as \$150 for hospital treatment next year to cover the cost of medical indemnity insurance of private hospitals? How does the spectre of these additional gap costs for private hospital admissions honour the Prime Minister's promise that private health insurance would be more affordable and attractive to consumers?

**Senator PATTERSON**—I have been in discussions with private health insurers and with the hospitals. At the moment, some of the claims that the hospitals are making about the costs of their indemnity, I think, are hard to justify in terms of patient cost. The Howard government has put in place guarantees for medical indemnity the like of which I do not think any profession has ever seen. For example, when a doctor insures himself or herself for a certain level of cover, a claim above \$2 million will be covered. I could go into detail about all the backup that we have put in place for medical indemnity. That is in addition to the work that Senator Coonan has been doing, not only to ensure that we keep the cost pressures on medical indemnity down, but also to keep the cost pressures down on public indemnity. (*Time expired*)

#### Nuclear Energy: Lucas Heights Reactor

**Senator NETTLE** (2.33 p.m.)—My question is to Senator Alston, representing the Minister for Science. The Premier of New South Wales recently cited the Lucas Heights nuclear reactor as one of the most likely targets for any terrorist attack in New South Wales. It has come to my attention that ANSTO is planning to send a highly enriched spent nuclear fuel rod shipment from Lucas Heights to Cogema's La Hague facility in France soon. Will this shipment occur this month or next month? Has ARPANSA issued a licence for the shipment?

**Senator ALSTON**—Those are matters of considerable detail about which I will obtain instructions and get back to you.

**Senator NETTLE**—Mr President, I ask a supplementary question. Could the minister also find out, in the light of security concerns about Lucas Heights and this shipment, whether Australian and US security authori-

ties have conducted a full security threat assessment about the shipment? If so, what were the findings?

**Senator ALSTON**—Again, I will take that on notice, but I would be very surprised if they would want to confide in you about the results of it. Nonetheless, I will see what we can do to enlighten you.

#### Telstra: Chief Executive Officer

**Senator ROBERT RAY** (2.34 p.m.)—I direct my question to the Minister for Communications, Information Technology and the Arts, Senator Alston. Is the minister aware of claims that the Telstra Chief Executive Officer, Dr Ziggy Switkowski, has a mobile phone microcell installed in his backyard? Are these claims accurate? If so, can the minister inform the Senate what the cost of such an installation would be? Isn't it a fact that there is a mobile phone tower a mere 200 metres from Dr Switkowski's Toorak home? Is the microcell there owing to poor reception? What example does this send to the rest of Australia in terms of coverage for mobile phones?

**Senator ALSTON**—I did see that item and I am not surprised, of course, that it would come to the attention of Senator Ray. I am not sure whether you are close enough to benefit from this particular microcell, but the reality is—

**Senator Carr**—Can I have one?

**Senator ALSTON**—I will look into that. I will take that as a request. A microcell benefits not just the person in whose place it might be constructed—

**Senator Faulkner**—So there is one in his backyard?

**Senator ALSTON**—Yes. I do not think there is any doubt about that. I am presuming that Senator Ray read the article in the *Sydney Morning Herald*. I am surprised Senator Faulkner did not see it.

**Senator Faulkner**—I did see the story.

**Senator ALSTON**—You will have seen that the story makes it clear:

... 'there are no favours for so-called mates'. The reasons for the installations ... are purely commercial.

The article goes on to say:

... mobile phone coverage in Toorak had been a bone of contention because of the suburb's hilly terrain.

*Opposition senators interjecting—*

**Senator ALSTON**—It is very difficult to get line of sight when there are three or four storeys—I understand that.

*Opposition senators interjecting—*

**Senator ALSTON**—It is a hardship post. If you would like to move there, all you have to do is buy a little piece of dirt and we might be able to make some special arrangements for you. It is actually a matter for Telstra. I had thought that Dr Switkowski moved away from Kew because of the poor mobile phone reception, but it looks as though he has found somewhere even worse. It must be stressed that it is a decision for Telstra. The mere fact that there is a facility 200 metres away does not mean that he will get adequate reception. I do not see anything particularly wrong with a company wanting to ensure that its CEO is able to get good quality reception at all times.

**Senator Conroy**—Does your phone get boosted by it?

**Senator ALSTON**—No, I am not close enough. As I said, I think Senator Ray lives a lot closer to Toorak than I do, and if anyone is going to benefit from wider coverage it is probably him. The point is that it does not just benefit the individual on whose property it is built. It is a matter for Telstra to decide. I would have thought that a special case can be justified in terms of ensuring that the CEO has adequate coverage. That microcell is obviously something that Telstra can install in other places on demand.

**Senator Sherry**—Why haven't they done it? What about in the bush?

**Senator ALSTON**—The average base station would cost about half a million dollars. We have got to a point where about 90 per cent of the population will be within range of fixed base stations.

*Opposition senators interjecting—*

**Senator ALSTON**—Ninety-eight per cent of the population do not live in Toorak. You might think they do but perhaps you

should pay a visit. I think it is fair to say that most metropolitan areas are well and truly covered. But there are always black spots. You know that. That is a function of technology; it is not a function of being able to spend a bit more. If there is a particular need for a microcell then it is a matter for Telstra's commercial judgment about where they install it. As far as Dr Switkowski is concerned, I would have thought that, if there is any one person in Telstra who might be entitled to have good quality coverage, it is the CEO.

**Senator ROBERT RAY**—Mr President, I ask a supplementary question. I invite the minister to address the part of my question as to the cost of the installation of the microcell. Was it totally borne by the chief executive or was it a subsidy from Telstra? Again I ask him: what sort of example does it set for the rest of Australia when he is given this sort of treatment and others simply do not have the same access at affordable prices?

**Senator ALSTON**—I will see what I can find out for you about the cost. You cannot pretend that somehow Dr Switkowski, as the CEO of pretty much the largest company in Australia, is just an ordinary citizen.

*Opposition senators interjecting—*

**Senator ALSTON**—He would not get much of a chance to run it if you lot were ever in government. You would be fighting him hand and foot. You would be sending him ministerial directions every second day. He might as well go home. But right now he has a real job to do. He does it well and he needs to do it in a way that ensures that he has access to the latest technology. Therefore, one can understand why there might be a need in his instance. I do not accept the proposition that he is just another citizen. He happens to be the CEO of the company and I assume that is the basis on which they have made that arrangement for him. I will find out the cost, if I can, and get back to you.

#### **Insurance: Public Liability**

**Senator TCHEH** (2.40 p.m.)—My question is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Will the minister inform the Senate what actions the federal government is taking to make public

liability insurance more available and more affordable?

**Senator COONAN**—I thank Senator Tchen for the question and for his ongoing interest in this important issue. As senators on this side of the chamber would be aware, last Friday I convened the fourth ministerial meeting on public liability insurance, in Brisbane. The meeting was attended by ministers responsible for public liability insurance in each state and territory except, of course, for the caretaker government in Victoria, which sent an observer. I am very pleased to inform the Senate that the meeting agreed to a landmark package of national negligence reforms to make insurance more affordable and more available. All ministers at the meeting agreed with the thrust of the reforms put forward by the review of the law of negligence chaired by Justice David Ipp, and confirmed that they have already, or will shortly, move to introduce laws to implement the majority of those reforms recommended. Professional indemnity insurance was also discussed at length and there was strong agreement on the introduction of proportionate liability for economic loss, with some jurisdictions firmly committed to implementing legislation and others very close to finalising their positions.

It was also agreed that the issue of capping liability and risk management via professional standards legislation should be considered in detail as part of the ministerial forward work program. I cannot overstate the importance of this agreement. Since I began this process in March this year, the sceptics have continually been talking down the possibility of a nationally consistent response. Yet that is just what we have achieved from what was essentially a standing start less than 12 months ago.

We now have the evidence that the federal government's leadership of a national approach is on exactly the right track and will bear fruit for the community and for business. Since March the government has identified the problem and developed a concrete solution, and there is now clear evidence that this approach will work. An actuarial report by PricewaterhouseCoopers, commissioned by the ministers and presented to Friday's

meeting, found that the reforms contained in the Ipp package could initially reduce public liability insurance premiums by around 13.5 per cent, with further reductions to follow once the impact of the reforms on curtailing claims cost is more readily quantifiable. Importantly, significant reductions in medical indemnity insurance premiums of between 15 per cent and 18 per cent were also estimated for most jurisdictions. Representatives of some of Australia's largest insurance companies and the Insurance Council of Australia attended the meeting and gave assurances that the reforms would positively benefit community groups and businesses that have been suffering as a result of the public liability crisis. Insurers agreed that the expected premium reductions will materialise and that the reforms will see more insurers entering liability insurance markets.

The Commonwealth has already introduced significant reforms to the federal parliament, and on Friday I announced that the Commonwealth would amend the Trade Practices Act to complement state and territory law reform. The need for an urgent solution to the crisis in public liability and medical and professional indemnity does not depend on accepting the arguments of the insurance industry; nor does it depend on comprehensively rejecting the pleas of plaintiff lawyers and those they represent. What it does depend on is governments undertaking the role they were elected to perform. Governments are compelled to act to address the very real concerns of people they purport to represent. Improvements are now being seen, as insurers re-enter the market. It is time we saw some positive action from those opposite and from the ALP, which has done nothing but bleat about price fixing since this problem began.

#### **Health Insurance: Premiums**

**Senator McLUCAS** (2.44 p.m.)—My question is to Senator Patterson, the Minister for Health and Ageing. Does the minister recall the Prime Minister promising the Australian people before the election last year that there would be downward pressure on health insurance costs for families and that this government's policies would 'lead to reduced premiums'? Isn't it true that al-

ready this year the policies that you, as health minister, have presided over have led to the approval of average premium increases of seven per cent, health funds will be freed up to raise their premiums by CPI without the need for government approval and Medibank has removed discounts for its products, resulting in 2.7 million Australians paying up to six per cent more for their health insurance?

**Senator PATTERSON**—Let me say that I can guarantee that, under a Liberal government, private health insurance will always be cheaper than under a Labor government, because we believe that we should have a strong public sector and a strong private sector. Despite the fact that there may be a few people on the other side who believe that, the majority of them do not have any commitment to private health insurance at all. Australian families who take out private health insurance are, on average, \$750 better off with the rebate than they would have been under Labor and will be if Mr Smith fiddles with the rebate, which he is claiming he will do. Everybody knows that the pressures on health costs are higher than the CPI. The health index—I have forgotten it, and I may stand corrected, but I think it is about 5.8 per cent at the moment—is significantly higher than the CPI. We know that people expect the best equipment: they expect the best prostheses for their hips; they expect the best prostheses when they have a joint replacement; they expect the best stent when they have a stent put in. Those expectations place increased demands.

I am not going to be an apologist for the private health insurance funds. At the end of last year or the beginning of this year when they were looking for increases, I told them that I expected them to be as efficient as possible and the private hospitals to be as efficient as possible, to keep those pressures down. Anyone who believes that health costs will not go up significantly deludes themselves. They go up in the public system. The Pharmaceutical Benefits Scheme goes up too, I might remind you, but the Labor Party will not assist us by passing the legislation to have a small—I know it is difficult—but modest increase in the Pharmaceutical Bene-

fits Scheme. That is going up. It is the fastest growing part of our health system. As well, the private hospitals have the increased costs of the medications that they give their patients. So there are increased costs. One of the costs is insurance. It is not as great as they would sometimes have us believe, but it is another cost pressure.

What we are doing is ensuring that the downward pressures on private health insurance are as strong as possible. Under Labor, there would not have been those downward pressures. They would not have undertaken the sorts of reforms that Senator Coonan has undertaken—she has held four conferences!—to drive down public liability. Public liability affects private hospitals and affects private health insurance in turn. There is, as I said, \$750 on average for every family in the rebate which they get and which they would not be guaranteed under the Labor Party. To anyone who comes in here and talks about increases in private health insurance, let me just say: under Labor, it will be higher. It will be higher because they will not guarantee the rebate. They will not guarantee the membership of the private health funds, and they do not seem to understand that when people leave health funds the cost of private health insurance goes up. That actually drives more people out, and it is a spiralling downward effect, which is what happened under Labor to the point where private health insurance was not viable.

**Senator McLUCAS**—Mr President, I ask a supplementary question. Can the minister confirm that it is the case that, as a result of the premium increases approved by the Howard government, taxpayers will be forced to contribute around quarter of a billion additional dollars each year through the 30 per cent private health insurance rebate?

**Senator PATTERSON**—I remind the honourable senator opposite that we put an extra \$3 billion into the public hospital system through the states and last year got a minus one per cent decrease in the number of people who went into public hospitals. With the private health insurance rebate and the increase in membership, we saw a 12 per cent increase in admissions to private hospi-

tals. What we have seen is people getting access to hospitalisation, hip replacements, surgery for breast cancer and other forms of surgery much faster than they would have under Labor, when private health insurance was at an all-time low and the private hospitals were under threat of not being able to continue. We have seen people being able to get access to surgery at a rate which is a 12 per cent increase over that of last year, and a minus one per cent decrease. For \$3 billion, the state governments delivered a one per cent decrease in hospital admissions. That is the question the opposition should be asking their Labor state governments. *(Time expired)*

#### **Business: Corporate Governance**

**Senator MURRAY** (2.50 p.m.)—My question is to the Minister for Finance, Senator Minchin. Minister, I refer to the announcement that there will be a government review of the corporate governance practices of Australia's regulators. Is it the case that the review will be led by former Santos, Rio Tinto and Westpac chairman John Uhrig? Can the minister indicate in what respects Santos, Rio Tinto or Westpac have been leading-edge proponents of corporate governance under Mr Uhrig's chairmanship? Can the minister assure the Senate that neither Santos, Rio Tinto nor Westpac have been characterised by poor corporate governance practices, poor management of conflict of interest matters, poor auditing practices, poor executive remuneration practices and so on? Does the government realise that there is a fear that it has an agenda to subordinate our regulators to big business views? What assurances can the minister provide that is not so?

**Senator MINCHIN**—Can I say in response to Senator Murray that I acknowledge and understand his healthy scepticism about big business. That has been a trait of Senator Murray's in his time here, and I respect and understand his penchant for small business. As someone who comes from a small business family, I understand that. I would ask Senator Murray to accept the bona fides of this inquiry and not look at it through the tinted glasses of his scepticism about big business. Can I immediately suggest to him

that it is unwise and indeed inappropriate to question the bona fides, integrity, capacity, capability and contribution of Mr John Uhrig. It is hard to think of a finer businessman in this country than John Uhrig. He has made an extraordinary contribution to business in this country.

I do not take it as a reflection, but I would hope that Senator Murray is not reflecting on Mr Uhrig's qualifications for this very important position. Indeed, as a fellow South Australian I am certainly proud of the fact that he has been chosen to perform this task, and I think South Australian senators on all sides of the chamber would understand what a fine businessman he is. We are fortunate that he is prepared to devote the time, resources and energy that are required to conduct this very important review.

I would also draw the Senate's attention to the fact that the undertaking of this review is actually the implementation of a government promise made at the last election. We went to the last election formally promising that we would conduct such a review if we were re-elected. We are honouring that promise with the announcement of this review and its terms of reference. I would point out to Senator Murray and others that businesses large and small are affected by the operations of the statutory authorities that come under the Commonwealth government's ambit. It is appropriate that from time to time we review the corporate governance arrangements of these very powerful institutions, which, as I say, affect the operations of businesses large and small. Indeed, the tax office is one of the institutions that are being reviewed in terms of corporate governance, in accordance with this undertaking.

In relation to the operation of government statutory authorities, it is very important that we ensure that there is a proper balance between their very important independence and, equally, the very important obligations that they have to be accountable to the whole community. It is critically important that we get that balance right and that we are all assured throughout the community—in the business community and the community generally—that there is proper accountability for these statutory authorities, which, as a

function of their independence, are very powerful bodies.

I note—and I draw Senator Murray's attention to this fact—that Allan Fels, the current head of the ACCC, has welcomed this inquiry, welcomed Mr John Uhrig's appointment to chair it and looks forward to the conduct of the inquiry. As he properly says, it will flush out any concerns that business has. In terms of having selected one of Australia's most outstanding business leaders to conduct an inquiry which implements a formal government promise, I think this is a great development on the part of the government.

**Senator MURRAY**—Mr President, I ask a supplementary question. I thank the minister for his answer and I thank him for his assurances, on behalf of the government, concerning the government's nominee. My supplementary question is this: with regard to ensuring transparency in terms of this oversight of the regulator, can the minister also assure the Senate that neither Santos, Rio Tinto nor Westpac have been the subject of investigation by the ATO into transfer pricing or tax avoidance, by ASIC for breaches of the Corporations Law or by the ACCC for breaches of the TPA? Will the minister undertake to also assure the Senate that, if there were such cases in the past, full disclosure would be made?

**Senator MINCHIN**—Obviously, I do not know whether any of those inquiries have been undertaken. I presume you are talking about when Mr Uhrig was chairman of those companies. I am prepared to have a look into that matter and to give you any relevant information. I can only repeat that these are great Australian companies employing thousands of Australians and making a great contribution to the nation, and that John Uhrig, as their chairman, again demonstrated what a very good business leader he is in this country. But I will take note of what you have raised and see whether I can get you some information.

#### Health Insurance: Premiums

**Senator MOORE** (2.56 p.m.)—My question is directed to Senator Patterson, the Minister for Health and Ageing. Can the

minister confirm that, from December this year, Medibank Private will cease offering discounts for early payments of between four per cent and six per cent, resulting in additional costs for around 2.7 million Australians who currently benefit from the discount? Doesn't this mean that, together with the premium increases approved by the Howard government earlier this year, some Medibank Private members will be paying up to 22 per cent more for their cover, as of the beginning of the year? How have these changes fulfilled this government's promise leading up to the last election that your policies would 'lead to reduced premiums'?

**Senator PATTERSON**—Our policies have led to families paying on average \$750 less for their private health insurance than they did under Labor. Considering the way in which Mr Smith is indicating that they are going to fiddle with the rebate, I do not presume that their private health insurance will be cheaper under Labor. Let me say that Medibank Private's decision to actually take away the discount for paying ahead of time is a commercial decision. A number of other private health insurance companies have made similar decisions.

I know that Labor sometimes lives in the land of Nod or in cloud-cuckoo-land in terms of economics, but, if you are a company and interest rates are much lower than four per cent or six per cent, it is very difficult to be commercially viable when you offer a discount and cannot actually get that back via investment when people pay ahead of time. Medibank Private made a commercial decision to reduce that discount in order to remain viable, because they made a significant loss last year—I was disappointed with that. In fact, Medibank Private contributed to the loss of private health insurance funds while a number of other funds contributed to an increase in reserves.

Under us, people can move to another private health insurance fund without losing their rights, including their 12-month waiting period—something which was not there under Labor. So people can vote with their feet: if they do not like Medibank Private, they can now go to another health insurance fund that does meet their needs. We are making it

easier for them to actually look at the products. Some funds still offer a small discount for paying up-front or using direct debit. People can make that decision without losing their rights—for example, the waiting period. Under Labor that flexibility was not there.

I would advise people that, if they are not happy with Medibank Private, they can actually look at other health funds. What we have done is improve and increase competition to ensure that we get the most efficient private health insurance industry that we possibly can by enabling people to vote with their feet and go to the private health insurance company which delivers the best outcomes for their needs and the best product for their particular needs.

**Senator MOORE**—Mr President, I ask a supplementary question. Can the minister confirm that the loss to which she referred that was incurred by Medibank Private last financial year was \$175.5 million? That is almost \$60 for each of the three million Australians covered by Medibank Private. Can she also confirm that in February this year the government approved average premium increases of nine per cent for Medibank Private, resulting in premium increases of \$150 to \$250 for each of those families? Did the government know of the losses before it approved premium increases for Medibank Private this year?

**Senator PATTERSON**—Medibank Private is an enterprise run by a board and by a CEO. The government stands at arm's length from the day-to-day management of Medibank Private. I was concerned by the fact that Medibank Private had made a loss. There have been significant changes in the board, there has been a change of CEO and I believe that in the last two months Medibank Private has begun to turn around. We need to ensure that Medibank Private has sufficient reserves to ensure that it can meet the claims of its members.

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

## QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

### East Timor: Human Rights

**Senator HILL (South Australia—Minister for Defence)** (3.01 p.m.)—Mr President, I have some further information in answer to a question from Senator Ridgeway on 14 November re the human rights tribunal on East Timor. I seek leave to have that incorporated in *Hansard*.

Leave granted.

*The document read as follows—*

**Senator Ridgeway** asked about the current state of play with proceedings in the Indonesian ad hoc human rights tribunal on East Timor and Australia's position on tribunal outcomes.

### Response

Australia continues to monitor tribunal proceedings closely. Nine trials remain before the tribunal and appeals are in train in the three cases for which verdicts were handed down in August 2002. As Senator Ridgeway indicated, Mr Downer has expressed disappointment with aspects of the way the first trials were handled, but has emphasised that the tribunal and appeals processes should be allowed to play out. Australia's position remains that it is essential the remaining trials proceed independently and with integrity.

**Senator Ridgeway** asked in a supplementary question if Australia had been in contact with the East Timor Government regarding the tribunal outcomes and whether Australia would support establishment of an international tribunal to try those accused of human rights violations in East Timor.

### Response

The people of East Timor were the victims of the human rights violations. It was for this reason that Mr Downer has said we would want to consult with East Timor's leaders about possible international action, bearing in mind that current processes should be allowed to play out. We are maintaining an ongoing dialogue with the East Timor Government on the ad hoc tribunal process and on broader justice and reconciliation issues in East Timor. Mr Downer himself has discussed these issues with his East Timorese counterpart. The East Timor Government has yet to come to a final view on the need for an international tribunal and is moving forward with its own National Commission on Reception, Truth and Reconciliation. Australia has provided support to that Commission and to the UN sponsored Serious Crimes Unit which is taking forward prosecutions of pri-

ority cases of crimes against humanity perpetrated in 1999.

**Australian Office of Financial Management: Web Site**

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer)** (3.02 p.m.)—On 13 November, Senator Cook asked me a question concerning the AOFM web site. I seek leave to incorporate in *Hansard* an additional response.

Leave granted.

*The document read as follows—*

**Question:** My question is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Can the minister confirm that she advised the Senate in writing on 20 March this year that a list of relevant files from the Treasurer's portfolio agencies, for the six months ending 31 December, had been placed on departmental or agency web sites, as required by Senate standing orders? Can the minister therefore explain why all AOFM files before 2002, including those relating to the period when AOFM lost billions of dollars of taxpayers' money through the mismanagement of foreign current risk, have disappeared from the AOFM web site?

**Supplementary Question:** Mr President, I ask a supplementary question. Is the minister aware, since she does not recall what was called for, that the order for the production of documents that was tabled in the Senate on 11 March 2002 related to the production of many of the same AOFM files now missing from the web site? If the minister does not recall, will the government now comply with that order and produce the documents, and will the government restore the missing AOFM files to the web site in compliance with the Senate standing orders? On a final point, Labor may have introduced currency swaps, but you lost billions of dollars when you managed them. Will you now admit that fact?

**Answer:** Mr President, contrary to Senate Cook's claims, AOFM indexed file lists for both the second half of 2001 and the first half of 2002 are available on the AOFM website.

The list for the second half of 2001 has been available since March of this year.

A list covering the period of the first half of 2001 has been uploaded to the AOFM site to ensure full compliance with the Senate Standing Order.

- The requirement of the Standing Order on the tabling of indexed lists of agency files has been incorrectly interpreted by Treasury as only necessitating a continuous 12 months

listing of files being available on agency websites, rather than also requiring that the file listing on agency websites cover a full calendar year at any given point.

Some files from the first half of 2001 were listed among the range of documents requested in the Senate Resolution of 12 March 2002. These file titles have been reinstated on the AOFM website in accordance with the Senate Standing Order.

Treasury tabled a range of documents on Commonwealth debt portfolio foreign currency management at the hearings of the Senate Economics Legislation Committee on 13 March 2002 in response to the Senate Resolution of 12 March 2002. A range of other documents requested in the Resolution was withheld.

As explained at the time by Treasury witnesses, these particular documents were withheld on the grounds that it would be inappropriate to provide documents that go to the matter of advice in the deliberative process for preparing policy advice. This position is unchanged.

**Australian Securities and Investments Commission: Endispute Pty Ltd**

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer)** (3.02 p.m.)—Also on 13 November, Senator Faulkner asked a question regarding Endispute Pty Ltd. I seek leave to make a short statement about it.

Leave granted.

**Senator COONAN**—In relation to the company Endispute Pty Ltd, I advise the Senate that I resigned as a director on 24 December 2001 and that my resignation as a director was accepted at a meeting on 3 January 2002. I divested myself of my share in the company on 3 January 2002. I have no ongoing interest in the company. I am told that the company notified these changes to ASIC in its annual return year 2002, which has been lodged.

**ANSWERS TO QUESTIONS ON NOTICE**

**Question No. 553**

**Senator O'BRIEN (Tasmania)** (3.03 p.m.)—Pursuant to standing order 74(5), I ask the Minister representing the Treasurer, Senator Minchin, for an explanation as to why an answer has not been provided to question on notice No. 553, asked on 15 August this year.

**Senator MINCHIN (South Australia—Minister for Finance and Administration)**

(3.03 p.m.)—This question was asked of me in my capacity as the Minister representing the Treasurer. I only found out this afternoon that Senator O'Brien's question had not, to this point, been responded to. I have undertaken some inquiries as a result of Senator O'Brien's approaches and have been told by the Treasurer's office that there will be an answer to his question by the end of tomorrow. That undertaking has been given by the Treasurer's office today, and we contacted Senator O'Brien's office to convey that undertaking and to apologise for the delay that has occurred.

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

That the Senate take note of the statement.

Although it now appears that we will get an answer within 48 hours, it is entirely unsatisfactory in the circumstances to take so long to obtain a response to a question of this import—it is a question about the drought investment allowance. I await seeing the response before I determine its adequacy. On 15 August, I asked questions concerning the drought investment allowance of Senator Minchin, in his capacity as the Minister representing the Treasurer, and of Senator Ian Macdonald, in his capacity as the Minister representing the Minister for Agriculture, Fisheries and Forestry. Senator Macdonald provided answers on 23 September but advised me that some of the information I sought would be specifically addressed in the Treasurer's answer. Whilst I might touch on that later, I want to deal with the failure to date of the Treasurer, through Senator Minchin, to provide the requested information, despite the passage of 13 weeks and despite the additional request that I made on 30 September to Senator Minchin's office regarding this question—so I am a little surprised that he was not aware that I was chasing the answer, as his statement today indicates. In that written request, I said to Senator Minchin that I was not expecting the answer in a few hours or a few days, but I did indicate that I expected to have the answer within four weeks—that is, of 30 September. I had no response from Senator

Minchin's office that that deadline could not be met.

I think that drought mitigation, at this time in particular, is an important public policy issue. The question asked was a serious attempt to gain a better understanding of the financial impact of the drought investment allowance. It is disappointing, as I said, that that answer could not have been provided before now. It demonstrates, either on the part of Senator Minchin or on the part of the Treasurer, a contempt for the process of the Senate in relation to responses to questions on notice. This matter is important because it highlights the attitude of some ministers of this government to the work of this Senate. It is also important because it highlights the question of the tax allowance—which, I might say, was introduced by a Labor government that encouraged primary producers to invest in the drought mitigation of property, that is, encouraged them to better prepare for drought. The drought investment allowance was part of Labor's response to the last crippling drought that this country faced. That allowance was introduced in 1995 and provided a five-year, 10 per cent allowance for investment of up to \$50,000 per annum in drought mitigation property, including water and fodder storage facilities, water transport facilities and minimum tillage equipment. It was part of a suite of measures that Labor introduced to assist farmers to deal with climate variability.

Senators will be aware of how determined Labor has been in pursuing these issues and ensuring that farmers get timely assistance in the current drought. Together with my colleagues, I have pressed the government to improve the delivery of drought assistance and to fix up the measures that relate to exceptional circumstances—of which this government has made a complete and utter mess. It is regrettable that the minister responsible for Commonwealth drought policy does not share that commitment but immediate assistance is not the only component of responsible drought policy. A central feature of national drought policy, developed by Labor in government, was appropriate risk management. Labor's policy encouraged primary producers to adopt self-reliant approaches to

manage climate variability. The drought investment allowance was part of a policy suite that included significant reforms to farm management bonds, part of Labor's income equalisation scheme, and the precursor of the current farm management bonds. Listening to the government in recent weeks, you could have been forgiven for thinking farm deposits were stumbled upon after 1996 as a revolutionary way to assist farmers to prepare for bad seasons. But the fact is that Labor had a very similar scheme operating when those opposite came to office six years ago.

While the Minister for Agriculture, Fisheries and Forestry, the Deputy Prime Minister, and even the Prime Minister, have rushed to boast about the value of farm management deposits in recent weeks, they have been a bit quiet about how many drought stricken farmers are in a position to benefit from the scheme. Certainly, there are ample deposits in the scheme. The scheme rules, however, require that funds must remain deposited for 12 months before a primary producer can claim a tax benefit. Despite the deposit level, farmers who have put money away in the past 12 months cannot gain any advantage until the 12 months are up. There is some irony, of course, in the recent attack by the minister for agriculture on the New South Wales government's six-month rule in relation to drought assistance. The fact is that Mr Truss operates a 12-month rule in relation to farm management deposits but he has not been so quick in condemning his own administration.

There are four things to be said about farm management deposits and the scheme itself. Firstly, income equalisations were not discovered by the coalition in 1996. Labor in government administered a scheme that included farm management bonds. Secondly, many farmers have been unable to deposit funds—I guess that is the nature of the cycle. Thirdly, farm management deposits belong to farmers. The headline grabbing deposit total does not reflect additional effort on the part of the government. Fourthly, the government has been reluctant to answer my questions about the scheme. A question on notice lodged on the same day as my ques-

tion about the drought investment allowance languishes, similarly, unanswered.

Thanks to Senator Ian Macdonald's observation of the standing orders, there is one thing I know about the drought investment allowance about which the Senate should also be aware. Senator Macdonald advises me that the allowance was permitted to lapse without any investigation as to its effectiveness. Senator Macdonald in his capacity as the Minister representing the Minister for Agriculture, Fisheries and Forestry told me: The Government has not undertaken any research into the effectiveness of the drought investment allowance in encouraging primary producers and lessors of property to primary producers to invest in drought mitigation property as the drought investment allowance was simply intended as an interim measure to assist farmers achieve a higher level of drought preparedness.

We know that the government permitted the allowance to lapse on 30 June 2000 with no analysis of its effectiveness and no intention to replace it with an equivalent or improved drought mitigation scheme. The government did this, of course, in the period immediately preceding the onset of the current crippling drought. Labor would, of course, like to know more about the allowance but the Minister representing the Treasurer has not seen fit—perhaps because the Treasurer has not provided it to him—to provide the Senate with an answer. The current Deputy Leader of the National Party and the Minister for Trade, Mark Vaile, thought he knew something about the allowance in 1995, when he said:

It provided a 'paltry' sum to primary producers and it was too little too late.

It would be far too generous to describe the current government's commitment to drought mitigation as 'paltry'. Of course, 'too little too late' is not an appropriate label for a program that was allowed to lapse two years ago. The great shame is that the same coalition members of the parliament who criticised the generosity of the drought investment allowance in 1995 failed to raise their voice again when it was cut. The lapse of the drought investment allowance is a sign that the coalition is guilty of empty commitment to rural Australia. The government

should have reviewed the allowance to ensure it was working as intended. If it was found that it was not working as intended, it should have been replaced with an effective scheme that helped farmers prepare for drought. The government's handling of this issue points to a National Party minister for agriculture unable or unwilling to defend the interests of primary producers.

There is some irony that the present motion has been brought on by the failure of Senator Minchin to do what standing orders require him to do. I suppose he will blame the Treasurer for that, but Senator Minchin is one of a number of government senators who wants to merge the National Party with the Liberal Party. The matter of the drought investment allowance has to be seen as a further sign that no-one in rural Australia would really notice the difference.

**Senator MINCHIN (South Australia—Minister for Finance and Administration)** (3.13 p.m.)—I understand Senator O'Brien feels an obligation to try to make the Labor Party relevant in relation to the issue of the drought. With all respect, I suggest it really would be a sad day for Australia if we allow the issue of a drought—one of our most serious droughts we have faced; it is hurting a lot of our primary producers—to descend into partisan politics. It really is quite ridiculous. What farmers and the community least want to see is either the states and the feds arguing about it or the Labor Party and the Liberal Party arguing about it. They want responsible policy. We have a very comprehensive approach to drought relief. I think it is very sad to see Senator O'Brien trying to become relevant by making a fuss about the fact that answers to questions he asked have not arrived when he wanted them to arrive. In relation to the matter that is before the Senate—

**Senator O'Brien**—Why can't you answer a question on it?

**Senator MINCHIN**—Do you want to hear an answer or don't you? Your letter of 30 September to me was passed on to the Treasurer's office and, as I said today, you will get your answer by the end of business tomorrow. But you have asked a whole lot of things: what was the total cost of the invest-

ment allowance? What was the cost, by state and territory, of the allowance in the last five financial years? How many primary producers and lessors of property to primary producers have gained a benefit under the allowance? How many primary producers and lessors of property to primary producers, by state and territory, have gained a benefit in the last five financial years? And what are the details of any programs that provide tax benefits for the purchase of drought mitigation property by primary producers and lessors of property to primary producers after 1 July 2000?

Senator O'Brien is not used to government. We actually have a lot of responsibilities in government. We do have to get on and run the country. It is more difficult when you have issues like Bali and national security and, indeed, the drought. I would ask Senator O'Brien to take a more sensible and reasonable attitude to these matters. We will indulge your little debate today, Senator O'Brien. I doubt that anybody is actually listening and I doubt that it will make any difference to your standing. We understand that, as an opposition frontbencher, you have got to try and make some headway on the issue. However, what the people want to see is the parliament working together—the states and federal parties and governments working together to have sensible, pragmatic policies in place to mitigate the burden of the drought. No-one can reverse the drought and no-one can change the drought. It is a fact of life. However, we will do all that we sensibly and responsibly can to mitigate that effect by working with the opposition and the states to try to assist our primary producers. To indulge in nitpicking about whether an answer to a whole lot of questions arrives on one day or the next is, I think, a waste of the Senate's time and a waste of your time, Senator O'Brien. We will give you the answers tomorrow.

Question agreed to.

**QUESTIONS WITHOUT NOTICE:**

**TAKE NOTE OF ANSWERS**

**Medicare: Bulk-Billing**

**Senator CHRIS EVANS (Western Australia)** (3.16 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 relating to Medicare and a decline in the rate of bulk-billing and to private health insurance.

In particular, I would like to look at what Senator Patterson had to say about the question of the decline in bulk-billing. I think this is an important issue that concerns a lot of Australians. Today we particularly tried to raise with Senator Patterson the very worrying statistics that show that there has been a 9.4 per cent reduction in the number of GP visits which are now being bulk-billed. At the same time, since the election of the Howard government, we have seen a corresponding 50 per cent increase in the cost of visiting a doctor in terms of the gap payment.

We have two worrying trends: first, an increase in the number of patients who are being bulk-billed, or the number of GPs who are making bulk-billing available, and secondly, a rise in the gap payment for families that represents an increase of about 50 per cent in the last six years. Both of those measures are starting to have a real impact on the cost of health care for Australian families and their ability to access bulk-billing and to afford the gap payments.

The minister was asked questions regarding that today. It is a very serious issue and one that is affecting not just rural Australians, but Australians in metropolitan areas. The minister's answer was to say that it was all just the fault of the last Labor government, which was a bit confusing given that the Howard government has been in office for six years and the figures have only recently started to show a decline in bulk-billing rates. The minister's second response was to say that it was all to do with the number of doctors and that it was because of the lack of doctors in rural areas. She said that when she had 160 more doctors trained, that would be the solution to the problem. I am the first to admit that more doctors in rural areas will help in terms of bulk-billing. However, it will not go anywhere towards solving the real issues that are occurring in our health system.

The minister has no explanation for why we have a very serious decline in bulk-

billing rates, why we have a very large increase in the cost of gap payments and what she is doing to help Australian families deal with those two trends. She had no answers at all to those issues and no explanation as to how the government might seek to tackle them. I think that is very important because these are important public policy issues. It is starting to bite on families. We know, for instance, that those on low incomes and others who might have a response to increasing costs and lack of bulk-billing will be affected by lower health outcomes. People stop going to the doctor and stop seeking treatment if they cannot afford it. The trends that we are seeing now with the decline in bulk-billing and the increasing costs of gap payments will lead to worse health outcomes in the long term as people stop accessing health services because of the cost pressures. Those are really serious issues confronting our health system. I think that the minister does need to come to terms with those arguments and with the public policy challenges that they represent.

What we know is that, under the Howard government, in the last three or four years we have seen a decline in the number of people being bulk-billed in every quarter. The proportion of visits that are bulk-billed by GPs is declining. This is not just a one- or two-month trend, this is a long-term decline. After a steady increase under Labor governments, we are now seeing a constant decline in the numbers of GP visits which have been subject to bulk-billing. That is a really worrying trend and it threatens to undermine Medicare.

We know that Mr Howard, the Prime Minister, when he was in opposition, was highly critical of Medicare and at various stages talked about dismantling it. One of the things he did say at the time was:

The second thing we will do is get rid of the bulk-billing system. It's an absolute rot.

What we are seeing under John Howard is that he is actually starting to fulfil that claim. We are seeing the end of the bulk-billing system. We are seeing a steady decline. It is something that is concerning a number of people who work in health in this country. We are going to make it less and less afford-

able for low-income earners to access proper health care and we are seeing the virtual undermining of the Medicare system due to the decline in bulk-billing. Bulk-billing is critical to the maintenance of Medicare and it is critical to providing a good quality health service to low-income earners. Under the Howard government, we are seeing that service rapidly diminishing. The minister is offering no explanation and no policy as to how the government might be able to tackle those issues or how it might be able to preserve bulk-billing and thereby preserve the fundamentals of Medicare. *(Time expired)*

**Senator KNOWLES (Western Australia)** (3.21 p.m.)—We heard today, during question time and during Senator Evans's contribution, that the rate of bulk-billing is virtually disappearing before our very eyes. That is the claim that the Labor Party, including Mr Smith, the Labor opposition spokesperson on health, is wanting to make. I want to make a few points crystal clear in the debate on the take note motion before us: over seven out of 10 of all general practitioner services continue to be delivered at no cost to patients; close to eight out of every 10 general practitioner services to patients aged 65 and over continue to be provided at no cost. This is what the Labor Party is complaining about! I cannot understand that. Mind you, I cannot understand anything the Labor Party is doing at the moment. Here we are with seven out of 10 general practitioner services being delivered at no cost to the general public and eight out of 10 services for people aged 65 and over being at no cost and the Labor Party is complaining! That is absolutely mind boggling.

The Labor Party then complains about the number of Medicare services. It complains that not enough money is being provided for Medicare services, while at the same time the number of services provided under Medicare has increased from 195 million to over 220 million. The fact of the matter is that since 1996, when the Labor government, after 13 years in office, left health in this country in a most disastrous state, spending on Medicare has increased by almost \$2 billion—from \$6 billion to almost \$8 billion. Unfortunately, as a consequence of the

Commonwealth putting in that money, we have seen the states—the Labor states—taking their money out. That is not sustainable. The Labor states cannot continue to say to the Commonwealth, 'Give us more money for health,' with the full knowledge that they are then in turn going to take money out. It just cannot go on that way. Equally, the Labor Party cannot go on simply saying that less is being spent on Medicare and that too few services are being offered in bulk-billing. Seven out of 10 for the general public and eight out of 10 for people 65 and over—what were the figures when Labor were in government? Were they 10 out of 10? No, they were not. Were they nine out of 10? No, they were not.

I think there is another important aspect to be put into this picture as well—that is, the government does not and cannot dictate to doctors how much the doctors can charge. In an ideal world, according to the Labor Party, they would want the government to be able to dictate to doctors how much doctors can charge—but they cannot. If the Labor Party were really serious about this, they would have done something when they were in government. They did not. They created a maldistribution of doctors never seen before in this country, and it has taken this government to repair the damage that they have done, through a \$560 million injection into a rural health strategy and an \$80 million program to encourage more doctors into outer metropolitan areas. The number of general practitioners practising in rural and remote areas increased from some 5,700 in 1997-98 to 6,363 in 2000-01. The problem when Labor were in government was that, if people were living in remote parts of Australia, those people simply could not get to see doctors or specialists. We have made that system so much better that people now have access to medical facilities and specialist services in their home towns. We have the fly-in doctor system. The Rural Health Strategy has made life a lot better for people in country areas. The Labor Party also neglected the training and education of more doctors and, as Senator Patterson said at question time, you cannot have more doctors overnight. *(Time expired)*

**Senator MOORE (Queensland)** (3.26 p.m.)—I also rise to take note of the responses given by the Minister for Health and Ageing, Senator Patterson. We now have the figures. This time last week we were discussing when we were going to get them. There was much debate about when the figures would be released. We got them on Friday—as we said, there was a lot of interest in those figures; people wanted to know what was happening with bulk-billing across the country—and over the weekend media outlets across the country published those figures. No matter which way you look at this issue and no matter which form of graph you consider—and we have seen various forms of graphs on this issue in the last few months—the big black line for bulk-billing is going down and the big black line for how much it costs you to go to the doctor is going up. Those points were raised very effectively this afternoon through questions. I will not go through all the figures again. However, it is clear that bulk-billing is going down. The minister said in her responses that the government had done a range of things. She detailed schemes that had put money into medical practices across the country, she talked about the increase in medical students—and naturally we applaud that—and she spent considerable time talking about the immunisation program, another thing that none of us can do anything but applaud. We are proud and in fact relieved that immunisation rates are going up in the country. However, that does not relate to the fact that fewer people have access to the simple service of bulk-billing.

Last week in this House, another minister introduced a new kind of barometer for how you assess how people in the country feel about legislation. I quote the example of the lady cutting tomato sandwiches and the bloke playing with the spanner. That was a kind of litmus test for how people would consider legislation with regard to what was happening to them in the country. I ask whether the lady cutting the tomato sandwiches and the bloke playing with the spanner would be happy when considering their access to medical bulk-billing in Australia. We have heard that currently, as of the figures that we received last week, on average

seven out of 10 people can get access to bulk-billing. It is ‘on average’ because there is no average seven out of 10; in some parts of Australia it is as low as five and in other parts it is up over eight, so we have to cut that down the middle and say ‘seven out of 10’. I wonder if the seven out of 10 people now getting bulk-billing will feel confident that in six weeks and one or two days, when we get the next round of HIC figures, they will not be the ones that drop off. They will be wondering this: in about six weeks time, if I happen to be in the luxurious position of being seventh in a line of 10 trying to access a doctor in this country, will I be the one to drop off? That is just not good enough.

It is not good enough to say that we should be comfortable with the fact that bulk-billing is being reduced. It is not good enough to say that we should be able to look back and wait. And it is certainly not good enough to continue to blame the government of six years ago for what is happening now. I am really happy that more medical students are being trained. That is a good and positive thing. But I am at a bit of a loss here: just because more medical students are being trained, is there any guarantee that these extra medical students will, in fact, offer bulk-billing services? We seem to have figures thrown at us and statements made, but there is no linkage between the statements that are being made and the question that the lady with the tomato sandwiches and the bloke with the spanner want answered: ‘When I go to the doctor, how much do I have to pay and how much does my family have to pay?’ That is the question. It is not good enough to hide behind large, basic statements about health care. We want to know about bulk-billing. We care about it. Stephen Smith cares about it. He understands access and equity. He understands those issues. Labor is committed to bulk-billing. We will continue to be, and we are waiting to see what happens in the future.

**Senator BARNETT (Tasmania)** (3.31 p.m.)—I am pleased to stand here to take note of the answer from Senator Kay Patterson today, and I would like to go straight to the key point that needs to be made. Two issues were raised here today. The first re-

lated to bulk-billing, and I will come to that. I am very pleased and happy to come to that. The other issue related to private health insurance. I would like to ask the ALP on the other side of this chamber, and Mr Stephen Smith in particular, to stand accountable and state what their position is because today's *Australian* newspaper records Mr Stephen Smith as saying that he used the trend in bulk-billing rates:

... to float the idea of slashing the private health insurance rebate, where the federal Government pays 30 per cent of insurance premiums directly to the health funds, cutting the direct cost to consumers.

The article also states:

The move could divert up to \$2.3 billion a year, which he said could be poured into bulk-billing, as a priority over public hospitals.

This was a policy option for the Labor Party. I would like to know exactly what the policy of the Labor Party is. At this stage, we have one humungous black hole over there, in terms of health policy from the Labor Party. Prior to the last election they purportedly supported private health insurance rebates and that policy. They stood up and said, 'Yes, we stand behind this policy. We will back it.' Here we are, nearly a year into the parliament, and the policy seems to be withering on the vine. In fact, it is not a policy anymore; it is an option. He is talking about slashing the private health insurance rebate. I would like to know what the 44 per cent of Australians who have private health insurance for hospital cover think about it. There are 8.7 million Australians who would wake up today and be devastated if they knew exactly what Mr Smith and the Labor Party were proposing with this option. I would like you to go out, write them a letter and tell them all exactly what you think—that you want to slash that rebate for the private health insurance policyholders in this country. This is a national disgrace. I think that the Labor Party should stand condemned. It is a disgrace, and they should hang their heads in shame.

Let us look at the September quarter figures for private health insurance. They were actually quite good. There has been an increase of more than 4,000 people who now

have private health insurance in Australia. This is good and encouraging news, because that means that it frees up the funds for the public hospital system. And what is the amount of money that we have injected into the public hospital system? During question time the minister said that it was \$3 billion. That is the amount of extra funds we have injected over that period of time. We have had a 12 per cent increase in admissions to private hospitals. What does that mean at the end of the day? It means that we are getting more people cared for and we are getting a healthier community. That is the outcome. I would like to know what the other side says. The key principles that the government and I go by here are access and quality care. We want Australians to have access to good, quality health care, and that health care, as I say, should have a quality outcome. They are the two key principles that we need to hold to, and that is exactly what we are doing.

With regard to bulk-billing, my Senate colleague Senator Knowles has summed it up very well. There has indeed been a decrease, but access and quality care are the key. Rural and regional Australia are struggling at the moment. What has happened there? Let us have a look at what the *Age* says today. They have summarised the key initiatives of the federal government, and I compliment the newspaper for this. They say:

The Federal Government has introduced a wide range of measures to lure more doctors to the bush, and to improve country health services ...

Too right it has! It has given \$562 million worth of help, in terms of the Regional Health Strategy that was announced in the 2000 budget. That benefit is flowing through already. We are seeing 160 new doctors in training per annum, and they are getting out into rural and regional Australia. That is good news. (*Time expired*)

**Senator McLUCAS (Queensland)** (3.36 p.m.)—I also rise to take note of questions from a range of Labor senators focusing on health issues, but notably on the decline in the bulk-billing rates, which were finally released last Friday. This is an issue of real concern to our community, especially in regional and rural areas where the rates, as we

know, are much higher. I must say that I was very disappointed in the response of Senator Patterson to the raising of these important issues on behalf of our communities. Senator Patterson responded by simply saying firstly, that the government had increased the number of doctors in training and that was going to assist the rate of bulk-billing and secondly, that the practice incentive payment scheme has seen an increase in the amount of expenditure over the period of time.

I am sorry, but that is going to be no comfort at all to residents of the cities of Townsville and Thuringowa in particular, some of whom I met with yesterday just on this express issue. Over 18 months, they have been raising their concerns with me about access to bulk-billing doctors and the increasing level of co-payment required for those who simply cannot get to one. In the March 2002 quarter for the electorate of Herbert, the rate of bulk-billing was 59.1 per cent. It is one of the worst levels in the nation. It is a level of bulk-billing that is continually decreasing. Surrounding electorates of Dawson and Kennedy had a rate of 65 per cent in the March 2000 quarter, and that is still below the national average. We do not have the electorate-by-electorate figures for this last series, but I will be very interested to see them. I can assure the government and the people of Townsville and Thuringowa—or rather they are assuring me—that those figures have decreased again.

Increasing numbers of doctors in training is a welcome measure, as is the increase in practice incentive payments. They are both welcome measures. But they do not go to the heart of resolving the decline in bulk-billing figures that we have seen, especially in regional and rural Australia. To go to some of the statistics: the percentage of services that were direct billed in Queensland in 1995-96 when the Howard government came to power was 70.6 per cent, with a national average of 71.1 per cent. That has decreased in 2001-02 to 69.4 per cent. It is not such a massive decrease, but it is a decrease. But the decrease from the 2001-02 figure of 69.4 per cent to the last September quarter figure that was released last Friday is quite alarming. If that trend continues, I think the gov-

ernment has a real problem that they have to resolve. The figure in 2001-02 was 69.4 per cent and that has plummeted to 66.1 per cent for the state of Queensland in the quarter finishing in September 2002. If that trend continues, it will be of concern. The trend is also down nationally, as we have heard, to 68.4 per cent.

But the other important statistics to consider in this whole scenario are the patient contributions for patient billed out-of-hospital services between those same periods. When the Howard government came to power, the co-payment was \$12.24. The September 2002 quarter figure for patient billed out-of-hospital services is \$19.06. That is an enormous rise. For working families in Townsville and Thuringowa sometimes that figure means that they may not even attend the doctor.

Families in Townsville and Thuringowa are looking for real action. They do not want to just listen to Senator Patterson blaming the states. They do not want to hear Senator Patterson blaming Labor. We do not want to hear about doctors that are going to come online three, four or five years down the track. We want to see some real action that will reverse the trend that we have seen over the last six years. We want to see some action that will ensure that if people need to go to the doctor they in fact do go. Families in Townsville and Thuringowa are telling me that they are making decisions not to attend doctors simply because they cannot afford to. The other concern I have is that families are now not going to their family doctor. (*Time expired*)

Question agreed to.

#### **Business: Corporate Governance**

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

That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Murray today relating to corporate governance.

There have been two recent events which have indicated, or should indicate, to the Senate that it needs to concern itself with both government process and government

sensitivity to community views. One was the attempted appointment of Graeme Samuel as Deputy Chairman of the ACCC, and the other was the appointment of Mr John Uhrig as the leader of the government review of the corporate governance practices of Australia's regulators. Both these people are experienced and very capable, but neither of them may be right for the jobs to which they have been allocated—or in the case of Mr Samuel, to which the attempt has been made to allocate him.

The difficulty with people of high calibre but of that nature is that they come to jobs with a great deal of baggage. Mr Samuel, as chair of the National Competition Council, has exhibited a toughness bordering almost on an ignorance of the consequences of many of his decisions to small business, to country areas and to particular sectors of our society. That is a characteristic of hard economic rationalism. I will refer to another businessman's comments recently. Mr Andrew Mohl, who just took over AMP, was quoted in the newspaper as saying that he was going to slash 1,200 jobs, and was immediately afterwards quoted as saying, 'It is my job to be hard.' It is okay to be getting rid of 1,200 jobs—it is okay to be hard. We know that business is difficult and that people have to make tough decisions, but that lack of sensitivity is a real problem.

With respect to the ACCC, the question is always whether the ACCC is to be primarily dedicated to the benefit of consumers or business. Ultimately, the whole philosophy which lies behind competition law is to deliver benefits to consumers. It is not to run competition law for the benefit of business. A by-product of being sensitive to genuine business needs has to be that consumers benefit. And the concern exhibited by the states and by many commentators is that, despite the extraordinary capabilities of Mr Samuel—he really is a very clever and capable person—he is a good person who was wrong for that job.

The second concern, of course, is that in accountability terms the government failed to consult correctly, and there were no guidelines in place to ensure that a proper selection process was established. I would remind

the Senate—and it was something missed by the media, I might say—that the Senate passed a motion on 14 November requesting:

That the Senate—

- (a) notes the rejection by a majority of the states and territories of Graeme Samuel as nominee Deputy Chairman of the Australian Competition and Consumer Commission;
- (b) asks the Federal Government:
  - (i) to ensure that it consults fully ...
  - (ii) to establish criteria for the selection and appointment process that include not just selection on merit, but that any candidate should be demonstrably independent, and have a strong interest in consumer and small business needs.

I now turn to Mr Uhrig. In the ATO speech of Michael Carmody on 13 November, he indicated that they have put an extra \$4 billion on the books as a result of improved compliance committees from investigating large business and high-wealth individuals, and then indicated that that \$4 billion was at risk because business was contesting it in the courts. I am not drawing a line to Mr Uhrig, but I am indicating that business interests are not necessarily those you would regard as ideal for corporate governance. I would have thought that, when you are dealing with an issue where you want to review the regulators' corporate governance practices, you should attend to somebody who is not a businessman. (*Time expired*)

Question agreed to.

**ENVIRONMENT: SUDAW  
DEVELOPMENTS LTD**

**Return to Order**

**Senator IAN CAMPBELL** (Western Australia—*Parliamentary Secretary to the Treasurer*) (3.47 p.m.)—by leave—I have been advised by the Minister for the Environment and Heritage in relation to the documents sought by the Senate on the proposed Nathan Dam in Central Queensland (Referral No. 20021770) under the Environment Protection and Biodiversity Conservation Act 1999. The request involves coordination with a number of Commonwealth agencies and it has not been possible in such

a short period of time to comply with the order. I can indicate that the government intends to comply with the order as soon as possible.

#### TRADE: LIVE ANIMAL EXPORTS

##### Return to Order

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (3.48 p.m.)—by leave—On 11 November 2002 the Senate sought the tabling by the government today of a copy of the Independent Reference Group's report into livestock exports. I am advised that the responsible minister, Mr Truss, is awaiting advice on the report and related documents and the government expects to be able to respond to the Senate's request early in the Senate's next sitting fortnight.

#### GENERAL AGREEMENT ON TRADE IN SERVICES

##### Return to Order

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (3.49 p.m.)—by leave—This return to order was made on 14 November and relates to the Leader of the Government in the Senate in his role representing the Minister for Trade. The order sought to get various documents relating to texts of requests submitted by Australia to other WTO members under the General Agreement on Trade in Services negotiations. The government does not intend to publish the actual text of these requests, nor does it intend to publish the actual text of requests received or documentation analysing the impact of these requests. The government has provided summaries of requests Australia has made of other WTO members in press statements from the Minister for Trade, the Hon. Mark Vaile MP, of 1 July and 29 October.

The requests received are formal government to government communications. We are not aware of any other WTO member that has published the requests it has received from or the requests it has made of other WTO members. Release of requests made by Australia would also be inconsistent with commercial-in-confidence undertakings that have been provided by the Department of

Foreign Affairs and Trade to industry stakeholders.

The government is consulting, and will continue to consult, widely with interested parties in formulating its response to requests received. This response is due by 31 March 2003 in the form of an 'initial offer'. Progress reports on the GATS negotiations are available on the DFAT website, [www.dfat.gov.au](http://www.dfat.gov.au), as is information about how to make submissions on particular issues. Officers from the department have also made a concerted effort to consult widely on GATS issues, including travelling interstate to meet non-government organisations and call for public submissions. The government will continue to publish as much information as practicable on its negotiating positions in the GATS where this would be consistent with commercial confidentiality and would not compromise Australia's negotiating interests.

**Senator CHERRY** (Queensland) (3.51 p.m.)—by leave—I move:

That the Senate take note of the statement.

The Democrats are very disappointed with the response from the minister in respect of the order to have the request dealing with the General Agreement on Trade in Services, the GATS, tabled in the Senate. The information released by the Australian government to date has been well below the world best practice of providing information to the public so they can make some reasonable judgments on what is happening in terms of the GATS negotiation. I have in front of me the most recent newsletter from the DFAT website, which runs to two pages. The only information we have in terms of the requests which have been made by Australia are dot points as to the headings of the sections that have been requested. No detail is provided. There is no information provided either on what requests have been made of Australia, other than the oft repeated insistence that the government will consult widely in formulating its response to the requests.

This is something the Democrats have some problems believing because of the fact that the Senate is not being consulted and we are actually part of the decision making process of this country. The public are not being

consulted and it is their services which are going to be affected. Certainly we are not aware of any community groups which are being consulted; outside the particular service industries and the business groups representing them, it appears that the consultation is very narrow indeed.

The Democrats believe that Australia should be following the precedent set by Canada and the United Kingdom: releasing much more information so that the public can actually know what is happening in terms of the General Agreement on Trade in Services. The United Kingdom has released a 70-page document outlining the requests made to and by the United Kingdom. Canada's trade minister, Mr Pettigrew, has released a summary of all of Canada's requests, which runs to some 30 or 40 pages, which is well beyond the two-page document on the DFAT web site.

One would have thought, given the interest in Europe and in this country in terms of the civil society movement trying to ensure that governments are being held to account for what is happening at trade negotiations, we would have seen more information granted. It would seem that on this particular occasion the government has chosen to defy a Senate request for this very important information. In doing so, the government has said that it does not believe that the Senate has a role in deciding whether what the government is proposing to trade off or liberalise in the regulation of our services is appropriate, and that is very disappointing. We will have to find some other way of getting this information from government and we will look at other tactics.

Question agreed to.

### NOTICES

#### Presentation

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

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts Legislation Committee on the provisions of the Telecommunications Competition Bill 2002 be extended to 22 November 2002.

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

That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 19 November 2002, from 4 pm, to take evidence for the committee's inquiry into the Inspector-General of Taxation Bill 2002.

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

That the time for the presentation of reports of the Environment, Communications, Information Technology and the Arts References Committee be extended as follows:

- (a) urban water management—to 5 December 2002; and
- (b) environmental performance at the Ranger, Jabiluka, Beverley and Honeymoon uranium operations—to 4 March 2003.

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

That the Senate—

- (a) notes the report recently released by United States Congressman Henry Waxman which shows that:
  - (i) major tobacco companies continue to deny in court that smoking causes disease, despite public admissions on their websites about the harm caused by their products,
  - (ii) only Philip Morris Ltd does not contest the fact that smoking causes disease,
  - (iii) four of the five major tobacco companies, including British American Tobacco which operates in Australia, decline to admit that nicotine is addictive, and
  - (iv) all five major tobacco companies deny that second-hand tobacco smoke causes disease in non-smokers, despite the evidence of leading medical and scientific organisations;
- (b) urges the Federal Government to invest more in tobacco control, noting the significant savings that can be made in deaths, disabilities, suffering and cost to the health system of around one fifth of the Australian population being addicted to smoking;
- (c) congratulates the New South Wales Government on successfully taking court

action against Philip Morris for breaching tobacco advertising laws at their stand at the Fashion's Future Designer Awards in Sydney; and

(d) encourages the New South Wales Government to introduce tougher penalties for companies flouting tobacco laws.

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

That the Senate—

- (a) notes the findings of the 2001 National Survey of Photovoltaics in Australia which shows that:
  - (i) in 1996 Australia led the world in per capita manufacture of photovoltaic (PV) systems,
  - (ii) despite an increase from 7.5 megawatts to 10 megawatts capacity between 1996 and 2001, Australia fell behind Japan and Spain for per capita manufacture of PV systems,
  - (iii) Japan now dominates PV manufacture whilst Australia's share of the world market is down 70 per cent,
  - (iv) Australia's relative share of PV usage fell 50 per cent between 1996 and 2000,
  - (v) the growth in uptake of PVs is greatest in the United States of America and European countries, where subsidies make PV competitive with residential electricity prices,
  - (vi) rebates in Australia leave PVs two to three times more expensive than coal fire-generated electricity, and
  - (vii) there is potential for an extra 10 million grid-connected rooftop customers in Australia;
- (b) urges the Federal Government to extend the PV rebate program, currently due to end in 2003; and
- (c) urges state governments to mandate net metering for renewable energy generation.

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

That there be laid on the table, in accordance with their respective ministerial responsibilities, by the Minister representing the Treasurer (Senator Minchin) and the Minister for Revenue and Assistant Treasurer (Senator Coonan), by 2 December 2002, the following documents:

- (a) the Treasury files, as described in paragraph 10.1.4 of the report to Messrs Corrs Chambers Westgarth from John Palmer, FCA, entitled 'Review of the role played by the Australian Prudential Regulation Authority and the Insurance and Superannuation Commission in the collapse of the HIH Group of Companies' and provided as a witness statement to the HIH Royal Commission;
- (b) the files of the Insurance and Superannuation Commission in relation to the application of FAI Insurance Limited for an authority to carry on insurance business following the proclamation of the *Insurance Act 1973* containing the application and all correspondence and documentation relating to the consideration of the application and leading to and including the company's eventual authorisation;
- (c) the files of the Insurance and Superannuation Commission in relation to the application of Fire and All Risks Insurance Company Limited for an authority to carry on insurance business following the proclamation of the *Insurance Act 1973* containing the application and all correspondence and documentation relating to the consideration of the application and leading to and including the company's eventual authorisation;
- (d) the files of the Insurance and Superannuation Commission in relation to the application of Car Owners' Mutual Insurance Company Limited for an authority to carry on insurance business following the proclamation of the *Insurance Act 1973* containing the application and all correspondence and documentation relating to the consideration of the application and leading to and including the company's eventual authorisation; and
- (e) the files of the Insurance and Superannuation Commission in relation to the application of Australian and International Insurance Limited for an authority to carry on insurance business following the proclamation of the *Insurance Act 1973* containing the application and all correspondence and documentation relating to the consideration of the application and

leading to and including the company's eventual authorisation.

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

That the following bill be introduced: A Bill for an Act to amend the Environment Protection and Biodiversity Conservation Act 1999 to provide for the regulation of invasive species, and for related purposes. Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002.

**Senator CROSSIN** (Northern Territory) (3.54 p.m.)—At the request of Senators Bartlett, Brown and Nettle, I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes that:

- (i) more than 1 500 asylum seekers from East Timor have had the processing of their refugee claims put on hold for many years and that many of these applicants were, and still are, suffering the effects of torture and trauma, and
- (ii) the Australian Government sought to avoid offering protection for these asylum seekers and deliberately delayed processing, causing great hardship to those involved due to the ties they have formed in Australia;
- (b) acknowledges the persecution and suffering that these people endured before leaving East Timor and that many of these people have lived in our community for up to 10 years, and have formed close links with their community;
- (c) recognises that two organisations of the Australian Catholic Bishops' Conference, Caritas Australia and the Australia Catholic Social Justice Council, and the Australian East Timor Association have also renewed calls to grant residency to the East Timorese asylum seekers who are facing deportation; and
- (d) calls on the Minister for Immigration and Multicultural and Indigenous Affairs (Mr Ruddock) to acknowledge the commitment and contribution this group of asylum seekers is making to the Australian community, and the enormous uncertainty and trauma they have endured, by granting these people permanent residency in Australia on

humanitarian grounds by means of a special visa.

## BUSINESS Rearrangement

**Senator IAN CAMPBELL** (Western Australia)—Manager of Government Business in the Senate) (3.56 p.m.)—by leave—I move:

That, on Tuesday, 19 November 2002:

- (a) the hours of meeting shall be 9.30 am to adjournment; and
- (b) the routine of business from 9.30 am to 2 pm shall be government business only.

Question agreed to.

## LEAVE OF ABSENCE

**Senator MACKAY** (Tasmania) (3.57 p.m.)—by leave—I move:

That leave of absence be granted to Senator Hutchins for the period 21 November to 2 December 2002 inclusive, on account of parliamentary business overseas; and that leave of absence be granted to Senator Forshaw for the period 21 November to 3 December 2002 inclusive, on account of parliamentary business overseas.

Question agreed to.

## COMMITTEES

### Rural and Regional Affairs and Transport Legislation Committee

#### Extension of Time

**Senator FERRIS** (South Australia) (3.58 p.m.)—by leave—At the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Australian meat industry and export quotas be extended to the last sitting day in 2002.

Question agreed to.

### Scrutiny of Bills Committee Meeting

**Senator McLUCAS** (Queensland) (3.58 p.m.)—by leave—I move:

That the Standing Committee for the Scrutiny of Bills be authorised to hold a private meeting during the sitting of the Senate today, from 5.15 pm, otherwise than in accordance with standing order 33(1).

Question agreed to.

**Rural and Regional Affairs and Transport Legislation Committee**  
**Extension of Time**

**Senator FERRIS (South Australia) (3.59 p.m.)**—by leave—At the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Transport Safety Investigation Bill 2002 be extended to 3 December 2002.

Question agreed to.

**NOTICES**

**Postponement**

Items of business were postponed as follows:

General business notice of motion No. 1, under committee reports and government responses, standing in the name of the Chair of the Standing Committee of Senators' Interests (Senator Denman) for 5 December 2002, proposing amendments to the resolutions on senators' interests, postponed till 6 February 2003.

General business notice of motion No. 251 standing in the name of Senator Nettle for today, relating to the Timor Sea Treaty and the Greater Sunrise gas field, postponed till 19 November 2002.

General business notice of motion No. 255 standing in the name of Senator Brown for today, relating to former Colombian Senator Ingrid Betancourt and Ms Clara Rojas, postponed till 19 November 2002.

General business notice of motion No. 258 standing in the name of Senator O'Brien for today, relating to crises in rural and regional Australia, postponed till 2 December 2002.

**Withdrawal**

**Senator MACKAY (Tasmania) (4.00 p.m.)**—At the request of Senator Sherry, I withdraw general business notice of motion No. 238 standing in his name for today relating to a return to order on the evaluation of the 'Living in Harmony' initiative and the associated market research.

**COMMONWEALTH GAMES: CONTRACTS**

**Senator ALLISON (Victoria) (4.01 p.m.)**—I move:

That there be laid on the table by the Minister for Arts and Sport, no later than 3 pm on Tuesday, 19 November 2002, the following documents relating to Victoria's bid for the Commonwealth Games:

- (a) the endorsement contract between the Australian Commonwealth Games Association and the State of Victoria authorising the bid for the Games; and
- (b) host city contracts between the Commonwealth Games Federation, Australian Commonwealth Games Association, and Melbourne 2006 Commonwealth Games Pty Ltd.

Question negatived.

**REVIEW OF THE IMPLEMENTATION OF OCEANS POLICY**

**Senator MACKAY (Tasmania) (4.01 p.m.)**—At the request of Senator McLucas, I move:

That there be laid on the table at the end of taking note of answers to questions without notice on Tuesday, 19 November 2002, the 'Review of the Implementation of Oceans Policy: Final report' by TFG International, dated 25 October 2002.

Question agreed to.

**WORKPLACE RELATIONS AMENDMENT (IMPROVED PROTECTION FOR VICTORIAN WORKERS) BILL 2002**

**Report of Employment, Workplace Relations and Education Legislation Committee**

**The DEPUTY PRESIDENT (4.02 p.m.)**—Pursuant to standing order 38, on behalf of the President I present the report of the Employment, Workplace Relations and Education Legislation Committee on the provisions of the *Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002*, together with the *Hansard* record of proceedings and documents presented to the committee, which were presented to the President after the Senate adjourned on 15 November 2002. In accordance with the terms of the standing order, the publication of the report was authorised.

Ordered that the report be printed.

**Senator BARNETT (Tasmania)** (4.03 p.m.)—by leave—I move:

That the Senate take note of the report.

In taking note of the report of the Employment, Workplace Relations and Education Legislation Committee, a number of things need to be said at this important time in relation to the future of workers in Victoria. The **Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002** enhances the safety net for workers in Victoria who are not covered by federal awards and agreements. The bill provides improvements for Victorian workers, unlike the Victorian government's re-regulation proposal, where they have tried to wrap up the industrial relations system in further regulation and red tape, which causes job losses, and that is a major concern.

So that it is very clear, this bill provides employees an entitlement to payment for work performed in excess of 38 hours a week; eight days personal leave, which can be taken as sick leave, and up to five of the eight days available can be taken as carer's leave; and two days bereavement leave for the death of a member of their family or household. It gives the Australian Industrial Relations Commission power to include supported wage arrangements in industry sector orders.

Why would you oppose such sensible objectives which enhance employment terms and conditions for workers in Victoria? The Victorian government has attempted to re-regulate, but fortunately, as a result of the good commonsense of the Victorian upper house, the legislation was rejected. This was an initiative of the Bracks government, so some people would not be surprised by the fact that it wants to re-regulate workers' rights. Rather than protect workers' rights, the government wants to preserve union privileges. That is really the problem with the Bracks government today and in the past.

I want to make clear what we said in our report and detail some of the evidence that was provided to our committee. I was on the committee, together with some members from the other side. I quizzed the Secretary of the Victorian Trades Hall Council, Leigh Hubbard, at length on this. Let us make it

patently clear what he said about this legislation. When asked if this bill should be passed, Mr Hubbard quite clearly indicated his ambivalent view of the question. It was not the legislation he wanted, but it was better than nothing. He acknowledged that it would be an improvement for schedule 1A employees. That is on the public record and the report has been tabled today. He said that there would be a 'minor improvement' for workers in Victoria, yet he was ambivalent as to whether the legislation should be passed.

People on the other side who are on this committee are also not supporting this legislation. It is a very sad day for the Australian parliament and for the workers in this country, particularly those in Victoria, when you cannot have a consensus when you know jolly well that workers entitlements would be improved and enhanced. It is pretty clear-cut. Sadly, some of the other witnesses, including those from the Textile, Clothing and Footwear Union of Australia, did not support the view of the Victorian Trades Hall Council and said that there would be no improvement—a bizarre statement. The Victorian coordinator of the FairWear group and the project coordinator of FairSchoolWear both said that there would not be an enhancement of workers entitlements, as did the Uniting Church in Australia. I throw out as a cautionary note to representatives of the Uniting Church in Australia that when they appear to give evidence at inquiries like this they should consider very carefully what they say, because from all of the objective evidence and views given it was quite clear that there would be an enhancement of workers entitlements.

This is federal legislation that would improve the entitlements, rights and conditions of workers in Victoria. What it does not do is cause job losses, which was the alternative put by the Victorian Bracks government. There are a number of estimates—I make it clear that they are estimates—of the sorts of job losses that we are talking about as a result of the Victorian Fair Employment Bill. Particular analysis was done by the Victorian Employers Chamber of Commerce and Industry, VECCI. ACIL Consulting did an

analysis and some modelling for them, which showed that there would be tens of thousands of job losses—21,000 to 42,000—over the medium term, over a three-year period. Surely, one job lost would be enough. But that was not good enough for them and for the union hierarchy in Victoria and they dismissed it out of hand. That is not good enough. We need to be objective in this place and make an assessment ourselves. ACIL estimated that, based on national experience with participation rates, these job losses would raise Victoria's unemployment rate from 6.1 per cent in December 2000 to 6.5 per cent and 6.9 per cent respectively in the medium term.

**Senator Robert Ray**—Where is it right now? It is 5.8.

**Senator BARNETT**—As a result of federal legislation, there has definitely been an improvement. What did the trade union movement in Victoria say? Senator Ray should know this very well. I hope that he has been lobbying his union colleagues in Victoria about this, because they were ambivalent about whether they would be supporting the bill. The research showed that job losses would extend across all businesses and all regions. About 16,000 jobs would be lost in the city of Melbourne alone, with around 1,000 job losses to be experienced in each of the five non-metropolitan regions. The industry sectors most affected would be accommodation, cafes and restaurants, communication services, transport and storage. It was not just VECCI that we are talking about. Let us have a look at what some other industry and employer groups said. The Victorian Farmers Federation are a group that most people consider to be objective and fair, particularly when you talk about rural and regional communities.

**Senator Ludwig**—Untrue! Misleading the Senate.

**Senator BARNETT**—Come on, listen to what they have had to say about the federal awards and the Victorian legislation in 2002, just this year. What did they say? Potential Victorian rural and regional job losses were estimated by the Victorian Farmers Federation to be up to 10,400, during the worst drought in 100 years. Goodness gracious!

We have drought conditions in Victoria, the Victorian Farmers Federation are talking about over 10,000 job losses and the Bracks government are wiping their hands and saying that they are not interested, they do not care, because they are beholden to the trade union movement in that state. It is a great sadness that this parliament is caught up in this type of thinking. I want to quote what the current Premier of Victoria said back in 1996 about the industrial relations system. Mr Bracks, as the shadow industrial relations minister, in support of the referral of Victorian industrial relations power to the Commonwealth said:

The opposition supports in principle the concept of a single national system of industrial relations, and it always has.

Senator Murray is in the chamber. He supports the view that the six separate systems that we have in this country is a recipe for disaster and that we need one system. I concur with Senator Murray and the Minister for Employment and Workplace Relations, Tony Abbott, who has made these points very clear in the last few days. In the Victorian *Hansard* on 21 November 1996, Mr Bracks went on to say:

It can deliver benefits to both employees and employers by creating a uniform national framework for dispute resolution and the application of minimum employment standards that can be more easily complied with and enforced.

Mr Bracks, I just ask you: please take heed, remember what you said in November 1996 and abide by it. You have been held accountable by the trade union movement in your state and, as result of your legislation, which would re-regulate and wrap up Victoria in red tape, there will be job losses. It is good to see Senator Marshall from the other side, who was on that committee. He will know very well that even the Victorian government's own independent inquiry made an assessment that several thousand jobs would be lost as a result of that legislation. I support this legislation and the government's efforts to avoid those job losses and ensure that there is an enhancement of workers entitlements in Victoria. So be it. Please support this legislation and this report.

**Senator MARSHALL (Victoria)** (4.14 p.m.)—I rise to take note of the report of the Employment, Workplace Relations and Education Legislation Committee on the **Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002**. Senator Barnett challenged Premier Bracks to remember what he said. I just want to remind members opposite of what the Prime Minister said. The Prime Minister said that as a result of the Workplace Relations Act no worker in this country would be worse off. Then we saw the Kennett government abrogate their responsibilities to the Victorian state system by transferring those rights to the federal government. As result of that, 360,000 workers fell out of the safety net; 360,000 Victorian workers were left award free, without any minimum protections. And what did the Workplace Relations Act do? Introduce schedule 1A.

You say that this legislation improves the lot of these workers. When you are going from nothing it does not take much to improve things. I have to concede that it is the smallest of improvements—they go to five minimum conditions as opposed to the 20 that are provided to every other worker in Victoria—but what you do is not an improvement to the extent where they become equal with everybody else. Why is it unfair for Victorian workers not to be paid on an equal footing? Why are you, through this legislation, enshrining two more underclasses in Victoria? I will get to outworkers in a minute. Where federal award workers have the protection of enterprise agreements, the protection of the act, the protection of the Industrial Relations Commission and 20 core conditions legislated for—as miserable as that is—you want to only enshrine five minimum conditions. You want to enshrine the most basic conditions. That is not enough—Victorian workers want equality.

We do not want an underclass made up of those forgotten by this legislation; we certainly do not want a third underclass enshrined by this legislation, and that is for outworkers. What you intend to do through this legislation is deem these people purely as contractors and enshrine one condition only for them—for the most exploited peo-

ple, the people that cannot protect themselves, the people that work in a shonky industry where they are subjected to the most horrendous exploitation. You want to enshrine minimum wages—no annual leave, no public holidays, no sick leave, no loadings; nothing else, simply wages. That is less than what is covered in the award. You want to deprive those people of the awards that could fairly cover them. All the Victorian legislation sought to do was to have common rule awards apply equally across the whole state, for every worker—and that is all we seek to do.

Why are you so opposed on that side of the chamber to treating people fairly and equally? Why, when employers have a loophole in the legislation where they can exploit the poorest people in our community, do you jump to their defence? Why do you do that? VECCI get up in the committee and say: ‘But we like this sort of flexibility. We enjoy the flexibility that outworkers give, where they are at home using their children to help make ends meet, where they are paid on piece rates and where they are often not paid at all.’ Your government and VECCI get up there and say: ‘But they can seek redress through the courts. If they get underpaid by a contractor or a supplier, they can go through the courts.’ Let me ask you, as I asked VECCI: how does a non-English-speaking migrant woman being paid \$3 to \$5 an hour go and recover, through the courts, unpaid wages or contracts? Of course, all the members opposite will know how impossible that is, because most of you are lawyers and most of you know how much you charge. These people cannot find the amount of money it takes to even get a consultation with the likes of you, to try and go back and recover lost wages and lost contracts.

When I asked VECCI that question, what did they do? They mumbled and stumbled. They could not answer it, and in the end they said, ‘There are organisations like unions that will go and do that for them; unions will go and do it for them.’ I then put the question: so you are saying that, if that worker is not being paid, if that worker is being exploited, their only option is to join a union and get that recovered? They said, ‘Well,

people have got a right to join the union.' That is their response, because they know there is no other system, under the legislation you are proposing, through which people can go and recover low wages and lost contracts. It is a nonsense.

**Senator Barnett**—How many on your side represent small business?

**Senator MARSHALL**—The small business you lot want to represent—

*Senator Kemp interjecting—*

**Senator MARSHALL**—We support small businesses that act responsibly and fairly. The small businesses you talk about—you put them all in the same group—are those that want to exploit people, that do not want to give the most basic of conditions, that do not even want to apply the federal award safety net. You want to deprive Victorian workers of your own federal legislation. It is appalling. For you to get up here and say, 'Look, it's a step in the right direction; it's terrific,' is no defence.

You talk about having one system. If you want to go down the path of one system, why do you not put before this parliament legislation that actually does that? What you are doing is applying and forcing by legislation three systems in Victoria—three different standards. That is not where we want to move to. We want basic conditions as a safety net, applied and looked after by the Industrial Relations Commission—and the government does not seek to do that. This legislation has many flaws and we will be exploring them in absolute detail in the committee stage of this legislation. You will be challenged and will clearly be exposed—you are an apologist for the employer organisations that simply want to allow the most miserable of employers to continue to exploit people on \$3 an hour.

I also noticed during the committee hearings that some senators wanted to question whether or not outworkers had been paid the low rates being quoted of around \$3 an hour. You did not really want to look at the evidence put in front of you in that respect. There have been numerous studies in this area, including a Senate inquiry, but the most forceful and the most detailed was a study by

Dr Christina Creagan commissioned by Melbourne University which showed—and it stood up to intellectual rigour—that there are people being paid less than \$3 an hour. What is your response? You say, 'We'll make them all contractors; we'll say that there has to be a minimum wage.' But it is impossible to enforce it happening. You just take away any opportunity those people have of being paid proper wages and provided with proper conditions. We will be exploring this bill in detail, we will be debating it and we will be exposing it for the absolute shonk it is. If you talk about having one system, put up legislation that delivers one system.

**Senator MURRAY (Western Australia)**

(4.21 p.m.)—I rise to make some remarks on the report of the Employment, Workplace Relations and Education Legislation Committee on the *Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002*. When the federal coalition government and the Australian Democrats agreed to pass the Workplace Relations Act and agreed with the Victorian government to pass the Commonwealth Powers (Industrial Relations) Act 1996 and for it to take effect in 1997, three systems of industrial relations resulted. Firstly, the Victorian government retained power for industrial relations purposes over certain state employees—I recall in particular the police. Secondly, the great majority of Victorians moved under the federal system, to their benefit. Thirdly, schedule 1A retained minimum employment conditions based on former Victorian conditions that were inferior to those enjoyed by workers under the federal system. I will make it clear that it was never intended that schedule 1A workers should remain trapped there or that the number of workers in that category should grow.

I have used the same figures as those used in the majority report which are based on the Victorian Minister for Industrial Relations' estimate that more than 600,000 Victorian workers were disadvantaged. This is one of the few committee hearings I have missed. As people on all sides know, I have been a fairly diligent member of this committee but I was away at the time. The Labor Party minority report uses two figures—one is of

500,000 workers being affected and the other is of 356,000 employees being affected. Frankly, whether it is 300,000, 100,000 or 600,000 is almost irrelevant. You cannot have a unitary system where one portion of the community is disadvantaged or on an inferior system—you just cannot. So anyone believing, as the coalition and the Democrats do, in the obvious virtues of uniform or unitary workplace relations conditions, cannot justify the continuing retention of schedule 1A. There is no justification whatsoever for not allowing those workers access to conditions enjoyed by other Victorians under the federal Workplace Relations Act. I accept from a business perspective that transitional provisions may need to be introduced. You might not be able to do it instantly, but you must phase in the full transfer of all Victorian workers under the federal Workplace Relations Act conditions. There is no doubt at all that the Victorian government agrees with that proposition. It is the federal government which is refusing to carry through the logic and morality implicit in originally unifying the Victorian and federal systems. That attitude is unacceptable. It is also politically dumb because it provides a great and unfortunate incentive for the Victorian government to try to recreate a state system.

In my capacity as workplace relations portfolio holder for the Australian Democrats, I frequently meet with representatives of unions and of employers, and my message to them is consistently the same: I am a strong advocate of one system of industrial relations in this country, not six. My party has consistently supported that concept. However, if you do not show bone fides, if you do not show goodwill, and allow people to get onto the system, there is always the incentive, the motivation and the desire to recreate a state system. The point Senator Marshall makes is dead right. I know that the Labor Party have real concerns with aspects of the Workplace Relations Act, but they all recognise that the full federal Workplace Relations Act with its 20 allowable award matters is far superior to the minimum conditions available under schedule 1A.

We have to concern ourselves with the living standards and the ability of families

who are at the bottom end of the wage sector to look after themselves and, over time, to be able to aspire to a better standard of life—and core to that is that their employment conditions, their work and family conditions, their basic wages and award conditions are as good as Australia can afford. It is self-evident that Australia can afford the federal Workplace Relations Act. Under this act, real wages have been rising and employment has been rising. So why is it that a portion of the Victorian community continues to be held away from the advantages that the act itself provides? I urge the government to recognise that, when they bring the *Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002* on, the Labor Party and the Democrats between them will seek to advance the cause of moving schedule 1A workers out of schedule 1A and into the full benefit of the federal act. When that happens—which I expect it will—I would urge the federal government to accept that and to let it happen because it is to the advantage of Victoria, it is to the advantage of Australia and it is to the advantage of the ideal of progressing a unitary system.

With respect to outworkers, I, as have other senators in the chamber today, have had long experience of the outworker problem and of the various unions and employers who have advanced their cause through advocacy. I include employers in that because there have been a number of employers who have done good work with the unions in trying to improve the lot of outworkers. In fact, it was the Democrats who first got outworkers recognised under the Workplace Relations Act and included in formal industrial relations legislation. However, it still remains a sector where there are real concerns about the way in which particularly non-English-speaking labour are abused and used by an unscrupulous minority—I hope it is a minority—of employers. Once again, I would urge that, when this bill is considered, we advance that cause as well as we can. Typically, I guess I am not quite as harsh about the improvements of the bill—which are there—as the Labor Party. There are genuine improvements in the bill which should be welcomed, but they do not go far enough. My message to the chamber is very

simple: the Democrats will use this opportunity to advance the cause of getting schedule 1A workers out of that situation and onto the full benefits of the Workplace Relations Act.

**Senator ROBERT RAY (Victoria)** (4.29 p.m.)—I think I have heard everything today. I remember that Midwestern newspaper in the United States that warned the Tsar. Today we have had Senator Barnett warn the Uniting Church. They must be trembling in their boots! This is not really about the **Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002**; this is a misguided attempt by one of the junior woodchucks opposite to intervene in the Victorian state election. This chamber constantly debates state election issues just before a state election, but there has been one noble exception over time: with a Victorian state election, we generally do not. Experienced senators like Senator Kemp and others know that, regardless of how much we warble in here, we probably will not shift a vote back home, so we generally desist. We are unlike those from other states who loyally report back to their political masters, ‘We went in and battled on these state issues coming up into a federal election.’ The more sophisticated Victorians desist from this because they know it will have no influence whatsoever.

If we really want a debate on these issues, Senator Barnett can stand up here and explain the cabinet attitude on leave loadings, which they abolished capriciously. The union movement correctly took this issue to the courts and those leave loadings were restored. Guess who picked up the bill? The Bracks government had to pay it, not the Kennett government. This was simply because they capriciously got rid of them. Senator Barnett talks about the employment situation in Victoria. There have been 120,000 new jobs in the first three years of the Bracks government, and 50,000 of those have been in rural Victoria—the biggest job growth in rural Victoria that we have seen in decades. These are unassailable facts because they are produced by the federal departments, by the Australian Bureau of Statistics. These are not figures invented by me.

These are figures that you yourselves in government have collected and put out.

**Senator Barnett**—Federal government policy.

**Senator ROBERT RAY**—Senator Barnett interjects that it is federal government policy. He congratulates the Victorian upper house for blocking certain matters. Gee whiz! This is the most undemocratic house in Australia—one that refuses to entertain proportional representation. You endorse it here and in Western Australia, New South Wales and South Australia, but you will not allow it in Victoria. You will not ever support it. In many ways, I do not think it will make a great deal of difference to the Labor Party. We have been consistent. We have offended those on my left here by saying that we will not adopt proportional representation for lower houses, but we will in upper houses. I will wait for Senator Kemp or some others to get up today to say that they will sign up to reform in the Victorian upper house. Of course they will not.

If you are talking about job losses over there on your side, think of the big job loss last Friday, with Dr Dean. That was the biggest job loss we have ever seen. No-one is willing to today to investigate that. You were happy to abuse the committee system of this parliament through the Joint Committee on Electoral Matters, chaired by the Prime Minister’s stooge, Mr Christopher Pyne—he was put there specifically. You were willing to persecute people for false enrolment. You were willing to make accusations. But when it comes to Dr Dean you say, ‘We don’t answer any questions.’ The question is: did he ever live there when he falsely enrolled? Of course he did not. But we will pursue these matters elsewhere, because it is not totally relevant—other than in terms of job losses—to the matter before us at the moment.

It is true: we have six separate systems. This is the disadvantage of federalism. The last person who tried to fix this unilaterally was Mr Bruce when he was the Prime Minister of Australia. He did so in 1929 and he lost power, never to be seen again other than as a high commissioner in London. Give Senator Barnett credit; he has tried to help out the poor old Victorians. He has not

helped. I suggest, Senator Barnett, that you concentrate on representing Tasmania and do not interfere in Victorian politics. But, if you do want to interfere in Victorian politics, come over and have a little gamble on the election result.

Question agreed to.

### COMMITTEES

#### Appropriations and Staffing Committee Report

**The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)**—I present the 37th report of the Standing Committee on Appropriations and Staffing.

Ordered that the report be printed.

**Senator ROBERT RAY (Victoria)** (4.34 p.m.)—by leave—I move:

That the Senate endorse the resolutions at paragraph 3.1 of the report and approve the proposals for the reorganisation of the security function in Parliament House referred to in the report.

This report reflects the consideration by the committee of the in-principle decisions made by the Presiding Officers on security matters following the review by the Parliamentary Service Commissioner of aspects of the administration of parliament. The essence of these decisions is that a centralised security operation be created in the Joint House Department, with personnel transferred to that department and funds channelled through the chamber departments to support the function, that the interim Security Management Board now be established permanently and that the functions of the board be further developed by agreements made between all parliamentary departments and submitted for approval to the Presiding Officers.

The terms of appointment of the Senate Standing Committee on Appropriations and Staffing require that it examine matters affecting the staffing and administration of the Department of the Senate, including proposals to vary the staffing structure. Under a resolution of the Senate agreed to in 1987, the committee also examines and reports on proposed changes in the structure and responsibilities of parliamentary departments. With respect to the administration of parliamentary security, the committee has adopted two resolutions.

The first resolution refers to the statement by the President to the Senate on 11 November 2002, and endorses the proposals adopted in principle by the President for the reorganisation of the security function in Parliament House. The committee recommends that the Senate approve those proposals. The committee notes that, while the proposed reorganisation may improve the governance and coordination in the security function, it does not itself ensure that appropriate security measures are taken in Parliament House. In its second resolution, the committee therefore calls on the President to take appropriate measures to secure the building adequately, with the advice of Commonwealth security agencies and with appropriate consultation with, and notification to, senators.

The recommendation by the Parliamentary Service Commissioner on security covered the first of the three areas identified for investigation in the review commissioned last April by the then President, Senator the Hon. Margaret Reid, and the Speaker of the House of Representatives, the Hon. Neil Andrew MP. The commissioner's report was tabled in the Senate on 3 October. Those other matters dealt with in the Podger report will be considered by the appropriations and staffing committee on 4 December. They will be fully reported to the Senate with, I hope, all documents made available to senators. That meeting on 4 December will further pursue matters associated with security in this building. I do not want to canvass the strengths and weaknesses of security in this building here in a public forum. I think it is more appropriately pursued in a committee of staffing and appropriations. But I do want to stress that we must take the security of this building seriously. I do not want any bravado from senators saying, 'We do not want anything special done for us'—neither do I. There are 3,000 people who work in this building and they must take the highest of priorities.

It is essential that we take seriously any security concerns in a modern environment in this particular building. It may mean that for the greater good we have to restrict some of the liberties currently being enjoyed by staff and members of parliament in this

building. We may have to consider that there should not be two classes of people in this building—staff and members of parliament—but just one, and that one rule should apply to all. But, nevertheless, I am sure the President and the Speaker are going to seriously address the issues and concerns of senators and appropriately consult them about any concerns that they have.

The whole design and concept of this parliament is to make it open to the people of Australia. We would not like to see that compromised. But, at the same time, the very fact that we get close to one million visitors to this building per year means we have to protect them as well as members and staff. So we should not shy away from serious considerations of proper security measures. I am sure the appropriations and staffing committee and the presiding officers will pursue this as stringently as possible. To recap: this is not the opportunity today to have a full discussion on the Podger report, but there will be such an opportunity presented to the chamber once the appropriations and staffing committee has looked at all its recommendations as to departmental mergers as well as all the other recommendations that it has made. We will report back and hopefully make all documents available to honourable senators.

**Senator ALLISON (Victoria)** (4.40 p.m.)—The Democrats strongly support the recommendations in this report of the Senate Standing Committee on Appropriations and Staffing. We are very supportive of improving security arrangements in Parliament House. As Senator Ray has said, a lot of people work here; it is not just senators and members. I think there are around 5,000 or so persons who work in this place, and we have a very important responsibility to make sure that security arrangements are there to protect them as well as us.

In this report, there are some questions that have been raised about whether or not it was necessary for the Parliamentary Service Commissioner to have been involved in this question, given that the Presiding Officers had already decided that an interdepartmental committee should be set up, and that was supported by all secretaries of parliamentary

departments and approved in principle by the Presiding Officers. So things were already underway, regardless of the report that has been presented.

The report suggests that better coordination is necessary, and it seemed to me to be rather too focused on managerial aspects of security and not so much on security measures in themselves. That is perhaps not too difficult to understand given that, as I understand it, the Podger report was contracted out to PriceWaterhouseCoopers, who presumably had no special insight into security issues relating to the parliament. It also discovered that savings were not likely to be made on security and that in fact it may cost us more to have a more secure parliament. No doubt that will come as a disappointment to the Department of Finance and Administration, who are always looking for savings everywhere they go.

I support Senator Ray's remarks, too, about there being one rule for everyone in this place. It has always seemed to me incongruous that senators—and presumably members, over on the other side of the building—can just walk through security without subjecting their bags to the scanner. So we support measures that seek to demonstrate that we take seriously the business of security in this place. As Senator Ray says, too, it is not appropriate for us to talk about the possible areas where security might be improved. Suffice to say that just in the appropriations and staffing committee we have identified a couple of areas. We look forward very much to being consulted by the President of the Senate in developing more secure arrangements. We are confident that the President has this as a top priority and will work effectively with Commonwealth security agencies in identifying those areas where we can improve.

I wish to add the remarks of the Democrats to what has already been said and encourage all staff and senators in this place to view those recommendations sensibly when they finally come and not to whinge, if you like, about possible changes that might make getting through the doors in this place a little slower or a little bit more uncomfortable. It is in the interests of all of us to take this

matter seriously. I seek leave to continue my remarks later.

Leave granted.

**Senator Robert Ray**—Mr Acting Deputy President, I raise a point of order. It may be for the guidance of the presiding officer. I think there is a desire that we actually put that motion today, otherwise we are just not going to get it done. Maybe if Senator Allison could withdraw her seeking of leave to continue her remarks we might be able to actually proceed and not have it again.

**The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)**—Senator Ray, I understood that the government was not prepared to proceed, but it is now. The question is that the report be endorsed and the proposals be adopted.

Question agreed to.

#### DOCUMENTS NAIDOC Week

**The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)**—I present a response from the Premier of Queensland, Mr Beattie, to the resolution of the Senate of 20 August 2002 concerning Indigenous Australians, together with a document entitled *Queensland Families: Future Directions*.

#### United Nations: Human Rights Commissioner

**The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)**—I present a response from the United Nations High Commissioner for Human Rights, Sergio Vieira de Mello, to the resolution of the Senate of 26 September 2002 concerning his appointment to the position.

#### COMMITTEES Procedure Committee Report

**Senator HOGG (Queensland)** (4.46 p.m.)—I present the second report of 2002 of the Procedure Committee relating to chairs and quorums in committees and the adjournment debate on Tuesdays.

Ordered that the report be printed.

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

Leave granted.

**Senator HOGG**—I move:

That consideration of the report be made a business of the Senate order of the day for the next day of sitting.

In moving that motion, it is the intention to have the report dealt with tomorrow so that, if the Senate agrees, the changes it proposes will be in place for the estimates hearings on Wednesday, Thursday and Friday of this week.

Question agreed to.

#### NEW BUSINESS TAX SYSTEM (CONSOLIDATION AND OTHER MEASURES) BILL (No. 1) 2002

#### Report of Economics Legislation Committee

**Senator EGGLESTON (Western Australia)** (4.47 p.m.)—On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee on the provisions of the New Business Tax System (Consolidation and Other Measures) Bill (No. 1) 2002, together with submissions received by the committee.

Ordered that the report be printed.

#### COMMITTEES Membership

**The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)**—The President has received letters from party leaders seeking variations to the membership of certain committees.

**Senator KEMP (Victoria—Minister for the Arts and Sport)** (4.49 p.m.)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

#### Community Affairs Legislation Committee—

Appointed—

Senator Greig

Participating member: Senator Allison for matters relating to the Health and Ageing portfolio

Substitute member: Senator Lightfoot to replace Senator Heffernan for the consideration of the 2002-03

supplementary budget estimates on 21 November 2002

**Discharged—**

Senator Stott Despoja

Participating members:

Senator Cherry for matters relating to the Family and Community Services portfolio

Senator Greig for matters relating to the Health portfolio

**Community Affairs References Committee—**

**Appointed—**

Participating members:

Senator Allison for matters relating to the Health and Ageing portfolio

Senator Greig for matters relating to the Family and Community Services portfolio

**Discharged—Participating members:**

Senator Bartlett

Senator Cherry for matters relating to the Family and Community Services portfolio

Senator Greig for matters relating to the Health portfolio

**Economics Legislation Committee—**

Appointed—Substitute member: Senator Tchen to replace Senator Chapman for the consideration of the 2002-03 supplementary budget estimates on 21 November and 22 November 2002

**Employment, Workplace Relations and Education Legislation Committee—**

Appointed—Participating member: Senator Santoro

**Employment, Workplace Relations and Education References Committee—**

Appointed—Participating member: Senator Santoro

Discharged—Substitute member: Senator Murray for the committee's inquiry into small business employment

**Environment, Communications, Information Technology and the Arts Legislation Committee—**

**Appointed—**

Senator Santoro

Participating member: Senator Cherry for matters relating to the Communications portfolio

Substitute member: Senator Ridgeway to replace Senator Bartlett for matters relating to the Arts portfolio

**Discharged—**

Senator Tierney

Participating members:

Senator Allison for matters relating to the Communications portfolio

Senator Ridgeway for matters relating to the Arts portfolio

Senator Stott Despoja for matters to the Information Technology portfolio

**Environment, Communications, Information Technology and the Arts References Committee—**

**Discharged—Participating members:**

Senator Bartlett for matters relating to the Environment portfolio

Senator Stott Despoja for matters relating to the Information Technology portfolio

**Finance and Public Administration Legislation Committee—**

Appointed—Substitute member: Senator Chapman to replace Senator Heffernan for the consideration of the 2002-03 supplementary budget estimates on 20 November 2002

**Finance and Public Administration References Committee—**

Discharged—Participating member: Senator Allison for matters relating to public service issues

**Foreign Affairs, Defence and Trade Legislation Committee—**

**Appointed—**

Participating member: Senator Santoro

Substitute members for the consideration of the 2002-03 supplementary budget estimates:

Senator Lightfoot to replace Senator Ferguson on 21 November 2002

Senator McGauran to replace Senator Sandy Macdonald on 22 November 2002

Senator Eggleston to replace Senator Ferguson on 22 November 2002

Senator Johnston to replace Senator Payne on 22 November 2002

Discharged—Participating member: Senator Bartlett

**Foreign Affairs, Defence and Trade References Committee—**

Appointed—Participating member: Senator Santoro

Discharged—Participating member: Senator Bartlett

**Foreign Affairs, Defence and Trade—Joint Standing Committee—**

Appointed—Senator Stott Despoja

Discharged—Senator Bartlett

**House—Standing Committee—**

Discharged—Senator Ferris

**National Capital and External Territories—Joint Standing Committee—**

Appointed—Senator Stott Despoja

Discharged—Senator Greig

**Regulations and Ordinances—Standing Committee—**

Appointed—Senator Santoro

Discharged—Senator Barnett

**Rural and Regional Affairs and Transport Legislation Committee—**

Appointed—

Participating members:

Senator Santoro

Senator Allison for matters relating to the Transport portfolio

Substitute members for the consideration of the 2002-03 supplementary budget estimates:

Senator Santoro to replace Senator Heffernan on 20 November 2002

Senator Tchen to replace Senator Heffernan on 22 November 2002

Senator Watson to replace Senator Colbeck on 22 November 2002

Discharged—Participating members:

Senator Bartlett for matters relating to animal welfare issues

Senator Greig for matters relating to the Transport portfolio

**Rural and Regional Affairs and Transport References Committee—**

Appointed—

Participating members:

Senator Santoro

Senator Allison for matters relating to the Transport portfolio

Substitute member: Senator Colbeck to replace Senator Heffernan for the committee's inquiry into forestry plantations on 29 November 2002

Discharged—Participating members:

Senator Bartlett for matters relating to animal welfare issues

Senator Greig for matters relating to the Transport portfolio

**Treaties—Joint Standing Committee—**

Appointed—Senators Santoro and Stott Despoja

Discharged—Senators Barnett and Bartlett.

Question agreed to.

**ASSENT**

Messages from His Excellency the Governor-General were reported, informing the Senate that he had assented to the following laws:

Family and Community Services Legislation Amendment (Budget Initiatives and Other Measures) Act 2002 (Act No. 95, 2002)

Insurance and Aviation Liability Legislation Amendment Act 2002 (Act No. 96, 2002)

Taxation Laws Amendment Act (No. 3) 2002 (Act No. 97, 2002)

Research Agencies Legislation Amendment Act 2002 (Act No. 98, 2002)

Aboriginal Land Rights (Northern Territory) Amendment Act 2002 (Act No. 99, 2002)

Space Activities Amendment Act 2002 (Act No. 100, 2002)

Education Services for Overseas Students Amendment Act 2002 (Act No. 101, 2002)

Vocational Education and Training Funding Amendment Act 2002 (Act No. 102, 2002)

Torres Strait Fisheries Amendment Act 2002 (Act No. 103, 2002).

**MEMBERS OF PARLIAMENT (LIFE GOLD PASS) BILL 2002**

**Consideration of House of Representatives Message**

Message received from the House of Representatives returning the Members of Parliament (Life Gold Pass) Bill 2002 and acquainting the Senate that the House has not made the amendment requested and pressed by the Senate.

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

**HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 3) 2002**

**Second Reading**

Debate resumed.

**Senator CARR (Victoria)** (4.50 p.m.)—Before question time I was speaking to the Higher Education Legislation Amendment Bill (No. 3) 2002—this Greenwich University bill—which is a belated attempt by the Commonwealth government to try to fix up the mess that it has created as a result of incompetence within the ministry. I indicated—and I am now reading the pinks from the earlier session—that part of the difficulty was the failure of the minister's office to actually fulfil its responsibilities to make sure that the minister's obligations were actually being met.

I indicated that the minister's staff member—who is now a leading advocate for deregulation in this country, Mr Andrew Norton—had actually said, 'What does it matter if there is one more bogie university in this country?' In fact, he said that there are so many bogie universities in Australia now, one more does not matter. Unfortunately, in the previous session I may well have said it was Philip Norton. I do not want to confuse the two. It is Andrew Norton, a former adviser to Mr Kemp, or Dr Kemp, who made those remarks.

**Senator Kemp**—Dr Kemp to you!

**Senator CARR**—Senator, I do not know what he is to you, but I would have thought there would be considerable questions raised there.

**Senator Kemp**—He is my brother; I can be more familiar!

**Senator CARR**—You can be more familiar with him. I wonder how familiar he would be with you, though. What we have, then, is a situation whereby, back on 9 December 1997, an officer of the Department of Transport and Regional Development—according to the Department of Employment, Education, Training and Youth Affairs—telephoned a non-SES officer and asked some questions about the administrative processes for the registration of a university. On 17 December 1997 this happened again. According to the department's answer to me on 6 May 1999, there was a suggestion from a non-SES officer that there were processes to be dealt with through the states. Further telephone contact took place a year later. On 5 August 1998, a Transport official once again rang a non-SES officer in Australian Education International—AEI—to ask how the accreditation processes were run. Once again, they were given the brush-off. It is reported that, on 21 or 22 December 1998, an officer of the Department of Transport and Regional Services contacted a non-SES officer of the Higher Education Division of DEETYA, as it then was, to seek information about the Australian Qualifications Framework and the process by which university courses were accredited in Australia. They were advised in the usual brush-off way. Sometime between 4 January and 11 January 1999, various inquiries were made by fax, email and other means between the two departments. This is what the department of education have presented to the Senate as their explanation of how this catastrophe developed.

The truth is that they have ignored the fundamental fact that the then Minister for Regional Services, Territories and Local Government, Senator Macdonald, was led to believe that an Internet university would work on only one island and, further, that the then minister for education, Dr Kemp, through his adviser Andrew Norton, took the view that it did not really matter at all. So the Senate has been obliged to follow these issues through and, despite repeated Privileges Committee inquiries, complaints ad nauseam

and various threats of legal action, truth has triumphed. Truth has finally triumphed in this place because the government has had to acknowledge the shocking failure of its administration. I have heard many a Liberal in this chamber try to defend the government's actions on this. I remember Senator Abetz saying that the opposition had 'whipped up some sort of frenzy' and made an 'unprincipled and unsustained attack' on this so-called university. He went on to say in June 1999—and I quote him at length because it truly was an extraordinary proposition that the government advanced—that, as far as he was concerned:

Over the months now, we have had to listen in this place to these unprincipled and unsustained attacks. Senator Tierney, to his great credit, has done a welter of research on this and has completely exposed Senator Carr's lack of intellectual integrity and indeed the bankruptess of his arguments in relation to the allegations he has been making against Greenwich University. Indeed, one of the things that Senator Carr has been accusing Greenwich University of in recent times is that they had people of no real academic repute. I think that has been absolutely and utterly laid to rest.

Quite clearly, the government does not hold those views. Despite what the minister has said, it is quite clear that the government has had to acknowledge just how completely wrong its actions have been in regard to that. The Liberal Party made claims in this chamber to defend this shonky outfit and say that the allegations being made were unsustained. It has now come to the point where the government has had to acknowledge that this mob of shysters should be run out of town. It has finally realised its obligation in this regard. We have had a Senate inquiry through the Senate estimates hearings, we have had various debates in this chamber and, finally, the department's internal inquiries and its ad hoc committee headed up by Mr Gallagher have identified that the serious allegations made against these various crooks out at Norfolk Island have been demonstrated to be correct.

What strikes me as the real tragedy here is that it has taken four years of extraordinary damage being done for this government to acknowledge its responsibilities. I think it

ought to be demonstrated that, in regard to this government's failure, there is no-one to be blamed here other than Senator Ian Macdonald. He, ultimately, is responsible because he had the opportunity to stop this occurring. We could also point out that Dr Kemp had the opportunity to refuse the approval process and could well have asked the Governor-General to intervene before the legislation was agreed to in its final form. The truth of the matter is that it was Senator Ian Macdonald who directed the administrator on Norfolk Island to sign that legislation into law.

We have a shonky outfit which is one of the worst degree mills this country has ever seen. There is a whole series of them, true enough. There was the university operating out of the post office box. There was the so-called university operating out of a grog shop in Adelaide—the wholesale whisky distributing company. There were various other outfits, but this was the shining one. This was the guiding light for degree mills in this country, and it took four years for the government to close them down. I think it is appropriate now that the government make sure that these sorts of fake degrees and bogus and unauthorised higher education institutes are exposed on a regular basis, because this is a bit like the tax avoidance industry—you need constant supervision to make sure that this sort of moss does not grow all over the education system as a whole. The Australian Universities Quality Agency has a responsibility here but, in its current form, it is essentially a toothless tiger—in fact it is a bit of a squeaky mouse in many respects. It is just not able to do the job, and other actions may well have to be taken to ensure that these sorts of degree mills do not establish a foothold in this country and undermine its international educational effort as a whole.

The attitude that has led to this is a doctrinaire assumption that the market should rule—that is, that we should not interfere in the market and that we should not in any way seek to prevent the market acting as a distributive mechanism. That is clearly an approach that has failed. What we have got to acknowledge, however, is that the cavalier and 'don't care' attitudes are simply not good

enough. The hard lesson and the joke that have originated from Greenwich should at least have taught us that this government has responsibilities to fulfil and that there is an obligation upon ministers to ensure that those responsibilities are carried out. I hope that this saga is never repeated. However, I think it is important that the Senate remind the government of some of its failings. Therefore, I move the following second reading amendment:

At the end of the motion, add “but the Senate condemns the Government for:

- (a) agreeing in December 1998 to the Greenwich University Act passed by the Norfolk Island legislature;
- (b) its delay in releasing the final report resulting from the April 1999 Ministerial Council on Education, Employment, Training and Youth Affairs resolution calling for an investigation into the academic and resource criteria of Greenwich ‘University’;
- (c) its delay in acting on the recommendations of the December 2000 Report on the Application by the Norfolk Island Government for the Listing of Greenwich University on the Australian Qualifications Framework Register that, ‘the standard of its courses, quality assurance mechanisms and its academic leadership fail to meet the standards expected of Australian universities’; and
- (d) its failure to recognise the urgent need for action to address issues relating to quality in the higher education sector”.

I make the point that, as senators, we undertake campaigns and take on issues that often seem very daunting and, in the process, we find that there are considerable hurdles to overcome. It is difficult sometimes for the opposition to punch through when the government is defending these sorts of crooks, when there are certain sections of the media not prepared to challenge the way standards in the sector are declining and when there is a group of people prepared to use the legal system to try to prevent these issues coming to the public fore. For instance, I notice that this crowd out at Greenwich tried to sue ACPET, the Australian Council for Private Education and Training, when they sought to raise concerns about Greenwich’s behaviour.

And Greenwich tried to sue them in a way that would have crippled the organisation—from memory Greenwich was seeking about \$1 million by way of damages. Greenwich did that because the executive officer and the president of ACPET raised the question that there were issues in regard to this crowd.

There is a range of questions that arise and that prevent these issues being debated in public. If it were not for our staff and their research facilities, I suspect many senators would not be able to fulfil their function in this place. I would like to place on the record my thanks to my office for the research effort they have put in. There has been a range of people involved in this process over a number of years, including the current candidate in the Victorian seat of Eltham, Steve Herbert. I trust he will be able to make a very fine contribution to the Victorian parliament. There are many others, including Andrew Reeves from my office, who have worked on it. But I particularly want to thank Jane Nicholls for the persistent effort she has put in to making sure that information has been provided to me, which has allowed me to carry this fight through. I ask for the Senate’s support for the second reading amendment we have moved, and I trust that the government never allows this situation to occur again.

**Senator STOTT DESPOJA** (South Australia) (5.02 p.m.)—I rise on behalf of the Australian Democrats. We will also be supporting the **Higher Education Legislation Amendment Bill (No. 3) 2002**. For the information of the government but, in particular, for Senator Carr on behalf of the opposition, we will also be supporting your very florid second reading amendment.

**Senator Carr**—It is fair and reasonable.

**Senator STOTT DESPOJA**—‘It is fair and reasonable,’ Senator Carr interjected, but I think that the government can expect nothing less. We nicknamed this one the ‘eat humble pie’ amendment, moved by Senator Carr on behalf of the ALP. It is to be expected that he should be thanking his office and individuals, given the nature of his involvement and that of his officers in the debate on this particular issue.

In April 2000 the Commonwealth, states and territories signed off on the national protocols for higher education approval processes. These protocols were a recognition that there were significant inconsistencies among the states on accreditation and quality assurance in higher education. Quite rightly, through MCEETYA these jurisdictions recognised that the reputation of Australia's higher education sector was at risk and that it would be at risk if there were not clear standards and clear expectations in place. The Democrats are strong supporters of the intent and scope of the protocols process. We have put that on record many times before in this place. We believe the protocols are appropriate and that they are necessary to underpin confidence in the higher education sector.

In addition, we take a broader view and think that it is essential that accreditation and quality assurance are robust so that there are no weak links that international or domestic commercial higher education providers can exploit to trade on the reputation of our public higher education system as a whole. Obviously, Australia's higher education sector is renowned for its reputation. It is held in high regard not only domestically but across the world, and we would hate to think that people could exploit loopholes in the processes in order to set up institutions that are of a lesser standard. All of this is particularly pertinent in the context of GATS, whereby international providers must be treated on the same basis as domestic providers. In principle, there is nothing wrong with reputable international higher education providers setting up in Australia, provided they meet stringent accreditation criteria and they do not receive public funding. However, that does not mean that we can afford weak links or a low threshold that is less than appropriate or that 'spiv' operators, if you like, can exploit. Senator Carr put on record a number of dodgy examples from the past. From my home state of South Australia, some of you may recall a 'small u' university with rather curious connections to whisky distillers—Senator Carr used the expression 'grog shop'. There was one example in that category but, we are happy to say, generally these have been few and far between.

The intent of this bill is to extend coverage of the national protocols to external territories, including Norfolk Island. It comes at a time, ironically, when we seem to be exercising some of our external territories for the purposes of other laws such as migration legislation. But this legislation is long overdue and appropriate in terms of extending the coverage to include Norfolk Island when it comes to the protocols process.

The main consequence of this legislation is of course to override the Greenwich University Act 1998 of Norfolk Island. This will prevent Greenwich operating under Australian jurisdiction as a university. The Democrats, along with other senators in this place—and I have already acknowledged the work of Senator Carr—have an ongoing interest in the review process to examine the Norfolk Island government's request to include Greenwich University on the registers of the Australian Qualifications Framework. The departmental review that was established to examine this request recommended that Greenwich University not be listed on the AQF registers because of the standards of its courses, the quality assurance mechanisms and the academic leadership failing to meet the standards expected of Australian universities. Mr Gallagher, then First Assistant Secretary of the Higher Education Division of the Department of Education, Training and Youth Affairs, informed the Senate Employment, Workplace Relations, Small Business and Education Committee on 7 June:

The review committee found that Greenwich University bears no relation to what we generally expect of a university on the Australian mainland. It operates well below acceptable standards, even for bachelor degree awards, and it purports to award masters and doctorate degrees.

He also informed the committee that the review identified a number of deficiencies. Those deficiencies included concerns as to the qualifications and experience of staff to supervise research students, the quality of students' work, and the standard of scholarship reflected in course design and course materials. The health sciences and business panels also expressed doubts about whether the research done by staff was relevant to mainstream work in their disciplines. For

example, doctoral degrees in psychology included theses entitled 'Energy, anatomy and the science of intuitive diagnosis' and 'Astrological birth determinants of licensed psychotherapists, psychologists and social workers'. As Mr Gallagher correctly pointed out, universities are expected to be somewhat more rigorous than astrology. Clearly, he was a Virgo.

He also told the committee about the review's serious concerns about teaching methodologies and suggested that much of what Greenwich was accepting at a doctoral standard 'would not pass muster at high school'. There were also serious concerns raised about governance structures and the provision of financial data. Mr Gallagher's conclusion was:

... Greenwich University credentials totally lack academic merit. They fundamentally make a mockery of the credentials. I think it is quite clear because they have recently made an updated submission and have failed to understand how serious these deficiencies are and are clearly not taking the matter seriously.

I have recently received a number of emails and other correspondence concerning Greenwich, as I am sure many other senators in this chamber have. The gist of that correspondence has been a preference that either the Democrats and others in this place vote against the legislation or we refer this legislation to a committee. The Democrats believe that the review process has been fair and rigorous and that Greenwich University has been given an opportunity to address the concerns that have repeatedly been raised. We are satisfied, therefore, that there are no grounds for opposition to this bill or, more specifically, for this bill to be referred to an inquiry.

I think that the process that has led to this legislation coming to the Senate has been an interesting one. It has taken a long time and there are certainly outstanding questions as to the role of the federal government in allowing Greenwich University to be established and to continue operating. More importantly, I think that the work of senators, specifically of Senator Carr, in raising some of these issues at estimates committees and in the Senate more generally has indicated

that Senate committee processes and estimates processes in the Senate are incredibly valuable. Often they remain one of the few avenues available to senators for detailed examination of how the government operates and what actually goes on. If this process has proved anything, it has once again affirmed the important role of the Senate committees. In an age when executive government seems to be increasingly powerful and when we increasingly deal with delegated legislation and we do not see the parliament playing the role that it could, should and has played in legislation, I think this is one example where we have actually seen a positive end. But it has certainly taken a long time to get there.

Clearly Senator Carr was always going to move a second reading amendment to this bill; I would have been surprised if he had not. As I indicated in my opening remarks, the Democrats will support the second reading amendment. It is florid but it does go to some important questions. I guess we will never know exactly how the process fell down and why there was such an abject failure in the process in 1998 when the Commonwealth accepted Norfolk Island's Greenwich University Act. I suspect it had more to do with blind faith in education markets than anything else. But, if there is anything that the minister would like to put on the record today to enlighten us on that, we would accept that. In the meantime, we are glad to see the changes being made in the Senate today.

On a final note, I would like to touch on a concern that I have raised in this place on behalf of the Democrats on a number of occasions. This has also been raised in the Democrat supplementary report to the Employment, Workplace Relations, Small Business and Education References Committee inquiry report *Universities in crisis*. It is our continual frustration with the tardiness with which the states and territories are implementing the national protocols. I understand that Tasmania, New South Wales and Victoria have finalised their legislation to comply with the protocols. Other states, however, are making slower progress. Queensland already had legislation in place that substantially reflects the national protocol, but my home

state of South Australia, the Australian Capital Territory and Western Australia are still working on their draft legislation. I can only speculate as to what is happening in the Northern Territory; I understand that information about progress in that Territory is hard to come by. Of course, the Commonwealth itself can hardly be accused of acting with appropriate speed. This very bill is part of the Commonwealth's own commitments to provide a legislative basis for the MCEETYA protocol, which was signed off on 2½ years ago.

I think we do have good reason to be somewhat irritated by the leisurely pace at which implementation occurs. I make a plea to the government on behalf of the Democrats and senators in this place—in fact, a request, if not a demand—to see that that process moves at a faster pace. Certainly, if it does not, it gives all of us in this chamber a good reason to question the commitment of the coalition government to education, but it also leaves us open to questioning the Labor state and territory governments as to what their commitment is in this whole process. If the minister has responses to that, we would be very keen to hear about progress. On a final note, the Democrats will support the legislation before us. We lament that it has taken this long to get some of the answers to questions that have been outstanding and also that it has taken so long to resolve this particular issue.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.14 p.m.)—I say at the outset in my response to the *Higher Education Legislation Amendment Bill (No. 3) 2002* debate that the reputation and quality of Australia's higher education system is of paramount importance to the government. With an annual contribution to our economy of more than \$4 billion, the Australian education and training sector now generates more export income than wool and nearly as much as wheat.

The vital importance of this industry to Australia's economy is underscored by the increasing number of overseas students studying in Australia. There was a 16 per cent increase in the 2000 academic year

alone, and even higher growth rates are expected in future years. About 58 per cent of all overseas students enrol in the higher education sector. Australia's teaching and research is world class and the *Higher Education Legislation Amendment Bill (No. 3) 2002* should ensure that, as the sector continues to grow, the quality assurance framework that underpins it is sufficiently robust to protect the quality of the sector. The bill will require institutions setting up in any of Australia's external territories to meet the same standards as those applying in our mainland states and territories.

By amending the *Higher Education Funding Act 1998* to extend the national protocols for higher education approval processes to Australia's external territories, the bill will assure students, parents, employers and governments that the quality of Australian higher education is being appropriately safeguarded. The protocols, agreed to by the mainland states and territories in the year 2000, ensure consistent criteria and standards across Australia in the field of higher education accreditation. Under the proposed amendments, external territories may no longer establish universities or authorise bodies to deliver higher education awards; instead, applications must be made to the Commonwealth Minister for Education, Science and Training for such approval. Senators may wish to note that the Commonwealth has taken full advice on the bill and, according to its advice, is acting within its constitutional rights to regulate the use of the title 'university' and the delivery of higher education in the external territories. The bill will override the operation of the *Greenwich University Act 1998*, Norfolk Island.

**Senator Carr**—Why did it take so long?

**Senator TROETH**—This means that Greenwich University will no longer be able to operate as a university or to offer higher education awards until it makes an application demonstrating that it meets the requirements set out in the national protocols. Despite some assertions by Greenwich University to the contrary, the Commonwealth has been advised that it is not liable to pay any compensation to Greenwich University or its students as a result of this legislative action.

For the benefit of senators, I will detail some of the key criteria an Australian university should demonstrate to satisfy the national protocols. An Australian university will demonstrate the following features: authorisation by law to award higher education qualifications across a range of fields and to set standards for those qualifications that are equivalent to Australian and international standards; teaching and learning that engage with advanced knowledge and inquiry; a culture of sustained scholarship, extending from that which informs inquiry and basic teaching and learning to the creation of new knowledge through research and original creative endeavour; the commitment of teachers, researchers, course designers and assessors to free inquiry and the systemic advancement of knowledge; governance, procedural rules, organisation, admission policy, financial arrangements and quality assurance processes that are underpinned by the values and goals previously listed and that are sufficient to ensure the integrity of the institution's academic programs; and sufficient financial and other resources to enable the institution's programs to be delivered and sustained into the future.

Senators may recall that a Commonwealth review panel assessed Greenwich University in December 2000 as not meeting the standards expected of an Australian university. The panel's review took place over several months and included assessment of outcome material such as postgraduate dissertations completed at Greenwich University. The review found deficiencies in the standard of the courses, quality assurance mechanisms and academic leadership at Greenwich University. Senator Carr asked why there have been such long delays in acting on Greenwich University. The decision to establish Greenwich University on Norfolk Island was initially a matter for the Norfolk Island government, using its powers of self-government. The Commonwealth Minister for Regional Services, Territories and Local Government assented to legislation in November 1998 on the understanding that Greenwich University did not intend to operate in mainland Australia. The then Minister for Education, Training and Youth Affairs, Dr Kemp, initiated a review of the univer-

sity's credentials in April 1999, as soon as Greenwich University indicated that it wished to be registered as an Australian university on the register of the Australian Qualifications Framework.

In December 2000 the review panel assessed Greenwich University, as I have said, as not meeting the standards expected of an Australian university. While the government agreed to give Greenwich University an opportunity to address deficiencies identified in that review, it also publicised widely the review findings and the status of Greenwich. The university has now had over 18 months to address the deficiencies identified in the review process, but it has not produced any evidence to the Commonwealth that it meets the required standards. It is sensible to extend the national protocols to Australia's external territories at the same time as the mainland state and territory jurisdictions are acting on this issue.

The continued operation of Greenwich University without accreditation has the potential to significantly damage Australia's standing as a provider of high-quality, quality assured higher education. In addition, under the measures contained in this bill, the International University of America Pty Ltd or any other bodies operating in an external territory will be required to immediately cease using the word 'university' in their company or business name. Any body or institution wishing to use the title 'university' must apply to the Minister for Education, Science and Training for approval.

As I said at the start, this government is committed to offering to both domestic and international students a high-quality education. One of this government's key priorities is to protect the interests of students and the integrity of the Australian education and training industry. I urge all senators to pass this bill, as it provides the most comprehensive approach to higher education quality assurance in the external territories that we have ever seen and will significantly strengthen Australia's higher education quality assurance framework.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

**Third Reading**

Bill passed through its remaining stages without amendment or debate.

**PLANT BREEDER'S RIGHTS  
AMENDMENT BILL 2002**

**In Committee**

Consideration resumed from 15 November.

Bill—by leave—taken as a whole.

**The TEMPORARY CHAIRMAN (Senator Bolkus)**—The committee is considering the *Plant Breeder's Rights Amendment Bill 2002* and amendments (9) to (12) and (R13), (14), and (15) moved by Senator Cherry on behalf of the Australian Democrats. The question is that the amendments be agreed to.

**Senator O'BRIEN (Tasmania)** (5.24 p.m.)—We adjourned 40 seconds early when this bill, the *Plant Breeder's Rights Amendment Bill 2002*, was being considered previously, rather than my commencing the opposition's response to these amendments as moved by Senator Cherry. I propose to deal with the amendments in order. Democrat amendment (9) repeals section 35(1) of the act and substitutes a new provision that provides an extension to the categories for which an objection to an application for plant breeders rights may be lodged. The existing subsection limits the right to object to those who believe the grant will affect their commercial interests. The amendment extends the class of people able to object to all those who believe that their interests would be affected. In this case those interests include, but are not limited to, cultural, economic, social and environmental issues.

It is important to note that the existing limitation on standing for objection is at the point of application for a plant breeders right. The existing provisions do not limit anyone's ability to contribute information to the PBR Office or to comment on PBR applications, nor do they limit the grounds upon which an application for revocation of a plant breeders right may be made. The opposition is advised by the department that there are broad grounds indeed upon which

an application for revocation can be made once a plant breeders right has been granted. It is incumbent on this parliament to ensure that the legislation we enact is workable but that that workability does not compromise the public interest.

There are a number of public interest features of the current act, including the following provisions: firstly, that plant breeders rights grants are made for only a limited period of time and, at the expiry of this grant, plant breeders rights varieties become public property; secondly, that plant breeders rights grantees must make plant breeders rights varieties publicly available; thirdly, that no plant breeders rights grantee rights exist in relation to the use of propagating material as a food or fuel or for any other purpose that does not involve propagation—a matter clarified by government amendments moved earlier in this debate; fourthly, that no plant breeders rights exist in relation to plant use for private, non-commercial or research purposes, including farm saved seed and use in the breeding of further plant varieties; and, fifthly, that the Plant Breeders Rights Office publishes details of applications in the *Plant Varieties Journal* and accepts public comments on individual applications. The Plant Breeders Rights Office then investigates all objections and comments it receives.

We must be concerned, in the context of a scheme that underpins proprietary rights in one of Australia's most important intellectual industries, to protect the integrity and workability of the plant breeders rights application process. The opposition is satisfied that the existing provisions provide an adequate mechanism for scrutiny and accountability, including the open standing in respect of applications for revocation. In the circumstances, therefore, the opposition is unable to support amendment (9).

Democrat amendments (10), (11) and (12) seek to provide that no fee is applicable in respect of objections to plant breeders rights applications that are based on non-economic grounds. These amendments relate to the previous Democrat amendment, which the opposition is not supporting, that seeks to expand the grounds on which an objection to PBR can be lodged. These amendments pro-

vide objectors on non-economic grounds, even those whose objections lead to expensive test growing, a blanket exemption from the costs associated with those objections. There is no mechanism in the amendments to guard against vexatious objections, and the opposition cannot lend its support to such a circumstance.

I note also that the attempt to exclude objectors from costs associated with their objection does not lead to cost recovery by consultants. One group that has supplied the Democrats with a range of advice on the matters before us, Heritage Seed Curators Australia, charges \$140 per hour for consultancy services on plant breeders rights, with photocopying and mail as added extras. There is nothing intrinsically wrong with this, but what is wrong is expecting the public to carry the full cost of objections claimed on public interest grounds while private groups benefit from their engagement as consultants in such a process. The opposition will not be supporting these amendments.

Democrat amendment (R13) inserts a number of provisions in relation to varieties for which a plant breeders rights grant may not be made. At the outset, it should be said that the existing subsection 42(1) provides that a plant breeders rights may not be granted to certain varieties excluded by regulation. Additionally, the very essence of the act is that it grants exclusionary rights only to breeders of plant varieties that are new. Traditional landrace species cannot of themselves earn any applicant a right under the Plant Breeders Rights Scheme. Discovery alone simply does not meet the relevant tests under the act. We understand the Democrats' concern in this matter, but the protection of indigenous plant species found on crown land and other lands, including national parks, world heritage areas, Ramsar sites and lands owned by Aboriginal communities, is not a matter that properly falls within the Plant Breeders Rights Scheme. The amendment proposes a blanket exclusion zone around significant areas of Australia for the purpose of plant intellectual property. It needs to be understood that it is not a zone that protects any plant from being taken. If the parliament is interested in stop-

ping trespassing and theft on public land, it should enact laws that do just that. We should not seek to amend Australia's intellectual property laws to do what they cannot do—that is, to serve as de facto conservation and environment protection laws.

This amendment seeks to take some account of matters that are related to Indigenous cultural and intellectual property protection. It does not do so adequately, but it does at least acknowledge this important issue. Labor shares the view that the protection of Indigenous cultural and intellectual property is an important matter. It is, however, a matter that deserves more than passing acknowledgment in one piece of legislation forming just part of Australia's intellectual property laws, and it deserves more than passing acknowledgment in this debate. It is a matter that Labor will address as we determine, together with the Aboriginal and Torres Strait Islander people and the wider community, the key steps we must take to achieve reconciliation. It is widely acknowledged that the intellectual property of Indigenous people is inadequately protected in Australia. Existing intellectual property laws are generally considered inadequate in recognising and protecting Indigenous cultural and intellectual property rights because non-Indigenous notions of intellectual property are quite different from Indigenous beliefs. The definitive Australian report on this issue entitled *Our culture: our future* found that acts such as the Copyright Act, the Designs Act, the Patents Act, Plant Breeder's Rights Act and the Trade Marks Act are deficient in this regard and that measures are required to redress this shortfall. However, the key recommendation in the report is the development of specific legislation to provide protection for all Indigenous cultural and intellectual property, rather than piecemeal amendments to these acts. For this reason, Labor cannot support the amendment proposed by the Democrats.

The form and content of changes to the Plant Breeder's Rights Act to address Indigenous intellectual property is complex, and wide consultation with Indigenous communities and other stakeholders is necessary. It is therefore a matter that Labor will

address as part of our ongoing policy development process, in partnership with Aboriginal and Torres Strait Islander people and the wider community. As I reported to the Senate previously, I have had fruitful discussions with Senator Ridgeway in recent days and look forward to the Senate having an opportunity to consider this important matter in some detail in the near future. In respect of this bill, Labor will support the appointment of an Indigenous representative on the Plant Breeders Rights Advisory Committee—a provision to be addressed later in this committee, and one that we hope will be supported by all honourable senators—but we will not be supporting this Democrat amendment (R13).

Democrat amendment (14) seeks to expand the specific grounds upon which an application for revocation of a PBR may be sought to include cultural, economic, social and environmental interests. It is already the case that the grounds upon which an application for revocation may be sought are not as narrow as those in respect of an objection to an application. Additionally—and for the reasons I have already outlined—the opposition does not believe every interest under the sun ought to be grounds for objection to a grant of rights under this act. We have the very important responsibility of ensuring that, when the amended Plant Breeder's Rights Act emerges from the parliament, Australia retains a functional plant intellectual property regime. We will not be supporting Democrat amendment (14). Democrat amendment (15) provides:

No fee shall be imposed for an application to revoke a PBR to the extent that the application is based on cultural, social or environmental interests.

There is no clear reason why the fee exemption proposed by the Democrats should apply and that the right's holder or the Plant Breeders Rights Office should be compelled to wear the costs in relation to a revocation application. We see no justification in the circumstances and will not be supporting Democrat amendment (15).

**Senator CHERRY (Queensland)** (5.35 p.m.)—I would like to respond very briefly to some of the points made by Senator

O'Brien before the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry responds. The notion of fees is a very important one in terms of the Plant Breeders Rights Scheme in getting the public interest assessed. As has been pointed out in the debate, the Heritage Seed Curators Association have done quite a bit of work in this area. In 1998 they did a major report on the whole issue of the Plant Breeders Rights Scheme in Australia. They identified 118 cases relating to Australian breeders which were dubious and possible cases of biopiracy from the international perspective. It is interesting that, in February 1998, the HSCA notified the Australian minister of the scope of this particular scandal. The then executive director, Mr Bill Hankin, said:

But when we asked him to take over the investigation, we were informed that we would have to pay several hundred dollars in government service charges for each variety! The total cost would run to about \$60,000—and this doesn't include legal fees. Voluntary, not-for-profit organizations can't afford to pay governments to do their job ... We've shown that systematic abuses are taking place and that plant patents are predatory on breeding work undertaken by farmers and indigenous peoples around the world. If the relevant authorities in the countries where the abuses are occurring won't act responsibly, we'll go to the governments of the farmers who are being ripped off.

The Democrats are quite concerned about those sorts of figures to simply get a public interest assessment going as to possible plant breeders rights abuses. That is why we have moved these amendments today. When you are dealing with the public interest, whilst the onus of developing information should obviously be in the community group raising that issue, we think that it should not require fundraising to the tune of \$60,000 to require that these matters be investigated. That is an extraordinary ask in an area that is of increasing concern. AID/WATCH, a well-known community group in Australia, produced a report on biopiracy only this year, very recently. In the conclusion of that report it is stated:

There is a pernicious process of accelerated genetic erosion threatening food security for the world's poorest people, the genetic engineering and patenting of living organisms by transnational

corporations. A system of open information and research channels once existed worldwide between public plant breeding institutions which extended right down to the small subsistence farmer. This system is now a serious of privatised research institutions, gene banks and corporate owned genes linked to licensed use by the privileged few. The process of dispossessing traditional communities from the care of, breeding and use of genetic resources has continued despite the widespread recognition that this has greatly contributed to the erosion of biodiversity.

I am pleased that Senator O'Brien did note the concerns about the issue of Indigenous rights and intellectual property rights in this area but, unless we ensure that the public interest can be identified, prosecuted and protected through the system that operates at the moment, we are not going to be able to ensure that these areas are adequately protected and enhanced, and our system will leave itself open to abuses into the future.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.39 p.m.)—The government will not be supporting this set of Democrat amendments—that is, (9) to (12), (R13), (14) and (15). I will comment generally on the reasons we are not supporting those amendments. With regard to amendment (9), currently objections to applications can be raised by those with a commercial interest. This qualification permits sale of the new variety pending a full examination of whether the criteria of distinctness, uniformity and stability have been met. It is simply an interim stage. The important step is that of grant, which is made only on achievement of the criteria, at which stage the grant is open to challenge and revocation by those whose interests are affected.

With regard to amendment (10) and some of the other comments that Senator Cherry made, I should point out that plant breeders rights is a cost recovery program. The administration of the program is based on equitable, non-discriminatory principles. It would be inequitable and discriminatory to allow uncotted challenges in respect of objections from exclusive groups. Such an approach would also run the risk of promoting

frivolous or vexatious challenges at the expense of the public purse.

I will also respond to amendment (R13) and point out again, at the risk of labouring the point, that plant breeders rights is non-discriminatory and protects the interests of Indigenous and non-Indigenous plant breeders alike. These proposals would be a disincentive to all Australians, including Indigenous breeders and communities, to develop new varieties from germplasm found in certain locations. Landrace varieties are already ineligible for PBR registration under the Australian act and under UPOV. Plant breeders rights—and I think I mentioned this earlier in the debate—only apply to new varieties that are distinguishable from existing varieties of common knowledge.

I again ask you to note that plant breeders rights coexist with other laws of the land, and it is unnecessary to attempt to replicate those laws in plant breeders rights. Traditional knowledge is a complex and, despite its name, new area in terms of its relationship with intellectual property, where traditional, national and international laws intersect. As such, there is a need to proceed carefully and to not simply tag concepts onto passing legislation irrespective of whether or not that is the appropriate legislation.

**Senator O'BRIEN** (Tasmania) (5.42 p.m.)—I want to briefly respond, particularly in relation to Democrat amendment (15) and the comments of Senator Cherry. I remind the Senate that we are talking about a removal of fees for certain types of applications. Those based on a risk of a threat to the environment could be dealt with in a number of ways, particularly through various state environment departments—and the Commonwealth, for that matter—which would affect the limitations or prohibitions which might be placed on the propagation of a plant if it were a danger to the environment, rather than using the intellectually property regime of this act as a means of addressing it.

The term 'social' is extremely broad. One can imagine that that could very well be the sort of claim that might fall into the vexatious area, and to exempt that from a cost recovery basis would be to throw open this regime to all and sundry to attempt to frus-

trate the regime for reasons that may not be clear to the Senate now.

In terms of claims based on a cultural basis, firstly, if it is to do with whether a plant is a landrace variety rather than a developed variety, we have already addressed that point. If it is because the plant has been developed from a landrace variety to become a variety eligible for treatment, this legislation would not differentiate it from others. But, as I have indicated, that issue ought properly be addressed in another form and not in this legislation. We do not believe that the basis of cost recovery for objections ought be removed from this legislation for applications for revocation of a plant breeders right at this stage, on the material that is before us. We think that the solutions to the problems sought to be addressed by the Democrat amendments generally in this area would be more appropriately dealt with by other legislation or in other ways. We will not be supporting the amendment.

**Senator CHERRY (Queensland)** (5.45 p.m.)—I have a very brief response. I wish I shared the confidence in government agencies in this area of plant breeders rights. It is interesting, again reading through the research done by Bill Hankin, that Australian agencies had to withdraw applications for plant breeders rights under pressure in five cases during the 1998 investigation that Heritage Seed Curators did of the PBR Scheme. The majority of those applications came from government agencies. One of the examples used in that particular report is a CSIRO application for a PBR overwrite of millet, which was essentially bought in Pakistan, trialled by the USDA and eventually obtained by the CSIRO in Queensland. They trialled the seed, did some selecting, and applied for a PBR and it was granted.

Again, this is just an example of the fact that in some of these areas, because government agencies in themselves are seeking to pursue lines of revenue—particularly research organisations that are under pressure—the public interest often gets lost in all of this. It is very disappointing that the public interest will not be protected in what we are talking about today. I certainly dispute the minister's description of a system as 'eq-

uitable' that expects a public interest group with no commercial interest in the particular matter of plant breeders rights, other than a concern about the broader issue of biopiracy, to raise up to \$60,000 through fund-raising before the government will even look at the issue of how the system will work.

Question negated.

**Senator CHERRY (Queensland)** (5.47 p.m.)—by leave—I move Democrat amendments (16), (17) and (18) on sheet 2606:

(16) Schedule 1, page 10 (after line 20), after item 30, insert:

#### 30A Subsection 49(1)

After "should be", insert "refused, revoked or made".

(17) Schedule 1, page 10 (after line 20), after item 30, insert:

#### 30B After subsection 49(1)

Insert:

(1A) The Minister must refer to the Plant Breeder's Rights Advisory Committee the question whether a grant of PBR that the Minister proposes to make, or an existing grant of PBR, should be refused, revoked or made subject to conditions, if the Minister is satisfied that:

- (a) the plant variety is likely to become an invasive species; or
- (b) the plant variety is a genetically modified plant that has the potential to establish itself in the wild.

(18) Schedule 1, page 11 (after line 10) after item 34, insert:

#### 34A Paragraphs 64(1)(d) and (e)

Repeal the paragraphs, substitute:

(d) one member who will:

- (i) be appointed by the Minister following nominations from either a national consumer organisation that is recognised by the sector as representing the interests of consumers, or an organisation that has traditionally conducted such nomination processes on behalf of consumers;
- (ii) represent the interests of all consumers and likely consumers of new plant varieties or of the products of new plant varieties; and

- (iii) have the necessary skills and expertise to carry out the functions of the Advisory Committee.
- (e) one member who will:
  - (i) be appointed by the Minister following nominations from either a national conservation organisation that is recognised by the sector as representing the interests of conservationists, or an organisation that has traditionally conducted such nomination processes on behalf of the sector;
  - (ii) represent conservation interests in relation to new plant varieties and the potential impacts of new plant varieties; and
  - (iii) have the necessary skills and expertise to carry out the functions of the Advisory Committee.
- (f) one member who will:
  - (i) be appointed by the Minister following nominations from either a national indigenous organisation that is recognised by indigenous Australians as representing their interests, or an organisation that has traditionally conducted such nomination processes on behalf of indigenous Australians;
  - (ii) represent indigenous interests in relation to new plant varieties and the potential impacts of new plant varieties; and
  - (iii) have the necessary skills and expertise to carry out the functions of the Advisory Committee.

These amendments relate to the PBR Advisory Committee. Section 49 currently gives the minister discretion to refer matters to an advisory committee, which may recommend that the PBR be granted subject to conditions. In other words, if an application is referred to the committee, the committee's only role can be to recommend conditions. In the way that the act is currently worded, the committee cannot recommend rejection of a PBR application, nor can it recommend revocation of an existing PBR. It is unclear why the role of an expert advisory committee is so seriously circumscribed, but the Australian Democrat amendments ensure that the expertise of the committee is actually used.

Amendment (17) requires referral to the committee if the minister is satisfied that the plant variety may become an invasive species or that it is a genetically modified plant which may become established in the wild. Once a matter is referred to the committee under these amendments, it may advise revocation, rejection or that the grant should be made subject to conditions. This does not prevent referral for other matters that have traditionally been entirely discretionary.

Amendment (18) amends section 64 of the Plant Breeder's Rights Act, relating to the composition of the advisory committee. Currently there are three problems with the composition of the committee: there is no environmental or conservation representative on the committee, although there are clearly interests in the environmental community regarding the introduction of plant breeders rights varieties to the Australian landscape; there is no representative of Aboriginal interests, despite the history of bio-piracy in Australia from Aboriginal communities; and the person appointed as consumer representative has been understood to be required only to represent a portion of those consumers who may be affected by a grant of a plant breeders right.

The current consumer representative does not represent broad consumer interest at all; I am advised that he is a member of the National Agricultural Commodities Marketing Association, representing growers and agribusiness. He may, for all we know, have represented all consumers in the advice he has provided, but it is quite clear that his expertise as a consumer representative is in quite a narrow area of consumer affairs. In the Democrats' view this is not good enough. The consumer representative must represent broad consumer interests, not corporate consumer interests. If the government cannot fulfil the role of the committee to represent consumer interests then it is clear that the terms of the act must be changed so that it is absolutely clear what interests are being represented.

The Democrats are also seeking to amend the method of nominating and appointing the new members to ensure that these appointments respect the rights of sectors of the

community to have a say in the process of which representatives are selected. Too often we have seen environment, Aboriginal or consumer representatives that do not represent the people, community or organisations that they are intended to represent.

Broadly, these concerns about the act are not new. The Australian Democrats were raising similar concerns in 1994 when the plant variety act was amended, which was the precursor to this act. What has changed now is that we have had the opportunity to examine the operation of the Plant Breeders Rights Scheme in Australia. What the Democrats have seen is disturbing and it is made more disturbing by the government's apparent deep devotion to the introduction of commercial genetically modified crops to Australia, despite a host of unresolved concerns. There is obviously a need for a deeper and broader examination of these issues, and we hope that a broader based advisory committee will ensure that that occurs.

**Senator O'BRIEN (Tasmania)** (5.50 p.m.)—I will deal with the amendments in the order in which they were moved—that is, I will deal with amendment (18), amendment (16) and then amendment (17). In relation to amendment (18), which concerns the composition of the Plant Breeders Rights Advisory Committee, the opposition do support the inclusion of members representing conservation and Indigenous interests on the committee but we do not support their inclusion in terms of this Democrat amendment. The Plant Breeders Rights Advisory Committee performs an important role in the provision of advice to the minister and the registrar of the PBR Scheme. We contend that the representation of conservation and Indigenous interests will provide a substantial boost to the advisory capacity of the committee. It is clear that the expanded committee will encompass a greater breadth of experience and knowledge and, in our view, the addition of a member representing Indigenous interests is particularly important. More than 10 per cent of plant breeders rights applications concern indigenous plants. An Indigenous representative on the committee will play a key role in respect of advice on indigenous plant intellectual property matters, in addition to

advice on general matters that come before the committee.

The Democrat amendment to this section of the act, however, creates an unwieldy appointment process for three members only—a process, I might say, that completely ignores the method of appointment for the other members. The amendment also denies the minister the existing opportunity to appoint two members solely based on their capacity to contribute to the work of the advisory committee. I am concerned that the form of the Democrat amendment betrays a serious disregard for the operability of the Plant Breeders Rights Scheme. Additionally, and despite my office advising the office of the Leader of the Democrats of this fact, the Democrats have failed to seek amendment to the act to provide remuneration for the Indigenous representative on the advisory committee. The opposition will not support the Democrat amendment. The opposition's amendment has been circulated and will be moved in due course.

In relation to Democrat amendment (16), which seeks to change the role of the Plant Breeders Rights Advisory Committee by providing the committee can provide advice on whether a proposed or existing plant breeder's rights grant should be refused, revoked or made, the current section 49(1) provides that the minister may seek advice from the committee on whether conditions should apply to proposed or existing grants. The amendment is sought in a section of the act that provides authority to the minister to impose conditions on a plant breeders rights grant with or without referral to the Plant Breeders Rights Advisory Committee. Without evidence that the committee currently lacks the opportunity to perform a meaningful role, the opposition cannot support the amendment.

In relation to Democrat amendment (17), which provides that the minister must refer certain applications to the PBR Advisory Committee for advice on whether to review, revoke or impose conditions, these applications are those relating to plant varieties likely to become invasive species or genetically modified plant varieties that have the potential to establish in the wild. The further

attempt to deal with invasive species and GM plants is inappropriate in the context of this legislation, as I have stated earlier in the debate in the committee stage of this bill. The Plant Breeder's Rights Act establishes proprietary rights for breeders of new plants; it does not regulate or control their creation or distribution. As I have said earlier, merely to insert these sorts of provisions into this act would not necessarily have the effect which is desired by the Democrats. This is the wrong legislation for the pursuit of these objectives. The opposition will not support these amendments.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.54 p.m.)—The government will not be supporting these amendments either. The membership of the advisory committee is already open to consumers, conservationists, Indigenous people, breeders, users and others that the minister considers to have appropriate qualifications and experience. Individuals are selected on merit. We believe not to represent vested interests and all vacancies are advertised. Further, we see it as inappropriate to attempt to involve plant breeders rights and the committee in issues of weediness, genetically modified organisms et cetera, as we believe these are properly dealt with in other specific legislation. We will not be supporting the amendments.

Question negatived.

**Senator O'BRIEN** (Tasmania) (5.55 p.m.)—by leave—I move opposition amendments (1) to (3) on sheet 2658:

(1) Schedule 1, page 11 (after line 10), after item 34, insert:

#### 34A Paragraph 64(1)(e)

Repeal the paragraph, substitute:

- (e) one member who will represent the conservation interests in relation to new plant varieties and the potential impacts of new plant varieties; and
- (f) one member who will represent indigenous Australian interests in relation to new plant varieties and the source, use and impacts of new plant varieties; and
- (g) 2 other members who, in the opinion of the Minister, possess qualifi-

cations or experience that are appropriate for a member of the Advisory Committee.

(2) Schedule 1, page 11 (after line 10), after item 34, insert:

#### 34B Subsection 65(1)

Omit “and (e)”, substitute “, (e), (f) and (g)”.

(3) Schedule 1, page 11 (after line 10), after item 34, insert:

#### 34C Subsection 67(2)

Repeal the subsection, substitute:

(2) At a meeting of the Advisory Committee, 5 members constitute a quorum.

As I indicated earlier, the opposition does support the inclusion of members of the advisory committee representing conservation and Indigenous interests for the reasons that I outlined in the debate on the previous group of amendments. Our amendments add these two members to the existing committee, provide for their remuneration and make a consequential change to the committee quorum. It is our view that they will, without impeding the work of the committee, add to its standing and, indeed, add to its ability to perform its appropriate functions without offending the aims of this legislation and without seeking to take it beyond the area of work in which it is intended to perform. I commend the amendments to the chamber.

**Senator CHERRY** (Queensland) (5.57 p.m.)—The Democrats will support these amendments as a first meaningful step in ensuring that we do start the process of properly and fully recognising the intellectual property rights issues of Indigenous people in this very important area of law. It is important that Indigenous people are routinely involved in the administration of laws which relate to their intellectual property rights. This is why the Democrats have advocated that an Indigenous representative be added to the advisory committee and why we are supporting the Labor Party amendments in this regard. We do note, however, that the Labor Party's amendment does leave the matter of who is appointed and how they are appointed solely to the minister's discretion, which is somewhat different from our amendment.

However, we still commend to the chamber our amendments in relation to the addition of Indigenous and conservation representatives to the committee. We think it is important that anyone who is appointed to the committee has the support of the group or sector that they are there to represent. One way of ensuring that would be to require that a representative national body such as ATSIC or the Australian Conservation Foundation nominate potential candidates for membership. These nominations could then be considered by the minister who would appoint an Indigenous or a conservation representative. Anyone appointed to the committee to represent Indigenous or conservation interests would need the necessary skills and expertise to carry out the functions of the advisory committee, which are currently limited to highly technical functions. While this should be taken as a given, experience has shown us that all facets of ministerial responsibility need to be spelt out rather than be left to their discretion or interpretation or historical precedent. We recognise that the ALP's amendments at least achieve recognition of the role that Indigenous and conservation representatives should have in the administration of the Plant Breeders Rights Scheme. But we do question the wisdom of leaving the minister to decide who is appropriate to represent Indigenous and conservation interests and what level of skills, experience and expertise this person requires to fulfil their responsibilities as a member of the committee.

On behalf of Senator Ridgeway, who has been unable to join our debate today but has been following it very closely, I note in passing the preparedness of the Labor Party to consider further investigation of these issues—something which we welcome and which we are looking forward to playing a constructive role in. The Democrats want to take this opportunity to call on both the government and the opposition to give their in-principle support to an appropriate Senate inquiry to examine the issue of how our legal system can be amended to recognise and protect Indigenous cultural and intellectual property rights in relation to plant material and biodiversity more generally.

It is clear that Australia has signed on to international treaties, such as the Convention on Biological Diversity, that require us to recognise, protect and maintain Indigenous traditional knowledge, innovations and practices. It is high time that our government gave effect to these obligations in domestic laws. This is something that Terri Janke, Henrietta Fournile-Marrie and Michael Davis have all stressed in their advice to the Democrats on this matter. It is important that a Senate inquiry should examine the recent developments at the international level, such as article 8(j) of the Convention on Biological Diversity, the International Treaty on Plant Genetic Resources for Food and Agriculture, and the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore.

Each of these instruments should be guiding the legal and policy measures developed by the Australian community to recognise, protect and maintain Indigenous intellectual property rights associated with traditional knowledge, innovation and practices, especially as they relate to plants and seeds. If this chamber believes that these types of amendments are not able to be incorporated in the bill, then an inquiry should be given the scope to examine and report on the feasibility of introducing *sui generis* laws to give effect to our international obligations to Indigenous Australians. After all, it is a key part of the vision of the Council for Aboriginal Reconciliation that we should be working towards, which states:

A united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (6.01 p.m.)—I have already pointed out that the government believes that membership of the committee is already open to any of those individuals that the minister considers to have appropriate qualifications and experience. I will not repeat my earlier remarks. We will not be opposing this amendment, but we re-

iterate the fact that we believe that it is unnecessary.

**Senator O'BRIEN (Tasmania)** (6.02 p.m.)—I welcome the response of the government, which I think is important and is a reflection of the fact that this amendment does no harm to the functioning of the regime of plant breeders rights. In relation to many of the comments made by Senator Cherry, I would refer him to comments I have already made in the debate. In relation to the proposals which were reiterated about the selection process contained in amendment (18), I think that we are talking about complexities which would not necessarily add anything to the process of representation. I would strongly urge the government, in considering appointment, to consult with the conservation organisations. I know there are a number of them, so it is difficult to prescribe a process of determining just who would make the recommendation, but I would urge the government to consult with those organisations and certainly with ATSIC about appropriate members of the advisory committee from those organisations' point of view. It is the opposition's belief that, until it is established that it is not possible for the regime that we propose to function, we are satisfied with the regime we propose for the minister to appoint.

Question agreed to.

**Senator CHERRY (Queensland)** (6.04 p.m.)—I move Democrat amendment (3) on sheet 2606:

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

**1A Subsection 3(1)**

Insert:

*indigenous* means:

- (a) a member of the Aboriginal race of Australia; or
- (b) a descendant of the indigenous inhabitants of the Torres Strait Islands.

Amendment (3) is fairly simple. It seeks to insert a definition of 'indigenous' into the act, which obviously feeds through to the amendment which the Senate has just passed. The definition follows normal jurisprudence, in terms of defining 'indigenous' to cover a member of the Aboriginal race of Australia

or a descendant of the indigenous inhabitants of the Torres Strait Islands. I think it is self-explanatory.

**Senator O'BRIEN (Tasmania)** (6.05 p.m.)—As previously indicated, the opposition supports this amendment.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

**Third Reading**

**Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry)** (6.06 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**HEALTH INSURANCE AMENDMENT (PROFESSIONAL SERVICES REVIEW AND OTHER MATTERS) BILL 2002**

**Second Reading**

Debate resumed from 11 November, on motion by **Senator Kemp**:

That this bill be now read a second time.

**Senator CHRIS EVANS (Western Australia)** (6.06 p.m.)—I rise to speak on behalf of the Labor Party on the **Health Insurance Amendment (Professional Services Review and Other Matters) Bill 2002**. I foreshadow that I will be moving, on behalf of the ALP, an amendment at the committee stage that removes an age based inequality relating to cleft lip and palate sufferers which the bill perpetuates in the Health Insurance Act. This bill makes some technical improvements to the implementation of the Professional Services Review Scheme as well as increasing the age past which people who suffer from cleft lip or cleft palate can claim Medicare benefits for their treatment. However, the government has, unfortunately, not seen fit to remove the age barrier entirely or to allow all those who need further treatment for cleft lip or cleft palate to claim Medicare benefits rather than just those who happen to be under 28 years of age.

Before talking further about the proposed amendment that the ALP is seeking to have

inserted in the bill to correct this inequality, I will deal with those parts of the bill that change the application of the Professional Services Review Scheme. The bill amends the Health Insurance Act 1973 to clarify the operation of the professional services reviewed in the PSR Scheme. This is the scheme which regulates fraud and inappropriate practice, in particular overservicing in relation to medical services. A major focus of the Professional Services Review Scheme is to prevent, detect and investigate fraud and inappropriate practice with regard to medical services for which a benefit has been paid under Medicare. Under the PSR Scheme there is a stage process in which statistically high servicing is investigated and any resultant clinically inappropriate practice identified.

The amendments contained in this bill seek to fix the problems identified with amendments passed in 1999, which were the subject of legal challenge. The amendments relate to five main areas. These include the objects and outline clauses, which are tightened, and the investigative referral process, which is replaced with a request process. A formal review stage is included, which follows on from the investigative referral request, and the need to particularise the conduct of medical practitioners and its effect on jurisdiction is clarified, and there is increased procedural fairness protection at various stages. These amendments are all technical in nature. They are designed fundamentally to ensure that the investigation of fraudulent and other inappropriate medical practices is not subject to legal and administrative challenge. Labor is not aware that members of the medical profession or its representative organisations, such as the AMA, have raised any concerns relating to the provisions of the bill. On that basis, and because they strike us as good policy, the ALP supports them.

The other area this bill amends relates to cleft lip and cleft palate sufferers. The bill seeks to amend the Health Insurance Act 1973 to extend the Medicare eligibility for cleft lip and cleft palate sufferers who have been certified by the minister before their 22nd birthday, allowing them to claim until

their 28th birthday. Medicare treatment is currently available for a prescribed dental patient, defined in this context as a person under 22 years who suffers from a cleft lip or cleft palate condition that has been certified by an approved doctor or dentist. The bill will extend this definition to persons under 28 years of age who have been certified as suffering a cleft lip or cleft palate condition before their 22nd birthday. The extension of the age limit to 28 is in recognition of the fact that the jaw continues to grow up to this age. The opposition supports that measure. However, we argue that it does not go far enough. More specifically, we argue that it creates inequalities based on age alone.

The amendment excludes Australians who were operated on as children to correct cleft lip and cleft palate but who now need further medical care. It takes into account those who need treatment throughout the period of the maturing of the jaw, but it does not take into account a range of other sufferers of cleft lip and cleft palate; namely, those who need further treatment after age 28 because of complications and those whose lives would be significantly enhanced by the superior modern techniques that were not available to sufferers 30 years ago. Thus, we believe the amendment is inequitable because, if passed, the small number of Australians who are aged over 28 years but who suffer ongoing discomfort or disfigurement because of their childhood cleft lip or palate condition cannot claim Medicare benefits for further treatment.

The Labor Party has listened favourably to the arguments put by Cleftpals, which is a volunteer support group for people born with cleft lip or cleft palate and their families, that a small number of Australians born with this condition will continue to need treatment after the age of 28. This small but significant class of Australians—perhaps only a few hundred—who are arbitrarily cut off by virtue of their age from Medicare funded treatment may be unable to afford the more advanced clinical procedures now available. The extension of the cut-off period to the age of 28, contained in schedule 2 of the bill, will not help those people who have been unable

to access more advanced clinical procedures simply because they are over 28 years of age.

The government have estimated that the amendment, as proposed in their bill, to increase the upper age limit for cleft palate treatment will result in 'only a small financial increase to Medicare'. The explanatory memorandum does not quantify the amount of the increase. It states:

The Department has been advised that a minimal number of existing patients would require continuing care beyond that which is now provided.

In extending the availability of cleft palate treatment to persons aged over 28, the government acknowledges that there will be some additional costs to Medicare but that they will not be substantial. However, the government has failed to quantify what these additional costs will be, let alone tried to justify the cut-off age of 28 by reference to any estimated cost of extending Medicare benefits to all those who need additional treatment. The government, having failed to quantify the cost even for those from the age of 22 to 28, has opposed the representations of Cleftpals to extend the age limit for treatment beyond 28.

I want to take the opportunity to quote in some detail from representations made by Cleftpals. Those representations convey the extent of medical intervention some people need—some over a very long period. Cleftpals state:

Any child born with a cleft condition needs many years of ongoing treatment in a wide spectrum of specialist areas however, in some cases dental treatment and some areas of reconstructive plastic surgery may be required throughout the person's life. The level of intervention and treatment can range from minimal in the case of a cleft lip child through to intensive with many years of ongoing speech therapy, palatal surgery, orthodontic work, dental procedures, bone grafts, hospitalisations and countless hours spent in appointments and check-ups.

It goes on:

... many cleft affected adults express despair at the inability to afford essential dental and orthodontic treatment, which is directly a result of their cleft birth defect, many problems are related to dental deterioration and includes the use of implants to strengthen bridgework. Many of these

adults have had treatment over 25 years ago when reconstructive maxillofacial plastic surgery and dental treatment was not as advanced as the services cleft affected children in Australia receive today.

Because it would require additional financial cost to the Commonwealth to extend treatment to those beyond the age of 28, I will be seeking to move an amendment in the committee stage which seeks to broaden the entitlement and carry through the logic of the argument I have put today. The thrust of the amendment will be to support the new categories of cleft lip and palate sufferers who can become Medicare beneficiaries under schedule 2, and to extend treatment beyond the age of 27 if certified and determined by the minister. The public policy rationale for this is that, by the government's own admission, the financial implications for the health budget are very small, yet the personal and financial implications for those aged over 28 who may need further treatment for their inherited condition of cleft lip or palate are great because of the amount of intervention that is needed in some cases.

In general, I compliment the government on the bill that has been put before the Senate. It makes necessary improvements to the efficacy of the Professional Services Review Scheme. It also increases the number of people suffering from cleft lip or palate who can have Medicare-supported treatment. This condition is a terrible affliction for the small number of people who suffer from it. However, the consequences for the taxpayer of assisting all sufferers regardless of their age are, in the scheme of things, relatively small, hence the argument for our amendment. As I said, we will move that amendment during the committee stage of the debate, but I commend the bill to the Senate.

**Senator ALLISON (Victoria)** (6.16 p.m.)—The Democrats are also supportive of the *Health Insurance Amendment (Professional Services Review and Other Matters) Bill 2002*, which, as Senator Evans has said, is largely technical. The Professional Services Review has a long and, some would say, traumatic history. The review does not monitor the quality of service a doctor gives, of course, but it monitors the conditions un-

der which doctors bill Medicare. This is an administrative means of controlling Medicare claims. The review process is triggered by assessing in a statistical manner the number of services, prescriptions or referrals a doctor does in relation to his or her peers.

The amendments seek to fix the problems identified in the 1999 amendments. They relate to four main areas: firstly, the objects and outline clauses and the replacement of the investigative referral process with a request process; secondly, the inclusion of a formal review stage following the investigative referral request; thirdly, clarification of the need to particularise conduct and its effect on jurisdiction; and fourthly, the increasing of procedural fairness protection at various stages. The PSR scheme has four tiers. The first three relate to determining where a medical practitioner has engaged in inappropriate practice and the fourth involves the imposition of a sanction. As I understand it, this matter was not referred to a committee. There are a number of questions I would like to ask about how this affects rural doctors and arrangements with regard to specialists. But I will raise some questions during the committee stage of this bill.

The Democrats will be supporting Labor's amendment with regard to cleft lip and cleft palate. Under schedule 3 presently, a prescribed dental patient is a person under 22 years of age who suffers from a cleft lip or palate and has been certified by an approved doctor or dentist. It is also any person who suffers from another condition that has been certified by an approved doctor. The bill extends the definition of a 'dental patient' to persons under 28 years who have been certified as suffering cleft palate or lip before the age of 22. It does not attempt to increase the age for people suffering those conditions and, as Senator Evans has indicated, the jaw continues to grow during this period, apparently. This is an important reason for supporting the bill.

We can also see that there are inequalities. In fact, according to the library alert, consultation with the Australian Dental Association has indicated that, while that organisation supports the extension of the age limit to 28 for clinical reasons, the Dental Asso-

ciation also supports the extension of access to the scheme throughout life. This corresponds with the position of Cleftpals, a volunteer non-profit organisation that supports people who are involved with cleft lips and/or palates. Cleftpals maintains that access to treatment over the life span more accurately reflects the clinical needs of people born with cleft lip or cleft palate. This position is informed by the need for some people with cleft lip and/or palate to continue to receive treatment after the age of 28 for their condition. Additionally, Cleftpals argues that those people who initially received treatment many years ago are unable to access more advanced clinical procedures because of the age cut-off. An extension of this cut-off period to the age of 28 will not significantly help those people who have been unable to access more advanced clinical procedures because of age.

The Democrats will be keen to see Labor's amendments. At this stage I doubt that we will have amendments to the bill, but I do know that anyone, whether it is a person with a cleft palate or otherwise, has a great deal of difficulty accessing appropriate dental services. I note that, in Victoria, the waiting list for dental health services has now reached 200,000 people. So it is urgent, I think, that this is solved.

**Senator Patterson**—Let the states do something about it!

**Senator Allison**—The minister would no doubt say that it is the business of the states but, as we all know, in 1996 that service was cut as a federal program. I look forward to the debate on this bill.

**Senator Patterson (Victoria—Minister for Health and Ageing)** (6.21 p.m.)—I thank honourable senators for their contributions. I note that the opposition has commended the proposed amendments. Indeed, it has maintained the longstanding bipartisan support of the **Health Insurance Amendment (Professional Services Review and Other Matters) Bill 2002** in recognition of the important role it plays in underpinning the quality of our health services. I will not go into any more detail about that, because it is really very clearly outlined in the second reading speech.

As has been noted, the bill also proposes changes to the cleft lip and cleft palate scheme. The proposed changes will enable eligible persons requiring ongoing treatment for cleft lip and cleft palate conditions to claim Medicare benefits under the cleft lip and cleft palate scheme until their 28th birthday. I think this is an important amendment because, under the current arrangements, in order to be eligible for Medicare benefits for cleft lip and cleft palate treatment a patient must be a person who has not attained the age of 22 years.

The current age limit was established on the basis that cleft lip and cleft palate patients would generally have completed most specialist dental work associated with their condition once their facial growth was complete. However, the age of 22 years has created some difficulties, as some patients require ongoing treatment beyond their 22nd birthday because their facial growth continues or their scheduled surgery has not been possible until after they have attained 22 years of age. The Department of Health and Ageing has advised that only a small number of existing patients would require continuing care beyond that which is now provided, so this measure will have minimal impact on Medicare outlays.

I anticipate that there may be an amendment. I believe that discussions are currently under way regarding this amendment, which I guess will be moved during the committee stage of consideration of the bill. The bill also contains minor technical amendments to remove redundant definitions in section 3 of the Health Insurance Act relating to health care cards and pensioner concession cards. I thank honourable senators for their contributions.

I cannot resist the temptation to respond to Senator Allison's indicating that the Commonwealth had cut a benefit. Senator Allison, the states have been responsible for dental care since 1901. They were doing such an appalling job of it that the Keating government, in an election pledge, committed \$100 million over four years to assist the states in reducing their waiting lists. We have given the states a 28 per cent real increase in their health care agreements over the last five

years—a \$3 billion windfall—when we have not taken money back from the states with an increase in private health insurance. They now have adequate resources to deliver an appropriate public dental health scheme. They have had that responsibility for 101 years, and all the states ought to get their act together and deliver an appropriate dental health scheme.

Painful as it was, and no government would do it to get re-elected, we have now brought in a goods and services tax—a growth tax. We have given that money to the states, and the states should use it responsibly to deliver the sorts of services that the public require, such as services in dental health. That is why we went through the pain of bringing in a GST. We were operating on a ramshackle wholesale sales tax system that did not have growth in it. People were relying more and more on services and spending their money on services—getting their dogs washed, getting their hair done, eating at restaurants—and these things that the rich spend their money on were not taxed. They are now being taxed through the GST. That money is a growth tax which the states should use, and the health sector ought to be strongly lobbying the states to get its fair share of that growth tax. I had to respond to Senator Allison's remark because the Commonwealth has given the states a growth tax and the states now have to take the responsibility of delivering appropriate health services to their constituents. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

### In Committee

Bill—by leave—taken as a whole.

**Senator ALLISON (Victoria)** (6.26 p.m.)—As I indicated in my speech at the second reading stage, I apologise for coming to this issue as one newly responsible for this portfolio. Minister Patterson, could you indicate what arrangements, if any, will be put in place under the **Health Insurance Amendment (Professional Services Review and Other Matters) Bill 2002** to protect rural doctors, in particular—who may have different profiles from GPs in metropolitan ar-

eas—with respect to investigation of these matters? Could you also clarify whether there are special arrangements in place for specialists—who, one would presume, have out of the ordinary prescriptive and other patterns—and whether in fact it applies to specialist doctors?

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (6.27 p.m.)—Senator Allison, are you asking about specialist doctors or GPs?

**Senator ALLISON (Victoria)** (6.28 p.m.)—Minister, it might not be an appropriate question to ask, but I wonder whether the Professional Services Review takes into account the sorts of different patterns which rural doctors might experience, whether this applies to specialists as well as to GPs and, if so, whether there are special arrangements in place to take account of the kind of work they do. It seems likely that this is the case, but I ask for your confirmation that that is so.

**Senator PATTERSON (Victoria—Minister for Health and Ageing)** (6.28 p.m.)—I am sorry to be brief, Senator Allison, but in 1½ minutes I will have to go to the Pharmacy Guild dinner and I have got leave to do so. The PSR process does take into consideration the demographics of, and availability of doctors in, a particular region. This can occur at the time when a request is made by the Health Insurance Commission, when a review is undertaken by the director of PSR and during an investigation. It does take into account the fact that you may get different patterns of volume depending on where the doctor is located, how many doctors there are and the profile—if they are older people or whatever. Also, it does apply to both specialists and GPs. I hope that answers your question. I believe Senator Campbell will be taking the *Health Insurance Amendment (Professional Services Review and Other Matters) Bill 2002* through the rest of the discussion. If the amendment is as we have discussed beforehand—and we need to make sure that it is the amendment we agreed to before—I believe that the coalition will be supporting it. I thank honourable senators for their contributions.

**Sitting suspended from 6.30 p.m. to 7.30 p.m.**

**Senator CHRIS EVANS (Western Australia)** (7.30 p.m.)—I move:

- (1) Schedule 2, item 2, page 36 (after line 24), after subsection (2), insert:
  - (2A) A person is also a *prescribed dental patient*, in relation to a particular course of treatment, if:
    - (a) before the person attained the age of 22 years, an approved medical practitioner or dental practitioner issued a certificate that states that the person is suffering from a cleft lip or a cleft palate condition; and
    - (b) the person has attained the age of 28 years; and
    - (c) before the person attained the age of 28 years, he or she received treatment for the condition; and
    - (d) the Minister declares in writing that he or she is satisfied that:
      - (i) because of exceptional circumstances, the person requires repair of previous reconstructive surgery in connection with the condition; and
      - (ii) the person therefore needs to undergo that course of treatment.

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

A small number of people with cleft lip or cleft palate may continue to need treatment after the age of 28 for their condition. The amendment will allow the Minister to authorise treatment for persons above the age of 28 years who, because of exceptional circumstances, require repair of previous reconstructive work in connection with their cleft palate or cleft lip condition.

This extension of benefits under the bill will have the effect of increasing expenditure under a standing appropriation in section 125 of the Health Insurance Act 1973, and the amendment is therefore presented as a request.

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

The Senate has long accepted that an amendment should take the form of a request if it would have the effect of increasing expenditure under a standing appropriation in an Act amended by the bill. This request is therefore in accordance with the precedents of the Senate.

The request circulated in my name to the *Health Insurance Amendment (Professional*

Services Review and Other Matters) Bill 2002 seeks to amend schedule 2 to implement the argument that I put during the second reading debate for extending the Medicare provisions to include those persons with cleft lip or palate conditions who are beyond the age of 28. This bill, in part, seeks to lift the entitlement to applicable treatment to those up to the age of 28 years. We have been seeking to extend that more generally and have drafted a request that seeks to give effect to that wider entitlement. I understand that the Minister for Health and Ageing, based on a brief discussion I had with her before dinner, accepts the request. Obviously, Senator Campbell will be well on top of the issue and will be able to advise us formally whether that is the case, but my indication is that, following some discussions between the opposition and the government, there is likely to be some support for that. I think the Democrats are happy with this approach as well. This matter has been debated in the House of Representatives and has been the subject of discussion for some time. In formally moving this request, I hope that it receives support.

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (7.32 p.m.)—For the record, there have been constructive negotiations between Senator Evans, on behalf of the opposition, and the Minister for Health and Ageing. The government is happy to support the request as moved.

Question agreed to.

Bill agreed to, subject to request.

Bill reported with request; report adopted.

**MEMBERS OF PARLIAMENT (LIFE GOLD PASS) BILL 2002**

**Consideration of House of Representatives Message**

Consideration resumed.

*(Quorum formed)*

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (7.37 p.m.)—I move:

That the committee does not further press its request for an amendment not made by the House of Representatives.

**Senator FAULKNER** (New South Wales—Leader of the Opposition in the Senate) (7.37 p.m.)—We had an extraordinary circumstance in the House of Representatives at the end of the last sitting week, where proper debate on important bills was up-ended and overturned in order for the message on the Members of Parliament (Life Gold Pass) Bill 2002 to be dealt with in the House of Representatives. There has been a lot of log rolling, of course, going on in the government about this issue. You might recall, Mr Temporary Chairman, that this debate has been about an opposition proposal in relation to the definition of ‘spouse’. The opposition proposed that this definition be used:

... spouse in relation to a person includes another person who, although not legally married to the person, lives with the person on a bona fide domestic basis as the husband or wife of the person.

This is a definition that applies in a raft of other Commonwealth legislation, including legislation that deals with parliamentary entitlements. Of course, the minister responsible, Senator Abetz, has decided that he can act in this matter like some sort of latter-day moral policeman, and he certainly wants to make sure that we do not have the same entitlements flowing through to de facto spouses as do to de jure spouses. The minister has made perfectly clear what his concerns are. On page 5194 of the Senate *Proof Hansard* of 16 October 2002, no less an authority—if it is possible to have a lesser authority—than Senator Abetz himself said:

Can I also draw the attention of honourable senators to a defect which I believe is contained in both Senator Murray’s and Senator Faulkner’s amendments. Where the amendment says ‘spouse in relation to a person, includes’ it must be considering the possibility of other definitions or possibilities. It is not trying to cover the field; therefore, potentially under both Senator Murray’s and Senator Faulkner’s amendments you could have the possibility of somebody being legally married still and having a de facto spouse, and both of them benefiting from the amendments that are being put forward today.

That is the sort of logic that you deal with from ministers of this government like Senator Abetz. It is the menage a trois argument that is being propounded here by

Senator Abetz. He is somehow suggesting that you bring your legally married spouse and, apparently, your mistress on trips and you try to ensure that gold pass travel entitlements apply to both of them. This is just absurd. This really is absurd. I did say the last time we debated this matter that Senator Abetz ought to see if he can claw his way out of the 19th century and perhaps park himself somewhere in the 20th century or, heaven forbid, perhaps even in the 21st century and we ought to get on with it.

Hundreds of thousands of Australians live in de facto relationships, recognised by most in our community with the exception of the minister at the table. It seems to me that there is no problem at all in having the definition of spouse applying to benefits that would flow to a gold pass holder applying to the definition of spouse applying under the Parliamentary Entitlements Act. It would be an absolute anomaly if we were to apply Senator Abetz's antiquated and Victorian definition to the life gold pass legislation. That is what we are now facing in this debate. Of course, the government saw this as such a high priority that important debate in the House of Representatives at the end of the last sitting week, with division after division, was up-ended so that the House could pass judgment on the message of the Senate in this important matter.

It is important to say that this is not the most significant issue that this chamber is going to deal with. However, I think it is an important matter of principle to recognise that not all Australians, and not even all members of parliament, have decided to walk down the aisle of a church or go to a registry office, as Senator Abetz is insisting they do if entitlements are to flow through to spouses or partners of members of parliament.

You really do have to wonder why on earth the government would bother. This is an extraordinary proposition from the government and from Senator Abetz. It is quite remarkable that the government cannot see the good sense of what has been proposed by the opposition. It makes good sense in a modern society. I have absolute confidence that the Department of Finance and Admini-

stration, as they currently do in relation to their administration of parliamentary entitlements, would be able to deal with this matter absolutely adequately. We have had a preposterous position put forward by the minister. It is absurd. It is ludicrous. It is so hidebound. It is so judgmental and reactionary. It is archaic. It is so nonsensical that, honestly, only Senator Abetz could have come up with it. There would not be another minister, not even in the Howard government, who would put this preposterous position to the parliament in relation to de facto spouses.

At the end of the day, I think we have argued this case effectively; I think we have made a very strong case indeed. I have indicated that, in the broad, the Labor Party support the legislation before the chamber. We support capping gold pass entitlements for both gold pass holders and their legally married spouses. We certainly support removing the entitlement from corrupt parliamentarians and former parliamentarians. We have no argument with the broad thrust of the legislation. We would like to see the legislation modernised. We would like to see the legislation conform with the definition of 'spouse' that exists in the Parliamentary Entitlements Act. We would like to see the legislation with an up-to-date definition of 'spouse'; but, because of the minister's prejudice, because of the minister's hidebound and moralistic opinions, that is not going to be the case.

We would have liked to have seen the government give priority to a raft of other legislation over this one. I think there will be many in the community—including, I am sure, many who have seen fit to vote for conservative parties—who have not signed a marriage certificate or been 'churched' if you prefer the terminology that Senator Abetz prefers to use. This is a most demeaning performance from Senator Abetz and the government. It shows how out of touch they are with modern Australian lifestyles and the practice of so many in our community. But it is, of course, the sort of view that you would expect from someone who wears his prejudices on his sleeve, as Senator Abetz does.

I do not think it is worth taking this any further. It is certainly not worth asking those in the government whose minds are clearly made up, even though a number of members of the government have talked to me privately and have said how outrageous they think this is and how appalled they are by Senator Abetz's behaviour. Senior members of the government came and said that they expected the government would not proceed with this decision. But obviously the government has made the decision to bat on. I am sorry that is the case. It reflects very poorly on the government and it reflects even more poorly on Senator Abetz, but I suppose it is standard operating procedure for him. All those parliamentarians who are not in possession of a marriage certificate and those upon whom he did cast a slur who are legally married and who intended to use their gold pass entitlements for both their legally married spouse, according to him, and their de facto spouse, whether that is possible or not, and I assume it is your legally married spouse and your mistress—all these sorts of fantasies Senator Abetz has had about the sorts of arrangements that allegedly would be entered into by life gold pass holders; God knows what Senator Abetz does with his time back in his office to be involved in all this creative and fanciful dreaming about the behaviour of members of parliament and, more particularly, former members of parliament—can all be so thankful.

I think the suggestion that the legislation might lead to a menage a trois—this sort of nonsense—is exposed as the view of a very distorted mind, the view of someone who really does not have any understanding of the way in which modern society works and the tolerance and the decency required in modern Australia. But so be it, such is Senator Abetz's attitude, and at this stage he finds a temporary majority in the government on this issue. That is a pity as far as the Labor Party are concerned. There are bigger fish to fry and there are more important priorities, so we will just get on with them.

**Senator BROWN (Tasmania)** (7.52 p.m.)—The Greens disagree because we think this is an important amendment and should be insisted upon. The direct injustice

to people through enclaving politicians, as against the rest of the public—people I do not know about—is something that I will not stand for. We must not allow ourselves to be in the inverted position of believing that we as politicians must cave in to this sort of government prejudice when a point of principle like this is at stake which seems to apply to politicians. A much wider principle is at stake here. It is the principle that people who are not living with a marriage certificate in their drawer but who are nevertheless living as partners—and we are talking here about heterosexual partners—ought not be treated differently to those who do have a marriage certificate in their drawer. Their relationships cannot be separated, cannot be put into different categories, these days. The world does not work like that.

This government is stuck in the 1950s, but we as a parliament should not be. This Senate ought to be going much further of course, but it is not. It is making a stand by recognising, as we do in legislation right across the board from this parliament, that these days de facto relationships have, and ought to have, the recognition under the law of married relationships. To not stand for this is to subtly or overtly disagree with that principle in the year 2002, and we should not do that. It is difficult to think of any other parliament in the Western world, let alone in this country, that would be standing on the principle that when it comes to entitlements such as those being discussed here—and remember the Greens are opposed to the gold pass and think it should be abolished—the entree to those entitlements comes via a marriage certificate. That is not right. It is not the case under the law elsewhere and it should not be here. To accept otherwise is to accept the double standards of this government, and we should not do that.

It is very important that we make a stand on this matter. I believe that this should go back to the House of Representatives and to the Prime Minister's office—because that is where this philosophy comes from—for a rejig. The majority of Australians will not agree—and repeated opinion polls show this—with the government on the stand it is making tonight. This is a hark back to a past

age and it reeks of a piousness—a false piety at that—that we should not allow the government to get away with. The government may select its institutions, but it may not force them upon the people of Australia, nor should it force them, through weight of numbers upon the representatives of the people of Australia. The Greens do not agree. We believe the amendment should be insisted upon.

**Senator ROBERT RAY (Victoria)** (7.57 p.m.)—For those of us who were here last Thursday, we saw a very unseemly thing happen in the House of Representatives when word reached us that the government was determined to resolve its attitude to the proposed request from the Senate by Thursday night. What followed was 12 divisions, basically gagging through crucial environment bills without debate simply so the government could get on and debate this particular bill, the **Members of Parliament (Life Gold Pass) Bill 2002**. When I say ‘debate’ I mean ‘resolve’—because the government gagged all debate in that two-hour period. There were something like 15 divisions needed before it could get to a position to send the message back to us. Obviously, the government puts a very high priority on this issue and certainly did not want any debate or any discussion to occur in the House of Representatives. Virtually none was allowed.

There might be some argument that this bill is urgent. Certainly trying to rule a line under the use of the gold pass by politicians convicted of corruption is a matter of urgency, and it is the reason that we need legislation rather than action by a Remuneration Tribunal which simply does not have the power to deal with these matters. It is also a useful thing, I think, to limit the use of the gold pass. This was done in the 1990s. I cannot remember exactly when the first limits were brought in, but it was from 1994 onwards. We had better be honest about why that was done. At least one member of the Liberal Party, one member of the Labor Party and one member of the Democrats—so it is very bipartisan—were using their gold passes when they were on the speakers circuit. The lurk was that they would get a \$3,000 fee plus expenses. What was hap-

pening of course was they would say that they would travel under their own volition; therefore they were paid \$4,000 or whatever it was for doing the speaking gig on the night. I do not want to mention the individuals, but you can go back and look at the disproportionate amount of travel those particular people were doing. That was at a time when (a) the gold pass was limited for future holders and (b) you were not allowed to use it for commercial purposes—and that had a pretty solitary effect at that time.

Putting this into legislation now—actually making it common for everyone—is a fair thing to do. There is an element of retrospectivity in this. But, let us face it, everyone is a hypocrite on retrospectivity: they always argue against it when it serves their own purpose and then they embrace it when it is either the pragmatic thing to do or the useful thing to do. I, fortunately, have never, ever been guilty of hypocrisy on retrospectivity because I really have never cared less about it as a principle.

Last week when I was in the kitchen and *PM* was on, I am sure—and I could be wrong here—that Senator Ellison was being interviewed about a great achievement at a ministerial council where they all got together and agreed on the treatment of de factos. Maybe I was dreaming this, but I am sure that happened last week. In contrast, the government’s attitude on this bill is completely incompatible with what Senator Ellison was saying. Again, maybe I was dreaming about it; maybe I was drifting in that hour just before I was about to hoe into my dinner!

The argument that mostly runs against this is that it adds to entitlements. Frankly, I do not think it is going to add much, and therefore I do not think it is a very important principle on this particular occasion. It is going to add very little. Let us look at what has been added to the DOFA budget, none of which has been unreasonable: a printing allowance of \$125,000 per member in the House of Representatives—potentially worth \$18 million or \$19 million—laptops provided to officers, personal organisers that you can get to work after a few months and mobile phones. I do not criticise any of this

because you have to resource parliamentarians to do their job. I sometimes find the priorities strange—for example, the staff travel budget does not seem to alter much whereas some of the others do—nevertheless, that is a matter of judgment for any minister at any particular time. But I really do not think this adds much to entitlements.

I think it does reflect a narrow philosophy. I know the Special Minister of State, who is at the table, will not accept that some of his coalition colleagues do not agree with this. They have certainly talked to me about it—not impassioned—and indicated that they are uncomfortable with this. If they do not have the ticker to come in here and express their views, I suppose we can dismiss them. I do not expect people to break party solidarity, but there is a degree of unease at the contradiction between what is in this particular section of entitlements and what exists for all other entitlements. I bet any money you like that, in the next few weeks, Senator Abetz, the minister in charge of MAPS, will be required to sign off approval for overseas travel for an MP and a de facto spouse. It will not happen very often, but I bet it happens in the next few weeks and over the next year. There is nothing intrinsically wrong with having a de facto spouse travelling with and accompanying an MP. In principle, there is nothing wrong with that, and I think the minister probably would agree with that; otherwise he is signing it off because either it is his duty to do so or he does not disagree with it.

We have indicated that we are not going to bat on forever on this matter. It will now go to the Remuneration Tribunal. If it is to be resolved, the Remuneration Tribunal will have to deal with this matter. I will certainly be urging the Remuneration Tribunal to support a change. After all, I do not want ex-parliamentarians travelling unaccompanied around the country. Heaven knows what mischief they might get up to by themselves! I would have thought that it would be much better for their partner to be with them to keep them on the straight and narrow. So I am going to out-moral Senator Abetz on this. This is a very strong argument. We should be protecting the moral integrity of former MPs

by insisting that their partners—whether they be church or registry acknowledged or whether they just be de facto—travel with them, and by doing so we would be doing a lot to enhance morality. I am sure that is going to appeal to Senator McGauran, sitting in the chamber, when it comes to a vote on this matter.

Finally, some of the critics have said that what we have here might reflect the personal or religious philosophy of the minister at the table. Of course, that is nonsense. What we have here is something that reflects the Prime Minister's views. That is something that Senator Brown has got absolutely right. I welcome him from his deathbed to come along and fight the good fight on this. It is good to see him back in the chamber. I probably will not say that again, Senator Brown, so enjoy it while I say it! This is basically the view of the Prime Minister. It would be a pretty game minister these days who went against the Prime Minister's views. I am not going to put it all on the shoulders of Senator Abetz; I am going to put it to John Howard. This is his responsibility. He was probably au fait with the tactics of ramming this through the House of Representatives last Thursday night. He can bear the responsibility for the inconsistency in government policy. At a state and federal ministers meeting it was agreed to basically take all restrictions and, if you like, biases against de facto relationships out of our legal system, yet here we are in the 21st century debating in this chamber whether they should apply to gold pass travel. I do not believe they should. I do not believe that adding de factos is too big an increase and burden on the state; it is virtually nothing.

We should be willing to take the necessary action to resolve this matter here tonight. The government remains intransigent. Are we going to bat this backwards and forwards between the Senate and the House of Representatives and waste everyone's time if the government is not going to change its mind? No, we are not. It will have to go to the Remuneration Tribunal, which does, if necessary, have the power to resolve these matters. It is always reluctant to do so, but certainly we will be arguing that the government

should have a consistent application across all entitlements.

**Senator MURRAY (Western Australia)** (8.05 p.m.)—I hope that with the **Members of Parliament (Life Gold Pass) Bill 2002** we are going through the motions of watching an entitlements dinosaur thrash its way to a death that will occur in a couple of years time under a new government. The Australian Democrats oppose the life gold pass. It is an anachronism whose time has passed. Unfortunately, it has not been done away with, but at least it is being restricted by the bill and to that extent we welcome the bill.

However, Senator Faulkner and other senators in this debate have been addressing an issue of equity, logic and precedent. It is absolutely clear that the principle established by Senator Faulkner's amendment is explicit not only in the Parliamentary Entitlements Act 1990 but also in social security law and tax law. Where the judiciary have the discretion it is explicit in jurisprudence. In other words, Senator Faulkner, with the support of the cross-parties, has attempted to put into another piece of law a definition and a description which are thoroughly embedded in Australian state and federal law and practice.

It really defies logic that a government would reject a precedent which many of its own members, ministers and supporters practise, follow and agree with. You have to then ask: why is this happening? This is probably a strange word to use in the context of the people concerned, but it is almost 'macho'. It is like standing up and saying: 'We know you're not going to hang out for something on which the world does not turn. We know it's an issue of equity. We know it's not going to cost a bean, really, here or there.' We know it's an absolute nonsense that the administration would ever approve mistresses, wives and sundry hangers on to be signed off under this—

**Senator Faulkner**—All at the same time.

**Senator MURRAY**—All at the same time—an unholy trinity, the *bete noire* of the parliamentary circus. It is just a nonsense, and it is disappointing, frankly, that in its response the government has shown a lack of maturity and judgment. My hope is, as I say,

that the next government will say: 'That's the end of the life gold pass—goodbye. We'll sort out the entitlements overall,' and this is just a hiccup on the way to it.

This kind of discussion is symbolic of when the government loses its touch. It is strange because on one side we are dealing with the stem cell debate, where there has been quite a careful development of a middle position, which probably a majority will end up being comfortable with, and the government has shown a fair bit of a sensitivity, yet here is an issue where you are talking about people being accompanied by those they love, by those who mean a great deal to them and are their permanent partners but happen not to have been sanctified by marriage in a church or registry office. As I say, this is a principle well accepted in social security law and tax law and in most other laws. So I can only express some surprise and disappointment.

If the Labor Party had decided to insist on this amendment, I advise you, Senator Faulkner, that the Australian Democrats would also have insisted. We think it is worth while pushing the point when people are not being as sensible as we think they should be. We will continue to insist, but I do not intend to ask for a division. However, if the Greens wish to divide on this matter, we will be there with them.

**Senator ABETZ (Tasmania—Special Minister of State)** (8.10 p.m.)—Those listening to this broadcast would be forgiven for thinking that they were listening to a debate on another matter, as opposed to a debate on the **Members of Parliament (Life Gold Pass) Bill 2002**. In that bill, we as a government have sought to restrict the use of the life gold pass and also to ensure that those who are convicted of certain offences and have had their superannuation entitlement stripped from them should also have their life gold pass stripped from them. We have heard a personal, vitriolic attack, yet again from Senator Faulkner. It seems that the Australian Labor Party—especially Senator Faulkner—think that there are certain points to be gained by misrepresenting. That is for the Labor Party to live with. They

can decide what their attitude to this matter is.

The simple fact is that we as a government announced that we would restrict the life gold pass. The definition of 'spouse' is not a matter that the government has determined on its own. It is in fact the definition that has applied since 1976. Since 1976 there have been many years—13 years—of Labor government; in fact, there have been too many. Did they ever seek to change the definition of 'spouse' in relation to life gold passes? The answer is no. Was that because of their moralistic stance? Was that for all the reasons that Senator Faulkner tried to ascribe to me?

Since they lost government, quite deservedly, in 1996 there has been six years of opposition for the Australian Labor Party. If they were so motivated, so committed to this issue of equity, they could have brought to the Remuneration Tribunal their proposition that we are debating today. Did they? The answer is a resounding no. Between 1976 and when they won government in 1983 did they seek to change the definition of 'spouse'? No, they did not. Was it, as a result, that they were committed to all of these moralistic reasons that are now allegedly being ascribed to me? Of course it was not. They know it, and therefore they know that the matters that they are trying to visit upon me tonight are false, fallacious and full of hyperbole. What would motivate somebody to make those sorts of attacks is beyond me.

I can understand the principle of the argument that there is now within the community a wide acceptance of de facto relationships. But this bill is designed to limit the life gold pass benefit. We as a government were not about to take on the one hand and give with the other whilst the Remuneration Tribunal had not made its determination. Moral outrage has been expressed by the Australian Labor Party this evening, but since 1976 they have not tried to change the bill. In recent times they have tried to pass an amendment to the bill, but it goes against everything that the government wants in relation to this—that is, limiting the burden to the taxpayer of the life gold pass.

It was interesting to hear from the Greens and the Democrats, in particular, who so moralistically said: 'We do not like the life gold pass—it should be abolished. But if you do keep it we want you to ramp it up so that it costs taxpayers even more money.' That is a duplicitous argument, with due respect. My good friend Senator Murray says, 'This is indicative of a government that has lost its touch.' Representing the Australian Democrats, Senator Murray, I would not be talking too much about losing touch. Senator Brown—and I welcome him back from his sickbed, and I trust he will make a full and speedy recovery—sees that the majority of Australians would not agree with our attitude to this bill. I doubt, quite frankly, that the majority of Australians would say that the life gold pass entitlement should be ramped up—that there ought to be a greater burden on the Australian taxpayer.

Senator Ray was quite right—and Senator Faulkner himself knows—that I, from time to time, sign off on entitlements for people in this place and their de facto spouses. Senator Faulkner knows that, yet he has the audacity to come into this chamber and make all sorts of assertions against me personally, which he knows are simply false—they are untrue.

**Senator Faulkner**—But they're all true.

**Senator ABETZ**—Senator Faulkner says that they are all true. That is the disappointing thing about the Leader of the Opposition in the Senate: he never displays any good grace. At least Senator Ray can show some good grace in a debate like this. He can disagree on the principles and suggest that things could be finessed et cetera without stooping to the sort of personal vitriolic attack that the people who listen to this debate—and it does not worry me—have to endure hearing from someone who would be the alternative Leader of the Government in the Senate in the event that the Labor Party were ever elected.

**Senator Faulkner**—That's a revelation.

**Senator ABETZ**—It is a revelation that the Labor Party might be elected, Senator Faulkner, given the current circumstances. As I have indicated, since 1976 the eligibility criteria for life gold pass travel have been set

exclusively by the Remuneration Tribunal. So for the last 26 years or so—for over a quarter of a century—this definition has stood without the Australian Labor Party amending it while in government or making a submission about it to the Remuneration Tribunal. If Labor feel so strongly about it, I suggest to them that they should go about things in the proper way—that is, they should go to the Remuneration Tribunal, convince it of their argument and let our entitlements be enhanced through that process, as opposed to us legislating increased entitlements for ourselves.

That is the big differentiation in this debate—and the people of Australia should remember this when they decide at the next election, whenever that might be, who would be the better steward of their funds. We as a government have drawn a line in the sand and said that what the Remuneration Tribunal has done in the past has been overgenerous and we believe it ought to be limited. The Australian Labor Party have rushed into this debate and it is indicative of their attitude—and I accept and am thankful that they will not press for it anymore—that, if given the chance, they would in fact enhance parliamentarian entitlements against the definition provided by the Remuneration Tribunal.

When we talk about what the majority of Australians feel and think, I am sure that the majority would say that the enhancement of parliamentarian entitlements, especially in retirement, is not something that they would necessarily identify with. In fact, I believe there is still comment and argument in the community that, even with our limitations, these entitlements are still too generous. But the people of Australia need to understand that the Australian Labor Party were of the view that, while things were being limited in one area, they should in fact be enhanced in another.

I am delighted that the Australian Labor Party will now allow this legislation to go through. I can understand the situation that we do not want this to go backwards and forwards between the House and the Senate. I welcome the Australian Labor Party's agreement to allow this legislation to go through. The importance of it is in fact what

Senator Ray indicated—it is important that we as a parliament ensure that any parliamentarian convicted of corruption who is stripped of their superannuation entitlement is also stripped of their life gold pass entitlement. There is debate about whether a de facto partner should be acknowledged in this bill, but should that take precedence over or be more important than ensuring that those convicted of corruption do not get their entitlement? It is interesting that the Green approach appears to be: yes, this argument about de facto partners is more important than ensuring that those convicted of corruption do not benefit from any life gold pass entitlements that otherwise would have accrued to them. I commend the bill to the committee.

**Senator BROWN (Tasmania)** (8.22 p.m.)—I was inclined to stay in my chair until that last little deception of the Greens' position was put forward by Senator Abetz. He knows better than that, so I will correct him. The Greens are opposed to the gold pass being水 and support this legislation insofar as that is concerned. There were two cheaper options to having this legislation go through and discriminate against non-married partners of former members of parliament: firstly, to get rid of the gold pass altogether—and the Greens supported that and moved to do that—and, secondly, to get rid of it altogether as far as partners were concerned, and that included husbands and wives. But the government did not see fit to do that. So the argument put forward by Senator Abetz about this being done in the interests of the taxpayer is unmitigated bunkum.

The Greens are not going to back off on the other principle, which may be seen as subsidiary here but it is one of consistency. As a number of speakers have said, right throughout the law of this land de facto partners are now recognised under the law. There has been a meeting of governments to agree to move to eliminating this discrimination, but the first thing we see is the Howard government moving quite deliberately here to keep it built in. We are simply not going to allow that to pass.

Further, the Remuneration Tribunal is also influenced by the circumstances of the day, including who is in the Prime Minister's office. If there is a reference here to the Remuneration Tribunal to try to get rid of this discrimination on the basis of giving an allocation to married partners that does not go to unmarried partners, it is likely to be put to the bottom of the list as far as the Remuneration Tribunal is concerned. I have no faith at all that they would treat it expeditiously.

**Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate)** (8.25 p.m.)—This debate is about a very narrow element of the legislation. It is about a definition, and it is up to the government to give consideration to what the definition of 'spouse' should be for the purposes of the **Members of Parliament (Life Gold Pass) Bill 2002**. The government have proposed a definition of 'spouse' being those who are legally married. The Labor Party have argued that a more up-to-date, modern and contemporary definition—the definition that is used in a raft of other legislation—be used in relation to this legislation, such as the one I outlined earlier, which states:

*spouse ... includes another person who, although not legally married to the person, lives with the person on a bona fide domestic basis as the husband or wife of the person.*

That is what this whole argument is about, and it is entirely within the capacity of the government, if they saw fit, to change the definition or to have brought the legislation in with a more modern and up-to-date definition of 'spouse', as they have in other legislation—including other legislation that deals with parliamentary entitlements.

The minister makes the point that the Parliamentary Entitlements Act defines 'spouse' in the same way as the Labor Party would propose to define 'spouse', which means certain entitlements flow to de facto spouses as well as to legally married spouses. That is true. What the minister does not understand is that he argues against himself. It is perfectly competent for the government to propose such a course of action here. It is a more equitable and reasonable way of dealing with these sorts of issues—but, of course,

reason and equity have got nothing to do with it. The fact is that this is driven by prejudice. There is no other reason for this not to be supported. It has amazed very many people that in the original legislation the antiquated and archaic definition of 'spouse' was used. It is outdated and outmoded and, apart from this legislation, I cannot recall when it was last used. I think senators in this chamber would struggle to recall when such an outmoded definition was used. This definition is discriminatory, it is outmoded, it is out of date, it is archaic and, in the view of the opposition, it is not appropriate.

We need to understand what this debate is about. It is simply about the definition of 'spouse'. Certain entitlements accrue to a spouse under this legislation, so how do you define 'spouse'? Is it just those people who are legally married, or is it those people who are not legally married but who live in a bona fide de facto domestic relationship as husband and wife? Senator Brown makes the valid point that this definition does not even include people who are living in the same sort of bona fide relationship but who happen to be same sex partners. I do not think anyone could argue this is very radical. It is not very radical. In fact, some would argue it goes nowhere near far enough. That may be a reasonable point to make, but it is certainly the way that this parliament has dealt with these definitional issues now for a long time. That is the issue. That is what we are debating and that is what the government has seen fit not to support on this occasion, which is disappointing to many, including a range of parliamentarians and former parliamentarians on the conservative side of politics.

We in the Labor Party have always accepted that these matters are best not dealt with in the parliament. We have always accepted that principle, and it was very reluctantly that we even got into this debate. It is best that an independent tribunal—in this case the Remuneration Tribunal—look at these entitlements and make a judgment about how they should be applied. I accept that point. It is much better that that is the case, but in this particular situation we have legislation before the parliament. This matter is not before the Remuneration Tribunal; it is

before the parliament and is being debated here in this chamber.

Part of the legislation includes this outmoded, inappropriate and unacceptable definition—in modern Australia—of ‘spouse’. That is why we are having the debate. That is what the debate is about. I do not think anyone ought to be misled about the other issues. There is no argument that I have heard from anyone at all in this chamber—Labor, Liberal, minor party or Independent—against the principle that if the life gold pass entitlement is to remain in existence the entitlement should be capped. No-one has argued against the principle that no life gold pass entitlements should flow to a disgraced, corrupt parliamentarian or a disgraced, corrupt former parliamentarian. That is also accepted, I think, across the chamber—and I have listened intently to all the speeches that have been made from government and opposition senators and from the crossbenches.

The issue is about a definition. How long do you go on debating and arguing a question about a definition? That is what my own colleagues have given consideration to. How many speeches can you make about the definition of ‘spouse’? How much time of the Australian parliament should be lost on debates of this nature—although the principle is important and although the archaic definition of ‘spouse’ in this legislation is the exception not the rule. At some stage you have to say, ‘The government is wrong about this, but the other principles in relation to the legislation are important.’ That is the difficult balance.

The government tries to say that the Labor Party or the Senate would see a massive blow-out in the use of this entitlement. That is not the case at all. This legislation will cap the entitlement. The change to the definition of ‘spouse’ will not affect huge numbers of life gold pass holders but it will affect some, so there is an issue of equity. I have been honest enough in this debate to say—and I will say it again—that it certainly will have an impact on me personally, not that I am yet, as was reported at the Senate committee, an entitlement. I am not a life gold pass holder at this stage. If I last a bit longer in this place, I will become one—as we all do if we can last

long enough. I have always been aware that these issues impact on all individuals—in this chamber and outside; some legally married, some not legally married but with a de facto spouse—who are holders of a life gold pass.

All these matters are taken into account as one considers an appropriate and balanced response on legislation of this sort. I do not think the government is being balanced, reasonable, modern, decent or consistent. I do not think the government has covered itself in honour or glory. Nevertheless, it is going to insist on a certain course of action, and the balance is the other benefits in relation to capping this entitlement and dealing with those few parliamentarians or former parliamentarians who have acted corruptly.

What is the balance in all this? The government has got the balance wrong. It could easily change this definition. It does not intend to change the definition. I have outlined what a sensible response would be. Of course, the Remuneration Tribunal can have a look at this if it wants to, but the fact is that this is legislation currently being dealt with by the parliament and this is something the parliament could determine if it saw fit. It has determined a whole range of other things, not only in this legislation but in relation to the definition of ‘spouse’ in a raft of other Commonwealth legislation. It is extraordinary for anyone to suggest that it would not be competent for us to do so in relation to this bill.

Question put:

That the motion (Senator Ian Campbell’s) be agreed to.

The committee divided. [8.43 p.m.]

(The Chairman—Senator J.J. Hogg)

Ayes.....	43
Noes.....	<u>8</u>
Majority.....	35

#### AYES

Abetz, E.	Barnett, G.
Boswell, R.L.D.	Brandis, G.H.
Buckland, G.	Calvert, P.H.
Campbell, G.	Carr, K.J.
Chapman, H.G.P.	Colbeck, R.
Collins, J.M.A.	Conroy, S.M.

Cook, P.F.S.	Coonan, H.L.
Crossin, P.M.	Denman, K.J.
Egglesston, A. *	Evans, C.V.
Hogg, J.J.	Johnston, D.
Kemp, C.R.	Kirk, L.
Knowles, S.C.	Ludwig, J.W.
Lundy, K.A.	Mackay, S.M.
Marshall, G.	Mason, B.J.
McGauran, J.J.J.	McLucas, J.E.
Moore, C.	O'Brien, K.W.K.
Ray, R.F.	Santoro, S.
Scullion, N.G.	Sherry, N.J.
Stephens, U.	Tchen, T.
Tierney, J.W.	Troeth, J.M.
Watson, J.O.W.	Webber, R.
Wong, P.	

## NOES

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

\* denotes teller

Question agreed to.

Resolution reported; report adopted.

## Third Reading

**Senator ABETZ** (Tasmania—Special Minister of State) (8.49 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**BUSINESS  
Rearrangement**

**Senator MINCHIN** (South Australia—Minister for Finance and Administration) (8.49 p.m.)—by leave—I move:

That the government business order of the day for 21 November 2002, relating to the New Business Tax System (Consolidation and Other Measures) Bill (No. 1) 2002 and a related bill, be called on immediately.

In explanation of this motion I indicate that, although the Employment, Workplace Relations and Education Legislation Committee reported on one of these bills only today, there is agreement to proceed to consider both bills today, which would not normally be possible without that agreement.

Question agreed to.

**NEW BUSINESS TAX SYSTEM  
(CONSOLIDATION AND OTHER  
MEASURES) BILL (No. 1) 2002**  
**NEW BUSINESS TAX SYSTEM  
(FRANKING DEFICIT TAX)  
AMENDMENT BILL 2002**

**Second Reading**

Debate resumed from 17 October, on motion by **Senator Ian Campbell**:

That these bills be now read a second time.

**Senator CONROY** (Victoria) (8.50 p.m.)—I rise to speak on the two cognate bills, the New Business Tax System (Consolidation and Other Measures) Bill (No. 1) 2002 and the New Business Tax System (Franking Deficit Tax) Amendment Bill 2002. These bills deal with ongoing business tax reform measures arising from the Ralph review. The Labor Party have made it clear that we support the principles underlying the business tax reforms proposed in the Ralph review. Flowing from this, we support the principles underlying the bills before us today. We continue to have concerns with regard to the implementation of the reforms. I will expand on that later in the speech. But, essentially, we agree with the direction being taken in the bills and we will support them in this chamber, as we did in the House.

Let me now turn to the substantive provisions in the bills. The consolidations measure aims to implement the Ralph recommendation that groups of wholly owned entities be permitted to choose to be taxed as a single entity rather than on an entity-by-entity basis. There have been two tranches of consolidations legislation so far. The first provided a broad overview of the consolidations measure and set out ongoing rules for joining an existing consolidated group. The second set out cost-setting rules for the initial formation of the consolidated group, the treatment of attribution accounts held in relation to interests in foreign entities and the transfer and pooling of foreign tax credits.

This third tranche contains further cost-setting rules to cater for consolidated groups, linked entities joining existing consolidated groups and trusts joining or leaving a consolidated group; measures to address some revenue risks, which I will speak about in

more detail later on; modifications to allow a consolidated group to continue to exist even though the head company is replaced by a new shelf head company; consequential amendments to ensure that the core rules apply in an appropriate manner to multiple entry consolidated groups, or MECs; additional rules to deal with attribution of income and deductions when a subsidiary is only in the consolidated group for part of a year; modifications to remove the existing grouping provisions to allow the continued transfer of losses between an Australian branch of a foreign bank and the head company; amendments to ensure that the thin capitalisation regime continues to operate as intended under the new consolidations regime; amendments to ensure that the income tax law's existing provisions for research and development deductions interact appropriately with the new consolidations regime; and technical corrections to the consolidations losses rules and the MEC group membership rules.

The main bill also contains further amendments to the existing income tax law arising from the new simplified imputation system. These relate to modifications to arrangements for the intercorporate dividend rebate, a broadening of the exemption from the benchmark rule for franking, provisions relating to distributions on non-share equity interests and some franking transitional rules. The amendments are not expected to have any revenue impact. These represent sensible and uncontroversial consequential reforms arising from the introduction of the new simplified imputation system, and we will support them. The minor additional bill deals with some consequential amendments relating to franking deficit tax liability. These are not expected to have any revenue impact. The original bill was only introduced at the end of May 2002, so it seems extraordinary that these changes could not have been foreseen at that time. Nonetheless, the substance of these amendments is sensible and uncontroversial, and we will support them also.

Consolidations is a very complex measure with significant revenue implications. As a whole, it is estimated to cost the revenue in excess of \$1 billion over the forward esti-

mates. It is for this reason that the opposition has sought to refer each of the tranches of legislation to the Senate Economics Legislation Committee as it has come up. Many of the overarching issues concerning the measure were considered in some detail in the public consultation process for the second tranche of legislation, which was held only a month ago. Nevertheless, the referral of the third tranche to the Senate Economics Legislation Committee has enabled further valuable exploration of the detail of the operation, revenue costs and compliance costs of the measure. Once again, the information provided in the submissions was very helpful to the committee in this exploration. I commend those involved in the inquiry process for their constructive input.

As we noted in the report, the opposition remain concerned about the impact of the consolidations measure on small to medium enterprises, particularly during the implementation phase of the measure. The submission by the Institute of Chartered Accountants described the situation as follows:

The complexity of entering into the Consolidation regime must not be under-estimated, particularly for businesses in the small to medium enterprise (SME) sector and their advisers.

...      ...      ...

Tax advisers face a very challenging time getting 'up to speed' with the technical aspects of the Consolidation legislation. Even corporate tax specialists are finding it a challenge—for the more generalist practitioners servicing the SME sector, the legislation is overwhelming.

...      ...      ...

The practical implementation process of entering the Consolidation regime is very involved, even for small corporate groups. Businesses need to gather a large amount of financial data dating back many years, undertake valuations of assets and subsidiaries, and undertake potentially very complex calculations in relation to asset values and carry-forward losses. The necessary systems changes for ongoing compliance with the new regime also require careful planning.

We regard these as legitimate and continuing concerns. We call upon the government to revisit its transitional arrangements for the consolidations measure, with particular focus on reducing the compliance burden for the SME sector during this transitional period.

The committee report also noted that this bill contains provisions to address a number of revenue risks in the consolidations measure. The explanatory memorandum explains that these provisions address unintended tax benefits concerning the uplifting of the tax values of trading stock, possible double deductions for internally generated assets and the interaction between the current capital gains tax provisions and the resetting of the cost of revenue assets under consolidations. We note that this is a specific response to our concerns on these issues, as highlighted in the referral of the first tranche of consolidations to the committee.

It is a positive sign that the government has been prepared to modify its own legislation as a result of the Senate committee process only three months after the initial bill was introduced and before it has even come into effect. This shows the rigour of the parliamentary process acting as it should and emphasises yet again the critical importance of allowing time for appropriate parliamentary scrutiny of such complex legislation. We welcome these additional provisions as an appropriate protection of the revenue under this measure. In concluding, we remain concerned about aspects of the implementation of this measure but overall think that it is a positive reform, so we support these bills. I look forward to hearing Senator Murray's contribution, as I am sure he is looking forward—as I have been—to this bill. As he runs back to his chair, I will sit down.

**Senator MURRAY (Western Australia)** (8.58 p.m.)—I am sure that Senator Conroy had a much longer speech; he just wanted to make me run. The **New Business Tax System (Consolidation and Other Measures) Bill (No. 1) 2002** is being debated cognately with the **New Business Tax System (Franking Deficit Tax) Amendment Bill 2002**. The latter is a nice skinny creature, three pages long. The former, the third tranche of consolidation measures, is 164 pages of complex legislation. I think that makes 500 pages all told of new tax legislation. Frankly, when I look back on those three tax bills I have a shiver of legislative fear down my spine, because the complexity of it—the necessity to adjust the tax law to remove elements of

existing tax law and substitute new ones—means that you can never be sure that you are passing something which is going to get it exactly right. With respect to the anticipated \$1 billion cost over the projected four years to the end of the 2006 financial year, I think we are all, especially the government, taking a leap in the dark, because I cannot believe that anyone can properly predict the consequences of the consolidation measures. However, that does not imply any opposition to them.

I first really got into the nature and the depth of what was proposed with the consolidations regime with the Ralph report. From the time I read that report, I and the Australian Democrats have supported the concept consistently and thematically all the way through. The Senate has played an excellent part in the review of these particular measures. Not only did the Senate review the Ralph tax proposals when they originally came through but also, as Senator Conroy said, the Labor Party has referred them, through the Selection of Bills Committee, to the appropriate Senate committees, and the result has been the exposure of elements of complexity, of concern and of greyness—elements which still require attention. That has been valuable.

I note that the Labor Party, in their supplementary remarks to the latest Senate report on this third set of bills, acknowledge with some pleasure that the government have responded quite quickly to some of the needs to adjust the legislation that went through three months before. We all know that there are going to have to be one or more bills to wind up, if you like, outstanding, unfinished business and unfinished consequences that emerge when this consolidations regime is put together. At the heart of my own acceptance of the principles behind the bills is the belief that the consolidations measures will free up the market productively and will allow entity taxation and structuring adjustments to take place that will have a positive outcome for the functioning of companies, the utilisation of tax losses and the structuring of companies to maximise their effective and productive nature rather than the tax benefits.

Having said all that, one still has to be concerned by the complaint and the concerns expressed by the tax professionals, the accounting professionals, about how difficult it is going to be to go through the transitional phase and about the first years of adjustment to this legislation—in particular, the concerns on the small business side. I do not presume, as the longstanding taxation portfolio holder for the Democrats, to be across every inch of this legislation. I doubt that anyone here apart from perhaps the Treasury advisers would dare make that claim, and even then I suspect they would scurry to their reference books. The interactions and complexities are quite considerable.

These bills are going to move forward without amendment. They wrap up the legislation. I think this whole process has been a very good example of government, parliament, committees and non-government bodies—professionals and representative organisations—working together through consultation, review and examination to meet a legislative deadline which is necessary for implementation in the financial year starting 1 July 2003 and to ensure, as far as possible, that the legislation will be effective and will work as planned. The measures outlined are fairly extensive. They do relate to a number of interacting areas: grouping, consolidation, thin capitalisation, research and development, foreign tax credit provisions and imputation rules. And there are technical amendments. I can do no more than conclude by saying that it is complex, and I indicate that the Democrats will support the legislation.

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer)** (9.05 p.m.)—I wish to make a few comments by way of summing up on the **New Business Tax System (Consolidation and Other Measures) Bill (No. 1) 2002** and the **New Business Tax System (Franking Deficit Tax) Amendment Bill 2002**. Firstly, I thank honourable senators for their contributions to the debate on the **New Business Tax System (Consolidation and Other Measures) Bill (No. 1) 2002** and, indeed, for their overall support for the measures in the bill. The measures represent the ongoing implementa-

tion of the consolidation of the business tax reform initiative and follow, as has been mentioned by my colleagues, two earlier consolidation bills that have since received royal assent—the May and June acts.

I welcome the findings and, indeed, the work of the Senate Economics Legislation Committee confirming that this bill should also proceed. As was the case with the earlier tranches of consolidation, the consolidation measures contained in this bill are very much supported by business and have been the subject of extensive consultation. The consolidation regime will improve the integrity of the taxation of wholly owned corporate groups while at the same time enhancing business efficiency by removing tax costs from intragroup transactions within a consolidated group. This will ensure reduced ongoing compliance costs for Australian business. That is not to say that there will be no compliance costs, and I acknowledge that there were some concerns about that in the committee process.

Much of the complexity of the measures comes from the transactions required to transition to consolidation. This transition from separate entity treatment for members of a wholly owned group to the consolidation regime whereby all group members are treated as a single tax entity does require specific rules and necessarily results in complexity and transitional compliance costs. However, ongoing simplification and reduced compliance costs of corporate groups are expected once the transition to consolidation has been made. The government has therefore adopted a staged approach to the implementation of these measures to ensure that consultation with business could occur on each tranche, while ensuring those elements of the regime needed to implement a decision to enter the consolidation were prioritised.

Key consolidation measures contained in this bill which are critical for companies planning to consolidate include the interaction of consolidation with other aspects of tax law, including international tax provisions, the research and development concession, foreign tax credit and thin capitalisation provisions. The bill also builds on and modi-

fies aspects of core consolidation principles included in the May and June acts. The modifications are necessary to ensure they operate correctly in relation to trusts and recognise the special structure of foreign owned company groups. They also ensure the provisions operate in a more mature consolidation environment—for example, where an existing consolidated group joins another consolidated group and where linked entities join an existing consolidated group.

Importantly, the measures also modify the cost-setting rules contained in the earlier tranches of consolidation legislation to improve their integrity. These integrity measures will prevent unintended gains arising on transition to consolidation and they were announced by me in detail before introduction of the second consolidation bill. Businesses have therefore been aware of these measures for some time and have tailored their consolidation planning accordingly. The development of these integrity measures highlights the advantages gained from the consolidation process. The strength of that process meant that these integrity measures were the subject of discussion with business, thereby ensuring that the response is carefully targeted. The bill also effects the removal of existing grouping rules from the current tax law, in recognition of the fact that intragroup transactions will not be recognised within a consolidated group. Consequently, the current grouping rules are to be withdrawn for non-consolidated groups from 1 July 2003.

The process to implement the consolidation measure has been inclusive, involving an extensive communication and education campaign by the Australian Taxation Office directed at tax professionals likely to have clients who are eligible to consolidate. I commend the ATO for that initiative and the way in which it has been conducted. Two primary communication products have been developed since legislation has been introduced to parliament. *Consolidations—in brief* is a simple summary of the key elements of the measure, targeted at the small business sector. Small business representatives did help finetune this product to help ensure that it hit its mark and was suitable.

The consolidation reference manual is a comprehensive technical guide and is highly regarded, with a number of organisations in the tax profession using it for in-house training. These products are being continually updated and redistributed so that the contents reflect the phased introduction of the consolidation measures. The ATO's product range will be further enhanced by a number of other initiatives, including the impending release of the first in a series of fact sheets targeted at tax practitioners who cater for small business.

The simplified imputation amendments will generally apply to dividends paid on or after 1 July 2002 and will facilitate entry to the new system for early and late balancing companies. The amendments also facilitate more flexibility in franking dividends by listed public companies as a result of extending the benchmark franking rule in a limited number of situations where dividend streaming is not possible. This third in the series of consolidation bills does represent very complex measures but very positive reforms. I commend the opposition and Senator Murray, representing the Australian Democrats, for their constructive approach to the substance of these bills.

I want to say a couple of words about the *New Business Tax System (Franking Deficit Tax) Amendment Bill 2002*. I thank honourable members for their specific contributions to the debate on this bill and for their overall support for the measures. The New Business Tax System (Franking Deficit Tax) Amendment Bill will make minor consequential amendments to the New Business Tax System (Franking Deficit Tax) Act 2002 as a result of changes to the calculation of franking deficit tax of late balancing companies and transitional imputation rules concerning late balancing companies. Once again, I thank my colleagues for their support for this bill.

Question agreed to.

Bills read a second time.

### Third Reading

Bills passed through their remaining stages without amendment or debate.

**BUSINESS  
Rearrangement**

**Senator COONAN** (New South Wales)—Minister for Revenue and Assistant Treasurer) (9.14 p.m.)—I move:

That intervening business be postponed till after consideration of government business order of the day No. 6—Australian Crime Commission Establishment Bill 2002, second reading speeches only.

Question agreed to.

**AUSTRALIAN CRIME COMMISSION  
ESTABLISHMENT BILL 2002**

**Second Reading**

Debate resumed from 15 November, on motion by **Senator Ian Campbell**:

That this bill be now read a second time.

**Senator LUDWIG** (Queensland) (9.14 p.m.)—The Australian Crime Commission Establishment Bill 2002 will radically overhaul the National Crime Authority to form a new agency. The model proposed in this bill for the ACC, as I suspect it will be known, raises fundamental points of principle for the Labor Party. Before I discuss these principles, and Labor's proposals for dealing with the problems we see in the model, it will be useful to remind ourselves of the history behind this bill and the government's push to dismantle the NCA. In the run-up to last November's election, the government gave a commitment to hold a special leaders summit to deal with the issues of transnational crime and terrorism. The Prime Minister said that the summit would look at 'options for reforming or replacing the National Crime Authority to ensure we have a national body fully equipped to deal with future transnational criminal activities'.

Even in the context of September 11, the government's announcement came as something of a surprise, given the praise that had been poured on the NCA by the Prime Minister and successive ministers for justice and customs. For example, in a press release issued on 22 February last year, the Minister for Justice and Customs, Senator Ellison, had this to say about the NCA:

The cooperative efforts of law enforcement agencies such as the National Crime Authority, Customs and the AFP has never been so high ...

He went on to commend 'the excellent work that these world class law enforcement agencies are doing'.

Ten months later, in December 2001, it was a very different story: the NCA was marked for the chop. The first step in the process of killing off the NCA was predictable: the government commissioned a review. That review was carried out by a former Commissioner of the Australian Federal Police, Mr Mick Palmer, and a former Secretary of the Attorney-General's Department, Mr Tony Blunn. Their report to cabinet has never been made public, although it formed the basis for the Prime Minister's claims at the leaders summit on 5 April this year that an overhaul of the NCA was in order. A heavily sanitised version was handed over to the Senate Legal and Constitutional Legislation Committee in late May. Again, it sheds no light on the need for restructuring of the NCA.

This failure to explain the rationale for change or to make public the Palmer-Blunn report suggests there are other reasons for the government's move against the NCA. We know that the Prime Minister was not happy with comments made by the former chair of the NCA, Mr Gary Crooke QC, that were critical of the Prime Minister's approach to drug control. Mr Crooke also favoured heroin trials, in contradiction to the government's official policy. We also know that some members of the government were unhappy with the NCA's pursuit of Mr John Elliott. However, as my colleague the shadow minister for justice and customs acknowledged in the House last week, there are legitimate concerns about the mechanism for referring matters to the NCA for investigation, which can be cumbersome and time consuming. Labor also acknowledges that there is always a case for looking afresh at institutions to ensure the maximum effort is made to combat organised crime.

It is in the light of these legitimate concerns that the Labor Party are prepared to support this bill, subject to amendments which I will speak about later. Labor are serious about fighting crime, but Labor are also serious about upholding important principles of responsibility and accountability within

our parliamentary system of government. That is why we seek amendments to this bill that are designed to support important principles that informed the establishment and operation of the NCA in the first place. Two particular areas of the bill cause concern for Labor: the first area is the proposed governance structure and the second is the system that enables the use of coercive powers.

Our concerns were shared by the expert witnesses who appeared before the recent inquiry into this bill conducted by the Parliamentary Joint Committee on the National Crime Authority. That joint committee tabled its report to parliament out of session on 6 November. It made 15 recommendations in total to amend the legislation, while a majority of the Labor members made an additional three recommendations. I join with the shadow minister in congratulating the committee on its hard work. The report is long and I suspect it was difficult, especially given the short time allowed by the government to report back to parliament, but the committee managed to get it together.

The government last week accepted 13 of the 15 unanimous recommendations of the joint committee and has given reasons for its refusal to accept the other two. Labor welcome the government's acceptance of those recommendations, and we believe they will improve the operation of the ACC. We accept the government's reasoning for not accepting the other two recommendations. Last week, the government introduced a range of amendments in response to the PJC recommendations. I stress that the recommendations in the PJC report, which are supported by Labor, are about improving the model for a new Australian Crime Commission. Not only will these amendments ensure a streamlined and effective process for approving the use of the coercive powers but also they will safeguard the principles of responsible government and ensure ministerial accountability for the special powers.

In particular, we support amendments that will make the CEO responsible for the overall management of the ACC and will ensure that the Minister for Justice and Customs is accountable to the parliament for the work of the Australian Crime Commission. We also

support amendments to ensure that the CEO appoints the head of a task force after consultation with, and advice from, the board. The heads of task forces will be responsible to the ACC through the CEO. We also support amendments to ensure that the suspension of the CEO can only take place on the initiative of the minister after consulting the full board and that the removal of the CEO for unsatisfactory performance will be a 'for cause' provision, attracting general administrative law protections.

Other amendments will achieve the following objectives: ensure that complaints against all staff of the ACC may be investigated by the Commonwealth Ombudsman as a minimum; oblige the government, once the ACC has been established, to give urgent attention to ensuring that operational, investigative and support staff work under the same integrity and complaints regime; ensure that the ACC is obliged to provide the parliamentary committee overseeing its operations with any information sought by the committee, except where that information would identify any particular individual suspected of criminal conduct—unless the matter is already in the public domain—or would, in the opinion of the CEO, risk prejudicing a current inquiry; ensure there is no blanket immunity from suit for the ACC; ensure a committee of the board does not have the power to authorise an operation, an investigation as a special operation or an investigation which would in turn enliven the special powers; provide that no part-time examiners can be engaged on a per hour or per diem basis; require examiners to satisfy themselves in each case before they exercise special powers under the act that it is appropriate and reasonable to do so and that they indicate in writing the grounds for having such an opinion; and, lastly, provide for a comprehensive public review of the Australian Crime Commission Act to take place after three years have elapsed from the date of its commencement.

Just touching on the special powers, Labor also supported the additional three recommendations made by the majority of Labor parliamentary joint committee members, which related to the system for approving the

exercise of coercive powers. A defining feature of the NCA is that it holds coercive powers similar to those of a royal commission. These are the powers to obtain documents and other evidence and to summons a person to appear at a hearing to give evidence under oath. As it now stands, these coercive powers can be exercised in only very defined circumstances, with ultimate accountability lying with the intergovernmental committee made up of the various ministers.

At the time the NCA was set up, there was extensive debate about the nature of these coercive powers and recognition of the fact that no government would allow them to be solely in the hands of a police force or, for that matter, bureaucrats. That is why the architect of the National Crime Authority devised the references system whereby the ministerial level IGC refers matters to the NCA for investigation. Under the proposed new model for the Australian Crime Commission, the board—and remember that it is made up of state police commissioners and bureaucrats—will not only determine priorities for the organisation but also have the power to press the green button, so to speak, to use coercive powers. The board can also approve the use of the powers for the purpose of intelligence gathering—a move away from the investigative focus of the NCA. Under the original model in the bill that was introduced into the House on 6 September, the board could delegate the decision on the use of these powers to a subcommittee as long as the committee was made up of at least two Commonwealth members. That situation has changed following the amendments introduced by the government last week which remove the capacity of the committee to authorise a special investigation or operation—that is, an investigation or operation involving the use of the special powers.

Overall, the new model is a major departure from the current regime, where special powers may be exercised only after a matter has been referred to the National Crime Authority by the intergovernmental committee. It is also contrary to the views of the police themselves, who admit it is not appro-

priate for them to hold the coercive powers. The Commissioner of the Australian Federal Police, Mr Mick Keelty—who, ironically, will chair the board under the proposed new model—told the Senate Legal and Constitutional References Committee on 15 March 2001:

The AFP enjoys a close strategic partnership with the NCA.

He went on to say:

The AFP believes it is appropriate for the NCA to exist as an independent agency. It is inappropriate for any police organisation to have the special powers conferred upon the NCA.

In evidence given to the Parliamentary Joint Committee on the National Crime Authority on 2 April 2001, the commissioner stated:

In response to that article—

an article that appeared in the *Canberra Times*—

I wrote a letter to the editor in which I expressed in clear terms that the relationship between the AFP and the NCA had never been better and that we enjoyed a number of recent successes in targeting organised crime groups. I would like to reiterate those comments to the committee today ... I repeat that it would not be appropriate to vest those powers into a police agency ...

Mr Keelty's comments highlight that the new model departs significantly from the very basic principles of responsible government. This departure is a concern for the federal Labor Party. It was also clearly a concern for the majority of the Labor members of the parliamentary joint committee who made their additional three recommendations in the committee's report. In supporting these recommendations, we acknowledge that this bill is the product of negotiations between the federal government and the Labor governments in the states and territories. But the additional recommendations are within the boundaries of the original agreements between the various governments aimed at streamlining the operation of the ACC.

It might be worth while to cite a letter by Mr Bob Bottom, who gave evidence to the parliamentary joint committee. It is instructive to read a couple of paragraphs from that letter in support of the position. The letter to Senator Ellison, which is dated 14 November 2002, reads:

Therefore Bruce Ballantine-Jones and I firmly believe that whilst it would not be inappropriate to still provide for the Board to initiate and approve special investigations/operations that may involve use of coercive powers, there should be no objection to a residual referral and/or veto power that may be exercised by a unanimous or majority vote of the Inter-Governmental Committee. Such a provision would satisfy the fundamental concern of the nation's law bodies.

The letter went on to say:

If police commissioners or other board members cannot live with this, their very objection would only serve to reinforce the necessity of such accountability through the IGC as well as yourself as Minister. I am credited with forcing 18 Royal Commissions and judicial and parliamentary inquiries in past years and a significant number resulted from failings of police commissioners to do their job.

The letter concluded:

With agreement in the air, I was pleased to be able to make the following comment yesterday in another email to the Shadow Minister, the Hon Daryl Melham: 'Having observed, or been directly or indirectly involved in just about every parliamentary development in dealing with organised crime and corruption over some decades, I cannot recall a more classic example of true federalism at work with the Commonwealth parliament working so genuinely in a bi-partisan fashion ...

That demonstrates that there is a need for this position—and clearly it is within the ability of this government to accede to that position.

The shadow minister told the House last week that he understood the government would also introduce amendments to address these additional concerns. Labor have not yet seen the government's proposed further amendments, but we have agreed in principle on what those amendments are designed to achieve, especially the insertion of an appropriate level of ministerial accountability through the intergovernmental committee in relation to the exercise of coercive powers. As I understand it, final drafting is still taking place. I imagine the drafting is in fact taking place as I speak, because I understand that we will go on to the committee stage tomorrow.

With these amendments we should be able to achieve an outcome that is satisfactory to

both sides of parliament, but they will still need appropriate scrutiny. We have received a letter from Senator Ellison detailing the amendments and how they will operate. Senator Ellison has provided the shadow minister, Mr Melham, with a point-form view of the amendments and an in-principle agreement on the purpose of the amendments. Of course, the final drafting is yet to be seen. We are confident that the amendments will be drafted in accordance with the statement of intent or the letter provided by Senator Ellison.

Organisations such as the ACC need cross-party support to ensure their effective operation. This bill, when amended, should deliver a model that ensures a strong and more effective Australian Crime Commission. The government wants to have the Australian Crime Commission in place before 1 January; in fact, the government is so keen to meet its own deadline that it has advertised the position of CEO before the bill has been passed. This is perhaps somewhat presumptuous; nonetheless, Labor are willing to expedite the passage of this bill, subject, as I have already said, to those amendments reflecting not only our earlier discussions with the government but also the statement provided by Senator Ellison in his letter of 18 November 2002. I note there are advisers in the chamber. I am sure they will be drafting those amendments, if they have not already done so. We look forward to receiving those amendments early so that we will be in a position to deal with them in the committee stage tomorrow.

**Senator FERRIS (South Australia)** (9.31 p.m.)—The **Australian Crime Commission Establishment Bill 2002** is a very important bill that reflects an undertaking that was given during the election campaign last year, when the Prime Minister announced that he would convene a summit to focus on producing an enhanced national framework to deal with terrorism and transnational crime. The bill that we are considering tonight is a reflection of that undertaking. There have been many meetings convened with state bodies to ensure that the new national body appropriately reflected the undertaking the Prime Minister gave at that time.

The most crucial of these meetings took place on 5 April this year and was attended by the premiers of the states and the chief ministers of the Northern Territory and the ACT. The communique that came from that importantly set out 23 resolutions—23 initiatives unanimously agreed to by all leaders. That is a very significant achievement in itself. It is a recognition of the important requirement of taking a national approach to crime in this country. Sadly, events that have taken place internationally since that time have simply reinforced that view. It was agreed by all state premiers and chief ministers that we need to take a new look at how we could streamline our approach to crime to deal with terrorism and transnational crime. This government, under the significant and important leadership of the Prime Minister, has delivered yet again much needed reforms to take account of the much more sophisticated international crime that we are now dealing with in this country.

This was the first time the National Crime Authority had undergone any significant change since 1984 when it was established. It was then designed to overcome the barriers to effective law enforcement caused by jurisdictional boundaries around Australia and within the federal system. The continuing support for the National Crime Authority reflects the very good work that that body has done over the years, overseen by the Parliamentary Joint Committee on the National Crime Authority, which I have had the honour in the past to act as chair of. The parliament now recognises that the globalisation of markets and of crime has meant that we needed to take another look at whether the National Crime Authority was fulfilling that original role as efficiently and as effectively as it could be. I think all of us would agree that there is no doubt that the opportunities for international crime are now so much more sophisticated and able to be executed so rapidly that the system that was put in place in 1984, when the National Crime Authority was established, was well and truly ready for review. It was therefore quite timely to reassess whether the National Crime Authority was best placed in that role to deal with the threats of the 21st century. So it was decided by the state premiers and

chief ministers, working together with the Prime Minister, to replace the National Crime Authority with the Australian Crime Commission and to build on the successes of the National Crime Authority in developing effective national law enforcement operations, in partnership with state and territory police forces—operations that will be enhanced by removing the current barriers to effectiveness that had, in some ways, held back the National Crime Authority.

The functions of the new body are many and varied and all of them very important. I think it is worth noting them here tonight: improved criminal intelligence collection and analysis; setting clear national criminal intelligence priorities; and conducting intelligence-led investigations of criminal activity of any significance, including the conduct and coordination of investigative and intelligence task forces as approved by the board. Relating to intelligence—which has been a very important role of the former National Crime Authority—the Australian Crime Commission will provide a coordinated national criminal intelligence network, set national intelligence priorities to avoid duplication—or ‘turfdom’ as it has become known within the police forces—allow areas of new and emerging criminality to be identified and investigated, and provide for investigations to be intelligence driven.

It is quite significant that the Minister for Justice and Customs, Senator Ellison, has already said that the very first investigation that the ACC will take on as a new initiative will be a task force to investigate illegal hand gun trafficking in Australia, something that we have all focused on as a result of the tragic shootings in Melbourne. This is particularly timely given the clear funding link between organised crime and international terrorism, which, unfortunately, we now are also aware of.

One of the most important things to consider in relation to the ACC is that the new board will consist of 13 voting members with a chief executive who will be a non-voting member. The chairman of the board will be the Commissioner of the Australian Federal Police. This is quite a fundamental change from the administration of the National

Crime Authority. The voting members of the board will be the eight state and territory police commissioners and five Commonwealth agency heads—a very important departure from the current structure of the National Crime Authority.

The ACC will have very important in-house powers and task force access to all coercive and investigatory powers currently available to the National Crime Authority. The board will need to specifically authorise those investigations or operations which are to have access to the very important coercive powers. These powers will be the same as those available to the National Crime Authority. However, having regard to the focus of the ACC on criminal intelligence, the bill expressly provides that the coercive powers are also to be available for intelligence operations. It clearly sets out the matters the board must take into account before making those coercive powers available to an intelligence operation or an investigation. Coercive powers have a critical role in the way that crime will be detected and dealt with. The coercive powers, whilst of concern to some members of the Joint Committee on the National Crime Authority over the years, I firmly believe will play a critical role when they are applied within the intelligence structure.

The Parliamentary Joint Committee on the National Crime Authority looked at this legislation and, after very careful consideration and extensive hearings from a number of interested parties both in Canberra and interstate, made 15 recommendations. There were two particular recommendations which I was interested to follow, but I am pleased to see that the government has accepted all but two of the committee's 15 recommendations. That does reveal that the government has very carefully considered the role of the Parliamentary Joint Committee on the National Crime Authority and the consideration that the committee has given to this bill.

The two recommendations I would like to mention here tonight reflect an area which I have always had a deal of interest in during my time—five or six years—on the parliamentary joint committee. The first is recommendation 4, in which we recommend:

... the Bill be amended to explicitly provide that:

- The CEO should be responsible for the overall management of the ACC. The Minister for Justice and Customs of the Commonwealth Parliament should be the Minister, under our system of responsible government, accountable to the Parliament for the work of the ACC.
- The CEO appoint the head of a task force after consultation with and advice from the Board.
- Heads of task forces are responsible to the ACC through the CEO.

I am pleased to say that Minister Ellison has agreed with that recommendation. Accordingly, the bill is being amended to provide that the CEO is responsible for the administration and management of the commission; that the person must manage, coordinate and control ACC operations and investigations to ensure that the head of an ACC operation or investigation is responsible to the board through the CEO; that the person must appoint the head of an investigation after having consulted with the chair of the board and appropriate board members; that these members will be determined by the board under directions issued under subsection 46(1); and that the Minister for Justice and Customs will be the Commonwealth minister responsible. The role of the CEO is very important in the overall management of the ACC, and I am very pleased to say that the minister took into account those recommendations.

The second recommendation that I was particularly pleased to be associated with was recommendation 14. After reading and taking evidence on these bills, the committee recommended:

... that the Bill be amended to explicitly provide that examiners must satisfy themselves in each case that before they exercise special powers under the Act that it is appropriate and reasonable to do so and that they indicate in writing the grounds for having such an opinion.

It was an issue of some debate within the committee but, after careful discussion, it was agreed that it was appropriate that there be given in writing the grounds for having such an opinion. I am very pleased to see that the minister has agreed to accept that recommendation. The bill has been amended to expressly provide that before an examiner

exercises coercive powers under section 28—that is, the summons to attend—or section 29, when notices are given to produce, the examiner must decide that the exercise of the power is reasonable in all the circumstances. It is also agreed to insert provisions requiring the examiner to indicate in writing the grounds for making that decision. That was something that we took very careful note of in a number of discussions that we had with witnesses who came before us to give evidence on this bill, and I am very pleased to see that that has been done.

I think that the Australian Crime Commission is an appropriate body to take over the powers not only of the National Crime Authority but also of the Office of Strategic Crime Assessments, OSCA, and the Australian Bureau of Criminal Investigation, ABCI. These three bodies will now be rolled into the Australian Crime Commission. Several years ago when the parliamentary joint committee looked into the operations of the National Crime Authority we saw that there were 23 bodies at that time, with jurisdiction of one sort or another, looking into crime across Australia. There was a great deal of what became known during that inquiry as 'turfdom'—various police bodies that chose for one reason or another not to exchange information, share intelligence or share databases. I recall—and I know a number of my colleagues at the time on that committee found this too—that it was very difficult to understand how an issue as important as crime could be the subject of turfdom.

I do not think this was made any easier by the fact that a number of the police officers who were working with the National Crime Authority on secondment in fact returned to the police forces in the states from where they came and then needed to fit in again with their colleagues where they were based. This made for some tensions during the period in which those officers were on transfer to the National Crime Authority. I think that the new Australian Crime Commission will ensure, as a peak body, that those sorts of tensions and those sorts of turfdoms do not occur. There is no doubt that in the wider community in Australia, particularly since October 12, there can be no more important

issue than the safety and security of all Australians, whether it is during their visits overseas or whether it is in Australia.

I think the most unfortunate set of circumstances that occurred on the campus of Monash University just a matter of weeks ago indicate that the decision of the minister to give the Crime Commission its first initiative—that is, the investigation of illegal hand gun trafficking in Australia—is a very timely reminder that we need to be very vigilant in ensuring that the policing bodies stay one step ahead of the more sophisticated criminals operating in this country through the very best arrangements within states and territories. So I am very pleased to support this bill tonight. I think it reflects not only very careful consideration by the premiers of every state and the chief ministers of the territories but also the work that has been done over the years, in its own modest way, by the Parliamentary Joint Committee on the National Crime Authority, which has always tried to make recommendations to ensure the most efficient and effective targeting of crime and criminals. I commend the bill to the Senate.

**Senator DENMAN (Tasmania)** (9.48 p.m.)—I rise to make some comments on the **Australian Crime Commission Establishment Bill 2002**. The Labor Party is supporting this bill, subject to amendments. The Australian Crime Commission Establishment Bill 2002 proposes to combine the National Crime Authority, the Office of Strategic Crime Assessments and the Australian Bureau of Criminal Investigation into a new agency, the Australian Crime Commission. This new agency will have the added responsibility of maintaining a database of intelligence information and undertaking criminal intelligence work. It will have governance arrangements and powers quite unlike the former agency, which I will speak about later.

On 26 September 2002, in his second reading speech on this bill, Mr Daryl Williams, the Attorney-General, described the reasoning for this legislation as the need to 'constitute an enhanced national framework for dealing with terrorism and transnational crime'. The decision on this gained unanimous agreement from the premiers of the

states and the chief ministers of the territories at the summit on 5 April convened by the Prime Minister. Following this, it was agreed that the National Crime Authority would be replaced by the Australian Crime Commission. A single, clear rationale for why the National Crime Authority, an agency that has always been acknowledged by both coalition and Labor governments for its good work, has suddenly become redundant is yet to emerge.

Debate interrupted.

#### ADJOURNMENT

**The PRESIDENT**—Order! It being 9.50 p.m., I propose the question:

That the Senate do now adjourn.

#### Pilbara Iron Ore Industry: 50th Anniversary

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (9.50 p.m.)—About 50 years ago a storm blew through the Pilbara region of Western Australia—in fact, around the Hamersley Range National Park. That particular storm had an incredible influence on the history of Western Australia and ultimately on the economic wealth of Australia. It forced a small aeroplane, known as an Austar—and anyone who wants to see what this aircraft looks like can travel to Kalgoorlie and see the plane—down below the cloud line and into those famous gorges throughout the Hamersley Ranges. Flying that little plane was Lang Hancock. This week we will commemorate the 50th anniversary of the discovery of the greatest iron ore province in the world by someone who is a legend, and who was a legend in their own lifetime. A man with limited education, a pastoralist with no training in geology, discovered one of the greatest resources and brought to fruition its development. It had the effect of changing Western Australia from a mendicant state—a state with very little capacity—into a powerhouse state within the Australian economy that now creates over 30 per cent of the export wealth of this nation.

Lang Hancock wrote some years later:

I was flying down south with my wife, Hope, and we left a little bit later than usual, and by the time we got over the Hamersley Ranges the clouds had

formed and the ceiling got lower and lower. I got into the Turner River, knowing full well that if I followed it through I would come out into the Ashburton. On going through the gorge in the Turner, I noticed that the walls looked to me to be solid iron and was particularly alerted by the rusty looking colour of it. It showed to me to be an oxidised iron.

This was the beginning of a quite extraordinary story, and I think it is entirely appropriate tonight that not only the Senate but all Australians note that this week is the 50th anniversary of a man who created an economic miracle for Western Australia and Australia.

After 1952 when he was forced by the storm clouds into the gorges, Lang and his lifelong companion, Ken McCamey, revisited these gorges week after week and month after month and developed the system of aerial prospecting, which has become one of the important systems for prospecting for minerals across the world. One method they used was called the McCamey Iron Tree. This involved spotting the stunted growth that sprouted out of seemingly sheer rock. By the end of the fifties it had been established that the Pilbara was rich in iron ore; however, there were a number of bureaucratic hurdles. These hurdles and the ensuing political fights would test Lang Hancock throughout his life, almost to his dying days.

One hurdle was the Commonwealth government embargo on exports which, after many years of vigorous and relentless lobbying by Lang, was raised. Another hurdle was the state government bans on pegging. Much of this is already history, and history shows us that Lang realised how he could overcome some of the state hurdles to the development. He pulled together some very powerful international backers and, with the backing of Rio Tinto—which went on to form Conzinc Rio Tinto Australia or Rio, as we know it now, and which in turn created Hamersley Iron—the Hamersley Mine at Mount Tom Price was commissioned in 1962. Within five years a further four iron ore mines were created, and the towns of Mount Tom Price, Newman, Paraburdoo, Pannawonica, the port at Port Hedland, Karratha and Dampier were created—effectively developing an area that prior to that had been

predominantly developed for pastoral leases and other purposes.

The history of Lang Hancock is not only about developing the iron ore provinces—although they were absolutely crucial to the development of the powerhouse economy of Western Australia. I am sure all Western Australians would ask themselves just how far the development would have gone in the Pilbara region if it had not been for Lang Hancock and his partner, Peter Wright. Would we have had the North West Shelf development? Would we have had places like Dampier and others being developed there? Would we have had the highway networks and the railway networks? To a large extent, the answer is either no or other developments would have been somewhat delayed as a result. The mines have earned hundreds of billions of dollars worth of export earnings and royalties for the state—last year, I am told, it was \$286 million. They have not only brought significant social benefits but also the development of fantastic technological advances to Western Australia and Australia as a whole.

I had the great privilege of taking Australia's Treasurer, Peter Costello, to the Pilbara in an RAAF Falcon jet in July of this year. We both reminisced about the flights we had taken there with Lang Hancock when we were young men. He made a habit of taking politicians, journalists and civil servants on trips to his beloved Pilbara to try to convince the southerners and the easterners just how important these discoveries were and that, if only the bureaucrats and the politicians would realise that if they would just get out of his way and let him build his railway and let him get on with building his ports, all of Australia's economic woes could be changed. I owe a great debt of gratitude to Lang Hancock. I must have been about the age of 21 or 22 when he took me up there. He certainly opened my eyes to that region of the state and to the great possibilities of its mining development. Since then, I have visited there more times than I can count. I have very fond and clear memories of sitting in the backyard of Lang's property at Witte-noom and watching a movie that I think he has shown all of us—it must have been a

pretty worn out old tape by the time I got to see it. I shared four days with Ken McCamey and Lang on that visit.

A lot has happened in Western Australia since then, and it is sad to say that I think a lot of people's memory of him has been tarnished. I want to put on the record that I think a number of the controversies that have surrounded him after his death will diminish in time and that people will remember the enormous contribution that Lang and Peter Wright made to the development of Western Australia. Lang Hancock was a remarkable character. He worked very long, hard and courageous hours. He supported his family and many others. He once spent seven months of a year in the saddle herding sheep and hunting dingos. It was a lonely existence in the very remote parts of the north-west. He was a passionate pilot and learned the basic skills in very short lessons. In the opinion of his lifetime friend and cousin—a mutual friend because I had the privilege of knowing this man too—Air Vice Marshal Sir Valston Hancock said that Lang was probably the finest bush pilot in the country. After having established himself as a bush pilot, he established his own facilities to service his plane. There were no aircraft maintenance facilities in the Pilbara at the time. He built his own workshop and obtained the relevant qualifications to service his own planes. At the age of 65, he went on to become a qualified pilot of a Falcon jet. Those of us who have flown in Falcons would know that that is no mean feat for a person of 30 or 40 years of age. It shows the dedication and the devotion of the man to have pursued that at the age of 65.

Quite simply, Lang Hancock was a remarkable character. Having signed the royalty agreements with Rio and with Hamersley Iron, he could have taken the soft option and retired at a very young age anywhere in the world as a multi-multimillionaire. He chose not to. His dream was to develop his own mine and a railway across Australia to link the coalmines of Queensland with the iron ore mines of Western Australia and to develop downstream processing. That dream is now carried on by his daughter, his granddaughter and his grandson. I wish them well

in their quest, but the important thing tonight is that the Senate remember Lang Hancock and his fantastic contribution to the great state of Western Australia and to the Commonwealth of Australia.

### **Electoral Roll**

**Senator COOK (Western Australia)** (10.00 p.m.)—I acknowledge Senator Ian Campbell and support his remarks. Last week we witnessed the astonishing spectacle of Dr Robert Dean, the Victorian Liberal Party's shadow Treasurer, being forced out of politics by virtue of his ineligibility to stand in the upcoming state election because he found himself not enrolled to vote. My purpose in speaking tonight is not to focus on the extraordinary incompetence of Dr Dean and the Victorian Liberal Party's campaign machinery, although I doubt that anyone in this chamber or elsewhere listening would be surprised if I made the observation that the State Director of the Liberal Party in Victoria, Mr Brian Loughnane, is probably no longer the frontrunner to replace Lynton Crosby as National Director of the Liberal Party. There are many things in politics which we trust others to do for us; however, for once, I think I can genuinely speak for every single one of my 75 colleagues in this chamber and the 150 members of the House of Representatives when I say that matters of electoral enrolments and election nominations are things only a fool would ever trust wholly to others, no matter how much we trust them. In other words, these are things we should take care of ourselves and do properly.

Dr Dean was not the first person, however, to be knocked off the electoral roll. The Liberal Party has long had an obsession with doing this. Of course, it is generally used to knock people off the roll who typically vote Labor—people in remote Aboriginal communities, people with very poor literacy skills, people in solid Labor areas within marginal electorates, and transient workers who follow work. All I can do is congratulate the Liberal Party. Your obsession has just netted you your biggest goal imaginable. Dr Dean had been enrolled to vote but was summarily removed from the roll because he did not answer correspondence. That is a

point that I want to come back to in a few minutes.

There are several longstanding and consistent themes that have underpinned Labor Party platforms for the 110 years of our existence. One of them is that of electoral enfranchisement. We have sought to introduce and enhance the universal franchise of one vote, one value—that is, every person's vote being equal and every person having every opportunity to cast their vote. We have never been able to achieve this easily, but we have maintained the struggle to do so. To achieve this, in my own state of Western Australia as I speak, the Gallop government is being forced to change the state's constitution so that the president of the upper house in that state can exercise the vote that the electors thought they gave him when they voted him into parliament—a vote like the one that you, Mr President, have in this Senate.

It goes without saying that this is being resisted to the very last by the conservative opposition in Western Australia—the latest incarnation of the same people who have opposed every piece of progressive legislation from the rights of workers, to a fair day's pay for a fair day's work, to equal pay, to universal health care, to universal education for all kids, regardless of the economic circumstances of their parents. Indeed, many Western Australians still recall with shame that the WA upper house property franchise only came to an end in 1967, well within the lifetimes of the great majority of senators here.

In this chamber, we have heard much from Senator Abetz and others over the last few years of the alleged corruption of the electoral roll. We have had various bits of legislation bowled up to us to clamp down on this despicable alleged corruption of the electoral roll, despite not having one shred of evidence that the current legislation is in fact inadequate to the task. We still hear the plaintive whingeing from conservatives that the system needs to be tightened up—that it is harder to open a bank account in Australia than it is to enrol to vote. There are a number of reasons for that.

I come back now to Dr Dean, who was removed from the electoral roll, as I said

before, because he did not answer mail. My electorate office is in the city of Kalgoorlie in Western Australia. A number of the constituents of the federal seat of Kalgoorlie have been taken off the electoral roll for the same reason. It is the argument I put tonight that that is unfair to them. While it is correct in the Dean case, it is unfair to them. It is unfair to these electors of Australia because they are Aborigines living in remote tribal communities in the federal electorate of Kalgoorlie who have a cultural predisposition to, at various times, go walkabout, and they are not at a fixed address in the classical way. It is not part of their culture to be at a fixed address, and when letters are sent to them at an address, which they do not answer within a certain time and which are then returned to the sender and presented to the Electoral Commission, they are removed from the roll. As a consequence, they are disenfranchised.

Mr President, you will remember, as I do vividly, that in 1967 the Holt government introduced a national referendum to enable Aborigines to vote. It remains a distinctive and landmark referendum. It was a referendum that arguably should have been introduced much earlier. It was a referendum that, unlike many referendums, was carried. Significantly, it was carried by a majority vote in every electoral district in Australia—the only referendum ever to achieve that distinction. The objective of that referendum was to enfranchise Indigenous Australians. We now find that the very cultural nature of Indigenous Australians—particularly people living in tribal communities, at missions or in remote locations in the Western Desert in the electorate of Kalgoorlie—is being taken advantage of and they are being removed from the electoral roll because of their nomadic lifestyle and their perceived non-desire to lead a 21st century lifestyle where you are able to be reached by mobile phone or by letter at any time of the day.

I believe that there is a clear campaign to write to these people, produce the evidence that they are not at the address in which they are registered—although that is their address—and then remove them from the roll and thus reduce the vote. What is also clear—and it has to be said in this debate—is

that many of those people in those communities have a predilection to vote Labor. It is not therefore in the interests of the Labor Party for this to occur. One only has to look at those whom I believe are undertaking these steps to see in whose interests it is to remove large numbers of Aboriginal voters in the federal seat of Kalgoorlie from the electoral roll to work out what is at play here.

This comes from a long tradition of trying to disenfranchise Aboriginal voters, the most spectacular and outstanding example of which occurred in 1977 when the Court of Disputed Returns found in that year's state election that some lawyers employed at that time by the Liberal Party had taken 44-gallon drums of port to Aboriginal communities in order to get them drunk the night before polling day. The court overturned that election and that caused a by-election to be held in the state seat of the Kimberley.

Indeed, just two years ago, with the compliance of the then WA Electoral Commissioner, there was a push that removed 600 people, mainly Indigenous Australians, from the electoral roll in the state seat of Ningaloo, which is wholly contained within the federal electorate of Kalgoorlie. Fortunately, their efforts came to nought, because the Aboriginals who had been taken off the roll realised themselves what had happened and, together with community workers and volunteers, managed to re-enroll themselves so that the total enrolment came to 800 people rather than the 600 that had been removed and those 800 were able to exercise their franchise.

During the New Zealand elections just a few months ago, I was very pleasantly surprised to discover that in New Zealand you could enrol right up to the day before election day, in which case you simply had to cast a special declaration vote, which was not counted until such time as your enrolment was verified. This is in marked contrast to our system, where rolls close about four weeks before the election—although, as Senator Abetz has said in this place, if the government had its way it would close the roll the day the writs were issued. This alone would disenfranchise about 300,000 mostly

young Australians. In the last federal election, 351,915 enrolments were received after the writs were issued because it has been common practice amongst Australian voters since time immemorial to make their enrolment or change it once the election is imminent.

The important question I want to address tonight is that I do believe the Electoral Commission and the laws of this country have to take into account the lifestyle practised by traditional Australians and have to fit the electoral system to their needs, not require a one-size-fits-all approach that means that they have to fit their way to a white way. *(Time expired)*

#### Brosnan Centre

#### Victoria: Privatisation

**Senator MARSHALL (Victoria)** (10.10 p.m.)—Tonight I rise to inform the Senate about the Brosnan Centre in Melbourne, which recently celebrated 25 years of service to many disadvantaged young people in Victoria. Amongst those young people it offers assistance to are young people who have committed an offence and are in detention or prison and receive little or no support from anyone else. The staff at the Brosnan Centre make contact and establish a relationship with these young people whilst they are in detention or jail and assist them in identifying the support they will need when they are released.

For many young people in this situation, the staff at the Brosnan Centre operate as an alternative family. They offer guidance in managing funds and resources and assist in working towards further education and training, with the goal of achieving employment for young people released from jail or detention. The centre relies upon the continued support of beneficiaries and donations, which enable the centre to offer support and emergency resources such as food, clothing and short-term accommodation. The Brosnan Centre usually operates in deficit, as one would expect with a community based service organisation. This year, it is facing a funding shortfall of over \$300,000.

Last year, the youth centre bought a property in Dawson Street, Brunswick from the

City of Moreland and shifted its operations to this site. The Brosnan Centre discovered that CitiPower, formerly a multinational company which had its parent company in the US and which is now owned by the Hong Kong Electric Holdings Co., had an electrical substation on the youth centre's property but, however, was not paying rent for the space that it occupied. The staff at the centre were made aware that Optus have a tower in the car park of that facility and pay rent accordingly for the space that it occupies. It was suggested that the centre approach CitiPower to achieve a similar outcome. The centre attempted to discuss a lease with CitiPower, which failed to answer letters and telephone calls for several months.

After several follow-ups, a response was finally achieved. The response from this privately owned multimillion dollar company was a 30-page contract offering 10c a year for 30 years. Ten cents a year for 30 years is a pretty miserly amount after a 30 page contract, and I suggest that it might be the envy of some of the lawyers opposite, particularly Senator Barnett, who today wanted to deprive half a million Victorian workers of the most basic minimum rights enjoyed by all other Australian workers. I would not be surprised if he is out there trying to preselect this lawyer for a Tasmanian Senate seat. The offer from CitiPower of 10c a year whilst it was receiving in excess of \$12,000 a year in power charges from the Brosnan Centre is a demonstration of corporate greed to the extreme.

The corporate greed that the multinational corporation demonstrated and the total disrespect and arrogance it showed towards the Brosnan Centre is a by-product of the Kennett government's \$30 billion privatisation of the electricity industry in Victoria. The Kennett theory of privatisation was that if left to the marketplace electricity prices would plummet and service standards would rise. Unfortunately, there appears to be a faulty connection between Kennettism and reality. The Kennett government went on a privatisation spree in Victoria that makes Thatcherism look tame. If it could be sold, it was sold. Nothing was sacred; everything from the State Insurance Organisation to the Port

of Geelong was sold as Kennett government ministers aimed to fulfil their dream of achieving some sort of ideological orgasm.

For most of the last century, state ownership of the electricity supplies in Victoria was underpinned by the objective of a universal service obligation. For the benefit of the senators opposite, a universal service obligation meant that every citizen in Victoria was entitled to electricity as a utility at a fair and reasonable price. The Kennett government privatised the electricity industry, implementing a user-pays scheme that did away with the universal service obligation. It is a system that only rewards the very high-use consumers and does nothing to encourage responsible and efficient use of the resource. As 80 per cent of the energy is used by 20 per cent of the customers, small customers are not profitable enough to offer price discounts to. This dismisses the claims of the Kennett government that prices would fall. In the early years of privatisation, industrial power costs dropped 30 per cent. However, even power prices for industrial users are back to those of the pre-deregulated days or higher.

There were two major reasons that the Kennett government used for legitimising the privatisation of the electricity industry. Firstly, the SECV was debt-ridden, as it had an estimated \$10 billion worth of debt. Therefore, it was claimed that electricity prices were not as low as they could otherwise be because the electricity prices were servicing debt, theoretically pushing the price of electricity up. What the Kennett government neglected to tell the citizens of Victoria was that the SECV was built up from the 1920s on public debt. Its operation and capital investment never cost the taxpay-ers a cent. Rather, until it was sold, it paid the state substantial yearly dividends and provided the citizens of Victoria with cheap, reliable electricity. Further, if the claim was that the \$10 billion worth of debt was pushing prices up then, using the same logic, surely \$30 billion worth of investment by private enterprise would push prices up fur-ther.

Secondly, the Kennett government promised lower prices, better customer service

and greater reliability of supply. What Victorians have received in return, along with those in South Australia who have also had to endure the privatisation experiment, are the highest electricity prices in Australia. These prices can be attributed to the early days of the privatisation of the electricity industry by the Kennett government. Electricity companies like CitiPower are charging Melbourne customers at a far higher rate than Sydneysiders six years after Jeff Kennett declared that the privatisation experimen-t would cut Victorian electricity bills. Relative prices in Victoria are higher due to the failure of the generating capacity supply to meet demand. There has been no new base-load generating capacity built in Victoria since 1992. The fact that no person or entity is now responsible for ensuring adequate supply to meet demand has led to lack of investment since the Kennett government privatised the SECV in the mid-1990s.

The problem Victorians now face is that the privatised generating companies actually have a vested interest in supply shortages, as this leads to an increase in the price of electricity sold to the power grid. Due to the generation and retailing businesses being sold to different private companies, the higher prices for wholesale electricity have to be passed on to the retailers and to the consumers. Victorians have been left with a complicated, ineffective and inefficient electricity industry. Victorians have had to pay for it. Unfortunately, they will have to continue paying for it. Had it not been for the Bracks Labor government rejecting the private retailers' bid for increases in the power prices from 16 per cent to 19.8 per cent, the consumer would be paying a whole lot more.

The privatisation experiment that was be-stowed upon Victorians in many forms through the sale of many service-providing assets has left Victoria less competitive and its residents are no longer protected by universal service obligations that once formed the boundaries these services operated within. Thankfully, this short-sightedness that Victorians were experiencing under the reign of Jeff Kennett has been replaced by the progressive, responsible, long-term agenda of the Bracks government. For Victo-

ria's sake we on this side of the chamber, at least, hope that this continues.

Whilst the state Labor governments recognise that they have an obligation to their citizens to ensure that vital services are not privatised in the hysterical manner that occurred under the Kennett regime, the Commonwealth merely chooses to express concern about the lack of privatising that is currently occurring in Australia. The federal Minister for Industry, Tourism and Resources told senior executives at a national power industry conference in Melbourne in early September that he was concerned that the states were showing signs of 'reform fatigue', as the states were becoming increasingly reluctant to privatise their electricity supply industries.

The example of CitiPower not paying rent to the Brosnan Centre at a fair and reasonable level is a demonstration that multinational companies that are supposed to service Australians with essential services are more interested in sending profits back to their parent companies overseas than meeting the costs of running their businesses in Australia. I implore the government to examine the privatisation experiment in Victoria before it races off to sell one of the biggest service providers in Australia: Telstra.

#### Victoria: Election

**Senator McGAURAN (Victoria)** (10.20 p.m.)—I will take a limited time, given that we are on air—I would like to respond to the previous speaker, Senator Marshall. It would be no surprise to know that there is an election on in Victoria. I am a Victorian senator and the previous speaker is a Victorian senator. This was just an old-fashioned electioneering speech by Senator Marshall. He opened with a heartfelt concern for the Brosnan Centre. I think that went for all of two minutes. Then the rest of it was an unbridled attack on the previous government—the Kennett government.

**Senator Marshall**—A justified attack!

**Senator McGAURAN**—Then he thought he had better finish up with his concern for the Brosnan Centre—

**Senator Marshall**—I haven't even got onto health yet!

**Senator McGAURAN**—in case anyone feared that this was simply an electoral attack and a cheap bit of electioneering dressed up around the Brosnan Centre or that someone from the Brosnan Centre may in fact be listening and he may in fact have to show real concern. So in the last minute he finished up and brought us back to the concerns of the Brosnan Centre. If he had real concerns for the Brosnan Centre, he would have spent his time talking about it and he would do something about it with the existing government.

**Senator Marshall**—Are you defending CitiPower!

**Senator McGAURAN**—In the end, he was calling upon the federal government to do something about the state electricity prices. I grew up in the Latrobe Valley. That is where the Victorian power supply comes from.

**Senator Marshall**—You own the Latrobe Valley!

**Senator McGAURAN**—That is the centre of it. There are about four power stations. I know only too well, and all Victorians know only too well, how moribund the State Electricity Commission was before it was privatised. It is a joke—it is a bit like saying that the former Telecom ran better than today's Telstra. The former SEC was the most inefficient, industrially corrupt organisation of all the government-owned facilities. It, more than any other facility, deserved to be privatised. John Halfpenny, I believe, was—

*Senator Marshall interjecting*—

**The PRESIDENT**—Order! Senator Marshall, Senator McGauran did not interject when you were speaking. I think you should give him a chance.

**Senator McGAURAN**—How many times were Victorians subject to union led blackouts? Senator Marshall, if you have spent your life in Victoria you will know only too well that, under the former SEC, there would be a union led blackout right across the state every 12 months in regard to wage demands or something even pettier than that—a mere insult to John Halfpenny, who ruled Victoria right up until the time of

the Kennett government. It would be all out, and there would be a blackout.

Talk about prices! You always talked about relative prices before—not the high prices of the State Electricity Commission. It was always relative. Relative to what—relative to another state, relative to previous prices? I will tell you about the SEC prices: they were government controlled and they were simply a milking cow. They were a tax. They were ratcheted up to meet budget deficits; they were not set to meet the market at all. They were not even structured in regard to the concerns of the poor; they were simply ratcheted up to meet government budget commitments. They were a form of tax over and above the fair market price. That was the old SEC. And what is your policy? What are you suggesting now that it is all privatised—that it all be resocialised? Is that the Bracks government's policy? Is that their concern? You talk about the Bracks government keeping a cap on the prices. That structure was introduced by the Kennett government. Any prices that require any price increase—not far different from our private health scheme—have to come before a tribunal. That was the system introduced by the Kennett government.

What Senator Marshall should really be standing up and explaining before the Senate and the broadcast is why the Bracks government is going to an election some 12 months before it has to. There are many reasons, we know, and one of them is that it wants to avoid the findings of the Cole royal commission into the building industry, because that will show the connection of this government with the unions—because they are back in town, under Senator Carr's control. He sits there and gloats and boasts. A couple of question times ago he could not contain it. I know he is under riding instructions: 'Just contain it in case Bracksy gets a second term, Senator Carr, because you'll be back in power just like the John Cain days.' We know how you wrecked John Cain. We know what John Cain thinks of Senator Carr and we know the power he had in the corridors of the Cain-Kirner government. He is about to return. Senator Marshall, you know only too well that the loopy left-wing unions are back

in control. The Kinghams and the Carrs will be back in control if only they can contain themselves and get away with it until Mr Bracks gets a second term. If he does, Victoria will suffer the same fate as it did under the Cain-Kirner regime. That is where we are heading, because the next Bracks budget, should he be fortunate enough to win the next election—

**Senator Marshall**—I think he will be.

**Senator McGAURAN**—Oh yes, sure, he is the favourite and we are the underdog, but there are two weeks to go and we know what happened at the last election. The Victorian state electors are full of surprises, I can tell you.

The next Victorian budget, without doubt, will go into the red. The Bracks government have been living off stamp duty. We know the housing industry has dipped, so there goes the Bracks budget. Their reasons for wanting to go to an early election are three-fold: Bracks knows he will lose control of his government when Senator Carr and his left-wing union mates at the Trades Hall come out of their shells and gain control after the election; he is trying to avoid the findings of the Cole royal commission, which will find a link between the state government and Trades Hall—that old, corruptible link that has already cost taxpayers \$70 million for the MCG; and his budget is heading into the red, so there goes his electoral credibility because he totally squandered the billion-plus dollars that Jeff Kennett left him. And what has he squandered it on? Has anyone seen where it has all gone? We know he dropped \$200 million into Federation Square, which went straight into the union pockets.

Basically, the whole budget has been squandered on an increase in Public Service wages. The fat cats have got it all! Isn't that typical of the Labor philosophy? It is the same old Labor. If only we can get the message through in the next two weeks that, if the Labor government are given a second term, it will be the same old Labor as the Cain-Kirner governments—they just need a second term to wreck the Victorian economy. They might not be fortunate enough. I know they have the pretty boy at the front, but the

Victorians know only too well about the rest of his lame, no-name, no-performance ministry. It is incredible to think that they undertook some 700 inquiries with no action. This is the most incredible do-nothing state government ever to arrive on the scene. After 700-plus inquiries, what can Bracks point to other than a blown budget?

**The PRESIDENT**—Senator McGauran, I think it is Premier Bracks.

**Senator McGauran**—What can Premier Bracks point to that he has actually done? He has cut his term short by a phenomenal 12 months, but what can he point to that he has done in government—other than 700-plus inquiries with no action at all? This is a do-nothing government. Should they get a second term, the unions will be back in control, the budget will go straight into the red, the incompetence of the ministers will be exposed and Victoria will return straight to the old rustbelt state it was under Cain and Kirner.

**Senate adjourned at 10.29 p.m.**

## DOCUMENTS

### Tabling

The following documents were tabled by the Clerk:

Criminal Code Act—Regulations—Statutory Rules 2002 Nos 269-272.

Defence Act—Determination under section—

58B—Defence Determination 2002/24.

58H—Defence Force Remuneration Tribunal—Determinations Nos 19, 20 and 23 of 2002.

Insurance Contracts Act—Regulations—Statutory Rules 2002 No. 273.

National Health Act—Determination under Schedule 1—HSR 30/2002.

Remuneration Tribunal Act—Determination—

2002/17: Remuneration and allowances for various public office holders.

2002/18: Members of Parliament: Allowances.

Superannuation Industry (Supervision) Act—Request from Minister to APRA, dated 16 September 2002.

## QUESTIONS ON NOTICE

The following answers to questions were circulated:

### **Solomon Electorate: Job Network (Question No. 804)**

**Senator Crossin** asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 17 October 2002:

- (1) How many people are receiving intensive assistance via Job Network in the federal electorate of Solomon.
- (2) How many unemployed people in Solomon have received intensive assistance since the introduction of Job Network on 1 May 1998.
- (3) (a) What is the total sum of funding support received by Job Network members in Solomon for intensive assistance; and (b) can a breakdown of this figure for each of the Job Network members be provided.
- (4) What have the employment outcomes been for people on intensive assistance in Solomon since 1998.
- (5) How many of these employment outcomes have resulted in: (a) full-time work; (b) part-time work; (c) casual work; (d) seasonal work; and (e) contract work.
- (6) How many people receiving intensive assistance in Solomon have entered into traineeships or apprenticeships.
- (7) What processes are in place to ensure that Job Network members are accountable for the Commonwealth funds they receive.
- (8) Have Job Network members refused to reveal any details of the funds they receive from the Commonwealth for placing job seekers into employment; if so, how can job seekers be assured that Job Network members are providing the full range of services that they are entitled to receive.

**Senator Alston**—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

- (1) In the Electoral Division of Solomon there were 1,562 job seekers receiving Intensive Assistance at 18 October 2002.
- (2) Between 1 May 1998 and 18 October 2002 a total of 7,477 job seekers had participated in Intensive Assistance.
- (3) Electorate boundaries in the Northern Territory changed for the 2001 Federal election. Expenditure for the Electoral Division of Solomon is only available from 2001/2002 onwards. Between 1 July 2001 and 30 September 2002 fees totalling \$4,645,000 had been paid to Job Network members providing Intensive Assistance in the Electoral Division of Solomon.

The area covered by Solomon was previously a part of the Electoral Division of Northern Territory. Between 1 May 1998 and 30 June 2001 fees totalling \$18,090,000 had been paid to Job Network members providing Intensive Assistance in the Electoral Division of Northern Territory.

Under contractual arrangements the value of payments to individual Job Network members are subject to an exemption from publication on the grounds of commercial in confidence.

- (4) Post Programme Monitoring data show that of those Intensive Assistance participants in the Electoral Division of Solomon leaving assistance between the start of Job Network in May 1998 and the end of March 2002, around 28.6 percent were in employment 3 months later.
- (5) Post Programme Monitoring data show that 13.4 percent of former Intensive Assistance participants in the Electoral Division of Solomon are in full-time work with an additional 15.2 percent in part-time work. Of these former Intensive Assistance participants: 22 percent were in permanent employment; 67 percent were in temporary, seasonal or casual employment; and 11 percent were self-employed.
- (6) There are 53 people who participated in Intensive Assistance in Solomon that have entered into a Traineeship or Apprenticeship.
- (7) A range of governance procedures were introduced with the establishment of Job Network. These included the Code of Conduct and compliance and performance monitoring arrangements.

The Code of Conduct is the central feature of consumer protection under Job Network. The aim of the Code is to produce the best outcomes for job seekers and employers by developing a high-quality, continuously improving service that engenders ethical behaviour. All Job Network members (JNMs) are required to comply with the Code, which forms part of their contract with the Commonwealth. The Code establishes minimum standards of service that all JNMs must provide to job seekers and employers. It requires JNMs to conduct all aspects of their business with integrity and in accordance with high ethical standards and requires that they provide a free and accessible complaints resolution process for job seekers and employers.

In addition, if a job seeker is not satisfied with the outcome of a complaint raised with their JNM or for some reason feels he or she cannot raise the matter with the JNM the Department of Employment and Workplace Relations offers a free and accessible complaints handling process. Job seekers can call the 1800 number and a customer service officer will assist them to resolve their complaint.

The complaints handling process enables the Department to monitor JNMs' compliance with the Code and work with JNMs to resolve problems and improve service quality.

The Department has a network of contract managers for Job Network, located in six District and seven State Offices, overseen by National Office. Contract managers monitor JNMs' contract compliance and play an important role in performance management through scheduled and ad hoc visits, performance reviews, on going desk monitoring and Quality Audits.

Quality Audits are triggered when the Department receives significant complaints about a JNM. These audits enable a full analysis of the JNM's service practices and can involve activities such as job seeker satisfaction surveys, site visits, file assessments and complaints analysis.

During 2001, the Department put in place mechanisms to strengthen the integrity of Job Network and ensure accountability.

An Integrity Strategy was introduced to monitor emerging business practices within Job Network which may compromise Commonwealth funds. The Integrity Strategy aims to ensure that the interests of the job seekers are best served and that decisions made by Job Network members put the needs of employers and job seekers before their own financial gain or any other benefit.

The Integrity Committee (now Ethics Subcommittee) and the Employment Risk Management Subcommittee were established within the Department as part of this Strategy as forums to improve the management structure for effective dealing with emerging risk and ambiguous business practices within Job Network.

The Code of Conduct has been strengthened to maintain the reputation and integrity of practices by JNMs.

Policy revisions were introduced to ensure Job Matching and Intensive Assistance employment outcomes are not used unethically by JNMs simply to maximise their fees.

The Department has developed a National Contract Management Framework to monitor business practices and their consequent management more systematically and effectively. For example, this framework includes a risk based plan of contacts with JNMs including targeted monitoring visits for compliance checking.

The Department undertakes an investigation and a compliance programme with a local and national presence that provides an independent assurance review function. The main roles include the development and implementation of a national compliance monitoring programme, the investigation of possible fraudulent activity and the recovery of inappropriate payments.

(8) As indicated in (3) above, under current contractual arrangements, the value of payments to individual Job Network members are subject to an exemption from publication on the grounds of commercial in confidence.

Job seekers are assured of receiving the full range of services that they may expect, through the operation of the mechanisms outlined in (7) above, including the Job Network Code of Conduct and complaints resolution processes.

**Solomon Electorate: Work for the Dole Program  
(Question No. 806)**

**Senator Crossin** asked the Minister representing the Minister for Employment Services, upon notice, on 17 October 2002:

- (1) How many 'Work for the Dole' activities have occurred in the federal electorate of Solomon.
- (2) How many people have participated in these activities.
- (3) How many people have been successful in gaining full-time employment at the completion of: (a) 3 months; (b) 6 months; and (c) 12 months, of Work for the Dole placements.

**Senator Alston**—The Minister for Employment Services has provided the following answer to the honourable senator's question:

- (1) Since Work for the Dole commenced in November 1997 there have been 90 activities approved in the electorate of Solomon.
- (2) There have been 931 commencements.
- (3) (a) The Department's Post Programme Monitoring (PPM) survey is conducted 3 months after a job seeker exits a Departmental programme. PPM data for participants who exited the Work for the Dole programme in Solomon between November 1997 and 31 May 2002 indicates that of the 125 who responded to the survey, 16 were in education and 32 in employment of which 15 (11.1%) were in full-time employment.  
(b) Data is not collected.  
(c) Data is not collected.