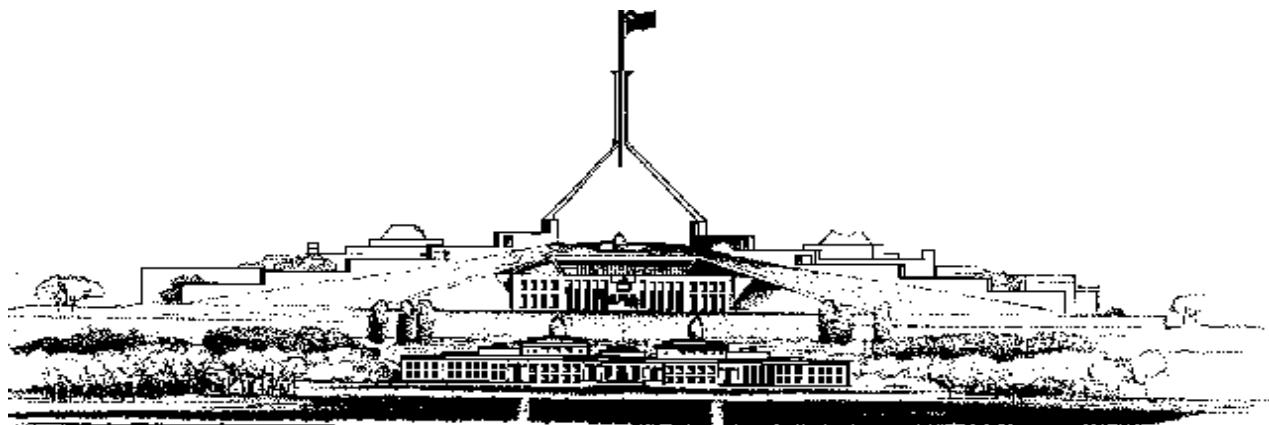




COMMONWEALTH OF AUSTRALIA

**PARLIAMENTARY DEBATES**



**SENATE**

**Official Hansard**

**No. 3, 2002**  
**THURSDAY, 21 MARCH 2002**

FORTIETH PARLIAMENT  
FIRST SESSION—FIRST PERIOD

BY AUTHORITY OF THE SENATE

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## SITTING DAYS—2002

Month	Date
February	12, 13, 14
March	11, 12, 13, 14, 19, 20, 21
May	14, 15, 16
June	17, 18, 19, 20, 24, 25, 26, 27
August	19, 20, 21, 22, 26, 27, 28, 29
September	16, 17, 18, 19, 23, 24, 25, 26
October	14, 15, 16, 17, 21, 22, 23, 24
November	11, 12, 13, 14, 18, 19, 20, 21
December	2, 3, 4, 5, 9, 10, 11, 12

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<i>MELBOURNE</i>	1026 AM
<i>ADELAIDE</i>	972 AM
<i>PERTH</i>	585 AM
<i>HOBART</i>	729 AM
<i>DARWIN</i>	102.5 FM

## SENATE CONTENTS

THURSDAY, 21 MARCH

Petitions—	
Human Rights: Vietnam .....	1195
Immigration: Asylum Seekers .....	1195
Documents—	
Tabling .....	1195
Notices—	
Presentation .....	1195
Business—	
Consideration of Legislation .....	1197
Rearrangement .....	1199
Notices—	
Postponement .....	1199
Committees—	
Finance and Public Administration References Committee—Reference .....	1200
France: Australian War Graves .....	1200
Committees—	
Scrutiny of Bills Committee—Meeting .....	1201
Photographs in the Senate .....	1201
Great Barrier Reef Marine Park (Boundary Extension) Amendment Bill 2002—	
First Reading .....	1201
Second Reading .....	1201
Health Insurance Commission Amendment Bill 2002—	
First Reading .....	1204
Second Reading .....	1204
Health Legislation Amendment (Private Health Industry Measures) Bill 2002—	
First Reading .....	1205
Second Reading .....	1205
Environment: Coltan Mining .....	1206
Basslink: Transmission Lines .....	1206
Committees—	
Rural and Regional Affairs and Transport Legislation Committee—	
Meeting .....	1207
Notices—	
Postponement .....	1207
Health Insurance Determination HS/5/01—	
Motion for Disallowance .....	1207
Committees—	
Regulations and Ordinances Committee—Report .....	1211
Regulations and Ordinances Committee—Delegated Legislation Monitor ..	1212
Finance and Public Administration References Committee—Report .....	1212
Budget—	
Consideration by Legislation Committees—Additional Information .....	1213
Committees—	
Publications Committee—Report .....	1213
Finance and Public Administration Legislation Committee—Report .....	1213
Scrutiny of Bills—Report .....	1213
Appropriation (Parliamentary Departments) Bill (No. 2) 2001-2002,	
Appropriation Bill (No. 3) 2001-2002 and	
Appropriation Bill (No. 4) 2001-2002—	
First Reading .....	1213
Second Reading .....	1213

## SENATE CONTENTS—*continued*

Veterans' Entitlements Amendment (Gold Card Extension) Bill 2002, Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Bill 2002 and Quarantine Amendment Bill 2002—	
First Reading .....	1215
Second Reading .....	1215
Committees—	
Membership.....	1219
Legislation Committees—Reports .....	1219
Budget—	
Consideration by Legislation Committees—Reports .....	1219
Migration Legislation Amendment (Transitional Movement) Bill 2002—	
Third Reading.....	1219
Notices—	
Postponement .....	1223
Ministers of State Amendment Bill 2002—	
Second Reading .....	1224
In Committee.....	1224
Third Reading.....	1236
Criminal Code Amendment (Anti-hoax and Other Measures) Bill 2002—	
Second Reading .....	1236
In Committee.....	1236
Third Reading.....	1238
Taxation Laws Amendment (Superannuation) Bill (No. 1) 2002 and Income Tax (Superannuation Payments Withholding Tax) Bill 2002—	
Second Reading .....	1239
In Committee.....	1241
Third Reading.....	1242
Therapeutic Goods (Charges) Amendment Bill 2002 and Therapeutic Goods Amendment (Medical Devices) Bill 2002—	
Second Reading .....	1242
Third Reading.....	1243
Veterans' Entitlements Amendment (Gold Card Extension) Bill 2002—	
Second Reading .....	1243
Third Reading.....	1249
Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Bill 2002—	
Second Reading .....	1249
Third Reading.....	1254
Financial Corporations (Transfer of Assets and Liabilities) Amendment Bill 2002—	
Second Reading .....	1254
Third Reading.....	1254
Business—	
Rearrangement.....	1255
Taxation Laws Amendment (Baby Bonus) Bill 2002—	
Second Reading .....	1255
Ministerial Arrangements .....	1261
Questions Without Notice—	
Privilege: Senator Heffernan .....	1261
Workplace Relations: Trade Union Movement .....	1262

## SENATE CONTENTS—*continued*

Telstra: Telecommunications Infrastructure .....	1263
Insurance: Public Liability.....	1264
Economy: Household Savings.....	1265
Defence: Terrorism.....	1266
Taxation: Rulings.....	1268
Video Games: Classification .....	1268
Council of Australian Governments Independent Review of Energy	
Market Directions: Appointment of Mr Warwick Parer.....	1269
Regional Forest Agreements Legislation.....	1270
Taxation: Queensland Liberal Party .....	1271
Environment: Murray-Darling River System .....	1272
Questions Without Notice: Additional Answers—	
Taxation: Rulings.....	1273
Taxation: Families .....	1273
Environment: Paradise Dam.....	1274
Defence Signals Directorate .....	1274
Questions Without Notice: Take Note of Answers—	
Taxation: Rulings.....	1275
Economy: Household Savings.....	1275
Taxation: Queensland Liberal Party .....	1275
Committees—	
Economics Legislation Committee—Report.....	1281
Membership.....	1281
Documents—	
Privilege: Senator Heffernan .....	1281
Business—	
Rearrangement.....	1281
Taxation Laws Amendment (Baby Bonus) Bill 2002—	
Second Reading.....	1282
In Committee.....	1282
Third Reading.....	1284
Taxation Laws Amendment Bill (No. 1) 2002—	
Second Reading.....	1284
In Committee.....	1292
Adoption of Report.....	1301
Third Reading.....	1301
Quarantine Amendment Bill 2002—	
Second Reading.....	1301
In Committee .....	1302
Third Reading.....	1305
Therapeutic Goods Amendment Bill (No. 1) 2002—	
Second Reading .....	1305
In Committee .....	1307
Third Reading.....	1308
States Grants (Primary and Secondary Education Assistance) Amendment Bill 2002—	
Consideration of House of Representatives Message.....	1309
Appropriation (Parliamentary Departments) Bill (No. 2) 2001-2002,	
Appropriation Bill (No. 3) 2001-2002 and	
Appropriation Bill (No. 4) 2001-2002—	
Second Reading .....	1314

## SENATE CONTENTS—*continued*

Third Reading.....	1327
Advance to the Finance Minister—	
In Committee .....	1327
Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 and	
Broadcasting Services Amendment (Media Ownership) Bill 2002—	
Referral to Committee .....	1327
Committees—	
Environment, Communications, Information Technology and the Arts Legislation Committee—Membership .....	1327
Parliamentary Zone—	
Approval of Works .....	1327
Bills Returned from the House of Representatives .....	1329
Committees—	
Membership.....	1329
Adjournment—	
Education: Funding .....	1329
Port Pirie: Magnesium Processing Plant.....	1332
Zimbabwe.....	1333
Environment: Sustainable Development .....	1335
Documents—	
Tabling.....	1337
Indexed Lists of Files .....	1337
Departmental and Agency Contracts.....	1338
Questions on Notice—	
Terrorism: Financial Action Task Force—(Question No. 24) .....	1339
Trade: Rural Exports to the Philippines—(Question No. 25).....	1340

*Thursday, 21 March 2002*

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

**PETITIONS**

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

**Human Rights: Vietnam**

To the Honourable the President and Members of the Senate of the

Commonwealth of Australia in Parliament assembled

We, the undersigned citizens of the Commonwealth of Australia sheweth that:

The continuing denial by the Government of Vietnam of religious and political freedom, and of freedom of expression and freedom of association in that country is a major infringement of the basic human rights;

And further call the attention of the Senate to the fact that the Government of Vietnam has recently further reduced basic human rights;

And further draw attention to the large number of clergy, writers, intellectuals and other citizens at present detained in inhuman conditions in Vietnam,

And ask that every effort be made to bring international pressure to bear to bring religious, cultural and political freedom to the people of Vietnam;

And your petitioners, as in duty bound, will ever pray.

by **Senator Reid** (from 989 citizens)

**Immigration: Asylum Seekers**

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

Whereas the 1998 Synod of the Anglican Diocese of Melbourne carried without dissent the following Motion:

That this Synod regrets the Government's adoption of procedures for certain people seeking political asylum in Australia which exclude them from all public income support while withholding permission to work, thereby creating a group of beggars dependent on the Churches and charities for food and the necessities of life;

and calls upon the Federal government to review such procedures immediately and remove all practices which are manifestly inhumane and in some cases in contravention of our national obli-

gations as a signatory of the UN Covenant on Civil and Political Rights.

We, therefore, the individual, undersigned attendees at the solidarity and justice community meeting of St Joseph's Catholic Church, Boronia, Victoria 3155, petition the Senate in support of the abovementioned Motion.

And we, as in duty bound will every pray.

by **Senator Patterson** (from 37 citizens)

Petitions received.

**DOCUMENTS**

**Tabling**

**The PRESIDENT** (9.30 a.m.)—I table the original certificates of the appointment by the Governor of Tasmania of Mr Richard Colbeck as a senator to fill the vacancy caused by the resignation of Senator Newman, and of Mr Guy Barnett as a senator to fill the vacancy caused by the resignation of Senator Gibson.

**NOTICES**

**Presentation**

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

- (1) That so much of standing orders be suspended as would prevent this resolution having effect.
- (2) That the following bills be restored to the *Notice Paper* and that consideration of each of the bills be resumed at the stage reached in the last session of the Parliament:

Genetic Privacy and Non-discrimination Bill 1998

Patents Amendment Bill 1996 [1998]

Republic (Consultation of the People) Bill 2001.

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

That the Workplace Relations Amendment Regulations 2001 (No. 2), as contained in Statutory Rules 2001 No. 323 and made under the *Workplace Relations Act 1996*, be disallowed.

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

That the Senate—

- (a) notes that:
  - (i) under a New South Wales government scheme, drivers could save \$2 000 in stamp duty costs if they

purchased an environmentally friendly car, such as a petrol electric hybrid vehicle;

- (ii) under the scheme, drivers purchasing new high-polluting vehicles will pay more stamp duty;
- (iii) hybrid vehicles are up to 50 per cent more fuel efficient and are far less polluting, and
- (iv) natural gas vehicles can produce more than 70 per cent less particulate matter than diesel vehicles;

(b) congratulates:

- (i) the New South Wales Government for developing the scheme, and
- (ii) the Federal Government for its decision to allow senators and members to choose to drive hybrid vehicles; and

(c) calls on all senators to consider using hybrid or alternative fuel vehicles as their electorate cars.

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

- (1) That the following matters be referred to the Community Affairs References Committee for inquiry and report by the second sitting day of 2003:
  - (a) in relation to any government or non-government institutions, and fostering practices, established or licensed under relevant legislation to provide care and/or education for children:
    - (i) whether any unsafe, improper or unlawful care or treatment of children occurred in these institutions or places,
    - (ii) whether any serious breach of any relevant statutory obligation occurred at any time when children were in care or under protection, and
    - (iii) an estimate of the scale of any unsafe, improper or unlawful care or treatment of children in such institutions or places;
  - (b) the extent and impact of the long-term social and economic consequences of child abuse and neglect on individuals, families and Australian society as a whole, and the adequacy of existing remedies and support mechanisms;
- (c) the nature and cause of major changes to professional practices employed in the administration and delivery of care compared with past practice;
- (d) whether there is a need for a formal acknowledgement by Australian governments of the human anguish arising from any abuse and neglect suffered by children while in care;
- (e) in cases where unsafe, improper or unlawful care or treatment of children has occurred, what measures of reparation are required;
- (f) whether statutory or administrative limitations or barriers adversely affect those who wish to pursue claims against perpetrators of abuse previously involved in the care of children; and
- (g) the need for public, social and legal policy to be reviewed to ensure an effective and responsive framework to deal with child abuse matters in relation to:
  - (i) any systemic factors contributing to the occurrences of abuse and/or neglect,
  - (ii) any failure to detect or prevent these occurrences in government and non-government institutions and fostering practices, and
  - (iii) any necessary changes required in current policies, practices and reporting mechanisms.
- (2) In undertaking this reference, the committee is to direct its inquiries primarily to those affected children who were not covered by the 2001 report *Lost Innocents: Righting the Record*, inquiring into child migrants, and the 1997 report, *Bringing them Home*, inquiring into Aboriginal children.

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

That there be laid on the table by the Minister representing the Treasurer (Senator Minchin) by 28 May 2002, the following documents:

- (a) Australian Office of Financial Management (AOFM): Review of Foreign Currency Exposure, 2000-01, as cited in the AOFM Annual Report, 2000-01;
- (b) Department of the Treasury: Review of the Benchmark, December 1996, as cited

on page 54 of Auditor-General's report no. 14 of 1999-2000;

(c) Department of the Treasury: Review of the Benchmark, November 1997, as cited on page 54 of Auditor-General's report no. 14 of 1999-2000;

(d) Department of the Treasury: Review of the Benchmark, August 1998, as cited on page 54 of Auditor-General's report no. 14 of 1999-2000;

(e) AOFM, Review of the Benchmark, November 1999, as cited in the AOFM submission to the Joint Committee of Public Accounts and Audit 'Audit Recommendations and Status of Action as at End April 2000';

(f) File AOFM2000/00243—Executive: Foreign Exchange Risk Management: Foreign Exchange Exposure Review Taskforce: CEO's working papers;

(g) File AOFM2000/00381—Debt Policy Unit: Debt Management Strategy: Development of Debt Management Strategy (Part 1);

(h) File AOFM2000/00382—Debt Policy Unit: Debt Management Strategy: Development of Debt Management Strategy (Part 2);

(i) File AOFM2000/00383—Debt Policy Unit: Debt Management Strategy: Development of Debt Management Strategy (Part 3);

(j) File AOFM2000/00384—Debt Policy Unit: Debt Management Strategy: Development of Debt Management Strategy (Part 4);

(k) File AOFM2000/00124—Admin Unit: AOFM Advisory Board (Part 1);

(l) File AOFM2000/00124—Admin Unit: AOFM Advisory Board (Part 2);

(m) File AOFM2001/00124—Admin Unit: AOFM Advisory Board (Part 3);

(n) File AOFM2001/00124—Admin Unit: AOFM Advisory Board (Part 4);

(o) File AOFM2000/00316—Portfolio Research Unit: Debt Management Strategy: AOFM Liability Management Committee Meeting Papers: from 25 October 2000 meeting;

(p) File AOFM2000/00147—Debt Policy Unit: Foreign Exchange Risk Management: Report of the Taskforce on Commonwealth Foreign Exchange Risk Management;

(q) File AOFM2000/00233—Debt Policy Unit: Swaps Policy: Monthly Financial Reports for the Swaps Portfolio during 2000-01;

(r) File AOFM2000/00234—Debt Policy Unit: Swaps Policy: Notes Reporting on the Commonwealth of Australia's Swap Activities during 2000-01;

(s) File AOFM2001/00015—Portfolio Research Unit: Swaps Policy: Swap Counterparties Utilisation of Market Exposure Limits;

(t) File AOFM2001/00017—Portfolio Research Unit: Debt Management Strategy: AOFM Liability Management Committee Meeting Papers: from 10 January 2001 meeting; and

(u) File AOFM2001/00152—Portfolio Research Unit: Debt Management Strategy: AOFM Liability Management Committee Meeting Papers: from 2 May 2001 meeting.

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

That the Environment Protection and Biodiversity Conservation Amendment Regulations 2001 (No. 2), as contained in Statutory Rules 2001 No. 306 and made under the Environment Protection and Biodiversity Conservation Act 1999, be disallowed.

### BUSINESS Consideration of Legislation

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

That the following government business orders be considered from 12.45 pm till not later than 2 pm today:

No. 8 Taxation Laws Amendment (Baby Bonus) Bill 2002,

No. 9 Therapeutic Goods Amendment (Medical Devices) Bill 2002

Veterans' Entitlements Amendment (Gold Card Extension) Bill 2002,

Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Bill 2002,

Quarantine Amendment Bill 2002, and

No. 10 Financial Corporations (Transfer of Assets and Liabilities) Amendment Bill 2002.

**Senator BROWN** (Tasmania) (9.32 a.m.)—Madam President, I give notice that I

will be opposing two of those pieces of legislation and, with leave to make a statement, would be happy to allow them to stay on the list for consideration at lunchtime and express my opposition at that time.

**Senator HARRADINE (Tasmania)** (9.33 a.m.)—I did not think this motion would be moved at this time of the day. I believed it would probably be moved after 11 o'clock or thereabouts, because I had pointed out that I had a problem with the terms of the **Taxation Laws Amendment (Baby Bonus) Bill 2002**. There is some question that this bonus will mean that more women will be having babies later, in order to qualify. I will not argue the case at the moment, but I think that particular issue is certainly not non-controversial. I would hope that that bill could be taken off the list pending some discussions about the matter and some further explanation.

**Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate)** (9.34 a.m.)—by leave— We have had extensive consultation with all senators with respect to each of the bills that I have listed. I do not choose to call them non-controversial; I just call them lunchtime bills. As Senator Brown said in his remarks, he opposes two of the bills but he has very kindly allowed the bills to be considered in the lunchtime slot. As I understand what Senator Brown has said, he will be recording his opposition, putting forward his views but he will not be forcing a vote.

I suggest to Senator Harradine that we have been trying to discuss those issues and we had told his office that this was normally the time when this motion would be moved. I would like the list to stay intact on the basis that, after negotiations with the relevant minister—it may well be me—in relation to the **Taxation Laws Amendment (Baby Bonus) Bill 2002**, if we cannot satisfy Senator Harradine's objections to the bill, and he says he will be wanting to vote against it—

**Senator Harradine**—No.

**Senator IAN CAMPBELL**—I give an undertaking that we will not proceed with it at lunchtime. The effect of that may well be that the bill does not get passed in this session; however, I undertake that if Senator

Harradine's concerns cannot be assuaged or if we cannot convince him not to vote against it, I will not proceed with it at lunchtime. But I would seek his support to at least, by passing this motion, allow it to stay on the list for lunchtime, subject to agreement. If agreement cannot be reached I will commit here, on behalf of the government, to remove it and not proceed with it in that lunchtime slot.

**Senator O'BRIEN (Tasmania)** (9.36 a.m.)—On the basis that we are still discussing the **Quarantine Amendment Bill 2002** and a proposed opposition amendment to it which may or may not leave us in a position that this is a non-controversial lunchtime bill, I am happy for it to remain on the list on the basis that if it is controversial it will not be proceeded with.

**Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate)** (9.36 a.m.)—I have made an informal suggestion to the Manager of Government Business in the Senate which might assist Senator Harradine—that the government consider reordering the government business orders of the day to be dealt with at 12.45 p.m. and ensure that the **Taxation Laws Amendment (Baby Bonus) Bill 2002** is the last bill dealt with in the list of non-controversial legislation. That may assist. With the best will in the world, I provide that suggestion and commend it to those who are responsible for ordering non-controversial legislation.

**Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate)** (9.37 a.m.)—I would be happy to accept that amendment and seek leave to amend my motion by placing the **Taxation Laws Amendment (Baby Bonus) Bill 2002** as the last bill and, on the same basis, the **Quarantine Amendment Bill 2002** as the second-last bill.

Leave granted.

**Senator IAN CAMPBELL**—The amended motion now reads as follows:  
No. 9 Therapeutic Goods Amendment (Medical Devices) Bill 2002.  
Veterans' Entitlements Amendment (Gold Card Extension) Bill 2002.

Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Bill 2002.

No. 10 Financial Corporations (Transfer of Assets and Liabilities) Amendment Bill 2002.

Quarantine Amendment Bill 2002.

No. 8 Taxation Laws Amendment (Baby Bonus) Bill 2002.

Question agreed to.

#### Rearrangement

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (9.38 a.m.)—by leave—I move:

That:

- (a) the hours shall be from 9.30 am to 7.10 pm;
- (b) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) not be proceeded with;
- (c) the routine of business from not later than 4.30 pm till the adjournment shall be government business only;
- (d) divisions may take place after 6 pm; and
- (e) the question for the adjournment of the Senate shall be proposed at 6.30 pm.

**Senator BARTLETT** (Queensland) (9.39 a.m.)—I recognise that this is being done to try and enable business to be finished today so we do not sit tomorrow. So I am not going to speak at length but I do think it does require speaking to, noting and drawing attention to. The effect is for general business again to be removed for the second week in a row and that needs to be put on the record again from the Democrats' point of view. We have had three sitting weeks in the life of a new government and already in two of those weeks we have removed general business. Certainly this week we have had two late-night—midnight—sittings, and I think last week we had an extended night as well. It really is particularly poor management. Again the Democrats express our strong opposition to this government's willingness to have so few sitting days to consider business and, as a consequence, to treat the Senate with such contempt and expect us to deal in

any meaningful way with all the bills that are on the red.

Given the cooperation that the Democrats for some reason showed last night with the migration bill, I think it is clear that we are not simply using all of this as a device to stop that going through—because it will. I think our extreme disapproval nonetheless needs to be registered. As I said a few times yesterday, it is much more difficult to be cooperative when the Senate is treated with such contempt by the government. I guess to some extent we deserve it: if we keep accepting that contemptible treatment then we will keep receiving it, which is something I think we need to consider. But again I note that if there was a desire to be uncooperative it would have been quite easy.

This motion that we are debating now, for example, was only moved by leave. Obviously it would have been quite simple to have refused leave, which clearly has not been done. We are not going to oppose the motion either, but it needs to be on the record that the fact that we are not opposing it should not be seen as being comfortable or happy with it. Personally, I am very unhappy with the way this government is managing business already, so quickly into their first term, into the start of a new government. I again signal that cooperation only extends so far. It gets more and more difficult to be cooperative when the underlying approach of the government is to treat the Senate and the parliament as a whole in such a poor way.

Question agreed to.

#### NOTICES

##### Postponement

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Bartlett for today, relating to the reference of matters to the Legal and Constitutional References Committee, postponed till 15 May 2002.

Business of the Senate notice of motion no. 2 standing in the name of the Leader of the Australian Democrats (Senator Stott Despoja) for today, relating to the reference of matters to the Standing Committee of Privileges, postponed till 15 May 2002.

General business notice of motion no. 24 standing in the name of Senator Bourne for today, relating to measures to resolve tensions between India and Pakistan, postponed till 15 May 2002.

## COMMITTEES

### Finance and Public Administration References Committee

#### Reference

**Senator FORSHAW (New South Wales)**

(9.42 a.m.)—I move:

- (1) That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 12 December 2002:
 

Recruitment and training in the Australian Public Service (APS).
- (2) That, in considering this matter, the committee examine and report on the following issues:
  - (a) recruitment, including:
    - (i) the trends in recruitment to the APS over recent years,
    - (ii) the trends, in particular, in relation to the recruitment to the APS of young people, both graduates and non graduates,
    - (iii) the employment opportunities for young people in the APS, and
    - (iv) the efficiency and effectiveness of the devolved arrangements for recruitment in the APS;
  - (b) training and development, including:
    - (i) the trends in expenditure on training and development in the APS over recent years,
    - (ii) the methods used to identify training needs in the APS,
    - (iii) the methods used to evaluate training and development provided in the APS,
    - (iv) the extent of accredited and articulated training offered in the APS,
    - (v) the processes used in the APS to evaluate training providers and training courses,
    - (vi) the adequacy of training and career development opportunities available to APS employees in regional areas,

- (vii) the efficiency and effectiveness of the devolved arrangements for training in the APS,
- (viii) the value for money represented by the training and development dollars spent in the APS, and
- (ix) the ways training and development offered to APS employees could be improved in order to enhance the skills of APS employees;
- (c) the role of the Public Service Commissioner pursuant to section 41(1)(i) of the *Public Service Act 1999* in coordinating and supporting APS-wide training and career development opportunities in the APS; and
- (d) any other issues relevant to the terms of reference but not referred to above which arise in the course of the inquiry.

Question agreed to.

### FRANCE: AUSTRALIAN WAR GRAVES

**Senator MACKAY (Tasmania)** (9.42 a.m.)—On behalf of Senator Bishop, I move:

That the Senate notes that:

- (a) the French Government plans to construct a new three runway airport, estimated to cost \$A19 billion, in Northern France covering eight World War I cemeteries containing 1 200 graves, including those of 61 Australians who fell in action;
- (b) these plans will also affect a large unknown number of those lost in action but never found;
- (c) this proposal has enormous consequences for the memories of many Australian families and therefore must be resisted;
- (d) the Australian Government has had significant prior notice of these plans and has been dilatory in protesting to the French;
- (e) the Australian Government has only in recent days made representations to the Commonwealth War Graves Commission; and
- (f) as yet no formal representations have been made to the French Government by the Australian Government to register Australian objection to the desecration of this land by such a development.

Question agreed to.

**COMMITTEES**  
**Scrutiny of Bills Committee**  
**Meeting**

**Senator MACKAY (Tasmania) (9.43 a.m.)**—On behalf of Senator Cooney, I move:

That the Standing Committee for the Scrutiny of Bills be authorised to hold a public hearing on the provisions of the Criminal Code Amendment (Espionage and Related Offences) Bill 2002, the Security Legislation Amendment (Terrorism) Bill 2002 [No. 2] and the Suppression of the Financing of Terrorism Bill 2002 for the purposes of clarifying points raised by the committee's legal adviser in relation to the above bills.

Question agreed to.

**PHOTOGRAPHS IN THE SENATE**

**Senator BROWN (Tasmania) (9.44 a.m.)**—I move:

That photographs of any senator may be taken by the media in the chamber whenever that senator has the call.

Question agreed to.

**GREAT BARRIER REEF MARINE PARK (BOUNDARY EXTENSION) AMENDMENT BILL 2002**

**First Reading**

**Senator BARTLETT (Queensland) (9.45 a.m.)**—I move:

That the following bill be introduced: a bill for an act to amend the Great Barrier Reef Marine Park Act 1975 to provide for an extension of the boundaries of the Marine Park.

Question agreed to.

**Senator BARTLETT (Queensland) (9.45 a.m.)**—I move:

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

Question agreed to.

Bill read a first time.

**Second Reading**

**Senator BARTLETT (Queensland) (9.45 a.m.)**—I move:

That this bill be now read a second time.

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

Leave granted.

*The speech read as follows—*

The recent story in the Weekend Australian and the long months of research conducted by the Australian Democrats have made it clear that oil exploration and interest in the Great Barrier Reef and adjacent areas is alive and well.

The evidence is clear that there are substantial reserves of oil in the area. It is also clear that this profile of oil reserves has been developed over a number of years with the active assistance and research of government agencies and of international projects such as the Ocean Drilling Project.

For over 30 years, surveys, research, seismic profiling and drilling have occurred in the region. Even after the Marine Park was declared in 1975, vessels have returned to the GBR to conduct further testing, further surveys. That continues to this day.

A brief chronology of this exploration post 1975 is revealing.

1978—The Geological Survey Institute (GSI) seeks authority to investigate offshore areas in Queensland. Seeking confidential access to survey data from an earlier Shell Oil survey.

1979—GSI Reports that the Queensland Plateau adjacent troughs are likely to contain petroleum.

1979—GSI cruise—MV Eugene McDermott. Later in 1979, there is a meeting between GSI and oil companies (Esso, Santos, Philips, BP, AGIP, SPA) regarding their Coral Sea program.

1979—GSI seeks authority to conduct seismic tests inside the GBR. The proposal is later withdrawn after public becomes aware of proposal.

1979—The Commonwealth decides to uphold moratorium on oil drilling in the GBR region recommended by the Chair of the Royal Commission.

1979—Don Chipp of the Australian Democrats moves to have oil exploration in the GBR investigated by the Standing Committee on Science and the Environment.

**1980s**

1981—The Commonwealth Parliament passes the Petroleum (Submerged Land—Miscellaneous Amendment) Act 1981 which opened the Coral Sea to petroleum exploration and drilling. In the second reading speech, the Minister commits to not issuing “exploration permits within 30 miles of the reef” but no such prohibition was included in the legislation.

1981—The Australian Democrats urge far larger buffer protection for the Great Barrier Reef in debate on Petroleum Act.

1981—Australian Petroleum Production and Exploration Association (APPEA) newsletter argues that the Great Barrier Reef is essential to Australia's oil future.

1982—Bureau of Mineral Resources seeks access to GSI data.

1982—GSI seeks authority for second cruise in areas where “petroleum exploration companies have indicated to GSI they are interested”

1983—Great Barrier Reef Marine Park Regulations prohibit oil drilling in areas of the Great Barrier Reef Region not declared Marine Parks.

1984—RV Rig Seismic (Division of Marine Geoscience and Petroleum Geology) proposes cruise in area, “to help determine the resource potential of specific areas, i.e. the Townsville Trough, the west part of the Queensland Plateau and the western part of the eastern plateau”. GBRMPA issues permit, with request to refer to the aims of the project as “purely scientific and not involved with petroleum exploration”. GBRMPA seeks similar approach for “future descriptions and publications of your research”.

1985—Rig Seismic cruise.

1986—The Australian Petroleum Production and Exploration Association (APPEA) calls on the Commonwealth to ease restrictions on North-East Shelf, which includes the GBR and the Coral Sea.

1987—Rig Seismic second cruise. Principal objective “is medium to long term petroleum potential outside the GBRMP”

#### 1990s

1990—Leg 133 of the Ocean Drilling Program conducts drilling studies in the GBR. “The results are highly significant for both AGSO and the petroleum exploration industry”

1990—The Resources and Energy Minister Alan Griffiths issues a comprehensive program for the release of offshore areas for exploration by companies, including the Townsville Trough, the Queensland Trough and the Capricornia Basin areas adjacent to the eastern GBR. Two days later Prime Minister Hawke indicated that no exploration would be allowed which would endanger the GBR, but it was not clear if this was a prohibition or simply a requirement for strict guidelines.

1990—Democrat leader Cheryl Kernot warns of dangers of oil exploration adjacent to the GBR: “The major threat to the reef comes from outside—from the Government's strategy of offshore oil exploration which would see drilling adjacent to the reef in the Townsville trough and the Maryborough basin, the Queensland trough and the Capricorn basin, where wind and currents would

disastrously carry oil spill on to the reef, causing major ecological disaster.”

1990—Chevron voluntarily surrenders its four existing exploration permits in the GBR Region.

1991—The Petroleum (Submerged Lands) Act 1967 is amended to enable the Commonwealth to terminate the one remaining oil exploration permit in the GBR, Q/11P, owned by Petroz NL.

1992—Proposed exploration to the east of the GBRMP in the Townsville Trough by the BMR in support of leg 133 and indications of petroleum potential. The cruise does not proceed. Future exploration near the Park is not ruled out by the Hawke Government, although it will trigger the EP(IP) Act. (Note that BMR is now AGSO)

1994—A Bureau of Resource Science Petroleum Resources Branch letter indicates that the study of the Townsville Trough is “nearly completed”. The report “will contain no discussion of prospects, play types, source rock potential or petroleum prospectivity”

1996—An assessment of the ODP project comments on the industry interest created in the GBR as a result of leg 133, including in the adjacent Queensland Plateau. Future ODP legs in the area are recommended.

1997—Queensland Department of Mines and Energy writes to the Federal DPIE suggesting that areas east of the GBR in the Queensland Plateau and Townsville Trough “...could be legitimate exploration target areas. Could we impose on you to review both the Queensland Plateau and Townsville Trough areas and see if BRS are interested in releasing areas here?”

1997—The response from DPIE indicates DPIE will write separately about “the possible release of areas in the Coral Sea in future bidding rounds”

1997—A Ministerial brief, Queensland Department of Mines and Energy indicates “a number of large international oil and gas company representatives have shown interest in exploring for petroleum in waters offshore of Queensland”

1998—A story in Courier Mail (30 May) indicates that Queensland Department of Mines and Energy had recently sought to advertise for expressions of interest in “oils and gas appraisals” in areas underlying the GBR.

1998—The Australian Democrats question AGSO and Minister Parer regarding seismic testing in the GBR. Both deny any that there is any interest in the reef from oil company interests.

1998—The Democrats lodge an FOI for Great Barrier Reef oil plans.

1999—GBRMPA regulations take effect that prohibit mining operations, or research for a mining operation in the Great Barrier Reef Region.

1999—GBRMPA authorises CSIRO vessel Franklin cruise in the area. Cruise will apparently support proposed ODP trip in 2001.

#### 2000s

2000—TGS-NOPEK (a seismic testing company) applies for permission to conduct seismic tests near the protect Lihou and Marion Reefs, 50km from the eastern boundary of the GBR Region. TGS-NOPEK admits that this is for commercial petroleum interest and that it follows previous seismic surveys of the area.

2001—TGS-NOPEK is informed that they must conduct an Environmental Impact Assessment under the EPBC.

2001—leg 194 of the Ocean Drilling Project (ODP) drills for core samples inside the GBR. 4 sites, 16 holes are drilled. A number of holes are drilled outside the GBR as well in the Coral Sea. The Great Barrier Reef Marine Park Authority does not require any impact assessment of the drilling and provides no opportunity for public comment or input. It permits the drilling despite the 1999 regulations prohibiting “research for a mining operation”. The ODP vessel carries representatives from both the oil industry and drilling industry. The Democrats have confirmed the presence on board of at least half a dozen people from industry. The ODP claims it is only investigating climate change.

2001—July, Shipping Review in the Great Barrier Reef. A submission from the Department of Industry, Science and Resources (DISR) notes that petroleum industry activities near the Reef require vessels to have passage on the landward side of the Reef and to transit across the Reef. Banning of petroleum industry ships could affect exploration and development of resources in the region outside the GBRMP and could negatively affect the economic viability of potential petroleum production in the Coral Sea. DISR notes similar concerns for flow-on impacts for other industries such as tourism and minerals that depend on shipping access in the GBR.

2001—The Australian Democrats secure documents through the Senate relating to the Ocean Drilling Project, legs 133 and 194.

This brief chronology, although not complete, provides a compelling picture of systematic exploration for oil in GBR and adjacent areas, by both government and industry.

It should be understood that exploration doesn't mean simply drilling holes in the hope that you

strike the big one. Seismic testing and core sampling are both forms of exploration that provide evidence of the location and nature of any petroleum reserves. That is true even if the data derived from those activities may have scientific purposes as well.

It should also be understood that the amount of seismic testing that has occurred in the region cannot be explained by the needs of science. It can be explained even less by the management needs of the Great Barrier Reef Marine Park Authority.

The current legal regime must also be understood. It is currently prohibited to drill for oil inside the Great Barrier Reef Marine Park. The Democrats accept the Government's commitment that they will not allow such drilling to occur. Of most immediate concern, then, are the areas outside and adjacent to the Great Barrier Reef Marine Park. There are no prohibitions on oil exploration or drilling in those areas at all.

Government would have to give permission for oil exploitation to occur. As far as we know, there are no immediate plans to release acreage to the oil industry in the Coral Sea. That said, the size of the reserves and the long-standing interest in the area by the oil industry and the calls for acreage releases by organisations such as APPEA, indicate that if no action is taken, the pressure to release areas in the Coral Sea for further exploration and ultimately for exploitation will increase.

The Great Barrier Reef Marine Park (Boundary Extension) Amendment Bill 2002 deals directly with this threat.

The bill extends the Great Barrier Reef Region out to the boundaries of the EEZ.

An area within the Great Barrier Reef Region is not necessarily within the Great Barrier Reef Marine Park. Inclusion within the Park occurs under Section 31(1) of the Great Barrier Reef Marine Park Act 1975 that states that

Subject to subsection (5), the Governor-General may, by Proclamation, declare an area specified in the Proclamation, being an area within the Great Barrier Reef Region, to be a part of the Marine Park and assign a name or other designation to that area.

It should be noted that mining and petroleum drilling are not permitted in any part of the Great Barrier Reef Region that is not declared as Marine Park under the Great Barrier Reef Region (Prohibition of Mining) Regulations 1999 (Statutory Rules 1999 No. 339).

By becoming part of the Great Barrier Reef Region the bill immediately prevents oil exploita-

tion. It does so, however, without creating an entirely new regulatory structure, a new bureaucracy or legal regime. Additionally, it does so without affecting other existing uses and users in the Coral Sea.

The effect of this bill will be directly to prevent oil exploration and exploitation in the Great Barrier Reef Region. It will also, then, protect some of the natural values of the Coral Sea such as Lihou Reef. Many people may not know that there are extensive reef areas in the Coral Sea that are well outside the boundaries of the Marine Park and the World Heritage Area.

Additionally, this bill will protect the existing Great Barrier Reef Marine Park. It will protect the GBRMP from the effects of oil drilling and the prospects of spills being carried into the Park. It will protect the GBRMP from a dramatic increase in shipping associated with the oil industry. Oil tankers using the inner route are already a concern of those who would protect the GBR. The likelihood of a major oil spill would increase significantly with increased oil tanker traffic. While the Authority has an oil spill plan in place, they recognise that a major spill will have major impacts. If the spill occurs in more remote areas, the difficulties of mitigating that spill are magnified.

This bill adds a very large area to the jurisdiction of the Great Barrier Reef Marine Park Authority, but does not impose commensurate obligations. It is simply the most efficient method of ensuring that the areas adjacent to the GBR are protected from an imminent threat of commercial exploitation of very large oil reserves.

It should be added that the search for petroleum in and adjacent to the GBR is misdirected in a more fundamental way as well.

Only yesterday, the threats to the coral reefs of the world as a result of climate change and increasing sea surface temperatures were highlighted again by scientists. The primary cause of climate change and increased sea surface temperatures is oil and the burning of oil. Surely, we should be doing everything in our powers to ensure that threats to the GBR are reduced not increased. Allowing oil exploration in or adjacent to the GBR is a double threat.

The further irony is that big business all over the world is recognising that we are now leaving behind the age of petroleum. Hydrogen, solar, wind and other alternative and renewable forms of energy will be the industries and energies of tomorrow. This isn't speculative anymore. We are in the beginning stages of a transition to new industries that will be as dramatic and significant as the

computer—as significant as the age of the automobile.

And yet, in Australia, we continue to throw public money into dirty and outdated energy sources—oil shale, coal, oil.

Here is an opportunity to protect the Great Barrier Reef, to protect the natural values in the adjacent Coral Sea and to invest money that would otherwise be spent on oil exploration on new technologies and new ideas that will also protect the Great Barrier Reef.

I commend this bill to the Senate.

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

Leave granted; debate adjourned.

### HEALTH INSURANCE COMMISSION AMENDMENT BILL 2002

#### First Reading

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (9.46 a.m.)—I move:

That the following bill be introduced: a bill for an act to amend the Health Insurance Commission Act 1973, and for related purposes.

Question agreed to.

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (9.46 a.m.)—I move:

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

Question agreed to.

Bill read a first time.

#### Second Reading

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (9.46 a.m.)—I table the explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.

*The speech read as follows—*

This bill contains two classes of amendments relating to the Health Insurance Commission.

The first class of amendments modernises the financial regime applying to the Health Insurance Commission. The Commission has been operating under a much less flexible investment, budget estimates and borrowing framework than that

which applies to other non-GBE Commonwealth authorities. The effect of the amendments will be to apply the general provisions of the Commonwealth Authorities and Companies Act 1997, applying to such authorities in the areas of budget estimates and investment of surplus moneys, to the Commission. In addition, the Commission will be able to borrow money for purposes of its functions, with the written approval of the Finance Minister.

Currently the Commission is unable to borrow moneys at all and has only a limited ability to invest surplus moneys. The Commission will better be able to deliver quality outcomes and substantial savings both to itself and the Commonwealth with the application of a more flexible and modern—but still properly transparent and accountable—financial regime. The amendments will also remove the “hedging” provisions of the Act, reflecting the position that “hedging” is no longer an appropriate feature of the Commission’s financial regime, given its current functions.

The other class of amendments concerns the number of Commissioners of the Health Insurance Commission. This proposed amendment relates to legislative changes made at the time of the separation of Medibank Private from the Health Insurance Commission. Under the Health Insurance Commission (Reform and Separation of Functions) Act 1997, the number of Commissioners (in addition to the Chairperson and Managing Director) increased for a five year period from seven to nine, but then was to decrease to five.

The amendment contained in this bill will operate so that the number of these additional Commissioners will be seven, rather than five.

Originally it had been thought that the optimum number of Commissioners (in addition to the Chairperson and Managing Director), beyond the transitional period covering Medibank Private’s separation from the Health Insurance Commission, was five. However, it is now clear that the Commission’s continued effective functioning (particularly in terms of its committee structures) will require a complement of seven additional Commissioners, looking beyond November 2002.

Ordered that further consideration of the second reading of this bill be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

## HEALTH LEGISLATION AMENDMENT (PRIVATE HEALTH INDUSTRY MEASURES) BILL 2002

### First Reading

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (9.47 a.m.)—I move:

That the following bill be introduced: a bill for an act to amend legislation relating to health, and for related purposes.

Question agreed to.

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (9.47 a.m.)—I move:

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

Question agreed to.

Bill read a first time.

### Second Reading

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (9.47 a.m.)—I table the explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.

*The speech read as follows—*

This bill amends the National Health Act 1953 (the Act) to remove unintended differences between the provisions relating to contractual gap cover arrangements introduced in 1995 and gap cover schemes which were introduced in August 2000.

The bill will align, where appropriate, requirements relating to gap cover schemes with those applicable to contractual methods of addressing the gap and consolidate and clarify the obligations of registered health funds to provide information to the public and the Department.

The first change will provide that the automatic assignment of a contributor’s Medicare benefit to a health fund under an approved gap cover scheme will not be liable to any duty or charge under State or Territory law, or any law of the Commonwealth that applies only to a territory.

The second change requires that a health fund, at the request of a contributor, provide information to a medical practitioner which will enable or assist the medical practitioner to comply with the requirement to provide written information to the

patient on the expected costs of treatment covered by a gap cover scheme.

Thirdly, health funds will be required to comply with any request by the HIC for access to documents that relate to payment of Medicare benefits to the fund under a gap cover scheme.

Another change involves transferring two of the conditions imposed on health funds by the Minister for Health and Ageing under subsection 73B(1) of the Act from Schedule A to Schedule 1, in order to rationalise the structure of the Act.

The amendment will also extend the parties who are able to access fund lists of contracted hospitals, day hospitals and doctors under paragraph (ha) of Schedule 1 of the Act, by allowing the Department and members of the public to access the lists on request.

The bill also allows the Department to access copies of registered organisations' Hospital Purchaser Provider Agreements (HPPAs), Medical Purchaser Provider Agreements and Practitioner Agreements attached to its HPPAs.

The bill also amends the Health Insurance Act 1973 to transfer responsibility for registration of billing agents from the Private Health Insurance Administrative Council (PHIAC) to the Health Insurance Commission (HIC). Following discussion between the two bodies and the Department it has been agreed to transfer all responsibilities for approving and monitoring billing agents from PHIAC to the HIC. This will remove one layer of regulation for billing agents; improve efficiency and eradicate the risk of error in data transfer between the PHIAC and the HIC.

The bill will make some minor amendments related to private health insurance arrangements. Currently, health funds may only offer discounts to contributors who pay at least six months in advance. This will be amended to allow discounts to be offered from a starting point of three months in advance. It will also remove an anachronism which currently prevents employers contributing directly towards health expenses incurred by employees who have an agreement under Part V1B of the Industrial Relations Act 1988. This will be beneficial to contributors and to private health insurance generally.

Ordered that further consideration of the second reading of this bill be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

#### ENVIRONMENT: COLTAN MINING

**Senator BROWN (Tasmania) (9.47 a.m.)**—I move:

That the Senate—

(a) notes:

- (i) that illegal coltan mining in the World Heritage areas of Kahuzi-Biega National Park and the Okapi Reserve is destroying wildlife, forests and habitat, particularly the Grauer gorilla, the forest antelope, the elephant and the chimpanzee, in the Democratic Republic of the Congo,
- (ii) that world demand for coltan is exploding for use in the electronics industry, in particular for mobile phones,
- (iii) the call by the World Conservation Union to boycott coltan produced in World Heritage sites in the Democratic Republic of the Congo,
- (iv) the report to the United Nations (UN) Security Council by a UN-appointed panel of experts for a moratorium for a specific period on the purchase and importing of precious products such as coltan, diamonds, gold, copper, cobalt, timber and coffee originating in areas where foreign troops are present in the Democratic Republic of the Congo and in territories under the control of rebels,
- (v) that the Democratic Republic of the Congo produces less than a quarter of the world's coltan while Australia currently meets 40 per cent of world demand and is capable of producing up to 60 per cent of world demand from reserves in Western Australia; and

- (b) calls on the Government to ban the importation into Australia of all mobile phones and electronic goods that contain coltan produced outside Australia.

Question negatived.

#### BASSLINK: TRANSMISSION LINES

**Senator BROWN (Tasmania) (9.49 a.m.)**—I move:

That the Senate considers that Basslink should be required to place powerlines underground in Victoria and Tasmania if it should proceed.

The Senate divided. [9.53 a.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes.....	8
Noes.....	<u>44</u>
Majority.....	36

## AYES

Allison, L.F.	Bartlett, A.J.J.
Bourne, V.W. *	Brown, B.J.
Cherry, J.C.	Greig, B.
Lees, M.H.	Murray, A.J.M.

## NOES

Barnett, G.	Bishop, T.M.
Bolkus, N.	Brandis, G.H.
Buckland, G.	Calvert, P.H. *
Campbell, G.	Campbell, I.G.
Carr, K.J.	Colbeck, R.
Collins, J.M.A.	Conroy, S.M.
Cook, P.F.S.	Cooney, B.C.
Crane, A.W.	Crossin, P.M.
Crowley, R.A.	Eggleston, A.
Ellison, C.M.	Evans, C.V.
Faulkner, J.P.	Ferguson, A.B.
Forshaw, M.G.	Hogg, J.J.
Hutchins, S.P.	Knowles, S.C.
Lightfoot, P.R.	Ludwig, J.W.
Lundy, K.A.	Mackay, S.M.
Mason, B.J.	McLucas, J.E.
O'Brien, K.W.K.	Ray, R.F.
Reid, M.E.	Schacht, C.C.
Scullion, N.G.	Sherry, N.J.
Tchen, T.	Tierney, J.W.
Troeth, J.M.	Vanstone, A.E.
Watson, J.O.W.	West, S.M.

\* denotes teller

Question negatived.

## COMMITTEES

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

Meeting

**Senator CALVERT (Tasmania) (9.58 a.m.)**—On behalf of Senator Crane, I move:

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 21 March 2002, from 4 pm, to take evidence for the committee's inquiry into the administration by the Department of Transport and Regional Services of Australian Motor Vehicle Standards under the Motor Vehicles Standards Act 1989 and Regulations.

Question agreed to.

## NOTICES

## Postponement

**Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.58 a.m.)**—by leave—I move:

That government business notice of motion no. 3 standing in the name of the Special Minister of State (Senator Abetz) for today, relating to the approval for works proposed for the Parliamentary Zone, be postponed till the next day of sitting.

Question agreed to.

**HEALTH INSURANCE  
DETERMINATION HS/5/01**

## Motion for Disallowance

**Senator CHRIS EVANS (Western Australia) (10.00 a.m.)**—by leave—I move:

That Health Insurance Determination HS/5/01, made under section 3C of the *Health Insurance Act 1973* and published in the Commonwealth *Gazette* of 30 October 2001, be disallowed.

This is a very serious matter and, on behalf of the Australian Labor Party, I want to put a few remarks on the record in support of the disallowance. The situation is that the government has moved a regulation which would have the effect of providing Medicare rebates to six positron emission tomography scanners—PET scanners—at various sites around Australia. PET scanners are used for the effective treatment of cancer patients, and the effect of this regulation is to licence six centres to provide that function and receive Medicare rebates.

The reason this is of most serious concern is that, in the tender process undertaken by the government, the six successful tenderers did not include the Melbourne Austin and Repatriation Medical Centre. The reason for Labor concern about this decision is that, prior to this decision, there were two centres of excellence in Australia in relation to PET scanners. One was the Austin and Repatriation Medical Centre in Melbourne and the other was the Royal Prince Alfred Hospital in Sydney. Those two organisations have, over the last 10 years, pioneered PET scanning and they have been the centres for much of the activity in relation to this technology and the treatment of cancer.

What occurred is that in the tender process the Royal Prince Alfred Hospital was successful but for some unknown reason the Austin Repatriation and Medical Centre was not. This has caused a great deal of concern throughout Australia. I think it is fair to say that people regard this decision as inexplicable and perverse. The Austin is regarded as the leading teaching and research institution in these matters in Australia. It has a very high international reputation, and anyone connected with the technology and with the research in this area was absolutely dumbfounded that the Austin had not been selected as one of six successful tenderers. I do not want to cast any aspersions on any of the other successful tenderers, but the reality is that a number of them do not have anywhere near the sort of experience—and some have no experience—and record and standing in this field that the Austin has.

There is a real sense of outrage about this decision in the medical community. The Anti-Cancer Council has written to Senator Patterson, the Minister for Health and Ageing, expressing their concern that, because the Austin is also the leading teaching institution, vital clinical experience will be lost and the cancer research capability in Australia will be reduced. Also the Australian and New Zealand Association of Physicians in Nuclear Medicine have condemned the decision, saying:

... a decision that effectively excludes experienced teaching hospitals, and in the case of ARMC, a facility with 10 years experience in PET, cannot and would not be endorsed by this Association.

That is reflective of the concern in the community. Labor concedes that the disallowance is a very blunt instrument, but we are concerned to ensure that the funding for Austin is not removed and that the government makes a proper decision with a proper health outcome in this matter. This is the only avenue open to us to ensure that the government reconsiders this matter. At the eleventh hour we have received an offer from the minister, which I acknowledge but which we find unsatisfactory. We want to see that the Austin's place in this important research field be maintained and that the 10 years of effort, experience and skills that

have been built up in Austin are not lost to potential cancer patients in Australia. This is our only way of forcing the government to overturn their decision and make what everyone considers to be a proper health based decision.

I welcome the fact that the minister has, by her late offer, indicated that she accepts some of the logic of the need to overturn this decision. But I think, as with a number of late decisions by Minister Wooldridge, the former Minister for Health and Aged Care, there really is a need to go back and look at the basis of those decisions and ensure that they are based on proper health outcomes and not on other outcomes. I do not want to labour the point that this decision was taken just prior to the election being called—and in fact the regulations were promulgated in the caretaker period—but I do want to say that Labor's concern in this is to get a proper health outcome. This should have been fixed. The Austin should have been allowed to continue as the leading medical institute in this area. They have done tremendous work for cancer patients over the last 10 years. We are concerned to make sure they are allowed to continue that role and continue that funding.

As I say, I accept this is a blunt instrument, but this is the only way the Senate can use its powers to force the government to make sure proper decision making processes are followed and to ensure the continuation of the Austin's very important work in this regard. I urge the Senate to support the disallowance motion, which will have the effect of making the government reconsider what I think is a very wrong decision.

**Senator Lees**—Mr Acting Deputy President, I seek leave to speak.

**Senator Ian Campbell**—Mr Acting Deputy President, I seek leave to put the government's position and then Senator Lees may want to respond to that. I am happy to speak after her, but she may want to comment on what the government has to say.

**Senator Lees**—I am quite happy about that. I was actually expecting the minister to come down so that we could have some full and frank debate on the issue.

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (10.08 a.m.)—by leave—I thank Senator Lees. The minister was keen to have a debate on this, but is not able to be here at this time and has asked me to make some remarks on behalf of the government. She views this issue as a very serious breach of a process that had the utmost efficacy. We are, through a political process, effectively overturning a tender that was run entirely properly by the department. I have to say from my own experience in running government tenders that, if the parliament acts in this way, it sends some interesting and very unusual and undesirable signals to the marketplace. Having run a tender, and having asked people to put in significant work and enter into a considered financial risk in complying with the tender, to then overturn the result of that for political reasons will increase the financial risks to people who comply or become part of government tender processes in the future. I do not think that should be understated.

The government regards this as an outrageous proposition. To allow this motion to proceed will totally compromise what has been an open and transparent process that has ensured that very important services—and there is no disagreement on that—for the care and treatment of cancer patients are delivered equitably to all Australians. To allow this motion is to allow a hospital supported by the opposition to effectively blackmail the government.

The PET process is an emerging diagnostic technology that enables molecular imaging. At present, the major clinical applications of PET are in oncology, cardiology and neurology. The Commonwealth commenced this tender process for the provision of services to Australians in 2001. The Austin and Repatriation Medical Centre was unsuccessful in the tender for the purchase of PET services across Australia. This tender was conducted, as I have said, openly and transparently, which has been confirmed by an independent probity adviser. The Austin and Repatriation Medical Centre has admitted that they were:

... both ambitious and arrogant. They assumed that because they had enjoyed the benefits of Commonwealth funding in the evaluative phase of PET—

that is in the past—

that somehow the clearly documented rules of the tender process did not for some reason apply to them.

I confirm that the submission from the Austin and Repatriation Medical Centre far exceeded the capital allocation for the tender, which was the highest weighted criterion. I also confirm that the department advised the Austin and Repatriation Medical Centre on two separate occasions seeking clarification and revision of their submission. We reiterate that: they were warned, they were told, the red flag went up. They were asked to revise their tender and, for reasons best known to them, they chose not to do so. They in their own words have classified their approach to the tender as ‘ambitious and arrogant’.

The opposition believes, clearly with the support of the Democrats, that this was somehow unfair to that medical centre. In taking this action today they are saying that the rules only apply to some and that we can always create exemptions. This disallowance will require the Commonwealth to continue to fund the Austin and Repatriation Medical Centre for PET services at a rate of \$2,100 per service. You can say there are no aspersions on the successful tenderers but in this we are saying to the Australian people that we will pay this hospital that has on its own admission been ‘ambitious and arrogant’ in the tender process, has almost sought not to comply with it, was warned it was not complying and was warned of the risk of failure. The seven successful tenderers have agreed to provide the services to Australians at \$900 per service. Further, they have all agreed to not pass on any additional fees to their patients.

This disallowance clearly corrupts a process that sought to deliver important oncology services and the services provided by the PET technology on an equitable basis across Australia. It sought to do so in an open and fair manner. It sought to remove the politics from the allocation of these services, just as the government’s processes in relation to

allocating MRI licences does. This is yet another example of the Labor Party corrupting an independent process that focuses on high quality care on the most equitable basis and saying that you cannot have an independent process and if you do have one they will overturn it for cheap, populist, political reasons.

For that reason, we believe this motion, if passed, will create a serious injustice to all Australians, to the advantage of one organisation. The minister has gone further in this regard. Having said all of that about the Austin and Repatriation Medical Centre, she has made a further offer outside this process—in other words, allowing the fairness of this process to stand, so this motion would not get passed—to fund the Austin and Repatriation Medical Centre with some additional Commonwealth expenditure. But that is not good enough for the opposition. They want to score a cheap political point—but it is not a cheap political point, it is a very expensive one. It is at the expense of hundreds of other Australians whose care will be diminished because of this cheap, populist stunt by the opposition. I hope Senator Lees accepts some of these arguments. I hope that Senator Lees will accept that in this case the Labor Party have not made a case for what would be a significant rorting and distortion of a process for very short-term political gain.

**Senator LEES (South Australia)** (10.15 a.m.)—by leave—I must comment on some of the extraordinary statements that Senator Campbell has just made. The very reason we are here is that this process was so flawed. It did not have transparency, and I would argue very clearly that the whole tender process was not run properly. If there is any message we are sending out today, it is that health ministers cannot separate themselves completely from a process such as this. The message that we are sending says that people involved in these types of tenders, these sorts of processes, must have some qualifications in the area in which they are accepting tenders.

It is not satisfactory to engage a consultant as was done in this case. They went through the formal processes. This particular consult-

ant was out of the country at the time that the full tender process was under way. He was asked for his advice and he gave them advice on the technical aspects of the tender. However, he says, ‘None of my comments and suggestions for changes were acted upon.’ He then heard nothing else whatsoever from those who were involved in the tender process. If we are sending any message, it is a very clear one: we cannot just rely on economics, economists and market forces when it comes to the issues of medical research and quality delivery of services—in this case, very high-tech services that this particular hospital has led the way in. It has led the way not only here in Australia but internationally.

The minister has claimed in her comments that this whole process was transparent. It was far from transparent. Where is the evidence of experience on the part of those people who have won the tenders? Why can’t we see the documentation where they claim to be so much better, presumably, than the Austin? Where is any detail of what they are offering by way of research, what they are offering by way of training? No, none of that material is available. I read through with interest some of the additional questions in estimates, but such material is simply not forthcoming—and presumably we are going to be quoted some commercial-in-confidence reasons. It is certainly not a clear and open process.

The comments that the minister has sent to the chamber, relating to the Austin’s request for capital funding, made it very clear that, in fact, there were three different tender options. Yes, one of them did have capital funding. Why did they have capital funding? Because they have been in this industry so long using PET technology. They developed in Australia a range of possibilities for the use of this technology, particularly in the diagnosis of cancer, and they needed a new cyclotron. This cyclotron not only provides them with their raw material, their radioactive material, but it also supplies other hospitals, including one in my home state, the Royal Adelaide. Yes, that cyclotron is at the point where it is nearing the end of its life, and that was put as part of the tender process

because they could see no other way of continuing to supply the Royal Adelaide, as well as themselves, with the new upgraded camera that the Victorian government has put money into. This hospital is not just relying on federal funding; it is relying as well on state funding, which it was successful in getting.

It had been reimbursed under Medicare since 1997, and it is now moving on to look at other routine users for PET. The Commonwealth did drop them out of this tender process—and I do not think we will ever get to the bottom of why some bureaucrats decided not to fully examine all three options they put forward. Reading through various questions and the material that has come from the college as well as independent sources, you can see that people who work in this industry are absolutely amazed that our top facility can be simply shuffled to one side without any decent explanation.

This hospital is now looking at the use of PET in other procedures, in particular looking at neurological problems, and this is an essential part of its process. It is a research facility, our major research facility. It performed the first PET scan in 1992, and it is doing about 1,300 to 1,500 scans a year. I just find it extraordinary that the minister has sent in here a statement that suggests that somehow this was a proper open qualified tender process. It was anything but that.

I can assure Senator Campbell, this is not some sort of political stunt. The Democrats have looked into this at great length, and I thank my staff for the work they have done. I also thank Senator Allison, who has spent time at the Austin and who has gone to great lengths in her home state to see that this facility is ongoing and its work is guaranteed.

I have no qualms whatsoever in supporting this disallowance. Indeed, in order to make sure that a disallowance motion went through today, we were about to move one of our own, because its funding runs out before parliament resumes. It is an extraordinary decision, particularly given who some of the other successful tenderers are. But, as Senator Evans said, I do not think we should go in any way into discussing the successful tenderers. We just need to make the point that

the top facility in Australia has been unsuccessful.

This motion is a very blunt instrument, and I acknowledge one point that Senator Campbell made: this hospital will now be paid at the old rate. Part of the government's decision involved cutting the Medicare rebate from \$2000-odd back to around \$900. We wait on the government. We do not have the ability to write the right regulation. This regulation has gone; presumably, by the time we get back here for the budget, the government will have written another regulation that we can support. In that way, we can ensure that Australia's top research facility in the area of PET scanning is able to continue.

Question agreed to.

## COMMITTEES

### Regulations and Ordinances Committee Report

**Senator TCHEN (Victoria)** (10.22 a.m.)—On behalf of the Senate Regulations and Ordinance Committee, I present the annual report for 2000-01.

Ordered that the report be printed.

**Senator TCHEN**—In view of today's busy program, I seek leave to move a motion in relation to the report and to incorporate my tabling statement in *Hansard*.

Leave granted.

**Senator TCHEN**—I move:

That the Senate take note of the report.

I will incorporate a brief statement to accompany the tabling of this report.

*The statement read as follows—*

This report highlights the longstanding commitment and dedication of the previous committee to ensuring that high standards of technical and parliamentary principles are adhered to in the making of delegated legislation. May I note that I am pleased to make this comment with complete objectivity and impartiality, having only recently joined the committee, and the praise for a job well done rightly goes to my fellow members of the committee.

Included in the report are some statistics that I think reflect this dedication.

During the reporting period the committee scrutinised 1,859 instruments, 204 more than in the previous financial year. Of these instruments, the

committee raised concerns on 208. This compares with 265 in 1999-2000, 107 in 1998-99 and 175 in 1997-98. Senators may note that in recent years the number of concerns has increased significantly although the reasons for such an increase are not readily apparent. The committee intends to monitor this trend.

Senators will be aware that the committee has been reviewing its practices and procedures with the objective of increasing awareness of its work, making delegated legislation more accessible and adopting procedures that are open and transparent. The result of this review was the introduction of a Scrutiny of Regulations Alert, a Disallowance Alert and the tabling of correspondence.

Of these initiatives, there has been early but encouraging evidence that the Scrutiny of Regulations Alert has helped to improve the timeliness of ministerial responses, thus avoiding the need for the committee to instigate disallowance procedures. This improvement was reflected in the reduction in the number of notices of disallowance given by the committee from 70 in 1999-2000 to 47 in 2000-2001, all of which were subsequently withdrawn. The committee welcomes the decrease in the number of notices.

Although the committee continued to raise concerns about explanatory statements during the reporting period, it noted an improvement in the quality of information being provided. In particular, more departments and agencies had been more attentive to providing an assurance that retrospectivity was not prejudicial, and to giving reasons for and the basis upon which fees or charges were levied.

Notwithstanding these improvements, it is disappointing that the frequency of simple drafting defects remains high. As in 1999-2000, the committee again found a significant amount of its work centred on quality control concerns rather than substantive issues raised in instruments. On numerous occasions, the committee had to draw the attention of ministers to fundamental defects in instruments including:

- the failure to state clearly the authority under which the instrument was being made;
- the failure to include rule making words or/and the name and signature of the person authorised to make the instrument;
- the failure to number instruments (particularly those that will be part of a series) in order to make access and identification easier; and
- incorrect references and cross references.

The committee therefore re-iterates its view that those responsible for the preparation of disallowable instruments should introduce quality control procedures to ensure that instruments are free from drafting defects.

I take this opportunity to express the committee's appreciation to the former Chair, Senator Coonan, for her valuable contribution and work, particularly in relation to initiatives designed to streamline the work of the committee.

I also wish to record the committee's appreciation of Professor Stephen Bottomley, who provided excellent advice to the committee during the reporting period.

Finally, on behalf of the committee, I thank the committee secretary and his associates for their diligent and loyal support that enabled the committee to meet all its obligations.

I commend the 2000-2001 Annual Report of the Standing Committee on Regulations and Ordinances to the Senate.

Madam President

On behalf of the Standing Committee on Regulations and Ordinances, I seek leave to table the Delegated Legislation Monitor 2001 and Ministerial Correspondence Relating to the Scrutiny of Delegated Legislation for the period August 2001 to March 2002.

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

Leave granted; debate adjourned.

#### **Regulations and Ordinances Committee**

##### **Delegated Legislation Monitor**

**Senator TCHEM** (Victoria) (10.23 a.m.)—On behalf of the Standing Committee on Regulations and Ordinance, I also table the Delegated Legislation Monitor for 2001 and ministerial correspondence related to the scrutiny of delegated legislation for the period August 2001 to March 2002.

#### **Finance and Public Administration References Committee**

##### **Report**

**Senator FORSHAW** (New South Wales) (10.24 a.m.)—I present the report of the Finance and Public Administration References Committee on matters referred to the committee during the previous parliament.

Ordered that the report be adopted.

**BUDGET****Consideration by Legislation Committees****Additional Information**

**Senator CALVERT (Tasmania)** (10.24 a.m.)—On behalf of the chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Crane, I present additional information received by the committee relating to the hearings on the budget estimates for 2001-02.

**COMMITTEES****Publications Committee****Report**

**Senator CALVERT (Tasmania)** (10.25 a.m.)—On behalf of Senator Lightfoot, I present the report of the Publications Committee.

Ordered that the report be adopted.

**Finance and Public Administration Legislation Committee****Report**

**Senator CALVERT (Tasmania)** (10.25 a.m.)—On behalf of Senator Mason, I present the report of the Finance and Public Administration Legislation Committee on matters referred to the committee during the previous parliament.

Ordered that the report be adopted.

**Scrutiny of Bills****Report**

**Senator BUCKLAND (South Australia)** (10.25 a.m.)—On behalf of Senator Cooney, I present a report of the Standing Committee for the Scrutiny of Bills on a matter referred to the committee during the previous parliament.

Ordered that the report be adopted.

**APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 2) 2001-2002****APPROPRIATION BILL (No. 3) 2001-2002****APPROPRIATION BILL (No. 4) 2001-2002****First Reading**

Bills received from the House of Representatives.

**Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate)** (10.27 a.m.)—I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

**Second Reading**

**Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer)** (10.27 a.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

*The speeches read as follows—*

**APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 2) 2001-2002**

In Appropriation (Parliamentary Departments) Bill (No. 2) 2001-2002, appropriations totalling half a million dollars additional to those made in the Appropriation (Parliamentary Departments) Act 2001-2002 are sought for recurrent and capital expenditures of the parliamentary departments.

The amount relates solely to increased depreciation and capital use charge expenses arising from a revaluation of the library collection in the Department of the Parliamentary Library.

I commend the bill to the Senate.

**APPROPRIATION BILL (No. 3) 2001-2002**

Appropriation Bill (No. 3) 2001-2002 which together with Appropriation Bill (No. 4) and the Appropriation (Parliamentary Departments) Bill (No. 2), comprise the additional estimates bills for 2001-2002.

In the bills, the parliament is asked to appropriate monies to meet essential and unavoidable expenditures from the consolidated revenue fund. These monies are additional to the appropriations made in the last budget for 2001-2002 in Appropriation Acts (Nos. 1 and 2) and the Appropriation (Parliamentary Departments) Act (No. 1).

The bulk of these additional moneys are required to meet forecast increases in costs and to fund capital restructuring. These bills also request agreement to expenditure in 2001-02 on new activities—the greater number of which were announced by the government in its Mid-year economic and fiscal outlook document. They also

include provision for funding in relation to particular commitments made by the government during the election campaign.

The additional appropriations in these three bills total some \$2,633 million: \$1,458 million is sought in Appropriation Bill (No. 3), \$1,174 million in Appropriation Bill (No. 4) and \$0.5 million in Appropriation (Parliamentary Departments) Bill (No. 2).

These amounts are partly offset by savings that are expected against Appropriation Acts (Nos. 1 and 2) and the Appropriation (Parliamentary Departments) Act (No. 1) 2001-2002.

These savings, amounting to some \$63 million in gross terms, are detailed in the document entitled Statement of savings expected in annual appropriations.

After allowing for prospective savings, the provisions represent a net increase of \$2,570 million in appropriations in 2001-02—an increase of 5.6 per cent on amounts made available through annual appropriations at the time of the 2001-02 budget.

It should be noted that the additional amounts included in the bills relate only to expenses financed by annual appropriations, which comprise about 30 per cent of total general government expenses and capital appropriations. They do not include revisions to estimates of expenses from special appropriations.

This bill provides authority for meeting payments or expenses on the ordinary annual services of government. Details of the proposed appropriations are set out in the schedule to the bill.

The bill provides:

- \$351 million to the Department of Defence to fund additional costs associated with operations relating to the war against terrorism, unauthorised boat arrivals and parameter and foreign exchange rate adjustments;
- \$144 million in the Transport and Regional Services portfolio for a number of programs, including:
  - measures in response to the financial crisis experienced by Ansett (\$44.4 million),
  - the Stronger Regions Program (\$16.7 million),
  - transportation costs for the American helitankers Georgia Peach and Incredible Hulk (\$0.8 million),
  - a further \$1 million contribution to the Christmas 2001 New South Wales Bushfire Appeal, and
  - rephasing the Mainline Interstate Rail Track Program (\$37.8 million);

- an extra \$122 million in resourcing for the Australian Taxation Office;
- some \$145 million for the Immigration and Multicultural and Indigenous Affairs portfolio to fund the government's strategy to deal with illegal arrivals; and
- \$60 million in the Attorney-General's portfolio for costs associated with the HIH and building and construction industry royal commissions.

Election commitments which the government is meeting through these bills include:

- \$15 million for the extension to the First Home Owners Scheme,
- \$7.2 million for the first child tax refund,
- \$7.5 million for access to superannuation for permanently departing temporary residents, and
- \$6 million further funding for the Australian Tourist Commission.
- The bill includes funding for the Back of Bourke Exhibition (\$1 million), the Fishing Hall of Fame (\$3 million) and the Stockman's Hall of Fame (\$2 million).

The balance of the amount included in Appropriation Bill (No. 3) is made up of minor variations in most departments and agencies.

I commend the bill to the Senate.

#### APPROPRIATION BILL (No. 4) 2001-2002

Appropriation Bill (No. 4) provides additional revenues for agencies to meet expenses in relation to grants to the states under section 96 of the Constitution and for payments to the Northern Territory and the Australian Capital Territory, administered expenses, and equity injections and loans to agencies, as well as administered capital funding.

Additional appropriations totalling \$1,174 million are sought in Appropriation Bill (No. 4) 2001-2002. This is in addition to the appropriations made in Appropriation Act (No. 2) 2001-2002 in the last budget.

The principal factors contributing to the increase are:

- a \$743.6 million equity injection for the Department of Defence for funding
- the war against terrorism and unauthorised boat arrivals (\$103 million),
- parameter and foreign exchange adjustments (\$72 million), and

- provision to Defence of a share of the proceeds from the sale of the Melbourne and Sydney Plazas (\$79 million);
- the remaining \$489 million being funding to meet costs incurred in 2000-01 and funding for the purchase of specialist military equipment, inventory and other capital requirements;
- an additional \$195 million in payments to the states and territories under the First Home Owners Scheme;
- a \$45 million equity injection for the Department of Immigration and Multicultural and Indigenous Affairs to provide for detention contingency for unauthorised arrivals in Australia; and
- equity injections of \$22 million for the Stevedoring Industry Finance Committee in relation to compensation payments for asbestos liabilities.

The balance of the amount included in Appropriation Bill (No. 4) is made up of minor variations in the majority of departments and agencies.

I commend the bill to the Senate.

Debate (on motion by Senator Buckland) adjourned.

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

**VETERANS' ENTITLEMENTS  
AMENDMENT (GOLD CARD  
EXTENSION) BILL 2002**

**VETERANS' AFFAIRS LEGISLATION  
AMENDMENT (FURTHER BUDGET  
2000 AND OTHER MEASURES) BILL  
2002**

**QUARANTINE AMENDMENT BILL  
2002**

**First Reading**

Bills received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (10.28 a.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the *Notice Paper*. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

**Second Reading**

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (10.28 a.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

*The speeches read as follows—*

Veterans' Entitlements Amendment (Gold Card Extension) Bill 2002

This bill implements a key commitment made by this Government to the Australian veteran community during the Federal election.

Since taking office, this Government has given a high priority to providing appropriate recognition for the service and sacrifice of Australians in times of war and conflict.

The health and well-being of our veterans and war widows has been of prime concern. Our veteran population is ageing and their health care needs are changing as they grow older.

On 1 January 1999, this Government extended eligibility for the Repatriation Gold Card to include Australian veterans and merchant mariners who have qualifying service from World War II and are over the age of 70.

As a result, some 38,000 World War II veterans and mariners became eligible for the top level of health care under the repatriation system.

There are now almost 282,000 members of the veteran community with a Gold Card.

However, we recognise that it is not only our World War II veterans who are growing older.

Many Australians who served in post-World War II conflicts are approaching or over the age of 70.

These veterans already are facing an increased need for health care, and others will in years to come.

This bill will further extend eligibility for the Gold Card to include all Australian Defence Force veterans who are over the age of 70 and have qualifying service.

This will make the Gold Card available to older veterans of conflicts including the Korean War,

the Malayan Emergency, the Indonesian Confrontation and the Vietnam War.

This initiative is proposed to take effect from 1 July 2002.

Many eligible veterans will not need to submit an application for a Gold Card.

My Department will be able to identify from its records many veterans who will qualify by virtue of their age and qualifying service. These veterans will automatically be sent a Gold Card so that they can access their entitlements from 1 July.

Veterans not readily identifiable to the Department will be able to complete a new application form for the Gold Card.

If the Repatriation Commission has not already made a determination about whether or not the veteran has qualifying service, then a determination will be made as a result of this application.

Eligible veterans who apply before 1 July will be able to access their entitlements from 1 July.

Veterans who apply after 1 July will be eligible from the date their written application is received by the Department.

Veterans with qualifying service who turn 70 after 1 July can apply in advance for the Gold Card—their eligibility will commence on the date they turn 70.

This bill continues the Coalition Government's commitment to advancing the welfare and interests of the veteran community.

It carries out Australia's duty to care for those who serve our country in wartime.

Importantly, this initiative also takes the longer view, providing for access to the Gold Card in years to come by veterans with qualifying service from later conflicts such as the Gulf War, East Timor and Australia's current deployment in the coalition against terror.

This will ensure that, regardless of which conflict they served in, our older veterans receive the care they need—the care they deserve.

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**VETERANS' AFFAIRS LEGISLATION  
AMENDMENT (FURTHER BUDGET 2000  
AND OTHER MEASURES) BILL 2002**

This bill is a package of amendments to implement several measures designed to further improve the delivery of income support benefits through the repatriation system. A number of these measures reflect changes in the social security system, to ensure that both systems operate consistently and fairly.

These amendments to the Veterans' Entitlements Act 1986 will provide for more generous treatment for income support recipients whose partners receive periodic compensation payments, such as those paid by insurance companies.

Currently, if a person receives a compensation-affected payment, then the couple's combined pensions are reduced by one dollar for every dollar of the periodic compensation. Under the new measure, the dollar-for-dollar reduction will apply only to the pension of the person who receives the compensation. If the amount of compensation exceeds the amount of that person's pension, then the excess will be treated as the ordinary income of their partner. With the income free area and taper that applies to ordinary income, this measure will result in an increase in the amount of income support payments to couples who have low levels of income from compensation payments.

Other amendments again mirror changes in social security system, to simplify provisions relating to the recovery of compensation. These amendments will provide for direct recovery of compensation debts from compensation payers and insurers, in circumstances where there has been an overpayment of pension because of the treatment of periodic compensation as ordinary income.

This bill also amends the Veterans' Entitlements Act 1986 in relation to the treatment of financial assets which are regarded as unrealisable for the purposes of hardship provisions under the assets test. In hardship cases, such unrealisable assets will also not be regarded as a financial asset when applying deeming provisions under the income test.

This means that in future the actual return on an unrealisable asset will be counted as ordinary income, rather than the deemed rate of return.

The treatment of income streams will be amended to ensure that the conditions applied to income streams under the means test will be clear and unambiguous. These amendments will also correct a number of anomalies and unintended consequences.

Finally, this bill will change the payment of income support instalments, which currently are rounded to the nearest multiple of ten cents. In future, instalments of income support will be paid to the nearest cent, bringing Veterans' Affairs arrangements into line with the calculation of pension instalments paid through the social security system.

This bill demonstrates the Government's ongoing commitment to improving the repatriation system

to benefit those in the veteran community who most need our help.

#### QUARANTINE AMENDMENT BILL 2002

The purpose of this Bill is to amend the Quarantine Act 1908 to:

- enhance Australia's national emergency powers by allowing the Minister for Agriculture, Fisheries and Forestry, upon proclamation by the Governor-General to authorise certain Commonwealth, State and Territory officials to undertake appropriate measures in response to an emergency animal disease outbreak, such as foot and mouth disease;
- deter commercial smuggling of quarantine risk material by introducing a new offence with significant increases in the pecuniary penalty for individuals and corporations when compared with the existing penalties for illegal importations.

The outbreak of foot and mouth disease in the United Kingdom last year demonstrated the enormous impact such a disease can have on a national economy and on the lives of individuals. If an outbreak were to occur in Australia, response measures would need to be rapid and at a national level.

For this reason, the Commonwealth, in cooperation with the States, Territories and industry, has been reviewing and further developing national whole of government frameworks for the prevention, preparedness for and management of a major national animal disease emergency. Part of this process has been the review of Commonwealth, State and Territory legislation in relation to the necessary powers to ensure rapid, effective and nationally consistent response measures.

If there were to be an outbreak of foot and mouth disease in Australia, it is the States and Territories who would provide frontline response measures. State and Territory animal health acts, with support from emergency management legislation, are geared towards responding to animal disease outbreaks. However, the State and Territory acts do not, of themselves, provide a national response framework. Therefore, while State and Territory response measures are adequate in a normal disease event, the magnitude of a disease such as foot and mouth would not so easily be dealt with. The Quarantine Act provides some powers which are not currently included in some State and Territory acts.

The amendments proposed in this Bill, in essence, ensure the Commonwealth, States and Territories have adequate legislative powers to enable them

to prevent, or to act rapidly to control and eradicate, a major national animal disease outbreak such as foot and mouth disease.

Currently section 2B of the Quarantine Act provides significant powers whereby the Minister can, upon the issue of a proclamation by the Governor-General, direct that certain actions be undertaken in the event of an epidemic affecting a part of the Commonwealth. These powers, while important, are inadequate as it is not the Commonwealth who should, in terms of resources, Constitutional responsibility and expertise, take control of disease response measures—it is the States and Territories.

The amendments provide for the Commonwealth to authorise State and Territory agencies to take necessary actions under the Commonwealth quarantine power. This, in fact, enhances the legislative authority of the States and Territories and can be used where their own legislation has gaps or is inadequate. The authorisation by the Commonwealth, provides the States and Territories with the autonomy to decide when, how and if such measures are necessary.

The amendments provide for the Governor-General to declare by proclamation that an epidemic, or danger of an epidemic, has the potential to so affect a primary industry of national significance that the exercise of powers, known as coordinated response powers, may be required.

The proposed coordinated response powers operate at two levels. The first level would empower the Minister to authorise persons who are the executive heads of national response agencies to give such directions and take such action as the persons think necessary to control, eradicate or remove the danger of the epidemic.

Provision is to be made for response agencies to be notified in the Gazette. In general terms these agencies would encompass those that are usually called on to respond to emergencies or disasters at a national, state or local level.

The second level of authorisation would empower persons performing duties in the authorised agencies, under the authority and direction of the heads of those agencies to take specified response actions. Persons performing duties could include contractors, temporary employees and those performing duties on a voluntary basis. This ensures that emergency services personnel and other specialists brought in specifically to respond to the emergency would be authorised to perform the duties specified by the head of the relevant agency, using the Commonwealth quarantine power.

Section 4 of the Quarantine Act currently provides broad powers of Quarantine which include, but are not limited to, "the examination, exclusion, detention, observation, segregation, isolation, protection, treatment and regulation of vessels, installations, human beings, animals plants or other goods or things, having as their object the prevention or control of the introduction, establishment or spread of disease or pests..." It is this Section which provides the ability by which broad quarantine powers can be exercised under Section 2B.

This Bill amends the scope of quarantine to put beyond doubt that the coordinated response powers may extend to the seizure and destruction of animals, plants or other goods or things and the destruction of premises comprising buildings or other structures when treatment of the buildings is not practicable. I must emphasise that these powers are not additional quarantine powers, but are specifically included in the Bill to ensure beyond any doubt that quarantine powers do extend to this level.

The amendments include provisions for a number of limitations and conditions that can be attached to authorisations provided by the Minister and which would be extended to the executive heads of national response agencies. While it is accepted that broad powers are necessary to allow an effective and rapid national response to an emergency disease such as foot and mouth disease, it is important that responses in emergency situations are suited to the type and scale of event and carried out with the appropriate approvals in place.

Additionally, guidelines to be formulated by the States, Territories and Commonwealth will establish processes by which these powers will be utilised to ensure the aims of consistency and company-ordination are met, both nationally and within State and Territory borders, in the event of a major animal disease emergency.

The authorisations that are proposed to be extended to members of national response agencies raise the question of immunity from suit. Section 82 of the Quarantine Act currently provides for protection of authorised or approved persons from any action, suit or other civil proceeding, for or in relation to anything done or omitted to be done in good faith by the authorised or approved person, in the performance of any function or duty.

It is proposed that this immunity from suit be extended to those authorised to take action and give directions under the proposed amendments to the Act. This will ensure that all officers performing duties within agencies that are authorised to act under these provisions, including temporary

staff, contractors and volunteers would have protection from civil proceedings resulting from anything done or omitted to be done in good faith in the performance of any function or duty.

Such protection will not extinguish the vicarious liability of the Commonwealth or other employing or directing body from civil liability.

By necessity the amendments include an expansion of Section 69A of the Act in relation to compensation, to include provision for compensation for any premises destroyed in accordance the Act. The provision relates to the amendments to the scope of quarantine.

The Bill also proposes an amendment to Section 11 of the Act which would allow the Commonwealth to assist States and Territories in the implementation and monitoring of arrangements so as to enable certification of exported products and in providing reports to the Commonwealth on such matters. This amendment is not strictly in relation to the control and eradication of emergency animal diseases, however as international requirements in relation to export certification expand, it is considered timely to provide an added level of support and assistance between the Commonwealth and the States and Territories in relation to such activities.

The proposed amendments are an important step in our review and development of national whole of government response measures to major national animal disease emergencies. They will assist in our task of working hand in hand with the States and Territories and will ensure as a nation we will be in a strong position to fight major emergency diseases, such as foot and mouth disease, should an outbreak occur.

The creation of the new offence for commercial smuggling implements the election commitment made in Australia's Rural Industries—Growing Stronger to provide stronger sanctions for quarantine offences. Given the disastrous impact of the foot and mouth disease outbreak in the United Kingdom, it is important that a strong message be given to potential offenders about the serious consequences of such behaviour.

The new offence will be in addition to the existing illegal importation offence in section 67 of the Act. The existing illegal importation offence in section 67 does not distinguish between commercial smuggling and smuggling for other purposes. As a matter of policy it is sought to highlight the relatively serious nature of smuggling for commercial purposes by creating this new offence and by imposing a higher maximum pecuniary penalty for individuals and corporations than that

which applies to an offence under the existing illegal importation offence in section 67.

For the new offence, it is proposed to have a maximum penalty of 10 years imprisonment and/or 2,000 penalty units for individuals and 10,000 penalty units for corporations. The maximum penalty for the existing illegal importation offence will remain the same. By comparison with the existing illegal importation offence, based on the formula set out in section 4B of the Crimes Act 1914 and the current value of a penalty unit (\$110), the maximum pecuniary penalty for the new offence represents an increase in the maximum penalty for corporations from 3,000 penalty units (\$330,000) to 10,000 penalty units (\$1,100,000) and for individuals from 600 penalty units (\$66,000) to 2,000 penalty units (\$220,000).

The term “commercial purposes” is intended to cover behaviour that is undertaken to gain a business advantage for the person who is importing the goods or on whose behalf the importation has occurred. The business advantage may take the form of, for instance:

- Avoidance of normal business costs (such as the costs of obtaining an import permit and the costs of meeting quarantine requirements for legal imports); and/or
- Introduction of new plant or animal stock that is not available to competitors in the industry or is only available under an import permit.

Debate (on motion by Senator Buckland) adjourned.

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

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

## COMMITTEES

### Membership

Message received from the House of Representatives notifying the Senate of the appointment of members to various joint committees, in accordance with message No. 44 circulated in the chamber.

### Legislation Committees

#### Reports

**Senator FERGUSON (South Australia)** (10.30 a.m.)—Pursuant to order and at the request of chairs of the respective legislation committees, I present reports on the examination of annual reports tabled by 31 October 2001.

Ordered that the reports be printed.

## BUDGET

### Consideration by Legislation Committees Reports

**Senator FERGUSON (South Australia)** (10.30 a.m.)—Pursuant to order and at the request of the chairs of the respective committees, I present reports from the Rural and Regional Affairs and Transport Legislation Committee, the Foreign Affairs, Defence and Trade Legislation Committee and the Legal and Constitutional Legislation Committee in respect of the 2001-02 additional estimates, together with the *Hansard* record of the committee’s proceedings.

Ordered that the reports be printed.

## MIGRATION LEGISLATION AMENDMENT (TRANSITIONAL MOVEMENT) BILL 2002

### Third Reading

Debate resumed from 20 March on motion by Senator Ellison:

That this bill be now read a third time.

**Senator BARTLETT (Queensland)** (10.31 a.m.)—This is the final stage, the third reading, of this *Migration Legislation Amendment (Transitional Movement) Bill 2002*. As senators will be aware—I am sure they were following the debate closely last night—it is a bill about which the Democrats have strong concerns. Those concerns were not allayed by the responses given by the Minister for Justice and Customs last night. While I acknowledge his willingness to respond to most of the questions I asked, I think in many cases his answers raised more questions and certainly more concerns on the part of the Democrats. I will just reiterate some of the key flaws of the bill and the real dangers of establishing precedents for treating people in this way.

The bill extends the regime of excising offshore places and excluding people from the migration zone of Australia that was introduced last year. It means that once people have been taken to places like Nauru and PNG for any length of time they can consequently be brought into Australia and still be completely unable to exercise any legal rights in relation to their refugee status. The

bill, particularly as amended, or including as amended, contains very significant loopholes. The minister and the government always say it is intended to be used in a particular or a certain way, but that does not guarantee that that is how it will always be used. It again highlights the danger of establishing precedents. The bill provides complete power for a Commonwealth officer to use 'necessary and reasonable force' in removing a person, detaining a person *et cetera*, but there is no definition there of necessary and reasonable force. The explanatory memorandum does not specifically address the question of what sort of level and nature of force that is.

People are supposed to be being able to be brought into the country for a temporary purpose but, as the minister said last night in one of his responses, there is no time line and no definition of temporary. The minister's second reading speech indicated that this power to bring transitory persons would be exercised only in exceptional circumstances, which one would assume is likely to mean not very often. The usual meaning of 'exceptional' is 'not normal'. But that is simply how the minister said the power is going to be used; it is not how the power could be used. It could be used to bring people in at any stage for any length of time, and they would of course be detained throughout that period.

Of course, with an amendment to the bill, they are now able to apply to the Refugee Review Tribunal for assessment of their status if they have been detained in Australia for more than six months continuously, but again there is an enormous number of loopholes in relation to that right. It is better that it is there than not, but it is a very weak right which is impossible to enforce. The government has the power to remove that right by a non-appealable administrative decision of the departmental secretary. The government has the power to remove a person from the country while their refugee claim is being considered by the Refugee Review Tribunal. The minister says that is not going to happen. I take his word that it is not going to happen under this government, but it is there and I think it is a dangerous precedent for people

to be able to be removed from Australia while a fresh examination is being made of their case by the Refugee Review Tribunal.

We also have a new precedent where an examination of someone's status as a refugee can be halted by virtue of an administrative decision of the secretary determining that someone has behaved uncooperatively. Obviously, the Democrats do not support people behaving uncooperatively, and we recognise the desirability of people behaving cooperatively, but I do not think that, simply because someone is being non-cooperative, it should be possible to remove the right of someone to have a determination made about whether or not they are a refugee—a right which the government has now allowed by the amendment they moved. A determination being made by the Refugee Review Tribunal that someone is a refugee is a fundamental right and a fundamental issue—whether or not somebody is a refugee and whether they should therefore not be returned to face a situation of persecution—yet the government can override that determination process by virtue of an administrative decision that somebody is not cooperative enough. I think that is an extraordinarily dangerous precedent. It is perhaps slightly preferable that people have been given the right to be assessed by the RRT which they would not have had under the bill before it was amended, but we now have a precedent in place where a person can have the assessment of their refugee status halted by a departmental secretary making an administrative decision about them being non-cooperative, when that is defined very broadly and when that decision by the departmental secretary cannot be appealed at all, except in undefined circumstances direct to the High Court. That is an extraordinary situation.

Again it has to be emphasised how tragic it is that the ALP has once again gone along with the government in having an incredibly significant amendment to our laws relating to the treatment of asylum seekers railroaded through this place with virtually no notice. This issue I am addressing at the moment about the power to stop a refugee assessment being conducted only came into this place

yesterday. It was not even in the original bill; it came forward as an amendment yesterday, less than 24 hours ago. For something as significant and potentially far-reaching as that to be forced through this place with less than a day's consideration is simply unforgivable.

There may be all sorts of political reasons why the ALP felt it was necessary for this to be pushed through quickly. I recognise that they have got internal differences of opinion about the issue, and all parties have that at some stage. Obviously they felt it would be easier for them to handle those differences of opinion if we just got this awkward matter of changing the law out of the way before too much attention was attached to it and then they could go on in a more leisurely way figuring out their amended position. It might be the easiest way for the ALP in terms of organisational harmony and convenience, but the price is being paid by the refugees and by asylum seekers. They are the ones who continue to pay the price for the political convenience of the ALP.

The government, of course, is continuing down its now well-worn path not just in continually extending exceptional, unprecedented extra powers to the minister and to the department but in continually removing more and more rights from the asylum seekers to be able to have any assessment of their situation. I guess to that extent we should not be surprised, although again the fact that there is always this insistence that it be railroaded through, that it be rushed through and that it is urgent is simply a furphy.

The government keep proudly trumpeting how fabulous their people-smuggling measures are and how successful they are. They are so proud of them that they insist on railroading them through without anyone having a chance to look at what is actually happening. If they were as fabulous as they keep insisting, surely they would open them up to greater scrutiny so that people could examine the detail and walk away full of awe and wonder at the brilliance of this government. But the government do not do that; they prevent it going to any proper Senate committee examination. They ensure that there is not public awareness about what is happening.

They simply remove the rights by railroading it through before people are aware of what is happening.

This is a growing concern for the public of Australia. It may be the case, as the government like to assert, that a majority are still in favour of their approach. The Democrats continue to assert that a lot of that is due to the fact that the public are not aware of the realities of the detail of what the government's approach means. The public just think the broad picture is that we have a problem with boat arrivals and the government are fixing it. Firstly, I think it is questionable that they are fixing it and, secondly, there are standards for how you address issues and problems.

It has to be recognised that this is not just an issue for Australia but an international problem, and it is a problem for other countries much more than it is for Australia. I really hesitate to use the word 'problem' in relation to Australia because it is minor by comparison with many other countries. So it is an issue of concern to the public. We do not pay much attention to petitions anymore in this place, which is a shame, but a petition was presented today requesting that the Senate review procedures relating to political asylum seekers and remove all practices which are in contravention of international obligations. Senator Patterson tabled that petition on behalf of her constituents. I hope she is in support of the petition that she tabled. That is a small indication that there is growing concern amongst the Australian community about this issue. There is continuing concern amongst the Democrats in particular about the inability of this government to allow proper scrutiny and about the continual cooperation or connivance of the ALP with the Liberals in continuing to rush through wide-ranging removals of rights and wide-ranging increases of power to the minister and the department and new, unprecedented expansions of and modifications to laws relating to asylum seekers.

Such changes can have international ramifications. There is no doubt that other countries are taking note of what Australia is doing, and it can have an impact and is having an impact on how other countries deal with

this issue. There is no doubt, despite what this country says, that Australia's reputation is continuing to be damaged by this approach. People may say, 'Who cares what the rest of the world think; we run our own show.' That is fine: I am all in favour of Australia running our own show. But we cannot pretend that it is not a factor and be like Robert Mugabe, saying, 'It doesn't matter what the world thinks; I run things the way I want and that is okay.' It is very obvious that Zimbabwe is doing a lot of damage to its national interests, as well as its own individual citizens, by the way it is behaving in its breaching of human rights. It makes it much more difficult for Australia to be credible on the international stage in complaining about other countries' breaching of human rights when we do it so blatantly ourselves and in such a shoddy way of rushing things through without debate. That is the sort of approach we simply should not have in a parliament like this, and I think it is detrimental to our reputation in many ways.

We can put forward an argument that the Sydney Olympics was worth all the investment and expenditure that was put on it because of the international goodwill that we gained. I think it was a worthwhile investment. It was great for Australia's reputation and it produced enormous long-term social and economic benefits for us. But you cannot say that that is really important and then say, when we do stuff that makes us look appalling in the eyes of the world, 'It doesn't matter, it doesn't have any impact.' Of course it has an impact. If people have a perception that Australia is a harsh, unfriendly and intolerant place, they are far less likely to come here for starters, and that affects the tourism industry and even things like business investment.

No-one can deny there are racial undercurrents in relation to this policy of the government, and that is clearly detected and picked up by countries in our region. The government, quite rightly, finally now talks about the benefits of multiculturalism, which is not just valuable because it is a feelgood thing; it is valuable particularly in a globalising world because it enables us to engage effectively and in a positive way with the rest

of the world—economically, socially and in all sorts of ways. If we do things that send out negative messages about our tolerance and our support for human rights, then there are negative effects. If people perceive Australia in that negative way around the world, then there are flow-on consequences. It is not just a matter of wanting to be popular; it is a matter of the national interest. This is clearly against the national interest. The number of times I hear from everyday Australians who have been overseas to all parts of the world and who are, repeatedly now, challenged about our treatment of refugees when they are in other parts of the world is large. It is becoming a very clear and consistent component and aspect of Australia's reputation on the global stage.

The Democrats are extremely disappointed that, once again, we are in a situation where very major, significant, far-reaching changes to migration law are being rushed through without debate and proper consideration, with the combined support of the ALP and the Liberals. The issue is not going to go away. I find it particularly astonishing, given all the revelations about this government's approach to accuracy in relation to asylum seeker issues. The Senate was sufficiently concerned about the falsehoods relating to the 'children overboard' issue that it established a Senate committee into that incident and expanded the terms of reference to more broadly examine the Pacific solution. It is not simply a politicised focus on one incident but a broader look at policy issues. To have that committee specifically established to have a look at the Pacific solution and then allow legislation that directly impacts on it to be railroaded through before we have had a chance to examine the issue is simply negligent. It brings into question the genuineness of the ALP in wanting to examine those issues. Whether they just agreed to that so they could get their focal point on the 'children overboard' incident, and the price they had to pay was to have a look at some policy issues as well, I do not know, but it is very disappointing when we actually have a process in place to look at this issue in depth and we ignore that and push this legislation through regardless. It again seems to indicate that, at least in this sort of issue,

political self-interest wins out over broader public interest, and that is a great shame.

As I say, the issue is not going to go away. Once again we have had a setback with this particular bill, but the cracks and flaws in this government's approach will continue to grow ever wider and you will not be able to continue to patch them up with more and more exotic legislative inventions like these. Eventually it will come collapsing down. It would be much better if we could dismantle it in a more ordered and sensible way than try to fix it up as it falls down around us. It will remain an ongoing interest for the Democrats, and I certainly hope that the ALP is able to take a more appropriate approach in the future.

As a final comment, senators may recall that there was debate last week in this chamber about regional forest agreements legislation. That took up an hour or two! During that debate Senator Brown repeatedly attacked the Democrats because we were not present for some stages of the debate, despite the fact we made significant contributions. I expressed my displeasure at the time and indicated that it was no representation of our lack of concern and that our contribution and our concern was substantial. I note Senator Brown has not been present for anything other than 10 minutes of this debate. I do not draw a reflection from that that he is not interested. I know he is interested and supportive of our concerns. I ask him to, in future, recognise that cheap shots like he made last week are not helpful. I am not going to return the favour on this occasion. I am sure he will also be voting against these bills and I am sure that his concern with them is genuine. I recognise that he probably felt that I would be sufficiently able to raise the issues myself and explore them adequately, which I think I have.

**Senator BROWN (Tasmania)** (10.50 a.m.)—The Australian Greens oppose the **Migration Legislation Amendment (Transitional Movement) Bill 2002**.

**Senator MURPHY (Tasmania)** (10.50 a.m.)—And I, likewise, oppose the **Migration Legislation Amendment (Transitional Movement) Bill 2002**.

Question put:

That this bill be now read a third time.

The Senate divided. [10.54 a.m.]

(The Acting Deputy President—Senator P.H. Calvert)

Ayes.....	43
Noes.....	9
Majority.....	34

#### AYES

Barnett, G.	Bishop, T.M.
Boswell, R.L.D.	Brandis, G.H.
Buckland, G. *	Calvert, P.H.
Campbell, G.	Carr, K.J.
Colbeck, R.	Collins, J.M.A.
Conroy, S.M.	Cooney, B.C.
Crane, A.W.	Crossin, P.M.
Crowley, R.A.	Eggleston, A.
Ellison, C.M.	Evans, C.V.
Faulkner, J.P.	Ferguson, A.B.
Herron, J.J.	Hogg, J.J.
Hutchins, S.P.	Knowles, S.C.
Lightfoot, P.R.	Ludwig, J.W.
Lundy, K.A.	Macdonald, J.A.L.
Mackay, S.M.	Mason, B.J.
McGauran, J.J.J.	McLucas, J.E.
O'Brien, K.W.K.	Patterson, K.C.
Ray, R.F.	Schacht, C.C.
Scullion, N.G.	Sherry, N.J.
Tchen, T.	Tierney, J.W.
Troeth, J.M.	Watson, J.O.W.
West, S.M.	

#### NOES

Allison, L.F.	Bartlett, A.J.J.
Bourne, V.W. *	Brown, B.J.
Cherry, J.C.	Greig, B.
Lees, M.H.	Murphy, S.M.
Murray, A.J.M.	

\* denotes teller

Question agreed to.

Bill read a third time.

#### NOTICES

##### Postponement

**Senator MURPHY (Tasmania)** (10.59 a.m.)—by leave—I move:

That general business notice of motion no. 10 standing in his name for today, relating to the establishment of a select committee on forestry and plantation matters, be postponed till the next day of sitting.

Question agreed to.

**MINISTERS OF STATE AMENDMENT  
BILL 2002**

**Second Reading**

Debate resumed from 19 March, on motion by **Senator Ian Campbell**:

That this bill be now read a second time.

**Senator ABETZ (Tasmania—Special Minister of State)** (11.00 a.m.)—I thank honourable senators who made contributions to the second reading debate on this bill. Senator Murray has made a number of comments and I understand that he will move some amendments during the committee stage. I will make some comments at that stage in relation to the particular amendments. Suffice it to say that we will oppose them; however, I do thank Senator Murray for his comment that we ministers of state are actually underpaid. It is very nice to know that there is somebody who believes that, but I have a funny feeling that people out in the community may not necessarily share that point of view.

This bill simply makes the appropriation for that which the Remuneration Tribunal determined. I note that the ALP have put forward a proposal in relation to former ministers undertaking certain activities after their retirement, but this is a bill that just seeks to make an allowance for the Remuneration Tribunal’s determination. Senator Cooney made a good contribution to this debate, and he said that ministers are paid modestly. He also said—and I think this is an interesting point in relation to the Democrat proposal—that laws do not always bring a function to things; you will not necessarily bring the results that you want. I note that Senator Murphy also made a contribution to this debate.

This is a very simple bill. The Remuneration Tribunal made a determination some time ago in relation to parliamentarians’ salaries. There is a flow-on to ministers and, under the Constitution, there has to be an appropriation made for ministers to be paid. An increase has to be made available for the Remuneration Tribunal determination to be put into effect.

Question agreed to.

Bill read a second time.

**In Committee**

Bill—by leave—taken as a whole.

**Senator MURRAY (Western Australia)**

(11.04 a.m.)—I move Democrats amendment (1) on sheet 2461:

(1) Page 3 (after line 8), at the end of the bill, add:

**SCHEDULE 2—MINISTERS OF STATE ACT 1952**

**1 After section 6**

Insert:

**PART 2—POST RETIREMENT EMPLOYMENT RESTRICTIONS**

**7 Objects**

The objects of this Part are:

- (a) to ensure that Ministers and ministerial advisers shall not act after they leave office in such a manner as to take improper advantage of their previous office; and
- (b) to enhance public confidence in the integrity of ministerial office holders and the independence of the decision-making processes of government by establishing clear rules of conduct respecting conflict of interest for, and post-employment practices applicable to, Ministers and ministerial advisers; and
- (c) to eliminate the possibilities of preferential treatment or privileged access to government being obtained from or through Ministers and ministerial advisers after they have left office.

**8 Interpretation**

In this Part, unless the contrary intention appears:

**ceasing to be a Minister** in relation to a Minister means ceasing to be a Minister in accordance with section 64 of the Constitution.

**department or agency** includes any body for which the Minister had ministerial responsibility during his or her term as Minister.

**former Minister** means a Minister who has ceased to be a Minister in accordance with section 64 of the Constitution.

**former ministerial adviser** means a person who has ceased in accordance

with the *Members of Parliament (Staff) Act 1984* to be employed as a ministerial adviser.

**Minister** means a minister appointed in accordance with section 64 of the Constitution and includes a Parliamentary Secretary.

**ministerial adviser** means a person appointed as a member of staff of an office-holder in accordance with Part III of the *Members of Parliament (Staff) Act 1984*, where that appointment is to the level, or is remunerated at the level equivalent to, officers appointed as Senior Executive Service Officers in accordance with Part 4, Division 2 of the *Public Service Act 1999*.

#### **9 Conduct relating to employment before ceasing to be a Minister or a ministerial adviser**

Ministers and ministerial advisers shall not allow themselves to be influenced in the conduct of their official duties and responsibilities by plans for or offers of employment or other remuneration for when they cease to be Ministers or ministerial advisers.

#### **10 Conduct relating to employment after ceasing to be a Minister**

A former Minister shall not, within two years after ceasing to be a Minister:

- (a) provide advice for personal profit or for commercial advantage on any aspect of the work of any department or agency for which the former Minister had ministerial responsibility for any period of time during the last two years of service as a Minister; or
- (b) accept employment with a person or entity, association or union or an appointment to the board of directors or equivalent body of an entity that had significant dealings with a department or agency for which the former Minister had ministerial responsibility for any period of time during the last two years of service as a Minister; or
- (c) enter into a contract for services with any commercial entity which had significant commercial dealings with any department or agency for which the former Minister had ministerial responsibility for any period
- (d) of time during the last two years of service as a Minister; or
- (d) make representations in return for any consideration for or on behalf of any other person or entity to a department or agency for which the former ministerial adviser's Minister had ministerial responsibility for any period of time during the ministerial adviser's last two years of employment with the Minister.

## 12 Exceptions

Sections 10 and 11 do not prevent a former Minister or former ministerial adviser from taking action on behalf of or engaging in the service of:

- (a) a charitable organisation; or
- (b) official duties on behalf of the Commonwealth; or
- (c) duties on behalf of an international organisation in which the Commonwealth participates, where the Minister of Foreign Affairs certifies that such duty is in the interests of the Commonwealth; or
- (d) duties on behalf of a foreign government or an instrumentality of a foreign government, where the Minister of Foreign Affairs certifies that such duty is in the interests of the Commonwealth; or
- (e) a political party.

## 13 Offences and penalties

A person who contravenes sections 9, 10 or 11 is guilty of an offence.

Penalty: Imprisonment for two years or a fine not exceeding \$250,000.

Before I address the specifics of the **Ministers of State Amendment Bill 2002**, I would like to expand on my views about the way in which ministers are paid. Community attitudes to the pay, packages and conditions of parliamentarians are such that we need a seismic shift in the way these things are dealt with. In brief, I think that ministers, from the Prime Minister down, are underpaid quite significantly relative to their responsibilities. The package of conditions and entitlements relative to serving parliamentarians needs further refinement, and the very generous superannuation scheme has to be reduced to meet community standards. The very generous retirement benefits have to fall away altogether. This must be approached on a holistic basis.

I take note of Senator Faulkner's remarks in the previous debate on these matters that these sorts of issues should be reviewed by the Remuneration Tribunal. I think the Remuneration Tribunal should have direction from either the government or the parliament to review these matters in a holistic manner, and that means addressing them from top to

bottom. It also means, to avoid any taint of self-interest, the introduction of significantly different pay scales, different package scales and much reduced superannuation and retirement packages. This should benefit or affect future parliamentarians, so that any decision by the government or the parliament of the day would not be affected by the self-interest of current parliamentarians. In conclusion, this matter needs to be looked at very thoroughly, and it is better done on a cross-party, cross-house and dispassionate basis, using the offices of the Remuneration Tribunal, rather than in the piecemeal way in which I think it has been addressed so far.

I will move on to the amendment before us. The opportunities to amend appropriate bills to address this particular issue will seldom arise. That is why this bill is selected for this purpose. My party and I believed that we should have the opportunity for this issue to be aired at the right time. I think Senator Abetz rightly indicated that there were some useful contributions on the issue from all parties concerned. I hope he will make one in response to my remarks now.

**Senator Abetz**—I always do.

**Senator MURRAY**—Senator Abetz always does. It is a serious matter to address. In my speech in the second reading debate, I laid out in fairly precise terms the background for examination of this issue. At the heart of any attempt to legislate for better standards—and I was not able to listen to all of Senator Cooney's contribution—is a recognition that, if you find that people are incapable of doing the right thing, eventually you are forced to move to more prescriptive methods. In my own state of Western Australia, parliamentarians, all the way up to premiers and deputy premiers, have been jailed. That does not reflect on the class of politicians in general in my own state. It is only ever a minority who do the wrong thing. The Democrats' putting forward of this amendment does not reflect on all parliamentarians or all ministers. It is a recognition that some human beings, whether or not they are ministers, will do the wrong thing, and you need to address that issue.

We are also cognisant of community reaction to recent events concerning ministers'

employment and how that operates, and cognisant of international precedents. I am not making any particular inference with this, but I have a clipping here from the *Age* of Tuesday, 12 March 2002, which indicates that many former ministers, from all parties, have taken up employment immediately subsequent to their life as a minister in positions which related to their previous portfolio responsibility. That article mentioned former ministers Graham Richardson, Michael Wooldridge, Ros Kelly, Tim Fischer, Peter Reith, John Kerin, John Button, John Fahey, John Sharp, Gerry Hand, Gareth Evans and Michael Lavarch. So it is not uncommon, and there would be many others, including some from state legislatures.

The issue really is: what is the appropriate behaviour for a minister and their senior advisers—many of whom now have executive functions or behave in an executive manner, as opposed to being purely policy advisers—and what should be the constraints upon ministers accessing employment subsequent to holding ministerial responsibility? Bear in mind that ministers have access to information which their own caucus or party does not have access to, nor does the parliament. They have access to cabinet matters, matters which are commercial-in-confidence and policy documents put forward by the government, many of which have a long-term perspective and long-term operation. One of the persons focused on in terms of an inappropriate contract following their ministerial position was Mr Peter Reith. To use an example, I was sent an extract from Crikey.com—I am not a subscriber—that now well-quoted Internet site. The extract says:

A very interesting point regarding Peter Reith's recent appointment to a major defence contractor (Crikey, February 14, 'How the hell can the defence minister turn around and be a consultant to Australia's largest defence contractor, Tenix?') Readers may not be aware that there is actually policy within the Department of Defence that prevents personnel who are leaving either the ADF or Public Service arms of the department from working for a contractor with which they may have had any dealings during their time in service. While this appears to be enforced with zeal when it comes to middle-ranking Defence or equivalent Public Service officers whose level of

influence over contract outcomes is questionable, it is not enforced at higher levels. Does the former minister not receive the same scrutiny?

I stress that I have not checked the Defence manual concerned. The reason I raise that is that it indicates to me—and I would be interested to have the minister's reaction to it—a conflict of interest between what a public servant can do and what a minister can do. If what is quoted is correct, none of us would disagree with the intention of the Department of Defence's policy on this matter as laid out.

I will turn to international precedence on this matter. In my speech in the second reading debate, I laid out the terms which apply in the United States, Great Britain and Canada. The newspaper I quoted from earlier had picked up the same three examples and how they seek to limit the way in which ministers can use sensitive and significant information in generating employment opportunities after leaving the ministry. What is clear is that the problem that has been identified in Australia is typical of modern, developed democracies all over the world. The argument, therefore, in my belief, should not be whether there should or should not be restraints on ministers, but rather what those restraints should be.

If the Senate disagrees with the direction we are taking as Democrats—and the minister has already indicated that the government will disagree—then fair enough, but what will you substitute in its place? What I had hoped to do with this amendment was to at least flush out from the government in waiting, the opposition, a second reading amendment or an amendment to my amendment. I was hoping they would indicate what position they would take, based on the strong statements they have made about the propriety of former ministers Reith, Fahey and Wooldridge, on the recent examples of former ministers taking up employment in fields with which they were directly concerned prior to leaving parliament. That has not happened, and I will be very interested in the response of Senator Faulkner to my remarks.

I will return to those international precedents. Section 207 of the United States code provides for a two-year cooling-off period

for ex-employees and ex-officials of the executive branch of government. I have with me, in fact, an extract from the United States code, and the actual statute reads:

Whoever wilfully engages in the conduct constituting the offence shall be imprisoned for not more than five years or fined the amount set forth in this title or both.

It is an extremely serious offence in the United States democracy for a member of the executive to take up employment which may result in the use of information gathered during their executive period. One of the reasons that I began by referring to the way in which ministers are rewarded and the nature of their packages is that we have to ensure that people in the executive branch who have these responsibilities are paid in such a way that they are not obliged to take up this work. I happen to believe that one or two of the current ministers are probably well enough off not to have to go and work for the particular people they are working for. They should not feel tempted to use information which otherwise they would be restrained from using if they were in the private sector or if they were, for instance, bureaucrats working for the Department of Defence.

I think is all too easy to just walk away from it and say, 'It does not matter; it has always been thus in Australia.' It is all too easy to say, 'Australian circumstances are different.' They are not different. Human beings are human beings wherever they are and a minority of people will be tempted to use their information and their background for improper purposes. In saying that, I do not make any inference about any of the people whose names I have so far put forward, because I have no evidence that any impropriety exists.

The amendment we have moved is in one slab. Obviously, you can pick holes in items of it or disagree with all of it. There are no amendments before us to adjust or alter what we are putting forward so it is going to be rejected or accepted as a whole. At its heart, it has three propositions. It is a legislative restraint on post-retirement employment, for a period of time, for ministers and senior advisers. (*Time expired*)

**Senator BROWN (Tasmania)** (11.19 a.m.)—I support the motion Senator Murray has brought forward. It does scream out for a response from the big parties. I think that Senator Murray is once more doing us all a good turn by coming forward with some constructive options for the unsatisfactory situation we have at the moment. If we look at overseas experience, it shows that there are alternatives, but there seems to be little willingness for those alternatives to be adopted by either the government or the opposition. Right now is the right time to do it. This act was to have been dealt with as non-controversial and I am glad that I moved to have it brought into full debate because it has led to Senator Murray coming forward and taking this opportunity to put these constructive amendments forward.

I think there is a difficulty for politicians. We are a target for the public, but that is part of the job. It is a difficult job and I agree totally with Senator Murray that most politicians, far from wanting to take advantage of it, spend a great deal of nervous energy trying to make sure that they have got everything in order so that they will not be caught out. In fact, so much of that has to be done that it takes away from the opportunity to do the job that we are here for, which is to represent matters in the wider public arena. That said, I do not think that ministers or politicians are underpaid at all; I think we are remunerated very handsomely.

My first venture into this debate was in the Tasmanian parliament right back in 1983 when I suggested that the easiest way of indexing politicians' wages is to give us the average public wage, because we are representing the average public interest in this place. Of course, there will always be the need for remuneration for the extra requirements the job brings in terms of travel, accommodation and so on, but I think that, in an egalitarian or truly democratic sense, that average wage entitlement, in terms of take-home pay, would be the best option and would settle a lot of the public rancour about politicians taking advantage of their situation.

That said, it is nothing like the dipping into the public purse that occurs in the corpo-

rate sector. The obscene packages that now go to dozens of corporate board members and aficionados, involving millions of dollars of take-home pay which is not earned—as a human being you simply cannot earn that sort of money—are totally out of kilter and cry out to be reined in.

The matter of indexing politicians' and ministerial wages is one that has now been put to the Remuneration Tribunal, which has come up with the flow-on that we are dealing with here today. It would be interesting to see what the reaction would be if that indexing turned around and became negative in the future and whether we would so readily accept that ministers should take a drop in pay if the economy were to take a turn for the worse in the future.

**Senator Abetz**—Always the positive.

**Senator BROWN**—I think Senator Abetz was saying that the Greens are always positive. I have to agree with him on that; I think he has picked up our thought flow, and I am happy to have his endorsement on the matter.

**Senator COONEY (Victoria)** (11.23 p.m.)—Senator Brown was saying that he thought that ministers and politicians were overpaid. I think that arose out of a statement I made earlier in my second reading contribution. I said that, in my experience, having watched ministers at work over the years, I thought they were underpaid. In spite of the heavy weight that comes with the opinions of Senator Brown, I still stick to that position.

I have witnessed ministers over the years working extraordinarily long hours, making decisions that affect the nation—in fact, that affect the world. The burden placed on their shoulders is incredible. If they were doing that in the private sector they would be earning lots more, given the standards of wages around the place. We can get into a state of mind when discussing matters like this that politicians and ministers are somehow lesser people than they should be. We all have our foibles, we all have our bright side and our dark side, but taking that into account the ministers that I have had anything to do with over the years have been people who, by and large, have shown extraordinary devotion to their job.

It is for that reason that I make the following comments: if you are a lawyer your answer to every problem is to sue; if you are a parliamentarian your answer to every problem is to make a law. I get a bit concerned about that. If you have to make a law, in a certain sense that is an admission that things are not going well. The best way of running society, the best way of answering a problem that has arisen, is for politicians, ministers and ex-ministers to have a deep ethical sense so they know what to do and what not to do. If we had the proper culture operating in this place, and in society in general, there would be no need for legislation. If people acted according to right conscience and a sense of decency then we would not need laws. The point I want to make is that laws are not the answer to every problem; ethical conduct, acting according to right conscience and doing the right thing often-times is. May I say about Senator Murray, who has raised this issue now, and Senator Brown who supported him, that I put them amongst people who act according to conscience, who act according to the highest ideals and with the sense of honour that I am talking about.

The other element that we have to remember in all this is the fourth estate. The media are often overlooked in this context. I would like to quote a sentence from an essay by Macaulay, written almost 170 years ago when he was talking about a publication by Thackeray which he had written on William Pitt. Macaulay said:

Where there are free debates, eloquence must have admirers, and reason must make converts.

That is what we do in debate here. He went on to say:

Where there is a free press, the governors must live in constant awe of the opinions of the governed.

When we are having a debate like this, or when we are having any debate, we must keep in mind the work done by the media. Just as I have talked about the experience I have had over the years with the ministers I have come across, I might say the same sort of thing about the people in the media that I have come across. People in the media that I have acquaintance with are also dedicated to

doing what is right. I am not saying they always do what is right, but the ones I know are dedicated to doing right. They do worry about the integrity of their stories, they do worry about getting to the truth, they do worry about the effect the work that they do will have not only on the public but also on the people that they talk about. They do that with a good conscience, attempting to bring to the governed what is going on in this place. Unless what goes on here is made available to the electorate, to the public, then the system falls down in many respects.

So I would like to take this opportunity to pay tribute to the ministers and, for different reasons, to the media. The ministers actually administer the country and run the departments of government; the media, the fourth estate, enable the readers, the viewers and the listeners to know what is going on here and they go about that task with a dedication to the truth and to doing the right thing and with considerable conscience, not always getting it right but attempting to get it right. A tribute needs to be paid to the media on that basis. If you have people acting according to right conscience and if you have matters made public, the need for prescriptive laws is much reduced.

**Senator ROBERT RAY (Victoria)** (11.31 a.m.)—Senator Brown says that politicians should not be paid as much as they are paid: the average weekly earnings should be good enough. I am sure he will bring in his tax return and show that he has given away all that money—not that he is an acquisitive person; I would never accuse him of that. I know that he is not, because I have watched him over the years and I know that he handles his entitlements with great care and frugality. But, if he had given all that away, no doubt he would have declared it in his pecuniary interest form, because he has declared donations to other groups. So I look forward to that.

It does not work that way, I have to say. If you paid average weekly earnings, you would get a different crew in here—not as good as you have got—because a lot of people would not come. Some of us might: the psychic salary alone is enough to induce me here. After all, my own superannuation is

worth far more than my current salary. For every year I spend here, the taxpayer saves \$100,000 that they would otherwise have to pay me in superannuation. But that is good value for money, I say.

**Senator Faulkner**—It is a public service.

**Senator ROBERT RAY**—Exactly: it is a public service I am doing everyone, not the least part of which is that I cannot guarantee that whoever would succeed me would do as good a job. This is the dilemma that we have with Senator Murray. Senator Murray wants to reduce our superannuation and limit our choices of future employment.

**Senator Murray**—And increase your salary.

**Senator ROBERT RAY**—Yes, of course. At the end of my career, you want to say, ‘Any benefit you get after you leave will go, but any future politician will get more money.’ Out of self-interest, I may just demur on that one.

But I do not think you are right about reducing superannuation, although some changes to bring it more into line with community standards, along the lines that some of your colleagues have proposed, will come about. But there is a need to make some statement on future employment by ministers in one form or another.

*Senator Murray interjecting—*

**Senator ROBERT RAY**—I think that is right. Should we do that by way of a code or by way of law? I am not just being a party loyalist: I prefer to do it by way of code first and, if that in any way fails, to do it by law second. Therefore, I cannot really bring myself to support your proposition at this time. But with a code we will also debate about time. The whole point about ministers going on to do other things is not simple. One of my colleagues held a very high office in this parliament. He then served three years on the back bench and then went back into part-time legal work. People may criticise him for that but prior to coming into the parliament he was a lawyer. I am sure he is not—

*Senator Murray interjecting—*

**Senator ROBERT RAY**—We are not going to actually identify him. The fact that

he has barrier 1 in the Golden Slipper next Saturday should not really identify him. There is a classic example. I have no criticism of him at all, because he stayed his three years on the back bench and then, to keep active, he went back to doing something part time that he had done before.

**Senator Murray**—He would not fall foul.

**Senator ROBERT RAY**—Yes, he would not fall foul. That is one example. We have an example of an ex-minister for immigration who becomes an immigration agent and starts sending me submissions. I am not so sure that that is a good thing. That has happened on both sides of the chamber, so I use that as an example. Then, thirdly, we have the more direct example of someone moving straight out of a portfolio into a directly linked area, and this is where the problem is. People are not currently prohibited from doing that, so let us not make any retrospective comments on those two individuals; let us look at what we do in future.

The problem is that it is so directly linked. But how you define ‘directly linked’ is what may get us into some strife. Therefore, any code has to be fairly arbitrary in that way. It may in some ways be unfair, but it has to be arbitrary in that particular way. There has to be a direct link between the responsibilities here and the post-Senate employment period.

There also has to be consideration about how too much time has elapsed. Frankly, any decent minister should be able to forget nearly everything they have learned in the ministry after a year, if they are doing other things. I once delivered a speech at the National War College describing a year in the life of a defence minister. I went back and checked how many submissions I dealt with—2,500 for the year—how many letters I signed, how many cabinet meetings I went to, how many cabinet submissions I wrote, et cetera, even down to how many newspapers I read during that time. It was quite obvious that at the end of that year I would have forgotten 99 per cent of the things I had done during that time. So there is no massive advantage in going on to work in a directly linked area after a year or two. We will have to debate here what the appropriate time gap is. We have picked 12 months, but I am sure

we will be open-minded about that in trying to negotiate a proper code.

The biggest change to all these things—let us face it: to all these entitlements—that has happened over the last 10 years is transparency. There is a lot more transparency, brought about by the previous Labor government and this current coalition government, about what MPs are entitled to get. Now it is public—either by way of the Special Minister of State, who is at the table, publishing it, or by FOI et cetera—how all resources are used. It is amazing how much better is the behaviour that that has brought about over the years. That sort of transparency, if it is continued—and I see no signs of its not being continued—will mean that there is a much greater degree of honesty in public life.

It is a bit intrusive at times, I have to concede. But we have decided on public life. We are open, as Senator Cooney says, to scrutiny. I agree with 90 per cent of what you said, Senator Cooney, about the press. My one objection is not when they attack me—I am an open target, I am a public figure—but when they attack any of my family; that is when I object, and I object very strongly and I take it very personally. That is not on. But that is the only part of what you said, Senator Cooney, that I would qualify.

We are dealing with ministerial pay. We have got a minister sitting here at the table today who is one of 30 ministers. There would be—I am only guessing—at least 200 people on the government payroll—Public Service et cetera—getting paid more than Senator Abetz today. There would be at least 200. Senator Abetz’s department secretary, who reports to him, is being paid far more money than is Senator Abetz. So let us not get carried away by how high ministerial salaries are. In the case of Senator Hill, both his CDF and his secretary are paid double what Senator Hill is paid as Minister for Defence; yet he is ultimately responsible for everything that occurs in that empire called Defence. We should remember that. There were—AWAs have made it harder—cases of people working in the government sphere earning \$200,000, \$300,000 and \$400,000 a year, so it cannot be argued, in comparison,

that ministers are being overpaid. This bill basically validates that.

I do not think many people—some people do, but not many people—come into parliament and leave it richer than when they came in. I do not know if we should adopt the old Venetian system of the doges, who had their total assets assessed before they assumed office and their total assets assessed after they left office. The rule was that, if the assets increased, you forfeited the lot! I am not quite sure I would be in favour of that. But I do say to Senator Murray, who is very keen to limit our superannuation, that I will do a deal with him: let us means test it. Let you and I put our total assets and past income on the board. We will put it out here for everyone to see. If I have earned more than you, reduce my super. If you have earned more than me and have better assets than me, reduce your super. Let us means test it, if you are really fair dinkum about reducing superannuation. You will think about that one!

**Senator Murray**—It is the first time I have ever heard it said, so I am—

**Senator ROBERT RAY**—Yes, I know. Think about it. I do not know; you may be poorer than me.

*Senator Murray interjecting*—

**Senator ROBERT RAY**—Yes, we will see. We will see when we table our assets and incomes and past incomes in the chamber, and we will have a shoot-out on who gets their superannuation reduced.

The final point I want to put on the record—because I have had a couple of barbs at Senator Murray—is that Senator Murray is fair dinkum on these issues, and it is great to have someone pursuing them. I really mean that sincerely. I have seen other members of parliament, not in this chamber, pursue some of these issues in the most opportunistic way. I am not going to say who, but I do remember the great critic of parliamentary superannuation, both in the New South Wales and the federal parliament—he earned his living out of it—who then later applied for his superannuation. I really could not believe it when I heard that.

**Senator COONEY (Victoria)** (11.41 a.m.)—As Senator Ray got to his feet, I am

prompted to make this further remark: we could, of course, not pay anybody anything at all, as was done with Charles Jardine Don. He was elected in the late 1850s to represent Collingwood and he did a grand job in the Legislative Assembly. But he was not paid at all, so during the day he had to work as a stonemason. It was not until 1870 that pay was given to members in Victoria—

*Senator Robert Ray interjecting*—

**Senator COONEY**—Do not spoil the story, Senator Ray! In any event, that is the other side of this. There has got to be a security in this place so that people can legislate as they should. There are two things given to judges: security of tenure and a good pension. The idea of that is to ensure that they are able to do their job, without fear or favour, while they are there. Anybody can be paid too much and, as Senator Murray and Senator Brown have pointed out, that does happen outside; I agree that that happens. But we have just got to be a bit careful that we do not go into self—what is that word?

**Honourable senators**—Flagellation.

**Senator COONEY**—That is the one! Thanks very much. It is the old mind! It is about time I went!

**Honourable senators**—No, no!

**Senator COONEY**—We do not want to be feeding at the trough; but, on the other hand, we do want to be feeding at a reasonable level. I want to make that comment in this context.

**Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate)** (11.43 a.m.)—I will not even join in the debate about self-flagellation that Senator Cooney has opened up. I think we all feel adequately flagellated as a result of some recent contributions. In relation to the amendment to the **Ministers of State Amendment Bill 2002** that Senator Murray has before the chair—and forgive me if I address my comments to the amendment that is before the committee. Call me old-fashioned, but I thought I would concentrate on some of the tasks at hand.

The opposition will not support Senator Murray's amendment, but Senator Murray does make the point that there are a number

of different views about an important issue. Our lack of support is not because of strenuous objections to the amendment. I have made the point before in my second reading contribution that, as far as the opposition is concerned, we think the proposal that Senator Murray promotes on behalf of the Australian Democrats is a worthy attempt to remedy a real problem. As I noted before, this problem has been brought into stark relief by ex-ministers Reith, Wooldridge and Fahey. It is fair to say—the point has been well made—that Australia has lagged behind international best practice in relation to the restrictions we place on ex-ministers finding employment in the portfolio areas for which they have been responsible as ministers.

The experience of the United States is drawn upon by Senator Murray, and I think it is worth having a brief examination of that. In the United States there is a two-year ban on former senior members of the administration lobbying current members of the administration in the areas for which they have had responsibility in office. In the United Kingdom, of course, ex-ministers, senior staffers and civil servants must obtain approval from an independent committee before accepting such employment. But, if you look closely at that experience, you have to note that some 80 per cent of the applications before that committee are accepted, with conditions being applied in the remaining cases.

If the Democrat amendment were agreed to by the parliament, we would entrench in legislation a two-year cooling-off period during which ex-ministers and senior ministerial staff would not be able to:

provide advice for personal profit or for commercial advantage on any aspect of the work of any department or agency for which the former Minister had ministerial responsibility for any period of time during the last two years of service as a Minister ...

That is the thrust of the proposal that is before the committee. As recently as last week, the Senate dealt with a motion that stood in the name of Senator Brown, putting forward another remedy to this problem—another remedy, another view about how this might be approached. On that occasion it was a

five-year cooling-off period during which ex-ministers would be banned from taking an appointment that was directly related to his or her portfolio, and there was a brief debate around a suspension of standing orders motion on that particular proposal. To come back to first principles, both Senator Murray's proposal and Senator Brown's proposals are positive and worthy attempts to try and rectify a real problem—and it is a problem that has been exacerbated by the experience of recently retired ministers and the inaction of the government.

But the opposition has another remedy, a third proposal, to commend to the committee. As I have done prior to this debate, I suggest that this third proposal is a balanced approach and a very appropriate one for our circumstances in this country; it was announced by Mr Crean a little earlier this year. The opposition says that the cooling-off period should be 12 months—that is, that ministers, for a 12-month period after ceasing to be a minister, not take employment with, or as an adviser or consultant to, any company or business interest with which they have had official dealings as minister in their last 12 months in office. Under Mr Crean's approach, ministers would be required to undertake that, on leaving office, they would not take personal advantage of any information they had access to as a minister, where that information is not publicly available.

We have also said that, in our view, we believe the new standard is more appropriately entrenched in the so-called prime ministerial code of ministerial conduct. We say that it is for a Prime Minister to determine the standard that he or she would require of ministers. It is then for the electors—those who elect government to office—to hold ministers to account for the way those standards are observed and, of course, to hold the Prime Minister to account for the Prime Minister's willingness and capacity to enforce the standards and the code of conduct.

So there is another approach. There we have three approaches, which I think are positive approaches, that have been put in the public domain. There is a fourth approach, which is the government's approach: to do absolutely nothing. That is a serious point;

there are four alternatives. But Senator Murray proposes his alternative as an amendment to this bill.

The opposition does not support the amendment, and I have tried to indicate in a positive way what our alternative is. I am encouraged by Senator Murray to propose an amendment to this bill, but I think Senator Murray probably said that a little tongue in cheek because I think he does understand the opposition's approach in relation to this. The view I have expressed before, and Mr Crean has expressed, is that we believe it should be contained in the Prime Minister's code on ministerial conduct. That is the preferred approach of the opposition, but we have put it in a positive spirit. We say again, and say seriously, we think that the Democrats idea is a very useful contribution to the public debate. It is an important public debate for us to have and I do not decry those positive contributions made.

There are three positive proposals I know about that have been raised in this parliament in the past fortnight. Those that have advocated those approaches deserve credit. Of course the real comparison that ought to be made is with the approach of the government. The government is happy to go along with business as usual and what has been proven comprehensively in recent weeks is how inadequate business as usual is. It is for those reasons—and I hope this is understood—the opposition will not be supporting the Democrats amendment. It is also for those reasons we will not be proposing amendment to this bill. As I have indicated previously, the opposition will be supporting this bill unamended.

**Senator ABETZ (Tasmania—Special Minister of State)** (11.54 a.m.)—I thank honourable senators for the contributions made during this debate. It is always difficult when you are in government and you are a minister dealing with a piece of legislation that deals with ministerial entitlements for the current life and then dealing with amendments that might impinge on the afterlife. Whilst Senator Murray seems to have a very strong view that ministers are underpaid, for some strange reason my good friend was not motivated to move an amendment to say we

should be paid more according to the sum that Senator Murray believes is appropriate. On the other end, he seeks to limit employment opportunities on the way out. Whilst I can understand where Senator Murray is coming from, and accept he is genuinely motivated when he speaks on these matters—unlike some others especially in the other place—there are genuine difficulties. How you overcome them I am not sure. As I understand it, we are just debating the amendment. The bill proposed is not opposed—although some have gratuitously said ministers deserve more money—

**Senator Murray**—Others have said they deserve less.

**Senator ABETZ**—Yes, but nobody wants to move the amendment to ensure that that happens. That aside, the amendment that Senator Murray has moved will in fact impact more on staff than on ministers. Yet in the contributions—unless I have missed something—not a single person has mentioned the staff.

**Senator Faulkner**—I did.

**Senator ABETZ**—In the committee stage, sorry. If the staff were entitled to the same superannuation benefits as members of parliament, chances are they might be willing to accept these sorts of restrictions. Let me deal with the definition suggested in the amendment in relation to how a ministerial adviser is to be determined, at what level. As I understand it, quite often there are other advisers below that rank that basically do all the legwork. They know all the ins and outs and all the intricate detail. They submit that to a more senior person in the minister's office who then checks it and ticks it off. Potentially, what you have is the senior executive person, who has only a watching brief, being denied an employment opportunity that somebody lower in the office—who in fact did all the hard work and has got all the intricate and detailed knowledge—would be allowed to take up. I am not sure that has necessarily been fully thought out.

Also the term 'minister' leads to an interesting proposition as to the Prime Minister. Is it deemed the Prime Minister has ministerial responsibility for all ministerial areas—

or, indeed, the Treasurer? If we are talking about influence then I suppose it would stand to reason that, if it were a former Prime Minister going around lobbying, although he did not have particular portfolio responsibility, he might be able to exercise a lot greater influence than a former minister. I think there are some substantial deficiencies in the amendments and the regime proposed. Whilst I can understand the difficulties raised, I join with Senator Cooney in what he is saying. Basically—correct me if I am wrong, Senator Cooney—I understand that what Senator Cooney was trying to say in a nutshell was that legislation will not necessarily overcome the deficit where there is no instinct for honour. It makes it very difficult.

Would a former defence minister—to use an example at random—be allowed to join a public relations firm? Chances are, yes. Then if there is no instinct for honour, he could just simply pass on everything he knows to another person in that public relations firm to then make the necessary approaches. If there is no instinct for honour in these matters, all the good legislation in the world will not overcome those that want to play and be the rogue.

I was about to say I had one criticism of the Democrats—that is not quite true; I have a number of criticisms, although I enjoy their company. The Democrats have a propensity to see a problem and then say, ‘The solution is legislation.’ I would see legislation as an absolute last resort, and it is interesting that the amendments that are being proposed do not stop—using an example at random—a Prime Minister that is currently in the position from going to Indonesia to pursue certain business interests whilst he is allegedly on an overseas visit. Where is the legislative barrier to that?

I would have thought that, if you were genuinely concerned about ministers of state not using their positions for improper purposes, there might be a need to legislate to ensure that ministers and prime ministers are not allowed to pursue their business interests as it is alleged one prime minister did. How do you overcome that? It is very difficult and, at the end of the day, we are in the pub-

lic eye and the public makes a judgment about us.

Senator Murray has said there is some public disquiet about former ministers getting employment in an area with which they were associated—yes. There is concern about the level of our salaries. In recent times there was, I thought, a very distasteful exposé of MPs that employed family members on their staff. Clearly, some have excellent spouses and children on their staff who would get the job on merit. Others may well do it on the basis of tickling the public purse to assist the family income. How do you legislate against that? You cannot. You have to allow and require the senator or member concerned to make his or her own reasonable determination as to whether it is justifiable. I know that, when my good spouse comes up here, I am entitled to an extra \$10 or something in travel allowance whereas, if a senator has a staff member on board, that staff member is entitled to a full travel allowance that, I would anticipate, would be in excess of \$100. Then that staff member and senator, one would assume, would share the same accommodation. But, for whatever reason, I am limited to \$10 and somebody else gets an extra \$100 plus. That is the way it is; we will never get rid of all the anomalies and difficulties that arise in this situation. At the end of the day, the resort to legislation is not one that we as a government support.

**Senator MURRAY (Western Australia)** (12.03 p.m.)—I will wrap up briefly. The value of the last two weeks discussion on this matter, and particularly the value of this debate—and I thank senators very much for what have been some very productive contributions—is that the issue has been properly aired. Those who have been here longer than I have may know of another but, in my time anyway, this is the most extensive airing of this particular issue that I have ever heard. It is a valuable issue to be aired.

Speaking through you, Chair, to Senator Faulkner, the Democrats will obviously support the ALP remedy. It is an improvement on the current situation and, were you to achieve government, it would be an improvement—so, plainly, we would support it. The difficulty you will face is how to enforce

it. As you know, in the private sector a restraint—because this is what we are talking about: a restraint on future employment—is a contract enforceable at law. There is that issue. Senator Abetz is forced to defend his patch; I think the government should recognise that they have to do something about this issue. They cannot sit for three years with the existing circumstance. That is the message from the opposition, that is the message from us and that is the message from other members of the crossbenches. That is the first thing I say in summary.

The second thing is that it is plain that the whole issue of the salary package and the salaries of ministers and parliamentarians and their future entitlements needs to be reviewed in a holistic manner by the Remuneration Tribunal to reflect current thinking and community standards. The last thing, as an aside to Senator Abetz, is that the Democrats may be interested in legislative remedies to many things but it is not the Democrats that are responsible for producing 200 bills a year! It is the government that produces 200 bills a year, and we should remember that it has accelerated under this current government. I shall leave my remarks at that, but thank you very much for the contributions I received.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

### Third Reading

**Senator ABETZ** (Tasmania—Special Minister of State) (12.07 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### CRIMINAL CODE AMENDMENT (ANTI-HOAX AND OTHER MEASURES) BILL 2002

#### Second Reading

Debate resumed from 19 March, on motion by **Senator Ian Campbell**:

That this bill be now read a second time.

**Senator ABETZ** (Tasmania—Special Minister of State) (12.07 p.m.)—I thank hon-

ourable senators for their very worthwhile contributions during the second reading debate.

Question agreed to.

Bill read a second time.

#### In Committee

Bill—by leave—taken as a whole.

**Senator MURRAY** (Western Australia) (12.09 p.m.)—by leave—I move amendments (1) and (2) on sheet 2471:

- (1) Clause 2, page 2, table item 2, omit the item, substitute:
2. Schedule 1 The day on which this Act receives the Royal Assent
- (2) Heading to schedule 1, page 3 (line 3), omit “16 October 2001”, substitute “Royal Assent”.

**Senator FAULKNER** (New South Wales—Leader of the Opposition in the Senate) (12.09 p.m.)—That was an extraordinarily persuasive case that Senator Murray put to the chamber. I must say it convinced me! Very briefly, I want to say that these are important issues that are dealt with. The Democrat amendments make all offences commence from royal assent. The new offence regime falls into two distinct parts. The first part operates retrospectively and commences on 16 October 2001, the date on which the Prime Minister signalled his intention to introduce new laws. The government has said—and I use its words—that it does not lightly pursue retrospective legislation. It justifies its proposed retrospectivity on the grounds that the Prime Minister’s announcement received widespread media coverage. The retrospective provision will be a new offence to deal with hoaxes using explosives and dangerous substances. A person will be guilty of that offence if they intentionally send an article by postal or similar service.

One of the criticisms that can be directed at retrospective criminal legislation is that people will be unaware that their conduct may be an offence. Generally the rule of law is undermined when citizens are unable to make choices and conduct their lives in reliance on the law as it stands at any particular point. But in this case the government’s

statements were in clear terms and they received immediate and widespread publicity—a point I made at some length in the second reading debate on this bill. Further, the perpetration of a hoax by sending a dangerous thing could never be considered a reasonable action a person was entitled to do before these amendments. As such, the bill does not retrospectively affect a legitimate right and does not contravene fundamental principles of fairness or due process.

I have indicated that the Labor Party do not approach this important issue by writing the government a blank cheque on antiterrorism law. We will work with the government to tackle terrorism, but we have always said that the government must proceed with caution and work with all parties also to ensure that we continue to protect the freedoms that Australians enjoy. That is the principle on which we approach this legislation. Of course, the package of antiterrorism legislation will be dealt with by the parliament in its next sittings. I commend the opposition's approach and indicate that in these circumstances the opposition are prepared to support the retrospective application of this provision.

**Senator ELLISON (Western Australia—Minister for Justice and Customs)** (12.12 p.m.)—The government opposes the amendments sought by the Democrats. I would associate myself with the remarks made by Senator Faulkner and point out that indeed the Scrutiny of Bills Committee did raise this issue and the Attorney-General wrote to the committee in a letter dated 8 March setting out a comprehensive explanation as to why there should be retrospective application. I think that for the record that should be mentioned here.

The Prime Minister's announcement of 16 October 2001 was widely publicised, as Senator Faulkner said. It did provide deterrence in relation to this matter. The proposal by the government is that these amendments should operate only from the time of that announcement. It has been accepted that amendments to taxation law may apply retrospectively where the government has announced by press release its intention to introduce a bill to amend taxation law and the

bill is introduced within six months after the date of that announcement. I refer to the Senate resolution dated 8 November 1988. This new hoax offence was introduced within four months after the date of the Prime Minister's announcement, so it thereby comes within the ambit of that resolution. An additional consideration is that there is no circumstance in which the perpetration of a hoax that a dangerous or harmful thing has been sent could be considered a legitimate activity in which a person was entitled to engage pending these amendments. The amendments do not retrospectively abrogate a legitimate right or entitlement. For those reasons, the retrospective application of the government's amendments is not considered to contravene fundamental principles of fairness or due process.

The Attorney-General has pointed out that the government is not seeking this to be a precedent for retrospectivity in the future; quite the contrary. This is something which the government would seek only in exceptional circumstances. There is in the guidelines issued for DPP prosecutions the question of whether the matter is in the public interest to prosecute. That was the subject of a subsequent letter dated 15 March 2002 to the Scrutiny of Bills Committee, where the Attorney-General stated that he noted the prosecution policy of the Commonwealth incorporated the public interest test and it would apply to any proposed prosecution of this offence. That naturally would take into account the effect of any retrospectivity. So it is not a question of the government seeking any blank cheque in this regard. It is a very considered approach, one which is sought only rarely and one which fits exceptional circumstances when you bear in mind that following the events of 11 September last year anthrax hoaxes were causing significant concern and disruption, with police investigating over 1,000 such hoaxes. Not only did it cost a great deal of money, divert police from other legitimate inquiries and divert resources but also it created a great deal of anxiety and fear in various parts of the community and various individuals. I would commend the bill to the Senate, and for those reasons the government opposes the Democrat amendment.

**Senator GREIG (Western Australia)** (12.16 p.m.)—I thank senators for allowing debate on these amendments, given my inability to be in the chamber the moment they were moved. The Democrats remain committed to these amendments. I do not propose to speak to them at great length because I feel that I did that during my speech in the second reading debate on the *Criminal Code Amendment (Anti-hoax and Other Measures) Bill 2002*. To reiterate I would make the point, perhaps a point I have not made thus far, that for example in the United States their constitution, their Bill of Rights—something that does not apply here in Australia; I do not mean the US constitution but the fact that we have no bill or charter of rights—prohibits any retrospective legislation whatsoever. So Australia is in some regards not unique perhaps, but it is a rare circumstance where a jurisdiction such as our federal parliament has the right and the opportunity to legislate retrospectively. I think that is something that we should question.

The position of the Democrats has always been, with rare exceptions—and I spoke at some length on this matter in the Democrats' Anti-Genocide Bill—very disinclined, very resistant to the notion that retrospective legislation ought to apply on matters of serious criminal content. The basic premise for our party is that a person is entitled to know what the law is at the time of an activity. An example of the Australian Democrats supporting retrospective legislation was with veterans' affairs legislation, where an anomaly was discovered and that legislation was fixed up retrospectively. On that basis it provided a benefit and no-one was opposed to it. But, as a general rule, our principle and our argument is that if the laws were not in place to cover a particular scenario at that time then it ought not be the individual's fault that legislation would unfairly be introduced retrospectively to cover up a government failing.

Our position remains strongly, and we hold to it, that we would like to see retrospectivity that is contained in part of this legislation repealed and that the bill as a whole, the two sections of it detailed in the explanatory memorandum, be prospective—that is, that they would commence on royal

assent as is ordinarily the case. The creation of retrospective criminal offences we believe is justified only in extraordinary circumstances. We do not believe that this bill warrants the creation of a retrospective offence nor that it is justified in the current context. I understand that the amendments are not supported by either the government or the opposition, but we Democrats remain committed to them and I ask at this last moment for support for those amendments.

**Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate)** (12.19 p.m.)—In response to Senator Greig's contribution, which was a serious one, I would just make these points. I think you can acknowledge that there are two types of retrospectivity. There is retrospectivity which goes to a date prior to any announcement or a proposal for retrospective application which goes back to a clear and unequivocal announcement such as the one on this matter, the *Criminal Code Amendment (Anti-hoax and Other Measures) Bill 2002*. I do not think you can blindly apply the important principle of retrospectivity. The opposition—and of course I am sure this is shared around the chamber—do treat these matters seriously. It is important to remember that the perpetration of a hoax by sending a dangerous thing could never be considered a reasonable thing a person was entitled to do before these amendments. In those circumstances, the bill does not retrospectively affect a legitimate right and therefore, in my view, does not contravene fundamental principles of fairness or due process.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

**Senator Greig**—Can I ask, given that the vote went through on the voices, that  *Hansard* clearly record the Democrats' opposition to the bill as a whole.

### Third Reading

**Senator ELLISON (Western Australia—Minister for Justice and Customs)** (12.22 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**TAXATION LAWS AMENDMENT  
(SUPERANNUATION) BILL (No. 1) 2002**  
**INCOME TAX (SUPERANNUATION  
PAYMENTS WITHHOLDING TAX)  
BILL 2002**

**Second Reading**

Debate resumed from 13 March, on motion by Senator Ian Macdonald:

That these bills be now read a second time.

**Senator SHERRY (Tasmania)** (12.22 p.m.)—The measures in the **Taxation Laws Amendment (Superannuation) Bill (No. 1) 2002** and the **Income Tax (Superannuation Payments Withholding Tax) Bill 2002** form part of the government's superannuation election package. They will allow persons who have entered Australia on a certain class of visa and who then permanently depart Australia access to their superannuation benefits. The benefits accessed under this new regime will be subject to withholding arrangements. That is a new tax—or perhaps I should call it a new departure tax to return the tax concessions already provided for the superannuation benefit. In providing for a new tax, these measures evidence the breaking of the Prime Minister's promise before the election that he would not introduce any new taxes. On 1 November 2001, Prime Minister Howard made his promise during an interview with Neil Mitchell on 3AW. Mr Mitchell asked:

Will you agree or will you promise not to introduce any new taxes?

The Prime Minister replied:

This is our commitment, and that remains our commitment.

Yet, just a few days later, on 5 November 2001, the Prime Minister outlined the first of his new taxes, that being an effective departure tax imposed by these bills. The date of effect of these measures is 1 July 2002. It is worth noting that the government originally promised they would commence on 1 January 2002 but straight after the election announced a deferral of six months.

This is interesting, because Senator Coonan, the Minister for Revenue and As-

sistant Treasurer responsible, stated that the deferral was required because legislation needed to be passed and the industry must be given time to implement the changes. I would be interested in hearing an explanation from the minister as to why the government was not able to understand the basic requirements in November—before the election—when the government made the promise. It does not ring true that it suddenly realised that changes such as this require legislation and consultation. Perhaps, given its lack of attention to such matters during the process of tax reform, it is conceivable after all.

The failure to introduce these measures by 1 January this year is the second broken promise these bills represent, in addition to the promise not to introduce any new taxes. This is not a great start in the area of tax for this government's third term. It is possible that the delay was due to the minister's attitude towards the government's superannuation election package, as indicated by the comments she made on ABC radio in December 2001. In relation to the government's election promises, she said:

I think some of the announced changes are very good ones.

Perhaps this is one of the changes she thinks is very good; perhaps it only rates as moderately good or even just okay. Under the new arrangements, a person who receives a departing Australian superannuation payment is liable to pay tax on that payment at the rate decided by parliament. Under the bills, it is proposed that the rates be: for so much of the payment as represents undeducted contribution or post July 1994 invalidity component, nil; for so much of the payment as represents an untaxed element of the post June 1983 component, 40 per cent; and for the remainder of the payment, 30 per cent. It appears that most payments will be taxed at the 30 per cent rate.

Many of the temporary visa holders affected by these measures are high income earners and, consequently, pay the surcharge tax of 15 per cent, in addition to the 15 per cent contributions tax, leaving the remaining 70 per cent of their money to earn interest in the superannuation fund. On departure from

Australia, under this new system they will generally pay another 30 per cent in tax, meaning the effective tax rate will be 51 per cent. That has been confirmed by Treasury. This is the highest personal income tax rate since Labor reduced the then 60 per cent rate in the 1980s. This tax rate is far higher than the tax concessions currently allowed on superannuation for many people, including many of the claimants.

Treasury argued during Senate estimates in February, and again during the Economics Legislation Committee review of the bills this week, that because there is a timing benefit that accrues to the superannuation contributions a relatively lower rate of taxation than this 51 per cent tax rate is appropriate. Treasury officials further confirmed during the Economics Legislation Committee hearing on Tuesday that even for lower income earners the tax rate in many cases will be significantly higher than they would otherwise have to pay as personal income tax.

Due to the fact that in many cases the tax rate is relatively high and due to the bureaucratic process involved in actually getting their money, it is possible that some of the people eligible to access their benefits may put off doing so. That may mean the government will not realise the projected revenue, which is estimated at \$255 million over three years. But the government are the ones with the access to the data. They have made some underlying assumptions, so I can just wish them all the best in collecting the money. Superannuation fund trustees will have to ensure the correct tax is withheld from the payments. They will also have to do considerable work to pay out the benefits as the regulations, at least in the draft form released by the government on 8 March, require a significant amount of paperwork to be completed.

The class of people eligible to access their superannuation under these provisions is not spelt out in the legislation but will be left to regulations to prescribe. The draft regulations currently provide for a substantial number of classes of eligible temporary resident visas—everything from the predictable inclusions, such as subclass 413 Executive, to the more unusual, such as subclass 499

Olympic Support. It is worth noting that the classes of eligible visas also extend to those that do not carry with them the right to work in Australia. Hence, it should be highly unusual for these people to have Australian superannuation funds. It would be interesting to see how many tourists apply for their superannuation under such circumstances, given that it requires an admission in most cases that they have been illegally working in Australia.

This new process for obtaining superannuation benefits differs significantly from the existing regime. Currently, individuals departing Australia, regardless of whether they have been Australian residents or temporary visa holders, on a permanent basis generally only have access to their superannuation entitlements at or after the preservation age. The preservation age is a minimum of 55 years, but for those born after 1 July 1960 there is a phased increase in the preservation age up to 60 years.

The explanatory memorandum to these bills states that the policy objective of this legislation is to reduce the administration and compliance costs that superannuation funds incur and pass on to all fund members in preserving the superannuation benefits of temporary residents who have permanently departed Australia. This contrasts with the apparent policy driver conveyed in the second reading speech that emphasises the fact that temporary residents who leave Australia will not be retiring here and so the government's intention is to fulfil their desire to take superannuation with them. I am sure, however, that the significant revenue to be gained—or that the government believe they will gain—from these measures is also factored in to the government's policy decision.

It should be noted that it was the government that tightened up the release provisions in 1998 for people permanently departing Australia. At that time, the Labor senators, including me, on the superannuation committee charged with examining the government's proposed changes strongly argued that temporary visa holders who permanently depart Australia should be given access to their superannuation. The government insisted that this should not be permitted. This

proposal represents another U-turn in respect of superannuation policy.

Other measures announced in the government's election policy package include the reduction in the rate of the government's own superannuation surcharge tax, the introduction of co-contributions—which they promised to deliver before the 1996 election but then scrapped and now will provide for in a very limited way for low income earners—and the introduction of a requirement on employers to make quarterly payments of superannuation guarantee contributions. Yet again, this is a half-hearted change from the government, following their repeated refusal to pass our legislation over the past few years that would have ensured much sooner that contributions were made quarterly. The government's attempt at this policy will not see mandatory quarterly contributions until July 2003. In response to this, Labor introduced a private member's bill in the House of Representatives on 11 March 2002, which was aimed at providing protection for employee superannuation, commencing from 1 July 2002. It is yet to be seen whether the government will support this significant improvement on their proposal.

It is interesting to note that the people we are talking about—who will be paying a tax rate percentage effectively in the low fifties when they transfer their superannuation out of Australia—do not vote. While Labor believe that these measures highlight the inconsistency of the government's approach to superannuation and include two significant broken promises, we will be supporting the bills in the Senate.

**Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer)** (12.33 p.m.)—I thank the Australian Labor Party for their support and commend the bills to the Senate.

Question agreed to.

Bills read a second time.

#### In Committee

Bills—by leave—taken as a whole.

**Senator ALLISON (Victoria)** (12.33 p.m.)—The Democrats do not have any amendments to these bills and we are supportive of them. We do not think it is reason-

able that the tax concessions on superannuation contributions should be made available to those who have no intention, or are not entitled, to retire in Australia. I have some questions of the minister that I was not allowed to ask in the inquiry into the bills. Could the minister turn his mind to why it is that the government chose to require the lodging of the claim after departure and not beforehand. It would seem more sensible to do it at the stage of departure rather than at a later stage. Can you please advise why that was necessary?

**Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer)** (12.35 p.m.)—My advice is that the regime is being developed in the regulations. Apparently the claim can be lodged before departure, but it cannot be paid until after departure.

**Senator ALLISON (Victoria)** (12.35 p.m.)—I wonder, then, about the cost of administration of that arrangement for the funds. If the payment is made after departure, the funds will be required to make payments in various countries. Is there a consideration here for the extra cost to funds of making those payments? Some of the payments will be quite small, presumably, if we are talking about backpackers and students who come to Australia and who might have very small amounts of superannuation here.

**Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer)** (12.36 p.m.)—There is no doubt that there will be some cost, but the industry is very supportive overall. It believes that there will be savings and that there is a net benefit. That is the approach that we have had from the industry.

**Senator ALLISON (Victoria)** (12.36 p.m.)—The other question is about the estimates. From memory, the revenue implications of this are \$70 million in the first year and \$110 million in the second year. Is it possible to get a breakdown of where that will come from? It appears to be a fairly ambitious figure, given that the majority of the 200,000 people temporarily working in Australia would be in the category I mentioned earlier of backpackers and students doing part-time or casual work. The majority of

them would not be likely to know that this is available to them, nor would they go through the process of making a claim. Is it possible to get a breakdown so we can see where the \$70 million and the \$110 million come from?

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (12.37 p.m.)—I have a couple of things to say in response to that. Firstly, in relation to people's rights in this new law, there is going to be an education campaign to try to inform the people that Senator Allison referred to. In terms of more detail at estimates, I understand that the officials were quizzed by senators at the hearings into the bill. I understand that, at prior estimates, information was provided through the Charter of Budget Honesty process. We are very happy to provide any more detail that is available. Therefore, I will take that question on notice and add more detail, to the extent that that is possible. We have nothing to hide in that respect.

**Senator ALLISON** (Victoria) (12.38 p.m.)—The other question that occurred to me was regarding APRA's advice. I do not know whether this has been provided either. At the hearing into the bill, it was suggested that APRA had given the Treasury advice. My question is: was that advice made available to the committee?

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (12.39 p.m.)—I understand that APRA were consulted prior to the announcement and during the development of the legislation. There was not any formal advice; it was more by way of consultation. APRA were generally supportive of the measures and had no concerns.

**Senator SHERRY** (Tasmania) (12.39 p.m.)—I do not have any questions but, with respect to questions in general, the minister is right. The reason I am not asking any specific questions is that we did thoroughly canvass these issues, initially in estimates and then more particularly in the legislation committee. I thank the officials for the amount of information they were able to provide to us. It was very useful and informative.

Bills agreed to.

Bills reported without amendment or request; report adopted.

### Third Reading

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Treasurer) (12.41 p.m.)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

### THERAPEUTIC GOODS (CHARGES) AMENDMENT BILL 2002

### THERAPEUTIC GOODS AMENDMENT (MEDICAL DEVICES) BILL 2002

### Second Reading

Debate resumed from 20 March, on motion by **Senator Abetz**:

That these bills be now read a second time.

**Senator LEES** (South Australia) (12.42 p.m.)—The Democrats believe that the Therapeutic Goods Amendment (Medical Devices) Bill 2002 is worthy of support because it is a step in the right direction. Having said that, we have some concerns. Indeed, a number of concerns have been raised with me about the Therapeutic Goods Administration system for registering listed medical devices. We need to be very careful here. We need ongoing monitoring and very careful scrutiny of these devices. I seek leave to table some concerns as expressed by Professor John Dwyer AO of the Division of Medicine, Prince Henry Hospital, University of New South Wales.

Leave granted.

**Senator LEES**—This document simply expresses his concerns and they are worthy of being put on the record. I know there are many in the community who believe that this bill is a step in the right direction. In particular, the Consumers Health Forum were consulted on this bill. They believe we are going down the right path for health consumers. The Therapeutic Goods Amendment (Medical Devices) Bill 2002 enables Australia to adopt a global regulatory model for medical devices, thereby aligning us with international best practice. It will ensure that consumers have access to new technologies

and that both consumers and industry will benefit from avoiding unnecessary costs through the removal of regulatory duplication. There will also be increased emphasis on post-marketing activities with the requirements for manufacturers and sponsors to report adverse events involving medical devices to the TGA within some specific time frames. Australia's involvement in an international post-market vigilance system should reduce the likelihood of repeated adverse events and influence how new medical devices are developed and marketed.

I am also aware of concerns in the community about the tracking of medical devices. While this is a serious issue which must also be addressed, it cannot be tackled within the bounds of this legislation. The Council for Quality and Safety in Health Care has, as one of its priorities, to examine a system to track implanted medical devices. I am informed that the council is currently developing such a system to deal with issues of manufacturers, sponsors and medical practitioners. There has also been a suggestion for a nationally operated implant tracking system that would use the Health Insurance Commission database to record patients and their implanted devices. We are seeing some positive steps along this path and I look forward to the government advising us in future of where we are up to. To sum up, the *Therapeutic Goods Amendment (Medical Devices) Bill 2002* and the *Therapeutic Goods (Charges) Amendment Bill 2002* will ensure that consumers have timely access to new technologies and will benefit from not having unnecessary costs.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.45 p.m.)—The *Therapeutic Goods Amendment (Medical Devices) Bill 2002* and the *Therapeutic Goods (Charges) Amendment Bill 2002* seek to allow the introduction of an internationally harmonised framework for the regulation of medical devices in Australia. Australia will be aligning with international best practice by adopting the global regulatory model for medical devices. This will ensure that consumers have timely access to new technologies. Consumers and

industry will also benefit from the removal of regulatory duplication and associated costs. Medical device safety will be improved by moving to a comprehensive risk based classification system that will allow an appropriate level of regulation to be applied to each class of device. There will also be an increased emphasis on postmarket activities that should reduce the likelihood of repeated adverse events as well as influence the development of safer medical devices. These bills will benefit all Australians by allowing the introduction of a medical device regulatory system that will deliver better protection of public health while facilitating access to new medical technologies. I commend the bill to the Senate.

Question agreed to.

Bills read a second time

### Third Reading

Bills passed through their remaining stages without amendment or debate.

## VETERANS' ENTITLEMENTS AMENDMENT (GOLD CARD EXTENSION) BILL 2002

### Second Reading

Debate resumed.

**Senator MARK BISHOP** (Western Australia) (12.48 p.m.)—The *Veterans' Entitlements Amendment (Gold Card Extension) Bill 2002* before the Senate today seeks to extend the gold card, or the ‘repatriation health card for all conditions’, to Australian veterans who are aged 70 or over and who have post World War II qualifying service. In this brief speech I will consider the background to the gold card, the history of repatriation health care in Australia and some concerns about the administration of the Department of Veterans’ Affairs’s private health scheme in light of recent evidence emerging from the Senate estimates committees about the blow-out of health care costs.

I turn firstly to the issue of background information on the gold card. The Veterans’ Entitlements Act already provides entitlement to the gold card for veterans of the two world wars who are over the age of 70 and have qualifying service, amongst many others. The gold card entitles veterans to free

health care for all conditions, including private hospital cover to a varying degree in each state. This bill implements the policy of both the government and the opposition at the last election, namely, to extend the gold card to post World War II veterans who are over 70 years of age and have qualifying service. The gold card has a considerable history because it is a benefit of great comfort and value to the holder as well as an administrative tool which brings considerable efficiency to DVA operations. A gold card entitles the holder to the full range of repatriation health care benefits. Benefits include treatment as a private patient in a public or private hospital, choice of doctor, pharmaceuticals at the concessional rate, optical care, physiotherapy, dental care, podiatry and chiropractic services. It is also a badge which grants status as a veteran or a veteran's widow, and hence the importance of the criteria for its issue. While once the card was issued to those most likely to have the need for more intensive health care as a result of their gruelling war service—that is, POWs and TPIs—that is no longer true.

The bill is important because for former serving personnel it now effectively draws a line for qualifying service. There are some veterans who will not receive a gold card even after this extension. Those who will not receive a gold card after the passage of this legislation include: those veterans who do not meet the service criteria, including those servicemen who enlisted to serve but were not sent overseas and were not in an area of Australia that came under hostile enemy action, and Allied and Commonwealth veterans who served with a Commonwealth or Allied force, unless they actually lived in Australia before enlisting in Commonwealth or Allied forces.

In his 1975 report of the independent inquiry into the repatriation system, Justice Toohey identified the philosophy behind the provision of repatriation benefits to veterans. The philosophy is based upon the following principles:

Australia is indebted to those who served it in time of war, risking their lives and health and probably suffering economic loss. Australia, consequently, has a duty to properly care for those

who serve and their dependents. Those who served overseas or in a proclaimed theatre of war are likely to have encountered greater danger and or more arduous service than those who had home service and as a result should have more expensive cover. Compensation and other benefits should be available as a matter of right and not as a welfare handout.

These principles underpin the present legislative scheme.

At this point I think it is relevant to consider the history of the provision of health care services to veterans by the Repatriation Commission. When injured Australians returned from overseas service in World War I they had considerable need for health services due to injuries sustained during their service. At that time, Australia had no universal health system such as we have today. Consequently, it was critical for the government to provide health services for those who had served their country and who had been injured in that process. Similarly, World War II left many young men requiring medical attention for their injuries. Once again, the government provided health services, at the time a role for which the government did not have any responsibility in regard to other Australian citizens.

Since that time, the provision of universal health care has become an important function of government. The increase in health care provided for the general population has been consistent with the increase in the entitlement of the veteran population to health care. For example, the gold card provides a far greater range of services than was ever envisaged by the Repatriation Commission when it provided health care for injured veterans returning from the world wars. The running of parallel health systems for the general public and for veterans necessarily means that attention needs to focus on the Repatriation Commission's administration of the health care system for veterans. Effectively, the DVA card system—comprising the white card for specific compensatable service related injury and illness and the gold card for all conditions—is a de facto private health scheme where the criteria for membership are now seen as a matter of right, no longer of need, free of charge.

The opposition supports this bill but has serious misgivings about some aspects of the administration of this private health scheme. In this context, it is important to note recent evidence that emerged from the estimates process at the Senate Foreign Affairs, Defence and Trade committee, which is of particular concern. Evidence to the committee demonstrated that there has been a considerable blow-out in costs of the provision of health services to veterans through the white and gold cards. Over the last five years the cost of major private hospital treatment of veterans has risen from \$354 million in 1996-97 to \$669 million in 2001-02. This amounts to an increase of over 185 per cent in expenditure on private hospitals for the provision of veterans health services in just five years.

The sale of two repatriation hospitals previously owned by the Department of Veterans' Affairs to the private sector undoubtedly accounts for some of this increase in private hospital expenditure. Ironically, it is these two hospitals where costs have been best controlled. Additionally, there is always the argument that the ageing veteran population is requiring additional health services. However, the veteran population is ageing consistently across the states. The fact that the veteran population is ageing cannot and does not account for the extent of the blow-out in health care costs in some states.

The Department of Veterans' Affairs advised during committee hearings that there has been a shift from public to private treatment. Again, this does not account for the magnitude of the increases in some states nor does it account for the variation between the states. The extent of the blow-out in health care costs is evident from the analysis of costs and separations in private hospitals by state over the last five years. The increase in separations ranges from a reasonable 40 per cent in Western Australia and 43 per cent in Queensland, to a remarkable increase in separations of 142 per cent in Victoria. I say that the increases in Western Australia and Queensland are possibly reasonable because the increasing average age of entitled veterans combined with rising costs of health care

goes some way towards explaining that increase.

However, the variation between states and the percentage increase in separations over five years is absolutely astounding. The percentage increase in private hospital separations in South Australia and the Northern Territory has been almost three times the increase in Western Australia. Separations in Victoria over five years saw more than 3½ times the increase in Western Australia. Tasmania had double the increase in separations that Western Australia had.

The variation between states is exemplified by the fact that the percentage increase in separations in Victoria over five years of 142 per cent is double the average increase across the states, which came to 70 per cent. The figures for the Department of Veterans' Affairs expenditure in private hospitals over the last five years are similarly intriguing. Notable examples are the figures from South Australia and the Northern Territory. As I said before, the number of separations increased by 142 per cent in five years. During the same time frame, costs increased by 245 per cent. It seems costs are spiralling out of control in South Australia and the Northern Territory, with cost increases way out of proportion to increases in the number of separations. Once again, though, the numbers are too great to accept the lame excuse of ageing and escalating health costs—the figures are just too contradictory. There is no explanation yet proffered that justifies the increase in costs way out of proportion with other states.

The situation in other states is as follows. In New South Wales and the ACT, the increase in costs has been less than the increase in separations, so costs have been increasing at a lower rate than the number of separations. In Western Australia and Queensland, the percentage increase in costs has been kept within 12 per cent of the increase in separations. In New South Wales and the ACT, the percentage increase in costs has been almost 1½ times the percentage increase in separations. In Tasmania, the percentage increase in costs has almost doubled the percentage increase in separations. There is no consistent correlation between the per-

centage increase in separations and the percentage increase in costs.

There are so many questions raised by these figures. Why are cost increases not even remotely consistent with the separation increases on a state by state basis? Why are percentage increases in the number of separations not consistent between states? Why are percentage increases in costs not consistent between states? These are serious questions and we look forward to a response from the Department of Veterans' Affairs in due course.

The Australian National Audit Office report on the administration of veterans health care tabled in February 2000 revealed a range in per capita spending on non-hospital services for veterans with a gold card from \$1,123 to less than \$200. The same report also noted:

Although there might be minor differences in health needs between regions, there was rarely sufficient to explain this difference in the use of services noted in the analysis.

The findings of this report suggest that either health care use is supply driven or access to health care services is inadequate in certain geographical regions. Either of these outcomes is cause for concern and further analysis of trends in these areas is critical. The relationship between the health care needs of veterans and the proportion of veterans obtaining health care services needs to be better understood.

The costing of this election commitment to extend the gold card indicated that treatment costs incurred by the Department of Veterans' Affairs will increase 140 per cent over the next three years. This extension of the gold card will rise from \$30.6 million in 2002-03 to \$43.1 million in 2003-04. The increase in total expenditure is a result of an anticipated increase in individual costs from \$7,600 in 2002-03 to \$9,150 in 2004-05.

In conclusion, the opposition supports the *Veterans' Entitlements Amendment (Gold Card Extension) Bill 2002*, which implements the election policy of both the government and the opposition. However, we note with some concern the matters I have referred to in my speech with the administration of the system by the department. The

figures revealed through the estimates process relating to rising private hospital separations and expenditure mean that the system will need to be observed even more closely in the future. The opposition supports the bill before the chamber.

**Senator BARTLETT (Queensland)** (1.00 p.m.)—This is the first piece of veterans' legislation the Senate has considered since the government was re-elected. We have a new minister and a new shadow minister in that portfolio. I would start by welcoming Minister Vale and Senator Bishop to the Veterans' Affairs portfolio, which is one that is often seen as a very minor one. I think that is a great shame because it affects a very large number of Australians and a very special group of Australians who have special needs.

This particular piece of legislation extends full repatriation and health care entitlements, otherwise known as the gold cards, to Australian veterans aged 70 or over who have qualifying service from post-World War II. This will largely impact on veterans of the Korean War, the Malayan emergency, the Indonesian confrontation and veterans of the Vietnam wars who have reached the age of 70. I assume it will also eventually affect Gulf War veterans and people who are becoming veterans as we speak and others as they eventually reach the age of 70 years where the government recognises those conflicts as qualifying service.

The bill is an initiative that the Australian Democrats support and have called for previously. It is something that I as veterans' affairs spokesperson first called for in this place in April 2000, nearly two years ago, although other Democrat senators have raised it before that. It gives an entitlement that began with World War I veterans who received a similar entitlement to health care in 1918. World War II veterans of qualifying service received it in 1999. The important point is that all World War I veterans receive this entitlement. However, when in 1999 World War II veterans received this initiative, it was limited to those with qualifying service. I have a second reading amendment today which was circulated in this chamber a few days ago which addresses that anomaly

and calls on the government to fix that anomaly.

The Democrats recognise the special obligations owed to veterans and we support this legislation. The amendment I am moving is to acknowledge a group that many people believe has missed out, so it is probably appropriate if I move that amendment standing in my name. It is unfortunate, when the government announced last year the initiative contained in this bill, that it was interpreted at the time by many veterans to mean that they would receive the gold card, even though they did not have qualifying service. I am sure they have been very disappointed—in fact, I know they have—to find out that that is not the case. If the government were to take on board the aim of the amendment the Democrats are moving, it would make it the case and they would receive the gold card that many believe they were promised by the coalition before the election.

Many of those who enlisted and served in World War II do not have qualifying service, through no fault of their own. Service personnel went where they were sent and the differences in where they were sent can often be quite arbitrary in terms of what counts as qualifying service and what does not. In one letter I received on this issue, and it is one of many, it says:

We agreed to serve our country and our King anywhere we might be sent by our service chiefs. We could not choose nor change our postings or appointment. We went where we were sent, and most of us for five or six bob a day. It seems we are being penalised for the decisions of our service controllers.

The author of this letter serves with the RAAF from 1941 until 1945 and in the Australian Navy from 1946 until 1949. What constitutes qualifying service throws up a number of anomalies where service personnel did face warlike dangers but that is not recognised by the government. In 1942, Australians faced the threat of invasion. Darwin was bombed, killing hundreds. A Japanese submarine entered Sydney Harbour, and many other significant events occurred that brought the war near our shores.

This year, on the 50th anniversary of what was probably the greatest threat Australia has

faced in a military sense, it would be appropriate to recognise the war efforts of all who served on our shores during that time. What constitutes qualifying service can be quite an arbitrary decision in some cases. The provision of the gold card to some members of the veterans community and not others certainly causes divisions. If you served in Darwin during one period of time, you are recognised as having qualifying service but, potentially, if you were there just a few days later you were not.

There were World War II veterans who served in the Second World War in Australia at the closest point to Timor that are not recognised as having qualifying service and therefore will not receive the gold card. An artillery Army unit went from Perth to the north of Broome, where it was thought the Japanese would invade. Half went by sea and therefore would have a gold card; the other half went by motor transport and did not qualify. That is a major distinction when you are within the one battalion. The chairman of the gold card campaign provided that example. Eligibility entitlements is an area of ongoing review, and we can see that with the Moore review and the current review of veterans' entitlements in this legislation itself.

We must remember, and I think it is appropriate when you are dealing with an issue of gold card, which obviously relates to people's ill health, that many veterans literally paid the price of losing their good health as a result of their service to this country. They were healthy when they enlisted or they would not have been able to serve in the first place and they went where they were sent. If they need medical care now then I believe we as a nation have a responsibility to provide it. I move:

At the end of the motion, add “, but the Senate calls on the Government, having recognised Australian veterans aged 70 or over who have qualifying service post World War II, to extend the same full Repatriation Health Care (Gold Card) entitlement to all World War II veterans whether or not they have qualifying service”.

I urge the government to recognise the genuineness of its intent and take it on board. I also hope that the ALP would give it support as well.

**Senator MARK BISHOP (Western Australia)** (1.06 p.m.)—I would have made some comments, Senator Bartlett, in my second reading address as to the amendment just moved by the Democrats but it had not been circulated. Just for the record, the amendment essentially seeks to extend the gold card to all veterans who served in World War II. The current distinction is derived from the application of the Veterans' Entitlement Act, which extends the gold card to veterans who had qualifying service. Qualifying service in shorthand means those who are engaged in warlike activity away from Australia. It essentially means the distinction to date in policy terms between those veterans who went overseas into theatres of engagement and faced the enemy and those veterans who remained in Australia.

Senator Bartlett referred to a large number of anomalies, and there are indeed all sorts of odd anomalies in the application of that test under the current act. I am advised that in my own state, if people crossed over from the mainland of Australia to Rottnest Island—less than two or three kilometres—to go to a munitions depot store there during the war for training purposes, they have qualifying service and are hence entitled to better benefits. Whilst not denying any comfort to those persons who enjoy that benefit, there does not seem to be any logic in it at all. I share Senator Bartlett's concerns about some of the anomalies that exist under this act. Perhaps they might be addressed in due course by the review instituted by the minister in recent times.

On my rough figuring, the second reading amendment moved by the Democrats means that the benefit currently paid would be extended to somewhere in the order of 50,000 persons who remained in Australia as part of the ADF and did not enjoy overseas service. Questions on notice in recent times have revealed that the current annual cost of the provision of the gold card is something in the order of \$9,000 per person, and so simple arithmetic tells you that on current calculations the cost inherent in the proposal moved by the Democrats is something in the order of \$450 million. That is not something that the opposition has been able to give consid-

eration to in the last two or three days. It is not consistent with the policy we had prior to the last election, and it is something I would want to give serious thought to sometime in the future. So, simply on that issue of short notice and the basis of cost, without passing any comment at all about the merit of the amendment moved by the Democrats or the worth or otherwise of those people who would enjoy the benefit if the amendment were passed, the opposition is unable to support the amendment at this stage.

**Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry)** (1.09 p.m.)—For more than 80 years the Australian repatriation system has provided a comprehensive range of benefits to compensate veterans and their dependents for injury, disability or death resulting from their wartime service. This government continues its commitment to those who have sacrificed and served their country. The *Veterans' Entitlements Amendment (Gold Card Extension) Bill 2002* will extend eligibility for full repatriation health care benefits to include all Australian Defence Force veterans who are aged 70 or over, who have qualifying service from conflicts after World War II and who live in Australia. The further extension of the gold card will make full repatriation health care immediately available to eligible Australian veterans from the Korean War, the Malayan emergency, the Indonesian confrontation and the Vietnam War and to those Australian veterans involved in bomb and mine clearance activities. Furthermore, in later years it will provide a gold card for Australian veterans with qualifying service from more recent conflicts, such as the Gulf War, East Timor and the coalition against terror.

This measure builds upon the Howard government's extension of eligibility for the repatriation gold card in 1999 to include Australian veterans and merchant mariners who have qualifying service from World War II, are over the age of 70 and are resident in Australia. This government has also acknowledged the service of Commonwealth and Allied veterans and Allied mariners who served alongside Australians during World War II, and has provided them with full ac-

cess to prescription medicines under the Repatriation Pharmaceutical Benefits Scheme, with effect from 1 January 2002. There is also an exception for those veterans of Commonwealth or Allied forces who were domiciled in Australia before enlistment, on the basis that these veterans had a connection with Australia before their service. If any British, Commonwealth or Allied veteran feels that they meet this exception, they should certainly apply for the gold card. The health and wellbeing of our veterans and war widows has been of prime concern to this government. There are now almost 282,000 members of the veteran community with a gold card. We are committed to ensuring that those members of the veteran community receiving income support payments receive maximum benefit through the provision of a fair and equitable system.

With regard to the amendment moved by Senator Bartlett in relation to the extension of the gold card to all World War II veterans regardless of qualifying service, many senators would know that this government is committed to bringing clarity to the issues surrounding the eligibility for veterans' entitlements under the Veterans' Entitlements Act 1986. The Prime Minister's election commitment to establish an independent committee to review veterans' entitlements has been implemented, and the review has already commenced, under the chairmanship of the Hon. Dr John Clarke QC, assisted by Air Marshal Douglas Riding and Dr David Rosalky. This committee has been asked to consider perceived anomalies, including the issues of some groups of World War II veterans who do not have qualifying service. While I cannot pre-empt the committee's report, let me say that in making any decisions the government will be guided by one fundamental principle: our belief in providing fair, consistent and appropriate benefits to Australia's veterans. That is a principle which has been the driving force behind our Australian repatriation system for almost 85 years.

Today's legislation is about a very special kind of respect and regard from this government that is due to a very special group of Australians. I thank honourable senators for

their contributions, and commend the bill to the Senate.

Question negatived.

Original question agreed to.

Bill read a second time.

Bill reported without amendment; report adopted.

### Third Reading

Bill passed through its remaining stages without amendment or debate.

## VETERANS' AFFAIRS LEGISLATION AMENDMENT (FURTHER BUDGET 2000 AND OTHER MEASURES) BILL 2002

### Second Reading

Debate resumed.

**Senator MARK BISHOP (Western Australia)** (1.15 p.m.)—The bill being debated in the Senate today, the *Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Bill 2002*, is the same as that submitted to the House of Representatives in the last parliament but which lapsed due to the prorogation of the parliament prior to the election last November. At the outset may I state that the Labor Party does not oppose this bill, because it is beneficial in nature and generally aims to resolve some operational issues within the administration of the Veterans' Entitlements Act, which parallels the Social Security Act in many areas to do with income support matters. We will, however, be moving a second reading amendment by way of protest against what can only be described as government bloody-mindedness on the matter of means testing veterans' disability pensions.

I will not address the particulars of this bill, as they have been canvassed in the original debate and yesterday in the House and there is little to add. I do, however, wish to highlight that part of the bill that deals with the changed treatment of compensation payments of an income support nature as they have been applied to date to couples. In short, the proposal to limit the offsetting calculations for such payments from third parties to the payee first and only to the payee's partner second, rather than jointly as is currently the case, is both fair and equitable.

The Centrelink policy relating to the offsetting of income support payments from third parties such as insurance companies where compensation for lost income has been paid is a very important element of general policy, but it is one where there is blatant discrimination against ex-service people in receipt of disability pensions for their service related injury or illness. Equally, I should mention that some insurance companies also employ an offsetting policy which, depending on the terms of the policy, may also be discriminatory—but that practice is not the subject of this bill.

This is a major weakness in the way the means test under the Social Security Act works. For the record, while income support payments of the kind referred to in this act are included as income in the means test, other payments for pain and suffering are not. Strictly speaking, the latter is not income. It is compensation for the loss of life amenity and for the physical loss that has lowered the quality of life that otherwise might have been expected. This is also how the Veterans Entitlements' Act works for those who are in receipt of a service pension—that is, their disability compensation is not counted as income in the means test, the same means test as in the Social Security Act. Yet if an ex-service man or woman is in payment of a benefit from Centrelink, such as the age pension or disability support pension, the disability pension paid to these people by the Department of Veterans' Affairs for service related injury or illness is so counted.

For the Labor Party this has been a matter of some contradiction for many years and, as I said before, 'discriminatory' is probably a more appropriate description. Despite opposition attempts to amend legislation such as this in the Senate, the government has stonewalled and has failed to honour its own previous promises to make the amendment. This is not a new issue. We know that the government has done the costings and we believe that as we have now refined it the cost is likely to be less than \$20 million per year. The beneficiaries, as we can best determine, are about 4,000 ex-service age pensioners, predominantly those who enlisted to

serve in World War II but who did not leave the country—through no fault of their own, as they say—and up to 500 younger ex-service people, most of whom are TPIs. For these people, the exclusion of their non-taxable, non-means tested DVA disability pension from the means test at Centrelink would result in immediate and substantial relief. A single person on a disability pension of 50 per cent and with no other income, for example, would be better off by \$10 per fortnight. For a single TPI pensioner in the same circumstances the increase would be \$65 per fortnight. This would make an enormous difference, especially for those with family responsibilities.

We have seen the government brazenly boast that they have spent an extra \$2.6 billion on veterans during their term in office. We have seen \$508 million committed in the last budget and in the election promises, all in the clear knowledge that this was an outstanding issue of merit. So let us not have any budget stringency plea or the much-banded excuse, which is now worn out, of competing priorities.

We know that the government has now erected a time stalling device in the form of a judicial review, which will no doubt be used to keep this and a whole lot of other veterans' issues on ice for a year or two until the eve of the next election. Affected by that stalling device are those in the SAS whose dangerous service is not adequately recognised. We on this side share the concern of all SAS personnel present and past and we openly acknowledge the strength of the case they put. Where we differ, though, is using access to the Veterans' Entitlements Act as the remedy, for the reasons I have outlined. Strictly speaking, this is a conditions of service issue and needs to be addressed by the Department of Defence as a top priority. It is to be hoped that this legislation now being drafted for the new military compensation scheme will address this matter in full.

I have addressed the appalling state of policy in this portfolio previously, and I refer in particular to my speech in the adjournment debate on 11 March, where I set out a detailed list of criticisms which in aggregate rendered the committee's task under Justice

Clark quite difficult. Foremost amongst those was the impossible mission of trying to sort out the meaning of 'qualifying service', which, as the Senate knows, is the gateway to the service pension and the gold card. Associated with that, however, is a seemingly total misunderstanding of the government's own policy framework with respect to the recognition of risk and the status of coverage for peacetime service under the Veterans' Entitlements Act. For the record, there is a long history here whereby successive governments have preserved the act for operational—that is, overseas—service only, with all peacetime domestic service covered by the former Commonwealth Employees Compensation Act, and since 1994 by the Military Compensation Act. The only exception to that—and in retrospect this may have been a mistake—was the reopening of the act for peacetime service from 1972 to 1994.

On top of this, the government has committed itself to the recommendations of the Tanzer review, which recommended that a new military compensation scheme be legislated to replace the VEA for all service. So why the government is even entertaining the inclusion of certain peacetime service in the VEA at this stage is problematic.

There are examples, too, of administrative blundering which I will also mention in passing, none of which provide much hope for veterans. I raised in the adjournment debate on 20 March the dilatory action by the Minister for Defence on the plans of the French government to build an airport costing \$16 billion over the top of Australian graves on the Western Front of World War 1. It has taken five months to make even the most elementary representation government to government. Then we have what can only be described as negligence in the attitude towards Anzac Day. The minister's silence on this issue has been most noticeable for, as part of the general government lack of interest in the matter of public liability insurance, the buck has been passed to the states. But this is a national issue. Anzac Day is a national day, and its preservation requires a national response. At least in New South Wales the Premier has given an assurance that Anzac Day will be protected in that

state—to his great credit—but, again, it seems that the Howard government is taking no action on this point.

I conclude by making specific reference to the work done in this country by ex-service organisations. The popular press would have us believe that volunteerism had its origins in the Olympic Games, whereas we all know better. Volunteerism is an intrinsic part of the Australian psyche, and it is nowhere better reflected than in the enormous work done by ex-service organisations. In every RSL branch and sub-branch in Australia there is a welfare function which underpins the commitment to service to members. It is similarly the case with Legacy, the War Widows Guild, the Vietnam Veterans Association and the Vietnam Veterans Federation, the TPI Federation, the Retired Defence Forces and Welfare Association, the Australian Veterans and Defence Services Council, the Naval Association and all the many others too numerous to list. All these organisations, and all the unit groups who serve to maintain linkages with mates, do wonderful work for their members which is rarely recognised. Without them, the system would collapse.

Since taking responsibility for the veterans' affairs shadow ministry, I have taken whatever opportunity has presented itself to meet with as many of these groups as I can, to hear their views on policy issues in particular and also to understand the nature of this wonderful veteran community. I do not wish to select any particular group, but I must say that the commitment shown to assisting their fellow veterans is astonishing. For many, such as those in Legacy, there may in fact be only a limited past association with the forces—for in many cases legatees come from non-military backgrounds—and also they pay for the honour of doing the hours and hours of work assisting widows and their children. This is an outstanding and often unrecognised effort, and I am sure that everyone in the Senate will join me in thanking them.

As has been indicated, the ALP wishes to move an amendment to the motion for the second reading of this bill. That amendment has been circulated in my name. In summary, the Labor Party and, we trust, the Democrats

want the government to honour its promise to exempt veterans' disability pension at the general rate from the definition of income within the means test in the Social Security Act. The reasons for this have already been carefully explained, but in a nutshell we believe that ex-servicemen and ex-servicewomen are being seriously discriminated against. The amendment is good policy, as the government have previously conceded, and we simply ask them to act with honour to regularise the policy, remove the discrimination and help those most in need. I move:

At the end of the motion, add:

"but the Senate calls on the government to remove the anomaly whereby veterans' disability pensions are assessed as income for social security purposes".

**Senator BARTLETT (Queensland)** (1.24 p.m.)—The Democrats support the **Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Bill 2002**, which will bring about minor positive changes that are largely already reflected in the social security system. It enacts a more generous treatment of pension payments received by partners of compensation recipients, amends treatment of financial assets which are unrealisable for the purposes of hardship cases under the assets test and streamlines income streams under social security law. Having responsibility on behalf of the Democrats for the social security portfolio as well as the veterans' affairs portfolio, I recall our support for those measures when they were passed in a complementary fashion with the social security law.

We support this legislation, as I said. Because others spoke after I had moved my amendment during the debate on the previous bill, I will briefly, with the indulgence of the Senate, note the comments that were made in relation to it. Obviously, cost is always an issue. I do not think in this case that timing should have been an issue, because the amendment was circulated a couple of days ago, but I hope that, given there is a review being conducted by the government on gold card entitlements, these aspects will be taken into account.

When we are looking at veterans' entitlements, whether relating to health or to the other issues that we are dealing with under this legislation, there are often anomalies, and veterans often suffer hardships because of gaps in other aspects of public policy. One of the reasons why we have such a big demand for increased access to the gold card, in the Democrats' view, is because of inadequacies in our public health system. If we had a properly funded public health system, and if older people generally had faith that the public health system could look after them, there would be a less desperate struggle to obtain the gold card. It goes back to the issue of the cost of extending the gold card. If the appropriate level of funding were put into health services rather than wasted on things like the private health rebate, there would be less demand for the gold card and more funds available to provide it for those who should be entitled to it. So I think it is an appropriate matter to consider further.

The Democrats support the amendment that has been moved by Senator Bishop on behalf of the Labor Party. Indeed, in June 2000, on behalf of the Democrats, I moved an amendment which had the same intent as the one that Senator Bishop has put forward. We were pleased that the ALP supported that amendment at the time and we are pleased that they have moved a similar amendment which at least expresses the principle that the government should remove that anomaly. The spokesperson for the ALP then was Senator Schacht. In this area, he has provided a good legacy for Senator Bishop to try to fill and build upon.

I recall that our amendment on this issue was an amendment to social security legislation, because the negative side of the anomaly is the treatment of income and compensation by the social security department and not the treatment of it by the veterans' affairs department. So the legislation that needs to be amended is the Social Security Act rather than the veterans' affairs act, and I presume that is why the amendment we are considering is a second reading amendment that expresses that view relating to veterans.

As I recall, it was passed by the Senate as a substantive amendment to the legislation,

but the government did not accept it. It bounced backwards and forwards a couple of times, and eventually the Senate did not insist upon it. At the time the government said they would consider the issue in the budget context. We know that a submission was put forward to the government by the department to remove that anomaly, and it was knocked out by the Expenditure Review Committee—the razor gang—in the finance department. At the time, Senator Schacht gave a commitment that if Labor got into government they would move to amend this. That did not happen, of course, but I trust that, if we have an opportunity to press it in a substantive sense regarding social security legislation, that support from the ALP will still be there, because the passage of this amendment will not make that happen. It is a good amendment and we support it as it increases the pressure on the government for action in that regard.

At that time, nearly two years ago, the government rejected the amendment that the Democrats put forward. They claimed that it was not correctly drafted to achieve what we wanted to achieve. The government did not offer to provide any assistance to draft what they thought would be a suitable amendment, which they obviously had the resources to do. So that aspect still needs to be resolved as well. The present situation, where the disability pension is included in the social security income test, is in contradiction to the government's position that this pension is paid to veterans as compensation.

As has been said by Senator Bishop, the coalition promised to review this matter before they won government in 1996. The review that was undertaken was unfortunately an internal one. For reasons that I still do not understand, the government refused to provide copies of that review or to publicly release it. We have established from answers in this place in the budget estimates that the measure would cost about \$20 million, as Senator Bishop said, which is not a great deal of money to correct an anomaly which is very significant to those affected. It seems strange that the government cannot bring itself to correct this admitted anomaly which takes money away from a significant number

of veterans. It makes one wonder what the point is of promising to review anomalies if not only no action is taken—even though the anomaly is still acknowledged—but also no-one is even allowed to see the contents of that review.

It is notable that all the speakers on the bills say they support veterans. Quite rightly, many speakers pointed to their relatives who are veterans or to people in their community or their electorate. They pointed to the admiration they have for them. Senator Bishop pointed to the quality of their efforts not only during their service but also to their continued efforts as members of the community. It is a group that, in a political sense, often gets more praise than just about any other group in the community, but when it comes to making decisions that affect their lives directly we cannot seem to advance the issue. I really hope this is one area where we can get some advances during the term of this government.

I recognise there are always financial and anomalies issues and some others, which we have referred to in the context of the gold card debate. But the issue we are debating is always pretty close to the top of the list for veterans. It is one they would like to see addressed; it is not particularly expensive. It has been a source of frustration for many years and I really hope we can get movement on it. There are other issues that would benefit veterans but that also seem to have stalled. One I would point to, and of which others would be aware, is the rate of the totally and permanently incapacitated pension, the TPI, which has also been a matter of concern for some time.

I would like to take the opportunity while I am speaking on this legislation to express formally the condolences of the Australian Democrats to the family and colleagues of Brigadier Alf Garland, who passed away recently. He served as President of the RSL for five years from 1988, following a long and honourable military career. He served overseas on many occasions, starting with the Korean War, and he commanded the first Australian SAS squadron in Borneo, a particularly poignant point as the SAS is serving at the moment in Afghanistan.

With regard to the SAS, I should also mention the support of the Democrats for changes to the treatment of SAS personnel who are injured during training. Their training is more hazardous than most qualifying service in most circumstances, and they would certainly benefit from the amendment that we are considering. Again, it really comes back to the issue of anomalies when you are looking at what determines qualifying service. The rate of injury amongst SAS personnel is amongst the highest in the defence forces—regardless of whether or not they are going into combat situations—because of the special nature of their activities. They are far more likely to get significant injuries and, as I said, their training is often more hazardous than some of the situations that relate to qualifying service.

In conclusion, the Democrats support the bill and the amendment that calls for an exemption of the disability pension from the social security income test. The Department of Veterans' Affairs rightly recognises the veterans disability income as compensation, but for some reason the Social Security Act and the department continue to count it as income. That allows them to substantially reduce the amount paid for Veterans' Affairs pensions. The disability pension for veterans is compensation for disabilities and disease incurred during service and, in the view of the Democrats, it is part of the special obligation owed to veterans. In some instances, we are talking about people with extremely severe injuries related to their service and they are losing a large chunk of their pension when they receive that disability payment, which is meant to be compensation. So it is long overdue for that anomaly to be addressed and removed. For that reason we support this amendment and also signal that we will continue to pursue it, as I am sure the ALP will, as other opportunities arise in this chamber.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.34 p.m.)—Very briefly, the amendments in the *Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Bill 2002* provide fairer treatment for the partner of a

person receiving a periodic compensation payment. They provide for the direct recovery of debts from compensation payers and insurers where there has been an overpayment of income support pension because of the treatment of periodic compensation as ordinary income. They provide fairer treatment for income support recipients in relation to unrealisable assets under the hardship provisions of the assets test, clarify the conditions applicable to income streams under the means test and align the rounding of income support systems with that of the social security system.

With regard to the amendment moved by Senator Bishop, I wish to put on record that the issue of the disability pension being assessed as income is a matter that is under consideration by the review referred to in my earlier speech. Accordingly, the government will await the outcome of this review before considering the matter. This is not a stalling device. It is an appropriate mechanism for enabling ex-service groups and others to make submissions and for these complex issues to be considered. The government does not accept that amendment but commends the bill to the Senate.

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.

### **FINANCIAL CORPORATIONS (TRANSFER OF ASSETS AND LIABILITIES) AMENDMENT BILL 2002**

#### **Second Reading**

Debate resumed from 12 March, on motion by **Senator Ian Campbell**:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

### **Third Reading**

Bill passed through its remaining stages without amendment or debate.

**BUSINESS  
Rearrangement**

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (1.39 p.m.)—I move:

That intervening business be postponed till after consideration of government business order of the day No. 8, Taxation Laws Amendment (Baby Bonus) Bill 2002, and in respect of the Quarantine Amendment Bill 2002 the order of business be second reading speeches only.

Question agreed to.

**TAXATION LAWS AMENDMENT  
(BABY BONUS) BILL 2002**

**Second Reading**

Debate resumed from 20 March, on motion by **Senator Abetz**:

That this bill be now read a second time.

**Senator CONROY** (Victoria) (1.40 p.m.)—I rise to speak on the **Taxation Laws Amendment (Baby Bonus) Bill 2002**. This bill is the government's major initiative in family tax policy for its third term. If anything illustrates the poverty of this government's third-term agenda, it is that fact. However, the government did commit to this proposal before the election and Labor does not intend to oppose the bill.

There are flaws in the government's approach and our amendment to the motion for the second reading of this bill notes those weaknesses. The proposal is undoubtedly a poor instrument for supporting women. The bill is regressive. We sometimes use that term to mean that a proposal does not direct more assistance to those who need it more. But this bill goes much further. This bill actually directs more support to women who earned more before their child's birth. That really is extraordinary. It would be like reducing marginal rates for income tax as a person earns more.

As a consequence of the regressive nature of this government's bill, the more a woman earned before the child's birth the more this government will assist them through the so-called baby bonus. Women who earn the same income after their child's birth are treated differently from one another. Not all Liberals think this sort of provision is a good

one. I note a speech by Senator Vanstone only last week in which she said:

... I think people on lower incomes should get more help than people on higher incomes. ... I think people should get assistance based on the number of children that are dependent on them.

That was from Senator Vanstone. Senator Vanstone could say the same thing about the government's first child tax rebate, this so-called baby bonus. It benefits the rich more than it does people on lower income levels. It offers minimum benefits to people who earn so little that they do not pay tax and it does not give assistance based on the number of dependent children. So, on all the tests that Senator Vanstone ascribes to herself, she should be in here voting against the bill. The bill does offer specific financial benefits to a large number of women and it is consistent with the Prime Minister's undertakings during the election campaign. For that reason, Labor does not intend to oppose the bill itself. However, I stress that this bill is regressive. It is ineffective in meeting its stated objectives. It is contradictory to the claimed aim of the new tax system, of simplifying payments to families. Indeed, its complexity is such that it is likely that many women will miss out on their entitlement. I therefore move, as an amendment to the motion for the second reading:

At the end of the motion, add:

“but the Senate:

- (a) notes that the Government's proposal is unfair and a poor instrument for supporting families because, even though families face similar costs in raising children, the Baby Bonus provides greater support to high income families and, as a result women earning \$50,000 will receive five times more assistance than those earning \$25,000; and
- (b) further notes that in addition to being unfair, the Baby Bonus is:
  - (i) ineffective in meeting its stated objectives, because it is paid as a lump sum at the end of the financial year, not during the year when families need it;

- (ii) contradictory to the claimed aim of the New Tax System of simplifying payments to families, because it introduces a separate rebate; and
- (iii) complex, and therefore it is likely that many women will miss out on their entitlement".

**Senator MURRAY (Western Australia)** (1.43 p.m.)—This **Taxation Laws Amendment (Baby Bonus) Bill 2002** attempts to implement a policy announced by the government in the throes of the 2001 election. Its sentiments are right in some ways. Many Australian families are under considerable pressure as more and more women enter the paid labour force and more and more households have two workers and the presence of quite young children. This makes efforts to reduce their burdens and increase their choices and indeed to improve the quality of family life an important target of government policy. My party and I entirely support such a policy intent. Unfortunately, the heat of an election campaign is not always conducive to good policy design. For this reason, I will be proposing, on behalf of the Democrats, a number of amendments to the bill in an attempt to make it more effective while also allowing evaluation of its effects and consideration of other means to improve the situation of working families, especially working mothers, on the birth of a new baby.

The baby bonus as currently structured in this bill is expensive and regressive. It gives more to a well-paid new parent of a first born who gives up her job entirely and much less to the lower paid parent who goes back to work after having a first baby. It is pitched at 'first child events', in the awkward language of the bill, and households where a new parent gives up paid work. It is stretched out over five years and delivers only at the end of the tax year, through a tax refund. It does too little for those families who juggle jobs and kids, especially new babies, on a daily basis. Parents must deal every day with the pressures that the Prime Minister, as he called the election, correctly named as one of the country's greatest challenges: the pressures on working families.

There are much better policy options than this **Taxation Laws Amendment (Baby Bonus) Bill 2002** but, at the very least, the bill should be modified. The fact is that the arrival of a new baby, whether a 'first child event' or a fourth, affects families significantly and immediately. These effects do not conveniently await the timing of the tax year—they hit rich and poor parents and those in between, and there are strong arguments for making any assistance closely targeted to those most in need, particularly families reliant at least in part on the income of women.

The baby bonus in this bill gives a tax refund at the end of the financial year after the birth of a first baby or, transitionally, any new baby, if you meet certain rules. Basically, the benefit ranges from a maximum tax credit of about \$500 a year, if you earn less than \$25,000 a year, through to a maximum of \$2,500 a year, if you earn a higher income and give at least some of it up when you have a baby.

There are six main problems the Democrats see with the scheme. Firstly, the benefit is very delayed. Most mothers to whom the benefit will mainly flow will wait some months for a tax refund, when it is the weeks and months immediately after a baby's birth that are often the most financially and socially stressful. In this way, to use a poor pun, the refund is lumpy and poorly timed. Secondly, the benefit is stretched out over five years. By that time, a great number of mothers have taken up some form of paid work. It is timed to arrive a long way after the early period of new parenting, when the costs are most burdensome and when you need the greatest incentives to give full-time attention to the new arrival. Thirdly, the benefit is highly skewed. It favours mothers who give up their jobs and stay at home. Of course, such a choice deserves support. The fact is, however, that many women cannot afford to do that and have to return to work while their children are still young. Their motivations vary, but earning a living to help support their households is very important to many of them.

The baby bonus benefit is reduced by the proportion of pre-baby earnings that are earned by returning to work. It is complicated. Lifetime earnings of women are very sensitive to career breaks. That is one of the reasons why so many women go back to work or work part time after having a baby. They know that employers' perceptions about their skills deteriorate with long career breaks and that workplaces move on quickly in terms of technology and opportunities. The baby bonus swims against this labour market reality by offering an inducement that rises as new mothers distance themselves from the labour market. Many will reject this course. As a result, many will receive only minimal benefit from this bill.

Fourthly, the benefit is much greater for those who are high earners who stay home or who go back to work part time. If you are earning the minimum wage, the highest refund you can receive is \$500 a year for five years, or less than \$10 a week. If you are earning more than about \$53,000 and stay out of work for five years, then your refund will be \$12,500 over five years, or \$48 a week. To those that have shall be given. The baby bonus, as currently structured in this bill, is highly regressive. Those on higher incomes receive up to 2½ times more tax assistance.

Fifthly, the benefit is pitched at first babies. It can be argued, however, that the juggle of work and family becomes much more complicated and costly on the birth of a second or third child. It is then that many mothers decide to take time out of paid work. The participation rate of women with two children under 15 years is considerably lower than for women with one dependant. But the baby bonus will give them nothing new. It is essentially pitched at women with first babies.

Finally, and sixthly, the scheme is costly. By 2005-06, the scheme will be costing \$510 million according to the explanatory memorandum. This amount would go a long way towards providing a much better, less complex scheme for all Australian mothers who take time off work when they have a baby—namely, paid maternity leave. Twelve weeks

at minimum wage would cost around \$5,000 per birth. This would give working women an extended break when they need it. Many low-income women return to work far more quickly than they might choose, because their families are dependent upon their income. That is not good for a small child. We think the prospect of a small tax refund at the end of the year will do little to expand their real choices. That is why most countries deal with the pressures that arise around the birth of a new baby through paid maternity leave, and not through complex tax reforms like this one that take effect over long periods at a minimal level and, in this case, only in the event of a first child event.

The International Labour Organisation recognises that the best way to support working mothers is not through a patchy system of employer provision that is costly for business, unavailable to many women and will especially disadvantage small business but through a universal system of paid maternity leave that is supported out of government revenue. That is why I propose a second reading amendment which adds a call by the Senate to the government to cease its bandaid approach to the assistance of Australian working women of child bearing age and to instead establish a national paid maternity leave scheme for all Australian working women.

It is time for us to undertake a systematic inquiry to examine and report on the best means of establishing a national paid maternity leave scheme for all Australian working women. There is common and strong support for this across all political persuasions. Such an inquiry is long overdue. It was a recommendation in the 1999 report to the National Pregnancy and Work inquiry carried out by the Human Rights and Equal Opportunity Commission. The report arising from that review, called *Pregnant and Productive: it is a right not a privilege to work while pregnant*, resulted in government action on some of its recommendations, but the government rejected its recommendation that economic modelling and analysis of possible paid maternity leave options be undertaken. The Sex Discrimination Commissioner has since indicated her intention to conduct such an in-

quiry of her own volition. However, it is time for the parliament to consider the way forward on this issue—hence my recommendation for an inquiry.

There are other issues about this bill that I intend to take up through amendment. These deal with increasing the minimum payment from \$500 to \$1,000 a year to women or those eligible on lower incomes or outside the workforce; decreasing the maximum payment from \$2,500 to \$1,500 a year for women or those eligible on higher incomes; making the payment payable over three years after a child event rather than over the five years stipulated in the bill; and reviewing the operation of the scheme and its effects and whom it has assisted after three years.

The effect of these changes is to load the refund up into the early years after a new baby is born, rather than to stretch the benefit out over five years. It is to increase the benefit for women on lower incomes and to cap it at a lower level for higher income women. The outcome of these changes for women earning less than \$25,000 a year will be to refund them a total amount of \$3,000 over three years, instead of \$2,500 over five years. The budget implications of these changes will be to bring forward the financial effects of the measure into earlier years, to shorten the period of refund for households and to redistribute the benefits in a fairer way.

The final budgetary effects of these amendments are difficult to calculate. I understand that the government has undertaken some modelling of the possible impact to the scheme set out in this bill. In fact, in the absence of relevant ATO or ABS data about key issues like characteristics of children and income data, even the government's calculations are somewhat rubbery. I regret the fact that the parliamentary sitting schedule and the government's determination to have this bill dealt with like this today mean that these amendments have not been costed by economic modelling even of the rubbery kind that might be available. However, the effect of these amendments will be to reduce the years in which the refund can be claimed, while increasing the amount available to those most in need and reducing it for the

more well-off. These changes will have a balancing effect. My amendments will have the effect of changing the timing of payments, increasing the sums available to lower income women and limiting those for upper level income women. For the great majority of women having a first child, these amendments would mean a refund of \$1,000 a year for three years, which is much better than that available through the current bill.

Many Australian women want to spend time with their young children. However, the Howard government should set aside its hope that women will stay at home in response to a small tax refund. Many will not do so, because they need more substantial income support, specifically around the birth of a child, in order to exercise real choices about juggling work and family. That is why the Democrats response to this bill is to attempt to increase the immediate benefit to women and new babies, especially those on lower incomes, by increasing the minimum payment and loading the benefit up closer to the birth of a baby. Beyond this, we want to see a response that takes on a long overdue and more comprehensive and significant reform: a national paid maternity leave scheme. It may be too late for this budget round, but by next year we want to see the parliament consider a practical national approach that will assist Australian businesses to make the most of their women employees, while giving families coping with new babies what they most need—an extended paid period of leave for a mother for the time immediately after the birth of a baby. I foreshadow that I will be making a second reading amendment.

**Senator MACKAY (Tasmania)** (1.54 p.m.)—I seek leave to incorporate Senator Collins's speech in this debate in *Hansard*.

Leave granted.

*The speech read as follows—*

Today I want to focus on the government's unfair, but much promoted, support for families in the 21st century. While the opposition does not wish to hold up this *Taxation Laws Amendment (Baby Bonus) Bill 2002*, it is important that it is examined and that the Australian people are made aware of what is really occurring.

I am personally appalled that we have lost this opportunity to give Australian families something better than what we have before us today. I note that a second reading amendment in the other place summed up much that is wrong with this bill. It condemned the baby bonus as: unfair and a poor instrument for supporting families; ineffective in its timing of assistance to families; contradictory to the claimed aim of the new tax system of simplifying payments to families; and complex, creating confusion in the general population. The word 'unfair' is an apt description of the government's big family initiative of its third term agenda. Few Australian families will receive any benefit from this initiative, and fewer still will come close to receiving the \$2,500 benefit per year that has been heavily promoted. In an era when families face enormous challenges and strains, the protection provided by the baby bonus is very limited.

As was highlighted in the other place, Labor's analysis indicates that in the first year of operation of the baby bonus just 12,500 families—half a per cent of all Australian families—would receive the full bonus of \$2,500. This is in contrast to the ninety per cent, or 2.5 million, of families with children who would get nothing. Of the remaining 10 per cent who got something, more than half would receive \$500 or less. The unfairness of the bill is highlighted in its very operation. The bill provides a tax rebate for a mother following the birth of her first child. Over a five-year period, mothers can claim annually the tax paid on their income in the year prior to the birth of the child, up to a maximum of \$2,500 per annum. The amount due is calculated by comparing the mother's taxable income in the year prior to the birth of the first child with her taxable income in the year that she is claiming. As such, the bigger the loss in the woman's income, the greater the tax rebate: in other words, this is regressive in nature, allowing a greater burden to rest on those who can least afford it. To illustrate the point, if a woman is earning under \$25,000 before the birth of her first child, she will receive \$500. However, a woman who earns over \$50,000 prior to the birth of her child will be entitled to a rebate of \$2,500. A person who is on twice the income is able to claim five times as much benefit under the government's bill. A person who is able to financially cope more with the birth of a child is able to receive government assistance of five times greater value than that received by the woman who is on a low income.

I must admit that this regressive payment is hardly surprising from this government, given the unreasonable hardship that has been wrought on Australian families through the administration of the family benefits payment system in the last few years. The opposition pointed out with that initiative that we could do better and that there would be problems, and the same warning is now being sounded about the baby bonus.

I do not believe it is just the senators on the opposition side who realise the flaws in this bill. I was heartened by a touch of sanity from Senator Vanstone on the government benches last week during question time. The Minister for Family and Community Services and the Minister Assisting the Prime Minister for the Status of Women, Senator Vanstone was answering a question from Senator Harradine on how to support families through the tax system. In her answer, she said:

"I support that element of the policy because I think people on lower incomes should get more help than people on higher incomes."

Senator Vanstone was able to see the excellent civic principle that those in greater need should be able to receive greater assistance from the government. Obviously, Senator Vanstone's sound thinking was not recognised in the cabinet room in regard to the matter before us today, but I would enjoy listening to her in this place expanding her thoughts on how to better target family support. Perhaps Minister Vanstone could tell us who developed this silly policy? If it was not her or the Department of Family and Community Services, as discovered in estimates, who was it? It could not have been the Federal Commissioner for Sex Discrimination, Ms Pru Goward: her recent contribution on the need for paid maternity leave as a way to advance women highlights her priorities.

I lamented earlier the lost opportunity the government has delivered us. Easily, the greatest opportunity was the simple increasing of the maternity allowance to equate to 12 to 14 weeks minimum income support or paid maternity leave. Labor introduced the maternity allowance in 1995 as a step towards meeting ILO standards on paid maternity leave. At the time, it was equivalent to six weeks minimum income support in social security. It would have been quite logical to ensure that all Australian families were extended a better targeted and more equitable benefit. The maternity allowance is made when a child is born, the time when the family needs the extra support.

I raise this initiative in the light of the fact that Australia has a woeful record on providing paid maternity leave. In fact, Australia and the United States are the only industrialised nations that have not implemented the ILO convention of a minimum of 14 weeks paid maternity leave not tested by length of service. The government would write off any increase in the maternity allowance as too costly and put it in the 'too hard basket.' However, the cost of the baby bonus program in 2005-06, when the program is in near full operation, is projected to be \$510 million. Given that the current annual maternity allowances expenditure is \$202 million, there is ample scope for increasing the benefit. Such an initiative would also fit with the government's objective of keeping the tax system as simple as possible. The baby bonus, in all the complexity of its operation, simply adds more confusion to the whole family allowance and taxation arena. I note that others are also backing the concept of introducing paid maternity leave. It has been suggested that 12 weeks paid leave would cost \$300 million a year, giving a woman the equivalent of the basic wage, which is about \$413 per week.

On top of the need to support families better, the baby bonus bill could have negative side effects. The bill creates an incentive for women to work as hard as possible in the year before they give birth to a child. Women could push themselves to work harder, take on more responsibilities or work longer hours through overtime and the like, in order to increase their taxable income. This is not an appropriate incentive for pregnant women's health! It has also been suggested that in extreme situations women could even delay children in order to get further up the corporate ladder. Such an incentive is in direct contradiction to the stated aim of the bill.

Finally, it needs to be said that the baby bonus is not just inequitable. Not only are there better options, not only could there be side effects, but the government has put a flawed solution to a very critical national problem. Australia's birth rate has fallen to 1.75, not enough to replenish our current population level. There are many factors contributing to this dangerous situation; but the decline in our nation's birth rate can be linked to the government's failure to develop a better work and family life balance. Other countries have realised that their future depends on better balancing work and family life for all the population, not just a select few. It is vital that we get our mix of government support for families right, and half-baked policies created by a government on the run in the heat of an election will not secure our national future.

**Senator HARRADINE (Tasmania)** (1.55 p.m.)—The government's intention was very good when it announced this scheme as part of its election campaign, but there are a number of problems with the **Taxation Laws Amendment (Baby Bonus) Bill 2002**. I know we are running out of time, so I will cut down my speech and just give you a couple of examples to illustrate the problems. One example is that of two people whose financial commitments require them to return to work after leaving to have a baby. One earns \$30,000 a year and the other earns \$60,000 a year. If they both return to work on the same salary of \$30,000 after having a baby, the one who was previously on a higher salary of \$60,000 will continue to receive half the baby bonus—that is to say \$1,250—whilst the other receives nothing.

In case A, the working woman on an annual salary of \$60,000 has a child on 1 July 2002. She can claim a baby bonus of \$2,500, which is paid over a period of five years. She can return to work and earn \$30,000, but still receive half the baby bonus. In case B, the working woman on an annual salary of \$30,000 who also has a child on 1 July 2002—exactly the same day—can claim a baby bonus of \$1,076 paid over a period of five years. She can return to work and earn the same salary as before—\$30,000—and she will receive no baby bonus at all. That seems to me an example of the unequal treatment of two women whose circumstances I have described.

Whilst the legislation is a step in the right direction to assist families who have more children, it neither addresses adequately the costs involved in parenting nor provides any significant assistance to ensure women do have a real freedom of choice in this area. I am inclined to support policy suggestions such as those of Women's Action Alliance, which favours an inclusive system, rather than what they have called a divisive haves and have nots arrangement such as this legislation seems to present. In a letter to the *Canberra Times* of 8 March 2002, the alliance wrote:

The Government has made a pre-election commitment to a substantial first-child tax rebate in addition to the current maternity allowance of \$980. Women's Action Alliance believes that where taxpayers' funds are used to assist mothers at the time of birth an inclusive system is required rather than a divisive 'haves and have nots' arrangement.

The two benefits should be rolled into one substantial maternity allowance to all mothers irrespective of their paid workforce status before and after the birth.

We salute those strong women who went before us and we pledge ourselves to continue their work.

On that note, I will conclude my contribution. I hope that the government may take a number of these matters on board for the May budget. I indicate that I have been advised by the Treasurer's office that, if this bill does not go through this week, there will be substantial problems with regard to the administration of this in the Taxpack and the like.

**The PRESIDENT**—I advise honourable senators that I have given permission for Auspic to take photographs today of senators and the chamber, to be used in Senate publications.

#### MINISTERIAL ARRANGEMENTS

**Senator HILL** (South Australia—Leader of the Government in the Senate) (2.00 p.m.)—by leave—Madam President, Senator Kemp is absent from the Senate today, and his questions will be answered by Senator Alston.

#### QUESTIONS WITHOUT NOTICE

##### Privilege: Senator Heffernan

**Senator CARR** (2.00 p.m.)—My question without notice is to Senator Abetz, the Special Minister of State. Can the government confirm that the documents purporting to be the Comcar records from 1992 in relation to Justice Kirby have at any time been examined by the government or any Commonwealth agency who found them to be bogus?

**Senator ABETZ**—It is very sad that the Australian Labor Party does not have any issue of substance to raise at question time—

no policy issues—but wants to keep on trawling through this—

**Senator Ian Campbell**—How can you raise a policy issue, when you have got no policy?

**Senator ABETZ**—I think Senator Ian Campbell makes a very worthwhile interjection when he says, 'How can you raise a policy issue, when you don't have any policies?' In relation to these documents purporting to be from 1992, that has already been dealt with. But, if Senator Carr is not aware of it, some extracts—I think three, and they were only extracts, as in 'line items'—were presented to the department, and the response was that the line items could not be authenticated. That was the terminology that I think I used earlier this week. It is the terminology that I will continue to use. I know where he gets the word 'bogus' from, because I in fact have a bogus document in front of me that has been trawled around the press gallery with the word 'bogus' in it in relation to this. What I would simply warn Senator Carr and members of the opposition about is that, just because you have a document, do not rely on its authenticity. We as a Senate have been through that in recent times, and I think it is a lesson that you could well take note of, Senator Carr.

**Senator CARR**—Madam President, I ask a supplementary question. In light of the lies that have been told about the children being thrown overboard, why should anyone believe anything this government says about the bogus Comcar records? Given that the minister has confirmed that some records were examined and found to be bogus, can he advise the Senate who in the government was told of this finding and when they were told? Were these documents part of the minister's request last Wednesday that a review of departmental documents take place immediately?

**Senator ABETZ**—In relation to the alleged lies that the honourable senator refers to, the vast majority of Australians that I talk to see no material difference between people throwing children overboard or sinking the boat from underneath them. In relation to that assertion, I would just warn the opposi-

tion to be very careful. As I have indicated earlier to Senator Carr, at no time has the department ever come to a conclusion that the documents to which you refer are bogus. What they have said, and I repeat it yet again, is that the documents cannot be authenticated.

**Workplace Relations: Trade Union Movement**

**Senator TIERNEY** (2.04 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Will the minister inform the Senate of the Howard government's commitment to further reform of Australia's workplace system to curtail damaging trade union influence, to the benefit of Australian business and Australian workers? Is the minister aware of any alternative proposals in this area that might be worthy of consideration?

**Senator ALSTON**—I thank Senator Tierney for an important question, because Senator Tierney knows—and the opposition, of course, know in their heart of hearts—that one of the major reasons why we are one of the fastest growing economies in the world, certainly outstripping virtually all our OECD competitors, is that we have been prepared to take the tough decisions, particularly in the area of industrial relations reform. Unless you have a flexible labour market, you simply cannot compete with other countries that do have flexible structures. That has been a key ingredient in our success to date. It is no accident. It is not just something where you hope you can get there with a bit of rhetoric: you have actually got to do the reform work. So it is very disappointing to find that, in all the distractions that seem to envelop the Labor Party's approach to politics, there is one thing they never say a word on, and that is trying to bring the union movement into line. We hear all this nonsense about modernisation—it is just another slogan. I suppose it is a bit like the Third Way and Knowledge Nation and all these—

**Senator Boswell**—Country Labor.

**Senator ALSTON**—Country Labor. That was just a fraud, wasn't it? That was a lamb in sheep's clothing, wasn't it? We had this preposterous call yesterday from the Australian Education Union. They were calling on schools to ban the Governor-General: as though the Governor-General deserves to be treated as a pariah; as though the Governor-General has done anything more than provide ammunition to the media and some sections of the Labor Party to score a cheap point. That is what it is about. I am sure Senator Ray was once an education unionist, when the taxis used to run out of petrol and he had to find something else to do for a living—I am sure he would have been there, in that union. So they are represented in this chamber. I think Senator Crossin is probably still a paid-up member. Maybe she is attending a branch meeting at the present time—no, there she is—and Senator Faulkner had an interest in teaching at one stage, until Richo started teaching him a few tricks.

The problem is they simply are not prepared to stand up for the national interest. They are not interested in workplace reform or growing economies; they are interested in kowtowing. That one act alone deserved serious condemnation, but we have not heard boo from the Labor Party. The ETU, the very union that is basically supporting this proposal to ensure that you have compulsory unionism in the workplace, took 10,000 electricians off building sites in four states yesterday in support of a claim for non-members to be charged bargaining fees. That is just industrial blackmail. It has nothing to do with anything other than trying to boost rapidly declining union membership. That is what it is about. It is basically trying to twist people's arms and to force them to do things that they do not want to do, which is to join trade unions. They do not want to join trade unions. You cannot blame them, when they look at places like the Senate and they see where you end up if you get into the trade union movement. It is an absolute disgrace. But do you ever hear any criticism of these? Of course you do not.

What happened at the royal commission yesterday? One of the stewards reportedly said to a senior project manager, 'We are going to get you'—this is Senator Lundy's union. And then what did he say? He said that it was a joke. Well, of course that was no joke, and it was not intended to be, but the way in which the Labor Party react to this union thuggery is a joke, and it is about time that Mr Crean stood up and showed that he has learned something from the last six years. You tried to get through on the 'do nothing' strategy, and it has failed twice, so here is your big chance. Do not just leave it to rhetoric: get out there and do something. Get out and criticise something when you know it is wrong. It is a big chance to distinguish yourself from your failed predecessors.

**Senator West**—Time.

**Senator ALSTON**—Well, there you go; that is the opportunity for you, and it is no longer there.

**Telstra: Telecommunications Infrastructure**

**Senator WEST** (2.09 p.m.)—My question is to Senator Alston, Minister for Communications, Information Technology and the Arts. Does he recall the ACA report released last week which described the use of a faulty cable in conjunction with pair gain on the telephone service to the Boulding family in north-east Victoria? Isn't it true that Telstra's E71 database, provided to the Senate by Telstra last year, showed that at the time there were in excess of 100,000 cable repair items, 20 per cent of which were being considered top priority service affecting faults? Does the minister recall at the time stating:

The Government expects that a desperate and dishonest Labor Party will seek to use the database to run a baseless scare campaign about the state of the Telstra network and falsely claim there is some threat to customer services.

In the light of the reports in the tragic Boulding case, does the minister now agree that Telstra's own faults database does in fact reveal real threats to customer service?

**Senator ALSTON**—This is an ongoing attempt to try and demonise technology that

you do not seem to understand. Senator Lundy put out a press release which—

**Senator Mackay**—Answer the question.

**Senator ALSTON**—I am. The question was about pair gain technology, wasn't it? So let us talk about pair gain technology. Senator Lundy essentially said that anyone who wants to get a second line has to get a pair gain. Well, of course that is not true. The fact of the matter is that less than eight per cent of new connections involve the use of pair gain technology.

**Senator Mackay**—This is about Telstra's database.

**Senator ALSTON**—It is about Telstra's database, is it? Pair gain technology is used in circumstances where Telstra deems that there is not a sufficient demand for a full upgrade of the copper network. In other words, it is used selectively. It is used in accordance with a cost-benefit analysis, and it does the job in the vast majority of cases. Senator Lundy thinks that somehow there is something desperately wrong with only being able to get 28 kilobits per second. We have actually guaranteed 19.2 kilobits. Under Labor, you got 2.4 kilobits. Pair gain technology does not deserve to be treated in the way that it is treated.

The Boulding case was indeed a very tragic event, and I think we all understand the anguish that the family has suffered. Quite clearly it was an episode that Telstra wishes had never happened, and it is one that the government took very seriously. As a result, we have imposed a number of licensing conditions on the carrier, to ensure they get to the heart of the issue and that they make sure that people in emergency situations are registered, identified in advance and are able to access technology. We also are concerned to ensure that the state of the network is adequate, to try and minimise the chances of a recurrence of these events.

But this event has much more to do with not having a proper registration system for emergency calls and not having in place an arrangement to provide them with interim handsets than it does with the state of the network. I know it suits your purposes to go

out there and say, 'Here is one case that demonstrates that the whole Telstra network is archaic', but the facts do not support that, I am afraid. There are a lot of people with pair gains, but that does not for a moment indicate that they are being short-changed or that anyone's life is at risk. It is simply a technology that is available and used selectively where it makes good commercial sense.

**Senator WEST**—Madam President, I ask a supplementary question. Hasn't the parlous state of the Telstra network—highlighted in Telstra's E71 database that showed in excess of 100,000 cable repair items, 20 per cent of which were considered top service priority affecting faults—been further confirmed in the recent ACA and PriceWaterhouseCoopers reports? Shouldn't Telstra be concentrating on effective network maintenance, redeploying NDC workers to address these serious problems, not drastically retrenching them as they are currently doing?

**Senator ALSTON**—Here we go: the agenda is all about preserving union membership of NDC, isn't it? That is what you are on about, and you have made it perfectly clear. If you are referring to Senator MacKay's misuse of that database material, the fact is that a lot of the things that were recorded as being in need, as identified as being ones where improvements could be made, have nothing to do with putting the network at risk. They are simply identifying ways in which the network can be improved. That has nothing to do with the Boulding case or anything else; that is simply an assessment of the state of the network. As you know, some parts of the network are much older than others. There is a progressive upgrade, and it has to be maintained in proper working condition. As always, you are obsessed with inputs. We are much more interested in outcomes. The fact is that the customer service guarantee and the ACA assessments show that Telstra's performance has been increasing virtually quarter on quarter over the last couple of years—and that is as it should be. *(Time expired)*

#### Insurance: Public Liability

**Senator LIGHTFOOT** (2.15 p.m.)—My question is directed to the Minister for Reve-

nue and the Assistant Treasurer, Senator Coonan. Will the minister advise the Senate of the Commonwealth's plan to tackle the serious problem of rising public liability insurance premiums? And, just as importantly, is the minister aware of any alternative policies?

**Senator COONAN**—Thank you, Senator Lightfoot, for that timely question. You raise a very serious and important issue: the affordability and availability of public liability insurance. It is a serious problem for small businesses, community and sporting groups and, indeed, local councils. The availability of appropriate cover at an affordable price is vital to the efficient running of businesses and, of course, to the welfare of the community as a whole. As we all know, Saturday mornings watching your kids play Little Athletics, going to a barbecue or to some sporting event are events that Australians enjoy. It is the glue that keeps our society together. It is very important that rising premiums simply do not drive these events out of existence.

The Howard government has acknowledged these concerns and is working with the community, industry and state and territory governments to assist in coordinating an appropriate response. To assist state and territory governments, the Commonwealth is hosting a meeting here in Parliament House next Wednesday to coordinate the exchange of information about the affordability and availability of public liability insurance amongst relevant ministers. The aim of the meeting is to gather and exchange information on the drivers of the recent price increases, to consider the different courses of action that have been undertaken by both state and territory governments to date and, most importantly, to examine the scope for a consistent approach across jurisdictions.

Since my announcements of the ministerial meeting, several states have come forward with a range of proposals to address the problem, and they will be putting these options on the table at next week's meeting. I have welcomed the cooperation of state governments in assuming responsibility for addressing what we believe are some of the

root causes of premium rises. Many of the forms of relief being publicly canvassed, such as tort law reform, fall clearly within the jurisdiction of states and territories. I have been heartened to see the level of action and the range of ideas being canvassed by the states over the past few weeks, and they deserve to be acknowledged.

Just yesterday, the New South Wales government announced a package of measures that they will be bringing to next week's meeting. It is encouraging to see the Premier taking responsibility for public liability insurance and putting forward some constructive suggestions, but I am pleased to say that he is by no means alone in this. In recent weeks, the Queensland and Victorian governments have also developed proposals that they will be bringing to the meeting, and I would also like to publicly acknowledge the hard work they have put into this, particularly the former minister, Lynne Kosky. I would also acknowledge the National Party's contribution and also that of the Democrats. I look forward to discussing these and other proposals in detail with my state colleagues at the meeting. It is refreshing to see Labor politicians somewhere taking a positive approach to solving this problem—and this is in stark contrast to members opposite, who come in here day after day, without any ideas and without any policies.

The state governments are by no means the only stakeholders that the Commonwealth has been consulting on this issue. The Commonwealth has already introduced initiatives to address the issue of some rising premiums, which include a commitment to provide tax relief to catastrophically injured people who choose to take a structured settlement guaranteeing them a stream of income payments over their lifetime. In addition, we are about to see the comprehensive new prudential standards for the insurance industry. I am pleased to inform the Senate that, since the Commonwealth began taking submissions, we have received over 80, which is really a phenomenal response. It is fair to say that, while there are no quick fixes to this problem, it is important that all contributors—*(Time expired)*

### Economy: Household Savings

**Senator GEORGE CAMPBELL** (2.19 p.m.)—My question is to Senator Coonan, the Assistant Treasurer. Can the minister explain the slide in the household savings ratio from six per cent to 3.6 per cent under the coalition government? What is the impact on Commonwealth revenue?

**Senator COONAN**—Thank you, Senator Campbell, for that question. I do not accept for a minute that that is a correct figure.

**Senator Schacht**—What is it? Tell us.

**The PRESIDENT**—Order! Senator George Campbell has asked a question. Senator Schacht, cease shouting.

**Senator COONAN**—We all know that, following the introduction of the GST, the pull forward of demand had a big impact on housing. But, since that time, housing has recovered, and the impact on the revenue is something that will be factored into the budget. Obviously it is very difficult to establish a revenue impact when there are price sensitive factors such as housing because, when you have housing and construction, obviously—

**Senator Schacht**—What is the figure? You have the wrong brief, Helen.

*Opposition senators interjecting*—

**The PRESIDENT**—Order! Senator Schacht. Senators on my left should not be shouting. There is an opportunity for Senator Campbell to ask a supplementary question, if he wishes.

**Senator COONAN**—What I am endeavouring to say is that it is a totally meaningless figure because, with housing, which is subject to very price sensitive factors—

**Senator George Campbell**—Madam Speaker, I raise a point of order on the question of relevance. The question I addressed to Senator Coonan had to do with household savings ratio; it had nothing to do with housing or construction of housing or demand for housing. I ask you to point that out to Senator Coonan and ask her to address the question she was asked.

**The PRESIDENT**—There is no point of order. Senator Coonan.

*Opposition senators interjecting—*

**The PRESIDENT**—I have called Senator Coonan, and it is not surprising that she did not hear me, given the amount of noise in the chamber.

**Senator COONAN**—I am sorry, I did misunderstand the question. I thought he was talking about household construction. I do apologise to the Senate that I did not hear the question properly. I thought what was said was construction. As far as household savings go, overall tax revenue will be published in the budget on 14 May—so you do not have very long to wait. It is influenced by the strengthening of the economy, which we have seen, particularly employment and wages and prices and final demand and company profits. The overall tax revenue is also affected by tax policy measures, as we know.

The level of household saving is strong. Our superannuation measures are encouraging both the affordability and the attraction of saving so the issue relating to household saving will be reflected in the stronger economy. The government has policies to encourage greater savings, particularly in relation to the superannuation policies—of course, a lot of that is compulsory saving. We hope that those policies will not only encourage further savings but lead to greater saving from households, which we are interested in. It is a far cry from Labor's view and Labor's policies, because household saving under the Labor party was certainly nothing to run home about.

**Senator Carr**—We halved it!

**Senator COONAN**—You have not halved it. The policies we took to the election which encourage greater savings—

*Honourable senators interjecting—*

**The PRESIDENT**—Order! Interjections are disorderly, and persistent interjecting has certain consequences which may flow.

*Senator Bolkus interjecting—*

**The PRESIDENT**—Order! Senator Bolkus, I have already warned the Senate about the behaviour.

**Senator COONAN**—The superannuation measures will have a significant impact on increasing household savings from the splitting of contributions between spouses through to the very significant effect of decoupling—and I know that the Labor Party probably does not like this—work and superannuation to encourage further contributions. *(Time expired)*

**Senator GEORGE CAMPBELL**—Madam President, I ask a supplementary question. I again ask the minister to explain the slide in household savings ratio from six per cent to 3.6 per cent under the coalition government. Can the minister outline how coalition revenue measures such as the superannuation surcharge, the deemings of superannuation assets and the axing of the company-contribution have contributed to this decline in savings?

**Senator COONAN**—The household savings ratio increased in the December quarter. In fact, the recent figures show stronger growth in household disposable income than in household consumption. The household savings ratio is derived, as you would know, as a residual item and is subject to significant revision. I already said it is subject to a number of sensitivities. It is the almost impossible to estimate any forward figure, but the policies the government has taken forward, including the phase-down of the surcharge, are all factors that are calculated to encourage a healthy climate for household savings.

#### Defence: Terrorism

**Senator RIDGEWAY** (2.27 p.m.)—My question is to the Minister for Defence, Senator Hill. I refer the minister to comments made by the Prime Minister in London today in which he stated his belief that the Australian public would support extending our involvement in the war on terrorism to other theatres such as Iraq. Is the minister aware there is an absence of any compelling evidence linking Iraq to the attacks of 11 September? Is the minister also aware that a recent US Pentagon report and a statement by the UK defence minister have revealed both the US and the UK would be willing to use nuclear weapons against Iraq? Does the minister agree that an attack on Iraq could

result in a massive political and humanitarian crisis in the Middle East? Can the minister also assure us that Australia will not make any further military commitment without the full approval of the UN Security Council and of parliament?

**Senator HILL**—I have not seen the comment the Prime Minister made today but I can comment generally on the matters raised by the honourable senator. It is the government's position that the war against terrorism should be continued until we and our coalition partners are satisfied that the sort of threat put into effect in New York is unlikely to again occur. Our concentration to date in that regard has clearly been in relation to Al-Qaeda in Afghanistan and to the Taliban which has hosted Al-Qaeda. However, we do know international terrorist networks extend beyond Afghanistan and they need to be addressed, as I have said in this place before, according to the best method available to achieve success as related to the particular threat. So concerns about the extension of the network into Yemen are being handled in a particular way and the extension into Somalia is being handled in another way.

Terrorist networks operating within the Philippines are, similarly, being addressed according to the circumstances of that threat. As the honourable senator will know, pursuant to an invitation from the government of the Philippines, the United States has forces currently in the Philippines in a training role supporting the Philippines government in addressing its threat. And so it goes on: as the network is better identified, the various cells and the linkages between those cells are better identified.

In relation to Iraq, I certainly have not seen evidence that the government in Iraq was linked to the attack in New York on 11 September but there is some evidence of linkage with Al-Qaeda. I cannot really go much further than that; the senator would have heard the Americans say similar things. We and the Americans are jointly concerned by the fact that Saddam Hussein would appear to be continuing with his program of weapons of mass destruction, particularly in relation to biological and chemical weapons,

and we see that as threatening. If the time comes when terrorist networks start having access to weapons of mass destruction, after the experience of what happened in New York, the consequences would obviously be devastating. We believe it is unwise to assume that terrorist networks will not get access to these weapons and that they will not use these weapons if and when they do get access. The development of these weapons in Iraq is doubly of concern to us and to the United States—firstly, because of the record of Saddam Hussein himself and his regime; and, secondly, because of the possibility in the future that they may get into the hands of terrorist organisations and be used in third countries.

The issue of that program in Iraq is of major concern to Australia in the same way as it is to the United States, and we want to do everything possible, according to the circumstances, to see that threat reduced and, ultimately, removed. That should not be interpreted in any particular way—other than to reinforce and reaffirm the commitment of the Australian government to significantly reduce this terrorist threat internationally. It is only by doing that that we will have learnt the lesson of September 11 last year.

**Senator RIDGEWAY**—Madam President, I thank the minister for his answer and ask a supplementary question. What steps is Australia taking to assist diplomatic efforts to ensure that Iraq complies with UN weapons inspection resolutions? Can Australia afford to add Iraq to its commitments beyond East Timor and beyond what now seems likely to be an ongoing peace enforcement effort in Afghanistan?

**Senator HILL**—We already have commitments beyond the theatres that you speak of: we have commitments in Bougainville, commitments in the Solomons—small but, nevertheless, still present—commitments in Sierra Leone, commitments in the Middle East; and I could go on. We are in a heavily operational mode at the moment, and there has to be a bottom line to that. I accept the honourable senator's point. But, having said that, if we are requested to assist in relation to another theatre under the general heading of the war against terrorism, it will be con-

sidered at the time according to what we believe is in Australia's best interests and that, obviously, takes into account our capability.

**Taxation: Rulings**

**Senator CROWLEY** (2.33 p.m.)—My question is to Senator Coonan, Assistant Treasurer and Minister for Revenue. Can the minister confirm that a recent draft GST ruling issued by the ATO late last year imposes GST on the ribbon attached to a winning sponge cake at any country show?

*Government senators interjecting—*

**The PRESIDENT**—Order! Senators on my right will come to order.

**Senator CROWLEY**—I presume that does not reduce my time, Madam President.

**The PRESIDENT**—Not at all; the clock was stopped when I called for order and was started again when I called you to speak.

**Senator CROWLEY**—Thank you. Doesn't this draft ruling pave the way for organisations that run country shows to pay the GST on ribbons, medals and trophies it hands out? Isn't this imposition of cost and administration, in the words of the National Farmers Federation, 'laughable and ridiculous'?

**Senator COONAN**—Goodness me, is roll-back on the agenda? I think it must be on the agenda.

*Honourable senators interjecting—*

**The PRESIDENT**—Order! Senator Coonan has the call, and other senators should not be participating.

**Senator COONAN**—I had understood that the GST and roll-back were something that the Labor Party was no longer showing any interest in. In fact, as I understand it, the Prime Minister had dubbed Mr Beazley 'flip-flop Beazley' for changing his position over boat people. Mr Crean surely must be the flim-flam man for promoting a policy that is simply not believable. As for ribbons and medals, I do not really think the Labor Party deserves either a ribbon or a medal—

*Senator Robert Ray interjecting—*

**The PRESIDENT**—Senator Ray, you have been persistently interjecting.

**Senator COONAN**—There are several hundred rulings, and I will very gladly get an answer for Senator Crowley.

**Senator CROWLEY**—Madam President, I ask a supplementary question. Perhaps the minister, when she is getting the answer, could get some further information for me. Can the minister confirm the view of the National Farmers Federation tax director, Su McCluskey, who said that in some cases both the show society and the prize winner would have to pay GST on the same good, adding to the ridiculous cost and administration in these situations? What kind of commitment does the government have to regional Australia when it is happy to see yet another slug, such as this one, to country people?

*Government senators interjecting—*

**The PRESIDENT**—Order! Government senators should be aware that the minister needs to hear the question that is being asked.

**Senator CROWLEY**—What kind of commitment does the government have to regional Australia when it is happy to see yet another slug to country people such as this? Doesn't this GST ruling just take the cake?

**Senator COONAN**—I do not know whether this is Senator Crowley's farewell speech; I know Mr Beazley is making one tonight. I think we are all tied up in ribbons. I am seeing Su McCluskey tomorrow—I think she is coming to see me—and I will see whether or not that is an accurate quote. I certainly do not accept that Senator Crowley's statement about this is accurate, but I will find out about the ruling.

**Video Games: Classification**

**Senator HARRADINE** (2.38 p.m.)—My question is to Senator Ellison representing the Attorney-General. Is it a fact that the OFLC is proposing a new R-rated computer game category which will enable the sale to the public of computer games previously refused classification because they contained much higher levels of violence or pornography than currently permitted? Because of the interactive nature of these games, won't they enable the person operating the game to in effect control the violent or sexual activities of realistic human characters on the screen?

What is the government's attitude to that proposal?

**Senator ELLISON**—This is a very important question and one which has an effect on all young Australians, because the point that Senator Harradine is making is that computer games are increasingly more popular with young Australians. At the moment we have a classification which goes only to M15+ whereas with films it goes to R18+. I understand that there is concern that, if one were to impose R18+ in relation to the video games, that would then allow into the market a more serious sort of video game where you would have a greater amount of sex and violence allowed in these interactive games. The problem we face is that, with the media convergence which is occurring, on one CD you can have a film and a video game and yet you have two different forms of classification.

This matter was raised at the recent Standing Committee of Attorneys-General meeting, and I think it was Professor Brand who delivered a report to the Standing Committee of Attorneys-General on this matter after wide public consultation. I understand that the OFLC is now considering that. The government has not made a decision on this. I advise Senator Harradine that it takes agreement with all the censorship ministers in Australia in order for the classification to be changed. This is a serious matter, because one might think that by imposing an R18+ that is regulating more interactive computer games, but of course that could then allow different games into the market and it would be difficult to police these games as to their falling into the hands of young people, those aged under 18. At the moment anything above M15+ is banned, and that is a situation which various sectors of the community support.

This is under review. The government does take this matter very seriously because video games do require that interaction which a film does not have. The problem we are increasingly faced with is CDs which have a film and a computer game as well which are under different classification regimes. What we are talking about here is a medium which is used greatly by young

Australians. I think that all senators in this chamber would have a great concern with what is allowed in relation to video games. The government is following this closely with the Office of Film and Literature Classification. They are looking at this review. A decision has not been made. I can well understand Senator Harradine's concerns.

**Senator HARRADINE**—Madam President, I ask a supplementary question. Will the government bear in mind that that review by Dr Brand had limited terms of reference in that it was to provide an assessment of the public submissions on the discussion paper of the draft revised guidelines and therefore the conclusions that were reached by Dr Brand are based on those submissions and not necessarily on the general policy that should be adopted by a government in respect of that matter? I make no reflection on Dr Brand, but the terms of reference were rather narrow.

**Senator ELLISON**—As I understand it, Dr Brand's report was a discussion paper and regarded as such; it was not conclusive in any way. It provided information for the various ministers at the Standing Committee of Attorneys-General. I think that there was wide consultation during the period. My brief advises me that there were some 372 submissions made to Dr Brand. Nonetheless, I will convey Senator Harradine's concerns to the Attorney-General, who has responsibility for this matter.

**Council of Australian Governments  
Independent Review of Energy Market  
Directions: Appointment of Mr Warwick  
Parer**

**Senator O'BRIEN** (2.43 p.m.)—My question is to Senator Minchin representing the Minister for Industry, Tourism and Resources. Is it true that former Minister for Resources, Mr Warwick Parer, has just been appointed, at the government's insistence, as chair of the COAG independent review of energy market directions? Is the minister aware that, with a job lasting less than a year, the four members of the panel will share a total remuneration package of over \$350,000, presumably with the chair, Mr Parer, getting the lion's share of this? Is it the case that state governments are dissatisfied

with the Commonwealth foisting the Prime Minister's former flatmate on them for this role?

**Senator MINCHIN**—The ALP really is getting desperate for questions at the end of the sitting session when they want to trawl through this matter. I think I was the minister at the time that we announced that Warwick Parer would be our nominee to chair this very important energy market review. We stand by our strong view that Warwick Parer is uniquely and well qualified to chair this review. He has enormous knowledge and experience both in business and in energy markets and I think will bring enormous expertise to what is a critically important issue. It is one which, regrettably, really does need Commonwealth leadership because the states are all over the place on this whole issue, with New South Wales and Queensland retaining, regrettably and despite the views of Premier Carr, their state owned electricity assets which he would very much like to sell but which the unions will not let him. They therefore in a sense have an enormous conflict of interest in their approach to the management of the energy market as opposed to Victoria and South Australia, which have sensibly privatised their electricity assets. I congratulate the Victorian government on the approach it is taking contrary to some of the positions adopted by Queensland and New South Wales which, as I say, have an enormous conflict of interest.

It is regrettable that the states took so long to appoint their members to this very important energy market review. I think there was a bit of grandstanding and politicking before the federal election, with various state Labor governments suggesting that Mr Parer was not appropriate. We knew that was simply politics. They have now made their appointments. Once the election was out of the way, the politicking fortunately stopped. The states have appointed their members to this review to be chaired by Mr Parer. They have therefore accepted, apparently unlike the federal opposition, that this review is important and that Mr Parer is an appropriate and sensible chairman of this review. Now, finally, this review can get under way. It is very important to the future of the Australian

economy that we do review this, that we do hasten energy market reform in this country. It is critical to our national productivity and our national competitiveness, and I am sure Mr Parer will do an outstanding job.

**Senator O'BRIEN**—Madam President, I ask a supplementary question. I thank the minister for confirming that the state governments are dissatisfied with the Commonwealth foisting Mr Parer on them. Can the minister confirm that this panel has a total budget of \$4 million for a job expected to be completed by next February, with a consultancy budget of \$2.2 million and a domestic and international travel budget totalling over a quarter of a million dollars? In relation to Mr Parer, is this an office of profit which would trigger the appropriate adjustment to Mr Parer's superannuation in accordance with the normal practice?

**Senator MINCHIN**—Conducting an inquiry of this kind of course will involve the expenditure of some resources, but it is critical to the savings that can be generated for the national economy that we conduct this energy market review. It is potentially capable of producing billions in savings to Australian industry if we can have an efficient and effective energy market, which this review is all about. I will follow up in terms of the actual costings—I do not have them before me—but I am sure that Mr Parer's appointment and any remuneration he receives is of course consistent with all the rules that relate to former members of parliament, as in the time of the Labor government, engaged in further public activity.

#### Regional Forest Agreements Legislation

**Senator COLBECK** (2.48 p.m.)—My question is to the Minister for Forestry and Conservation, Senator Ian Macdonald. Given today is World Forestry Day, will the minister outline steps being taken by the Howard government to encourage better management of Australia's forests and other natural resources? Is the minister aware of any alternative policies?

**Senator IAN MACDONALD**—Senator Colbeck from Tasmania obviously has a very keen interest in forest matters and he quite rightly draws our attention to the fact that

today is World Forestry Day. What greater celebration could we have of World Forestry Day than to know that today the **Regional Forest Agreements Bill 2002** has actually passed through this parliament? It was passed through the House of Representatives just before lunch, bringing to a conclusion 15 years of hard work by a lot of committed people to get that bill through. That bill secures conservation outcomes. It gives us comprehensive, adequate, representative reserves that exceed the IUCN and the worldwide Federation for Nature criteria; reserves that give us twice the world average in percentage terms of native forest reserves; and reserves which ensure that more than 40 per cent of Tasmania—your state, Senator Colbeck—and 68 per cent of its public land are reserved. Eighty-six per cent of Tasmania's old-growth forests on public land are now in protected reserves and, indeed, almost 95 per cent of Tasmania's wilderness area is now protected from logging. These are great conservation outcomes. The bill also gives investment security. That creates jobs in rural and regional Australia—very important to the Howard government. It also gives security for people, for workers, for families and the small country towns that rely on those workers.

On World Forestry Day, Australia is recognised as a world leader in management and conservation outcomes. We support the Australian forest standard, and that is something that I know all senators will support. The RFA bill has also done a lot to value add to the industry. The Commonwealth government's forestry industry structural adjustment package has meant really good value-adding outcomes. I was interested to read in the Launceston *Examiner* 'Investment promises pay big dividends'. The head of the Neville Smith Group has indicated that, because the RFA has got through this parliament, an investment of \$15 million, some 20 new jobs in Tasmania will result. Very good news. There is a lot of value adding to the forest products going on—things from very fine furniture to feature sawlog and even to this biro that I use, a biro that is made of timber. They are the sorts of value-adding things that we work for.

I was asked if there are alternative approaches to this. I have to say that in this instance I was pleased that the Australian Labor Party did follow our lead on the RFA Bill eventually. I hope that spirit of bipartisanship will continue into the other important forestry legislation about to come to this parliament to give tax concessions to allow for support for plantation forestry. I hope that will go through without amendment. This is one occasion when union control of the ALP has been useful. The CFMEU in fact did tell the Labor Party they must support the RFA. In this instance—who would think I would ever praise a union—the 'F' part of the CFMEU did a good job in helping to get the RFA Bill through. I wish they would do the same job on Premier Bracks and Premier Gallop, who are devastating country towns and the timber industry in Victoria and Western Australia respectively by their stupidity in forest management. (*Time expired*)

**Taxation: Queensland Liberal Party**

**Senator CONROY** (2.52 p.m.)—My question is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Does the minister recall that in September last year the Prime Minister committed to releasing the Taxation Office audit report into the GST scam by the Queensland division of the Liberal Party? Why has this report not been released when it was completed in October last year? Is he trying to cover up, for instance, the fact that the tax avoided by the Queensland division was \$13,312, not \$180 as claimed by the Liberal Party; or is it to cover up the 50 per cent penalty tax imposed by the ATO, showing the lie of the government's claim that the whole thing was a simple error? Is this not just another cover-up of the Liberal Party scamming its own GST?

*Government senators interjecting—*

**Senator COONAN**—The biggest scam we have seen recently is with the Labor Party's rorting of Centenary House. Senator Conroy has asked this question in estimates, and he has received an unequivocal answer that the report does contain some information about some individual taxpayers. The Commissioner for Taxation has taken the question of whether or not the report can be released by the commissioner on notice.

*Opposition senators interjecting—*

**The PRESIDENT**—Order! I call Senator Lees.

*Senator Conroy interjecting—*

**The PRESIDENT**—You are too late. You were sitting shouting across the chamber in a disorderly fashion at a time that you may have risen, and I have called Senator Lees.

**Environment: Murray-Darling River System**

**Senator LEES** (2.54 p.m.)—My question is to Senator Hill, now the Minister representing the Minister for the Environment and Heritage. Minister, lack of cooperation between the states and Commonwealth has left the Murray-Darling river system in a perilous state. The Murray River has effectively stopped flowing in South Australia now, the Menindee Lakes are virtually dry and some parts of the river have actually been running backwards due to the huge volumes of water irrigators have been sucking out. Given the federal environment and agriculture ministers will be meeting with their state counterparts in April, will you inform the Senate what action the Commonwealth will be taking to ensure, to insist, that the states take less water out of the rivers?

**Senator HILL**—The issue is ongoing, that is true. The Murray-Darling Basin Commission has a record of success in addressing the problem of salinity associated with irrigation practices, and it has in place responses towards addressing issues relating to salinity from dry land sources, principally land clearing on the western side of the Great Dividing Range. But, whilst these bandaids can be to some extent effective, they are not going to provide a final solution. The final solution is limiting the water take from the river to a level that is sustainable.

**Senator Schacht**—Just rephrase the words ‘final solution’, Senator!

**Senator HILL**—It might be the final solution if we do not have water that we can drink, which was one of the predictions of a not-too-distant report. If we were starting with a clean sheet of paper, we would determine the amount of water that was necessary to keep the natural systems healthy and we would then be able to determine what level

of water could be taken from the river for other purposes—including drinking, industry, agriculture and so on—which would be consistent with the principles of sustainability. But we are not starting with a clean sheet of paper; we are starting with a river system that is already overallocated. The issues are: what is the sustainable take and how do we get back to that point? In addition to the bandaids that I have been referring to, we have a cap that has been accepted by all states except Queensland. The Labor government there is still not prepared to implement the cap, but it needs to do so.

In relation to the other states, the issue of the cap itself—whether it has been set at the right level—still needs to be determined, and that process of environmental audit is taking place at the moment as well. Even beyond that, we still need to work out what environmental flows are necessary. So it is a question of how much water and when is the water flowing. At this forthcoming meeting, a report on the issue of environmental flows, and in particular what is necessary to keep the system healthy in South Australia, is due to be tabled. That report is supposed to indicate the level of reduction of take that will be necessary to provide for adequate environmental flows into South Australia. I am a little out of touch, but I hope the report is finally forthcoming at this meeting and I hope the ministerial council, assuming that the recommendation is that there needs to be reduced flows, will accept the recommendation and will put in place a process that will allow for those reduced flows because, unless that is done, the overall river system is going to continue to deteriorate.

**Senator LEES**—Madam President, I ask a supplementary question. I do thank the minister for his answer, but relating to the information being presented to the meeting it is going to show that Queensland is still not even going to put on a cap, that New South Wales is over its cap in several river systems and that Victoria apparently is very reluctant to do any serious reductions whatsoever, so what can the Commonwealth actually do? Is the Commonwealth prepared to stop, for example, Natural Heritage Trust funding? Is the Commonwealth prepared to use the EPBC

Act? There is also funding for national competition policy that apparently can be withheld if the states refuse to cooperate.

**Senator HILL**—That is a good supplementary question for me to pass on to Dr Kemp to get a considered response. Having said that, I would respectfully suggest that the Commonwealth needs to do a number of things, a range of which is included within the supplementary question. It can exert greater political pressure on the states, and it needs to do so. It can support farmers who are taking decisions that are going to cost them economically, and it needs to do so. It needs to ensure that the \$90 million that was put aside from the corporatisation of the Snowy Mountains Scheme is in fact invested in the subject that we are talking about—environmental flows for the river. It needs to use the COAG process to ensure that the proper carrots and sticks are maximised to get the best outcome as well. It is not going to be resolved through one single process; it needs all of these processes effectively implemented with all pressure that can reasonably be brought to bear. Madam President, I ask that further questions be placed on the *Notice Paper*.

#### QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

##### Taxation: Rulings

**Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer)** (3.00 p.m.)—I have some information for Senator Crowley relating to an Australian Taxation Office ruling, and if I need to update this information I will. On 28 November last year the ATO issued draft GST ruling GSTR 2001/D7 on prizes. The draft ruling explains how the GST law applies to providers and recipients of prizes. The draft ruling explains ‘when a prize is a taxable supply made by the provider and when it is consideration for a supply made by the recipient of the prize’. Clubs, businesses and fundraising bodies should not encounter anomalies if they apply the principles and follow the examples set out in the draft ruling. They should not face an added GST compliance burden as a result. The draft ruling explains the commissioner’s view of the law as it applied from 1 July 2000. Clubs and businesses

need to account for all taxable supplies they have made since that date. The ruling provides the commissioner’s preliminary, though considered, position in relation to GST on prizes. The commissioner will be engaging in further industry consultation and will take into account all of the submissions received prior to the final ruling.

##### Taxation: Families

**Senator VANSTONE (South Australia—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women)** (3.02 p.m.)—On 13 March Senator Harradine asked me a question. I said I would get further information, and I seek leave to incorporate that answer in *Hansard*.

Leave granted.

*The answer read as follows—*

On Wednesday 13 March 2002, Senator Harradine asked: “What does the government think about the Centre for Independent Studies identification that families with dependent children generally need to make about twice the average weekly earnings before they start to rise significantly above welfare levels?”

##### Answer

The material in “Taxing the Family”, a Centre for Independent Studies publication by Ms Lucy Sullivan, relates to the tax and social security systems as they were in 1997.

Ms Sullivan’s book does not make the claim contained in Senator Harradine’s question. Ms Sullivan indicates that a two-child family with twice average weekly earnings had an after-tax and social security income of around double the maximum rates of social security entitlements.

The main area of concern raised by Ms Sullivan was that a family on average weekly earnings had only 20 per cent more income than maximum rate social security entitlements.

Ms Sullivan points out that the poor return to families from working was a result of the interaction of high social security withdrawal rates and the income tax system.

The Government recognised this issue when it introduced The New Tax System. Income tax rates were cut to 30 per cent for most families, and the rate of withdrawal of Family Tax Benefit was reduced from 50 to 30 cents in the dollar.

As a result of the Government’s reforms, a two-child family on twice average weekly earnings, now has an after-tax and social security income

that is around two and a half times the maximum rate of social security and family tax benefit. On average weekly earnings, the family now has around 55 per cent more income than maximum rate social security and family tax benefit recipients.

The Government is committed to ensuring that families are better off if they get work and earn more income. The Government's Welfare Reform agenda is all about making sure that all the elements of the tax and social security system fit together to make work pay.

#### Environment: Paradise Dam

**Senator HILL (South Australia—Minister for Defence)** (3.02 p.m.)—Senator Bartlett asked me a question on 19 March in relation to Paradise Dam and other related matters in Queensland. I said I would seek further information, which I now have. I seek leave to have the information incorporated in *Hansard*.

Leave granted.

*The answer read as follows—*

**Senator Bartlett** asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 19 March 2002:

The minister would be aware that the Burnett River is recognised as a priority river under the National Action Plan for Salinity and Water Quality and will receive part of the \$162 million allocated for Queensland under that program. Given that amendments to the Queensland Water Act 2000 will lead to a major reduction in environmental flows in the Burnett River and a doubling of the amount of available irrigation water, on what basis did the federal minister decide that the Paradise Dam would not increase the severity of the salinity in this priority catchment and would not cause unacceptable degradation in fisheries and to lungfish habitat.

Why is the federal government giving money to a state to address salinity whilst at the same time approving major proposals that will increase salinity in the same area? Is it the case that irrigators have thus far failed to pay for water derived from the Walla Weir in the same region as they have been required to do? What steps will the Commonwealth take to ensure that irrigators pay for the infrastructure and water costs associated with the Paradise Dam? Will the federal minister require that such payments are made before permission for the dam is given.

**Senator Hill**—The Minister for the Environment and Heritage has provided the following answer to the honourable senator's question:

I assume the senator refers to the decision of 25 January 2002 about the Paradise Dam under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). Under the EPBC Act all the environmental impacts on listed threatened species and listed migratory species were fully considered. Strict conditions were placed on the construction and operation of the Paradise Dam in order to protect these matters of national environmental significance. These included a requirement to monitor water quality and environmental flows to detect any adverse effects on listed migratory species and a plan—to be approved by the Commonwealth Environment Minister setting out what steps will be taken to address any adverse impacts detected.

Conditions under the EPBC Act are for the purpose of protecting a relevant matter of national environmental significance or to repair or mitigate damage to such a matter. It is therefore not possible to make irrigator contributions to dam costs a condition. Payment by irrigators is a matter for the Queensland Government, and the Commonwealth continues to remind the Queensland Government of its obligations under the COAG Water reform framework to ensure incorporation of environmental costs in full cost recovery in water pricing. In relation to the Walla Weir, I am advised that it is the Queensland Government's intention to pursue cost recovery from relevant industries. In the meantime, I am advised that irrigators continue to pay the gazetted price for any water taken from the Burnett River system.

#### Defence Signals Directorate

**Senator HILL (South Australia—Minister for Defence)** (3.02 p.m.)—I was asked a question by Senator Evans on 13 March relating to the Intelligence Services Act 2001 and its applicability to particular targets. I said that I would seek further information on that, and I now have supplementary information which I would seek to have incorporated in *Hansard*.

Leave granted.

*The answer read as follows—*

The response to the honourable senator's question is as follows:

Section 8(1)(a)(i) of the Intelligence Services Act 2001 (ISA) requires DSD to obtain an authorisation under section 9 before undertaking an activity, or series of activities for the specific purpose,

or for purposes which include the specific purpose, of producing intelligence on an Australian person who is overseas. The Act did not specifically apply the same protection to Australians in Australia. Sections 8 and 9 were included in the Act on the recommendation of the Joint Select Committee on the Intelligence Services.

To ensure that the privacy of Australians was properly protected irrespective of whether they were overseas or in Australia, my predecessor issued a direction to Director DSD under section 8(1)(b) directing DSD to obtain an authorisation before undertaking any such activities in relation to Australians within Australia. This direction took effect with the date of the introduction of the Act, and had the effect of requiring DSD to afford the same level of protection to all Australian persons regardless of their location.

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

**Taxation: Rulings**

**Economy: Household Savings**

**Taxation: Queensland Liberal Party**

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

That the Senate take note of the answers given by the Minister for Revenue and Assistant Treasurer (Senator Coonan) to questions without notice asked today.

Yet again we have seen the Minister for Revenue and Assistant Treasurer stand up to give additional information when the information should have been available during the Senate question time process. Yet again this minister has been forced to stand up and read out the brief that she was unable to find during the question time process. Add that to the fact that, when she was asked quite a simple question, she gave an answer to a question she was not asked. It was quite embarrassing for all concerned.

**Senator Schacht**—Yes, it was.

**Senator CONROY**—Yes, Senator Schacht, it was.

**Senator Schacht**—She did the same last week.

**Senator CONROY**—Exactly. Last week she started to answer a question but got the wrong brief. Time and time again we are seeing this minister struggle to meet the challenge of question time. I never thought I would ever say this on the public record:

bring back Senator Rod Kemp. That is the only solution for this dishevelled, discredited government. At least Senator Kemp was able to play a straight bat. He would pad up, time and time again. He prided himself on never making a mistake because he never tried to answer a question. What we have seen from this minister so far in the four parliamentary sitting weeks is a minister unprepared, a minister incapable of finding a brief or of reading a brief and a minister getting it wrong time and time again. She has been on her feet reading out answers from briefs she could not find during question time on straightforward questions—not complex technical questions; they were just on simple matters like today's question on the household savings rate. She was asked: 'What are the implications in your portfolio?' We got an answer about housing. It is embarrassing, really.

Time and time again, this minister needs the protection of her colleagues. How many times now have we watched and listened as she got to her feet and the senators around her shouted to her about how to answer the question, gave her the answers and showed her what she should be saying. It is embarrassing. No wonder she needs protection from the parliament and protection from the chair. It is clear that this minister is not up to the job. No wonder senators on that side want to weigh in on the debate and take frivolous, irrelevant points of order. Most embarrassingly, yesterday Senator Abetz took a point of order to try to defend Senator Coonan and got it wrong. How embarrassing! Senator Abetz was the main point man to try to protect this incompetent minister from answering her questions—her paid duty in this Senate. She has the President looking to make sure that everybody is quiet and everybody follows the standing orders—does not want to have the scrutiny that we need in this chamber; wants to ensure that there is absolute silence so that this minister has the best possible chance.

It is not good enough. The Senate will continue to ask legitimate questions of Senator Coonan. She even answered incorrectly the question I asked her. I asked about the Prime Minister releasing the GST scam

details and she gave me an answer. I asked this question in Senate estimates. I did not ask when the Prime Minister was going to release the report in Senate estimates. Mr Carmody certainly did not take on notice on behalf of the Prime Minister when the Prime Minister was going to release this report into this smelly little tax avoidance scheme, the fraud that has been perpetrated on taxpayers in this country by the Queensland division of the Liberal Party.

Senator Coonan just wants to avoid answering questions in her own portfolio. For God's sake, bring back Senator Kemp. At least he was able to defend the government. At least he did not embarrass the government, except when he went on national television. Given the standards set by Senator Kemp, no wonder they will not let Senator Coonan on national television. If she tries to answer questions from some of the better journalists in this country the way she answers questions in here, she will be a laughing-stock in much the same way as Senator Kemp became one. (*Time expired*)

**Senator CALVERT (Tasmania)** (3.08 p.m.)—What an unusual question time. I was sitting here with my colleague Senator McGauran wondering what the hell was going to happen today because the Labor Party were all over the shop—as they have been since the election. We had a question to Senator Alston about pair gains and that did not seem to make much of a penetration. Then they decided they would have a go at our new minister Helen Coonan. I can just imagine them saying this morning, 'What the hell can we talk about today? We will have an open question time. You can all bring along your good ideas.' So what do they do? They went back to the GST. When everything else fails, fall back on the GST. 'We've been flogging that dead horse for the last 10 years, so let's go back to the GST and we'll give her a bit of a rattle.'

Remember that business with the Christmas cake with former Prime Minister Paul Keating? Well, we got down to the ribbons and the medals today. Here is a party that is trying to make out that it could be an alternative government somewhere down the track. They should have a look over their

shoulder and see what is really happening out there. What is really happening in the trade union movement? Why don't they pick up a paper or two and listen to some of the trade union bosses to see what they are saying about the Labor Party, instead of running around and coming back in here talking about the GST, which they agreed to? They rolled over on the GST when they tried to roll it back. They are in here again today saying, 'What are we going to talk about? We'll go back to the GST, we'll go back to ribbons and we'll go back to medals. Failing that, we'll try to make a fool of Senator Coonan'—and they did not—'and we'll talk about draft rulings on prizes.' As a matter of fact, they did not oppose this measure on draft rulings on prizes; it was their policy as well, just like the GST. So what a joke of a question time. When we would like to be hearing some alternative policies from the Labor Party, unfortunately, as a recent editorial in the *Sydney Morning Herald* said:

Labor's recent federal electoral difficulties are due to the party falling asleep at the policy wheel. It negatively relied on anti-coalition sentiment, a strategy always vulnerable to a Tampa turnaround. This is no time for ALP faint hearts. Rather than retreat before militants' threats, Labor's leadership must pedal harder to adjust the party at policy levels. If union leaders' threats are made good, Labor will have to deal with the blow. To succumb would condemn the entire party to irrelevancy.

The Labor Party are becoming irrelevant and unions are starting to stir things up by saying, 'Where's the leadership from the Labor Party?' Why are the unions deserting the Labor Party in droves? Why are they talking about setting up their own political party based on the unions? Because there is no leadership being shown by the new leader. The branch stackers and the conservatives within the ALP have got control and I do not think genuine Labor people and trade unions can pull that back. That is what the Victorian state secretary, Dean Mighell, has said about the Labor Party.

What has your good friend Doug Cameron got to say about the Labor Party? We all know that Doug Cameron gets a lot of air-play, but he says:

The ALP seems incapable of defending its historic links with the trade union movement.

We have seen pretty good examples here today of what the ALP are about: they are going back to talk about the GST when everybody thought the ALP might have learnt something from the last election, that they might have come up with some new ideas, perhaps worked out a new strategy to attack the government and show the difference between the ALP and the government. But what did we get? A question time based on little questions all over the place but basically going back to the old GST line: 'Would you tell us what the GST is on ribbons and medals?' What a joke!

If you want more evidence of what people really think, have a look at what the Queensland secretary of the AMWU, Dave Harrison, had to say about the Labor Party—he has been quoted recently. The Victorian Trades Hall Council secretary, Leigh Hubbard, has been jumping up and down and talking about Simon Crean's leadership. Then have a look at the federal secretary of the TCF union. They are all deserting the Labor Party in droves. What do the Labor Party do about it? They come into the Senate and start talking about the GST. If that is the best they can do, they are not even a good opposition. (*Time expired*)

**Senator HUTCHINS (New South Wales)** (3.13 p.m.)—I rise to take note of answers given in question time today by the Minister for Revenue and Assistant Treasurer, Senator Coonan. I must agree with my colleague Senator Conroy that, when Senator Kemp had a question bowled up to him, at least he would loyally stand over there for the four or five minutes that it took to answer the question and bat quite admirably. He would tell you, almost figuratively, what he had had for breakfast, what he had had for dinner, what picture he had seen and which members of the family had come here, but he would never answer the question. Today we saw Senator Coonan struggle through most of question time.

I thought Senator Coonan handled herself quite well last week. Admittedly, they were set pieces or dorothy dixers from her own side, and with her legal background she

probably wrote the questions for the answers she gave. But when she was put under real pressure today by our questioners she dropped the ball. I do not know whether it is because of her inexperience in the frontbench or whether it is more that she is one of those rare people who might be quite honest and she did not know how to mislead the Senate with the questions that were put to her.

In looking at her record as a minister, I would like to just highlight three areas where Senator Coonan has been, to a degree, less than prepared to mislead the public. The first thing that Senator Coonan did that was brought to my attention was on 27 December last year. Senator Coonan issued a press release saying that the government were going to rat on one of their election promises in relation to superannuation. You may recall, Madam Deputy President, what was happening in Australia on 27 December last year: the state of New South Wales was gripped by a bushfire crisis. The state of New South Wales was admirably helped by the other states; it was front-page news. And what did Senator Coonan do? She snuck that press release in during that period of chaos and crisis.

Secondly, a speech Senator Coonan gave somewhere was reported in this way:

As far as Senator Coonan was concerned, the federal government should be aiming at phasing out old-age pensions.

I have an article that cites Dr Michaela Anderson, the Director, Policy and Research, of the Association of Superannuation Funds of Australia. She said:

This is a little bit disturbing, for her to come out and say they are phasing out the social security pension.

The article continues:

... according to Ms Anderson (there are) ... "three pillars" of retirement income: the social security pension, compulsory superannuation and voluntary savings.

"To suggest she's phasing out the first pillar doesn't recognise the reality of some people's position," Ms Anderson said.

Once that was brought to Senator Coonan's attention, she did a big backflip. She said that she did not really want to phase those out at all; but she did mention it. She may be one of

the ministers in this place who is not prepared to necessarily go ahead and mislead.

Not that long ago, I think it was on 14 March, she went to the Taxation Institute of Australia National Convention in Canberra. When she was questioned about the position of tax value method by the superannuation and taxation industry, she said that she was 'agnostic about it'. I have got no flaming idea what that means, and I am sure that those bean counters in the taxation and superannuation industry would have no idea what being 'agnostic about it' meant. I am sure that they were quite confused. As we saw today in her answers to legitimate and penetrating questions by our side, she was in a fluster. People were saying from this side, 'You cannot find your position and the answers in your papers.' I am disturbed because Senator Coonan seemed to be handling herself all right last week, but this week she has dropped her bundle. She has not been able to present herself well and we are a bit tired of it.

**Senator WATSON (Tasmania)** (3.18 p.m.)—I think the opposition is being quite unkind to Senator Coonan—

**Senator Schacht**—If you were the minister, you would have given a better answer.

**Senator WATSON**—because what Senator Coonan was trying to explain to the Senate were the limitations of the definitional problems of household savings. We all know that there is no consistency in terms of international comparisons in savings because in Australia we have some very significant omissions that are in other countries' figures. So this makes comparison somewhat difficult. Unfortunately, Senator George Campbell and others did not appreciate the significance of the omission of the family home, in terms of the weakness of excluding it from savings. We all know that Australians put a lot of money into the family home, and this is omitted from the figures.

**Senator Schacht**—They had more money to bank then. They earned more and they could bank more, you fool!

**The DEPUTY PRESIDENT**—Order, Senator Schacht!

*Senator Schacht interjecting—*

**The DEPUTY PRESIDENT**—You are being disorderly. Come to order, please.

**Senator WATSON**—That is, quite rightly, what Senator Coonan was trying to explain—the omission of the family home—when she was drowned out by a lot of abuse from the other side.

If one looks at the levels of savings, particular household savings, one can see that it does reflect consumers' confidence in the future. One of the reasons why it is down a tad in Australia at the moment is that Australians have a high level of confidence in their future. The economy is going very well; there is 4.1 per cent growth. People have a great deal of confidence and in such an environment people build up debt. Because of this high level of confidence, people consume and spend more and save less. Now let us look at the contrast between ordinary people's confidence in the economy and in our government—not your government, Senator Schacht. Incidentally, one of the times when consumer savings were quite high was during that terrible period of the Whitlam government, when people lost their confidence in the future, lost their confidence in the economy and lost their confidence in terms of their ability to get jobs and so, like the Japanese, they had to save more.

Let us look at the international comparisons. The level of household savings are high in places like Japan, which is experiencing period after period of recession. There is not a lot of confidence out there in the general community in Japan, so people save because they are living in uncertain times. Why is there a savings ratio of about 25 per cent, in terms of wages, in Korea? It is because of the uncertain times and their uncertain future. In Australia we have this high level of confidence. So, while Japan is facing a recession that has gripped its economy, it is quite the opposite in Australia. People are going out there and spending, they are raking up debt and they are spending money on their homes, which is not taken into account in the savings figure.

But the other interesting feature in Australia is that, in regard to both housing and shares, people are seeking to get capital gains, and so they are moving out of savings

and running into debt to get the advantage of capital gains. This is happening with both their own household—their domestic residence—and the equities market. This is another reason why people are tending to have a lower savings level—because of the confidence and the boom there.

The other matter that has to be taken into account is corporate savings. Corporate savings are on the up, and that in itself is almost a proxy for people's savings in the form of their future superannuation benefits. This is indeed good news. If we look at the average gross national savings rates, we find that Australia's figure is certainly above most English speaking countries. It is well above the United Kingdom's, the United States', Sweden's, New Zealand's and Turkey's. Then look at a country like Japan, where there is a lack of confidence in the future. We have a great confidence in the future. People know that, and they are prepared to go out and spend. You might say, 'There is a lack of self-discipline.' If so, you are criticising your colleagues out there in Australia for a lack of self-discipline, Senator Schacht? I hope not. They are showing great enthusiasm for the future. *(Time expired)*

**Senator SCHACHT** (3.23 p.m.)—I rise to speak to the motion to take note of the answers given by Senator Coonan today. My colleagues and I have been somewhat surprised during the four weeks she has been in the chamber as a minister. We congratulate her on her appointment to the very important role of minister for taxation. In view of the mess that exists around Australia regarding taxation matters, it is not unreasonable to have a minister responsible to the public for these matters. But, as my colleagues have said, 'We always thought Senator Kemp set the low standard for how to get around answering any questions.' When he was responsible for the tax office, he used obfuscation and babbled on through endless questions to him. But I have realised there is one difference between Senator Kemp and Senator Coonan, and I will give Senator Coonan the benefit of doubt on it. Senator Kemp had a hide and no shame. He did not worry that he was making a mess of it. As I have watched Senator Coonan directly across

the chamber, I have noticed that she has enough intelligence to recognise when she is making a hash of an answer: her body language gives her away.

That happened absolutely today, when Senator George Campbell asked her his question about household savings ratios. She gave an answer, and then claimed she had misheard the question and started again. But she realised she had made a hash of it, and her body language and her face showed that she knew that she had been made to look a fool in question time today. I will give Senator Kemp his due: even when he was the fool on the hill, he never understood that he was the fool; he never had the shame or the wit to understand that he was making a hash of so many answers he gave in this place in the previous three years.

Last week we had an answer given by Senator Coonan to a question from Senator Murphy about taxation. Senator Coonan started giving an answer. Halfway through I think she realised she was reading the wrong brief. She got a point of order from Senator Murphy, and then she said, 'I will get you briefed by the taxation officers.' That was the only answer she could give.

I have noticed in the comments she has made recently in speeches, she has said that a major issue for this government is the new so-called tax value method of taxation that will be introduced as part of the Ralph reforms. This matter keeps receding into the distant future, as this government keeps saying, 'This is a bit tough.' The government is committed to the Ralph reforms, but Senator Coonan said in a speech, as taxation minister, that she is an agnostic about them. That is a very confusing thing to say because, if you are an agnostic, it means you are not sure what to believe. In religious matters, I am proud to call myself an agnostic leaning towards atheism. I am not a believer in organised religion or in the supernatural. But here we have a minister who, by using this phrase, in a sense defames us good agnostics. In this issue she should have a view. When I was a minister, I never got up and said about policy, 'I am an agnostic about it.' I am an agnostic on religious matters but not on government policy. She said

this about her own policy. I think she ought to calm down, go and brief herself properly and have a view, so that she can explain to the electorate and to the parliament what she and the government believe about the tax value method.

In another speech she said she was thinking about replacing pensions with superannuation. She had to correct that, and we would point out that according to ABS figures in September last year 25 per cent of all non-retired persons, 28 per cent of all part-time workers, 55 per cent of unemployed persons and 37 per cent of owner managers of unincorporated businesses have no superannuation at all. For non-retired persons aged 55 to 69, the average total super balance is only \$30,000. For the minister not to understand that there has to be a commitment by government to provide pensions, because a large number of Australians, unfortunately, still do not have adequate superannuation, for her to say, 'We are going to phase out aged pensions and replace them with a superannuation system that cannot cover all those people adequately', shows that she is not on top of the brief. I hope that in the next seven weeks she goes away, reads the brief carefully, gets herself properly briefed by her officers and comes back here to answer questions seriously. *(Time expired)*

**Senator McGAURAN (Victoria)** (3.29 p.m.)—From what we have heard today, I fear that the Labor Party are falling for the exact same trap they fell for after the 1998 election. We are now at the end of the first session of parliament since the election. We have now sat for four weeks, and it will be seven weeks before we sit again. In that time, we have been able to see the colours of the new Labor Party after the 2001 election. They are falling for the exact same trap they fell for after 1998. Unless there is some sort of conspiracy that they can whip up, some sort of scandal they can stretch, some sort of government waste they can beat up or some sort of rort they can jump on immediately, before the facts are even out, unless they can get something like that into this parliament, they are nothing. They are not even an opposition.

Other than their attack on Senator Coonan, did they have any alternative tax policy or any opinion on tax or any policy at all? They had none at all. They have just found another minister who they can spend time attacking personally in the parliament. So, after six years—they are now up to six years in opposition—they do not have a policy. What we have heard is that all policies are under review since the election of 2001. I do not remember them going into the election with a policy, so how can they be reviewing something they never had? We did know of one policy, of course: that was the roll-back policy. That was the policy that the Labor Party ran for three years in this parliament. By the way, we won an election in 1998 on the GST, but for three years the Labor Party, the opposition, asked thousands of questions of the then Assistant Treasurer, who they are now trying to build up as a great guy but for whom they had contempt at the time. That is an old political trick: always have a bit of sympathy for the one who has passed by. We will not fall for that, and nor will Senator Kemp. He does not need your praise.

They asked thousands of questions in this parliament on GST, based around an expectation that they would actually produce a tax policy worth going to an election on—roll back, it was called. They told us that roll back was going to be the solution to the GST: the solution for small business, for households and for the social welfare constituency. When it came out, what a fizzer it was, what a flop! The roll back amounted to about \$20 million. I do not think it amounted to anything more than that. That was the sum amount of their policy going into the 2001 election. That is just about where they lost the election. It had nothing to do with asylum seekers or *MV Tampas*. Their failure to produce an alternative policy—for all that they had built it up for three years, it was such a fizzer, such a disappointment—was really the point where they lost the election.

Since the election, a frontbencher from within their own ranks, Mr Lindsay Tanner from the other place, has said in an article in the *Age*:

... who says the ALP house just needs a coat of paint? It needs a complete restumping. The ALP leadership has that job ahead of it.

He has no faith. If you are going to walk into this parliament just to attack the frontbench ministers and not produce an alternative policy, no wonder you need a restumping. The opposition have a dinner for Mr Beazley tonight, and I hope it is a most enjoyable dinner. But every speech will be centred around, 'We were robbed of this election.' They will make Mr Beazley feel so comfortable tonight. He will feel that in fact it was all a big conspiracy and a scandal and that everything that the Labor Party has run on since the 1998 election, and all they have run on in the 2001 election and during their time in opposition, is fine. You bring policy to this chamber. *(Time expired)*

Question agreed to.

#### COMMITTEES

##### Economics Legislation Committee

###### Report

**Senator CALVERT (Tasmania)** (3.34 p.m.)—On behalf of the chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee's proceedings in respect of the committee's inquiry on the **Taxation Laws Amendment (Superannuation) Bill (No. 1) 2002** and a related bill, together with the *Hansard* record of the committee's proceedings.

###### Membership

**The DEPUTY PRESIDENT**—The President has received letters from party leaders seeking variations to the membership of committees.

**Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate)** (3.35 p.m.)—by leave—I move:

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

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

Substitute member: Senator Conroy to replace Senator Carr for the committee's inquiry into small business employment

#### Environment, Communications, Information Technology and the Arts Legislation and References Committees—

Participating member: Senator Conroy  
Finance and Public Administration References Committee—

Substitute member: Senator Allison to replace Senator Ridgeway for the committee's inquiry into recruitment and training in the Australian Public Service

#### National Crime Authority—Joint Statutory Committee—

Appointed: Senator Hutchins

Discharged: Senator George Campbell.

Question agreed to.

#### DOCUMENTS

##### Privilege: Senator Heffernan

**The DEPUTY PRESIDENT**—I inform the Senate that the President has received original copies of a letter and statement from His Honour Justice Michael Kirby, pursuant to the President's undertaking of 19 March 2002. With the concurrence of the Senate, I table the documents.

#### BUSINESS

##### Rearrangement

**Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate)** (3.38 p.m.)—I move:

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

No. 8 Taxation Laws Amendment (Baby Bonus) Bill 2002,

No. 6 Taxation Laws Amendment Bill (No. 1) 2002,

Quarantine Amendment Bill 2002,

No. 5 Therapeutic Goods Amendment Bill (No. 1) 2002,

States Grants (Primary and Secondary Education Assistance) Amendment Bill 2002, consideration in committee of the whole of message no. 46 from the House of Representatives,

Appropriation (Parliamentary Departments) Bill (No. 2) 2001-2002 and 2 related bills, and

No. 7 Advance to the Finance Minister as a final charge for the year ended 30 June 2001.

Question agreed to.

**TAXATION LAWS AMENDMENT  
(BABY BONUS) BILL 2002**

**Second Reading**

Debate resumed.

Question agreed to.

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

At the end of the motion, add:

“but the Senate calls on the Government to cease its band-aid approach to the assistance of Australian working women of child bearing age and instead establish a national paid maternity leave scheme for all Australian working women”.

Question negated.

Original question agreed to.

Bill read a second time.

**In Committee**

Bill—by leave—taken as a whole.

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

- (1) Schedule 1, item 2, page 3 (line 14), omit “5”, substitute “3”.
- (2) Schedule 1, item 2, page 4 (line 31), omit “5”, substitute “3”.
- (3) Schedule 1, item 2, page 6 (line 24), omit “5”, substitute “3”.
- (4) Schedule 1, item 2, page 6 (line 26), omit “5”, substitute “3”.
- (8) Schedule 1, item 2, page 9 (line 25), omit “5”, substitute “3”.

I explained the motivation behind these amendments in my speech in the second reading debate. I will assume, unless they say otherwise, that senators in the debate are across the argument.

Question negated.

**Senator MURRAY** (Western Australia)  
(3.42 p.m.)—by leave—I move:

- (5) Schedule 1, item 2, page 9 (line 5), omit “\$2,500”, substitute “\$1,500”.
- (6) Schedule 1, item 2, page 9 (line 11), omit “\$500”, substitute “\$1,000”.
- (7) Schedule 1, item 2, page 9 (line 12), omit “\$500”, substitute “\$1,000”.

As I stated earlier, I enunciated the arguments for these amendments in my second reading speech. Unless senators attending

wish me to expand further, I will simply move them.

Question negated.

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

- (9) Schedule 1, page 11 (after line 14), at the end of the Schedule, add:

**8 Review of operation of Schedule**

- (1) The Minister must cause a review of the operation of this Part to be undertaken jointly by the Departments of Employment and Workplace Relations and the Treasury.
- (2) The review is to conduct an assessment of the operation of the first child tax (baby bonus) with particular reference to the:
  - (a) benefits derived from the payments; and
  - (b) analysis of the benefits by income, gender, household structure and other relevant indicators.
- (3) A report of the review conducted in accordance with this section must be tabled in both Houses of the Parliament before the expiration of the 2005 financial year.

This item relates to a review process. Once again, I outlined the thinking behind this amendment in my speech in the second reading debate. Unless senators wish me to expand on it, I shall merely move it.

Question agreed to.

Bill, as amended, agreed to.

**The DEPUTY PRESIDENT**—The question is that the bill as amended be reported.

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (3.43 p.m.)—I am going to make a point. I want to say that we had a clear understanding. That was the way that this bill was originally listed for non-controversial legislation at lunchtime: the opposition were not going to support any of the amendments proposed by the Democrats to this bill.

**Senator Murray**—Whom did you have an understanding with?

**Senator IAN CAMPBELL**—We had an understanding with the Labor Party. There was a very clear understanding with the Australian Democrats that they would be putting amendments, and they fully expected them all to be voted for on the voices and, although they would not have been happy with this, they clearly expected them all to fail. We had not been told up until a minute ago that the opposition were changing their mind on that. We have been holding discussions for the last 48 hours between the relevant shadow ministers, Treasury and my office, and this is the first time this has come up. It is very hard to deal with legislation if undertakings that are given are gone back on. If there has been a clear miscommunication, we accept that; but in this case we were given a clear communication that there would not be any amendments supported by the Labor Party. If there has been a miscommunication, and the vote would be changed by the Labor Party revisiting the issue, I would be happy to see the vote recommitted.

**Senator MACKAY (Tasmania)** (3.45 p.m.)—I wonder whether we can attempt to clarify this matter. I am advised that there was no communication to the government at all in relation to this. However, if the Manager of Government Business can think of a mechanism whereby we are given five minutes to consider this matter, I think there may be a way around this.

**Senator MURRAY (Western Australia)** (3.45 p.m.)—I should make this clear when we talk about agreements: quite simply put, I was prepared to cooperate with the government in terms of having what was a very important bill put into the lunchtime session so that it could be dealt with quickly and smoothly and so that we could present our views and our amendments. As the chair and senators present would have noted, I did not dally on the amendments; I did give a full speech in the second reading debate. However, prior to coming down here, I was advised that the Labor Party were indeed interested in item 9 that we put forward. That was certainly my understanding. I did accept that I was likely to lose items 1 to 8. I was not aware that I would lose my amendment in

the second reading debate, but I accept that with good grace.

But the minister at the table should recognise that item 9 mandates a review that is to occur before the expiration of the 2005 financial year—in other words, three years hence. This chamber has a long history of strong support for the review process, particularly where policy initiatives emerge about which there is some dispute as to both their efficiency and their construction. If I understood the arguments put by the Labor Party and, indeed, Senator Harradine, who addressed this issue—and, of course, I am aware of our own views—there are serious concerns about the policy components of this bill. The Labor Party, as I understand it, have given the government the benefit of the doubt. You went to the election with this program, and you are going to get it. All that item 9 says is that, after three years, we want to have it reviewed so that you can tell us whether, in fact, the benefits you foresaw have emerged and that the policy is working.

For the minister to object with any strength to that intention and regard it as eroding the bill's integrity is just plain wrong—if that was his intent. If his intent is merely to express dismay that the Labor Party did not signal to the government everything it was going to do beforehand, why should it—frankly, why should it? I therefore urge the Labor Party to stay with that item. It is an important review mechanism, it is an important accountability mechanism, and it certainly does not harm or affect the government's policy intention in any way whatsoever. You will get your policy intact, as you asked for it.

**Senator CALVERT (Tasmania)** (3.49 p.m.)—This is a very important bill, and I think the minister had some answers to questions that he was going to give. I know that he has been discussing matters with Senator Conroy, your spokesman on tax matters. When Senator Conroy and Senator Carr stop pointing fingers at each other, perhaps he might come and tell us what he has in mind.

**Senator HARRADINE (Tasmania)** (3.49 p.m.)—Could I ask the minister: what precisely is the government's objection to the

review? Is it that this has been placed in the legislation itself, which then requires the minister to cause a review of the part to be undertaken by the Department of Employment and Workplace Relations and the Treasury; or would he prefer a motion to be moved in the Senate to that effect? If the government did not take up that request, obviously it would be open to others to take up that request, including a Senate committee. I see that Senator Conroy is back after his negotiations and discussions; I do not know whether he wants to contribute to this matter.

**Senator CONROY (Victoria) (3.51 p.m.)**—There does appear to have been some miscommunication. We are supporting Democrat amendment (9), and there has been some miscommunication about that between us and the government. But we had indicated to the Democrats, I think, that we were supporting amendment (9).

Question agreed to.

Bill reported with amendment; report adopted.

### Third Reading

**Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (3.52 p.m.)**—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

## TAXATION LAWS AMENDMENT BILL (NO. 1) 2002

### Second Reading

Debate resumed from 13 February, on motion by **Senator Ian Macdonald**:

That this bill be now read a second time.

**Senator CONROY**—I seek leave to incorporate my second reading speech.

Leave granted.

*The speech read as follows—*

I rise to speak on the **Taxation Laws Amendment Bill (No. 1) 2002**. I will only be brief as Labor will not be opposing this bill.

This bill is designed to reverse a government decision in November 1999, taken as part of the business tax reform process to remove a tax concession for investors in plantation forestry.

The concession allows investors to claim deductions up to a year in advance of their investment being spent by plantation managers.

Before the last election, the Labor Party agreed to support the introduction and passage of legislation to reverse the government's decision.

As a consequence Labor will support the passage of the bill through the Senate.

However, it will not surprise anyone who has observed the Government's implementation of tax changes to know that there have been certain problems with the implementation of the government's Ralph-related changes to tax treatment of agriculture in general and forestry in particular.

That is why, only six months after announcing the decision to remove this concession, the government has come back to the parliament seeking legislative approval to reinstate the previous arrangements.

The government's decision to remove this tax concession and, more specifically, the timing and handling of the announcement of the concession's removal, induced a whole host of distortions into a sector in which it has to be said that investment decisions were already heavily distorted by tax legislation.

The decision to remove this tax concession resulted in an industry gamble on land acquisition—that is, the industry had to purchase land for plantations before knowing what demand there was for investment land in a given financial year.

The government's removal of the tax concession frankly resulted in some crazy plantation establishments because it did not allow for the land mapping, site preparation, weed control, seedling order and purchase, planting and fertilising, and so on, to take place when it is seasonally supposed to.

In its hubris, the government tried to bend the seasons of nature to the financial year.

Well, funnily enough, the government's changes backfired completely in practice.

As with so many of the government's tax changes, the implementation was careless and counter-productive—in this case so much so that before the last election they had agreed to reverse them as they applied to forestry.

Moving on from the question of the government's mismanagement of tax change, there is a wider argument for tax-advantaging this sector.

The government's 2020 vision for forestry identified a significant trading deficit in forestry products and resolved to increase investment in the plantation forest industry in order to address that problem.

It has to be said that the minister responsible, Mr Tuckey, is no sophisticate when it comes to sectoral policy, and he has run an argument for that investment which could only be described as a Mahathir style import replacement argument.

I note that my colleague, Senator O'Brien, has been arguing a good case for investment in order to replace imports in this sector, as a part of a value added export oriented industry.

I can only counsel Mr Tuckey that there are more sophisticated arguments for import-replacement than those he currently employs.

On balance, this is a workable proposal and the revenue implications can be contained to the sector.

The Labor Party will not be opposing the passage of this bill through the Senate.

We do, however, have an amendment to apply a sunset clause to the bill, and we will be addressing this in debate on the amendment.

**Senator MURRAY (Western Australia)** (3.52 p.m.)—I will be brief. The purpose of the **Taxation Laws Amendment Bill (No. 1) 2002** is to amend various parts of the Income Tax Assessment Act 1936 and the ITAA 1997 to provide benefits for the plantation forestry sector. It has two major effects. It allows for immediate deductions for some prepaid expenditures when invested in a plantation forestry managed agreement and it amends the non-commercial loss rules specifically at the commissioner's discretion. Those amendments will allow the commissioner's discretion to be exercised for all relevant years where it is consistent with the nature of the business. Long-time horizons and sporadic revenue flows in the plantation industry raise difficulties when applying the existing non-commercial loss rules to the forestry industry.

As senators will know, particularly those who went through the agonising saga of the mass marketed tax investment schemes, forestry plantations have figured in very controversial interchanges with the tax office. The difficulty with that is both the good and the bad get mixed up with the indifferent and you have a view that this is an industry which is less attractive than it might otherwise be. We should all recognise—and the Democrats do—plantation forests have a major part to play in the provision of a much needed natural resource in this country. Ac-

cordingly, we do not have any intention of opposing the bill. We will seek, though, to amend it, and I will address that in committee.

**Senator MURPHY (Tasmania)** (3.54 p.m.)—I asked a question the other day with regards to the **Taxation Laws Amendment Bill (No. 1) 2002** and its financial impact. The minister at the time indicated she would be prepared to organise a briefing for me. In fact, I just received a call from her office advising me they had a briefing written for me and that they would bring it around or email it. I have asked them to bring it around and I hope I will get it before I finish. I am rather interested in the costings, but I will deal more fully with those in the committee stage of the bill.

With regard to what is proposed in the bill, in essence, I support it. I think there are some significant equity problems associated with what is proposed in the bill that specify treatment for one particular aspect of agribusiness. I think that raises some questions with regard to competition principles and, as I said, it does raise some serious questions about the equitable taxation treatment of different industries. I know other industries receive some different treatment in respect of taxation application but I think this poses a very serious problem. A number of other industries in the agribusiness sector have the same or similar problems the forest plantation industry have with regard to the taxation arrangements under the 13-month rule. That is another area that needs to be addressed.

The plantation industry per se is a very critical industry. Right now, it is in a mess. We had a process in place arising out of the National Forest Policy Statement, which was developed under the previous Labor government. The process set down, if you like, a broad agenda and an objective to achieve by the year 2020 some 3 million hectares of forest plantations. As a part of that, there were to be tax incentives, if you like. Taxation treatments would be arranged to encourage investment through tax incentives provided to potential investors. In the first and second years of the release of the 2020 vision strategy that went forward in leaps and bounds. For all of us who may look at it from

a *prima facie* point of view, we would say, 'What an extremely successful outcome. This has been an enormously successful process.' But the problem is that, yes, we have had several hundreds of thousands of hectares planted with trees but getting those trees in the ground has been at significant taxpayer expense. Why is that the case?

Senator Murray alluded to an inquiry I chaired—the Senate Economics References Committee into the mass marketed tax effective schemes—which, in part, touched on the plantation taxation issue. What was interesting to me was the Taxation Office evidence to the committee. I questioned them with regard to the fees and charges being applied to investors for the development of plantations. My research suggests that the average cost to an investor through a prospectus company on a per hectare basis for an investment in forestry plantations is around \$7,000 per hectare. The members of the committee know from evidence presented to us, from the industry and from others, that the cost of the establishment of a blue gum plantation, for instance, is somewhere between—and this depends on the hectares you plant—\$900 and \$2,500.

There has been significant concern for a long time about the amount of money that is not going into onground or business activity in respect of forestry plantations—and not just forestry plantations but a whole range of agribusiness industries. In focusing on the plantation sector and the tax office's evidence that I was referring to, I asked them what they believed was a fair cost for the establishment of a blue gum plantation—indeed, I asked this question with regard to vineyards and viticulture *et cetera*—and they said they worked on bands which ranged in price. I think for blue gums it was between \$6,000 and \$20,000 per hectare. For Polonia, which is a fast-growing Chinese wood, it was \$20,000 to \$60,000 per hectare and for pines, it was \$4,000 to \$8,400 per hectare. I think it was a Mr Oliver from the tax office who said in evidence at the time that for viticulture, for instance, it could be hundreds of thousands of dollars.

What worries me about this—and I have raised these questions previously with the tax

office and I have not been given a satisfactory answer—is that the taxpayers of this country are in effect funding these developments. I have no complaint about that—in fact, I support that because this type of approach can and should be a very good process, but right now it is not. Let me refer to the words of the Treasurer on 14 February 1997, when the government moved to end what was considered to be a rotting of the infrastructure bonds investment program, which was a part of government policy. I do not have the words in front of me so I cannot quote them but the Treasurer said something like, 'This is not a good use of taxpayers' money'. What was happening in the infrastructure bonds investment program was that people were claiming significant tax deductions but the real money that was going into the developments was only a small amount.

That is what is happening in the plantation sector, because a lot of the prospectus companies have people managing them that have had no historical association with the timber industry. They are charging very high upfront fees and charges, some as high as almost \$10,000 per hectare for something that might cost as little as \$900 per hectare. The money is being taken out of the system. There is one very good example of what happens when you cream significant profits off the top: Australian plantation timber. That is an example of where things have gone wrong. Companies have been put into voluntary administration and have remained there, simply because of the practice of not leaving enough money in the process to properly manage the plantations. We have seen the share prices of most of the prospectus companies—except one—that are significantly involved in this process plummet. You ask yourself why, and people say, 'It was because of the action taken by the tax office on mass marketed schemes.' Yes, that may have had some impact, but I do not think that had the most significant impact.

These prospectus companies advertise that the hectare plantings that they put in of blue gums or other species of eucalypts, for instance, are going to yield around 300 cubic metres—300 tonnes—per hectare after a 10- or 11-year rotation period. But the reality is

that is not going to be the case. We already know, where harvesting has commenced in Western Australia, that the yield from the plantations is between 40 and 60 per cent less than what was projected. We know, from the relevant state authorities and from the CSIRO, that the scientific work that has been done shows that you can only achieve those sorts of growth rates and that sort of yield in extremely good conditions: (1) you need very high quality soils, (2) you need rainfall in excess of 800 mm per annum and (3) you need to make sure that you have very well managed plantations in terms of weeds, pests et cetera. But if you look around at the plantations within Australia today—and I have visited a significant number of them—there are real problems with regard to the management practices. In my own state a company known as Forest Enterprises Australia has around 18,000 hectares of plantations under management but most of those plantations are in very poor condition. They are overgrown with weeds, they have bad insect infestation and there is no way that those plantations are going to deliver anything like 300 cubic metres per hectare at the end of the rotation.

Let us translate that into the revenue side. We have got the government coming forward with a bill that says that the revenue cost is \$25 million, and what is interesting is that the explanatory memorandum says this:

The cost to the revenue resulting from the pre-payment measure is estimated to be \$25 million in 2002-03, \$5 million in 2003-04, nil in 2004-05 and \$25 million in 2005-06 and each year thereafter.

As I said during question time, if you just take the amount of money that will go into the plantation sector alone this financial year, you cannot get \$25 million.

I have just received a one-page brief from the minister. I have not had the chance to read it fully. I might leave that for when we go into the committee stage. It is not just important from a revenue point of view, but one of the reasons that I have proposed we have an inquiry into the plantation sector through a select committee of this chamber was the problems that are currently associated with the industry. There is no strategy

here—no long-term strategy for downstream processing in this country, no real long-term strategy for import replacement from these plantations and, I have to say, no real long-term strategy for plantations to become a resource replacement for harvesting in significant areas of native forest. If we do not do something about this, regardless of whether there is a state election coming up in Tasmania, regardless of the view of the Victorian government, regardless of the view of the New South Wales government or anything else, we will be abrogating our responsibilities in this chamber.

I listen to and have conversations with the opposition, the Democrats, Senator Brown, Senator Harris and Senator Harradine about the issues that clearly exist in respect of the plantation industry. We do need to do something about them within the next five years. You can say, 'That's a long time; we have still got five years to do something.' But this thing is going to fall over and in the next few years we will see a continuation of a very bad result, because taxpayers' dollars are being invested to the tune of making a few people rich and delivering a very poor outcome. That is what is happening right now, and the sooner the government and the opposition realise that the better, because we might then take a few steps towards actually addressing the problems of this industry. It is important that we do something about it.

I get people ringing me up—I wish I could put their names on the record but I will not because I want to make sure that they are protected—from within the industry, people who operate woodchip mills, and they say to me, 'You're on the right track. This industry needs to be sorted out because if we don't do something about it we're going to have a real problem.' That is from people within the industry. I get companies involved in the plantation sector saying to me, 'Yes, you're right, there are problems with this industry. We do need to tighten it up. We do need to take steps to bring it into line.' The evidence of yields and returns is there for the government and the opposition to consider—and not just returns to the investors but returns to the Commonwealth. The former Minister for Forestry and Conservation, Wilson Tuckey,

talked about a seven per cent net return to the Commonwealth. In a pig's ear! That is just not possible. Then he directed his department to try and come up with some figures. They were all over the shop. We had them analysed by external financial analysts, and they said they just could not comprehend how AFFA could get it so wrong. I will deal with this a bit more when we get to the committee stage. I will now take the opportunity to read this very short brief. We will see how the government responds when we get into questions during the committee stage.

**Senator BROWN (Tasmania)** (4.14 p.m.)—The Greens oppose the **Taxation Laws Amendment Bill (No. 1) 2002**. It is really a huge further injection of funds, misdirected funds, into an industry which is being badly managed from federal government level right to the forest floor or the plantation establishment. Generally, as you will know, Mr Acting Deputy President, the prevailing tax deductible situation is that you get the tax deduction for the year in which the investment is actually made and the work done. This will allow a tax deduction where money is put into plantations but the work is not carried out until after that. What is more, the tax concession applies only to trees that are planted in order to be cut down. We should have moved way beyond that to where, if people invest in putting trees in for the benefit of the nation to re-create shade belts or to take carbon out of the atmosphere—the much touted carbon banks—so that they are in the national service, people should get a deduction for that. But no, this last-century view prevails: if you are not chopping the trees down, you are not treating them as goods. That blighted thinking is written large in this piece of legislation. The government says that this will cost \$25 million or so each year, but it will not. The concession actually means—and I think Senator Murphy is absolutely right on this—\$100 million to \$125 million a year. The cost of the plantation establishment alone is about \$5,000 per hectare. An investor on the top marginal tax rate of 48½ per cent can claim that as a tax deduction. The Treasurer estimates an extra 50,000 hectares of plantations will be planted because of the concession. If you multiply

50,000 by \$2,500, you come up with \$125 million per annum. That is that.

There is no doubt that this legislation will accelerate the clearing of native vegetation. We have seen that, consistent with the changes in tax arrangements in recent years. Make the tax arrangements better and the rate of native vegetation and loss of the environmental amenity increases, and vice versa. In Tasmania 5,320 hectares of native vegetation on private land were cleared and replaced with plantations in the year 2000-01, according to the Forest Practices Board annual report. There are no effective clearing controls in Tasmania. In that state the government's approach to vegetation loss was described by yesterday's *Australia State of the Environment 2001* report, as you will have noticed, Mr Acting Deputy President Bartlett, as 'grossly inadequate'. Elsewhere in Australia clearing of remnant vegetation and old hollow trees which are the stronghold and nesting places of a big range of Australian wildlife continues where plantations are established. In other words, plantations destroy the crucible, the cradle, of the Australian wildlife system. The hollows that so many birds, bats and marsupials depend upon are simply planned not to ever happen again because the plantations get cut before the trees get to the age at which those hollows form. This legislation will accelerate the loss of that public amenity.

The legislation will also create huge heartache in traditional farming lands like in Tasmania. We are getting food lands—dairy farms, potato cropping farms, beef and lamb grazing farmlands—converted into plantations. Is that because there is a demand for the wood? No, it is not. Millions of tonnes of that are being exported each year. Is it because it is good for the community? No, you cannot eat trees. Why is it? There is a tax deduction there. It is simply a financial gain. There is an absence of an ethic in the plantation industry as it exists at the moment and this legislation, no doubt at the behest of those people who have made pots out of it, will simply compound the problem. These tax concessions, as I have said, only apply to trees which are planted in order to be cut down. Any claimed environmental benefits

are illusory and at best they are temporary. There is no equivalent general tax concession for planting trees to restore the environment, as I see it. What a greater benefit it would be if the government were putting \$125 million a year into the environment, as called for by yesterday's *State of the Environment* report.

Importantly, this is one of the few situations where an environmental assessment of a Commonwealth action is required under the Environment Protection and Biodiversity Conservation Act. It can be done either by the Treasurer now—and the Greens have amendments to help the Treasurer do that—or by the Commissioner of Taxation for each product ruling later. But one way or another it is required under the EPBC Act. I would advise the minister to look very carefully at that act and he will see that that requirement is there. A product ruling, if it is left to that, is the determination that a particular plantation investment prospectus meets the conditions and qualifies for the tax concession. The EPBC Act does not require environmental assessment of actions by the Commonwealth that constitute an authorisation or a grant, but the provision of a tax concession does not fall within these exemptions and therefore requires assessment. I hope the minister is listening to that.

In summary, we do not need any more plantations. We are now exporting six to eight million tonnes of unprocessed wood each year, largely for the job and economic benefit of somebody overseas, and over a million tonnes of that is sawlogs. The plantations are not required. We have over two million hectares of them already in this country, as you know, Mr Acting Deputy President. We do not need them to meet our wood needs in this country. This is simply a moneymaking arrangement. Effectively, this legislation is saying that taxpayers will be part of the profit bottom line. That is what it is saying. I have a second reading amendment. I move:

Omit all words after "That", substitute:

"further consideration of the bill be an order of the day for the first day after approval is obtained for the taxation arrangements proposed by the bill, in accordance with the *Environment Protection and Biodiversity Conservation Act 1999*".

*tion and Biodiversity Conservation Act 1999".*

I have already explained that. There is a requirement by law there. If it is not done now by the Treasurer in general because of the impact of this financial assistance to this industry, which is having a very clear impact on the environment, it will have to be done case by case according to the product rulings of the taxation commissioner. I would be very interested to hear what the government has to say about that. I raise the matter because it appears today that it has not dawned on the government that that requirement is there.

**Senator IAN MACDONALD** (Queensland—Minister for Forestry and Conservation) (4.22 p.m.)—I thank the senators who have made a contribution to this debate on the *Taxation Laws Amendment Bill (No. 1) 2002*. I want to briefly refer to the second reading amendment moved by Senator Brown. The government will not be supporting that. I am advised that it is not necessary. This legislation has been in the wind for a long time: it was part of the coalition's election commitment and it was widely known as part of the Labor Party's election commitment as well. If Senator Brown were serious about this particular issue, then he would have raised it before five minutes ago—which is when I first saw it. I understand everyone else also saw the proposed amendment by Senator Brown for the first time five minutes ago.

I do not say many positive things about Senator Brown but at least you can give him credit for being committed to a course of action that will not have any forest activity within Australia at all, whether it is plantation or native forests. Mark my words: the goalposts will keep shifting so far as Senator Brown is concerned. Everyone will recall that during the RFA debate Senator Brown said plantations were good. I am not quoting him there, but the implication of his arguments was that we should not bother with the RFA because we have got enough plantations, plantations are good and that is the way that Australia should be going. Senator Brown now wants to hold this bill up and divert it. He knows full well that if it is not

passed today then it will have a major impact upon the plantation investments in this country for next year and, I suggest, years to come. The government will not support that.

I want to refer to the amendments proposed by the Labor Party for the benefit of the opposition. Although these are committee stage amendments, we disagree with all of them, as the opposition knows. Proposed amendment (3) actually deals with the non-commercial activities of the bill. Unfortunately, we have only just seen your amendments in writing in the last 10 minutes, although we are familiar with the fact that you were going to move some in relation to a sunset clause. My advice is that the sunset clause should not apply to the non-commercial losses amendment. The non-commercial losses apply more generally than to just forestry specific areas. The amendment is technical in nature, designed to address an unintended limitation on the discretion of the Commissioner of Taxation to provide relief for lost deferral rules. If it will assist the chamber and the opposition in particular, I will make some taxation officials available to your advisers to explain just why your amendment (3) should not proceed. We do not think that amendments (1), (2), (3) or (4) should proceed but, even if you were able to carry the day on the sunset clause issue, subclause (3) will have an enormous impact on the non-commercial losses area, whereas your committee amendments focus on forestry. Proposed amendment (3) deals with the whole non-commercial losses which, as you are aware, extend far beyond the forestry arena. So, if your advisers are interested in talking to the taxation officers, I am quite happy to make them available. It is important that we do not inadvertently cause problems for everybody that will have to be amended at a later stage.

We do not support the sunset clause amendment that will be moved in committee—as Senator Conroy mentioned in his second reading speech—because we think it is bad for the industry. The whole purpose of this industry is to encourage plantation forestry. We have had a major success for forestry investment this week—and I include the Labor Party and the Independent sena-

tors—with the passing of the RFA Bill. The whole purpose of the RFA Bill was that it gave certainty and security and assured conservation values in the native forest areas. It was all about providing certainty.

This bill intends to correct an inadvertent error that I have to say with some hesitation, or with some humbleness, the government made in some amendments it put through a couple of years ago. What we want to do is reinstate the investment enhancement for plantation forests. It is not a big investment enhancement because it is simply agronomically related rather than taxationally related. It relates to the fact that the money required for plantation work must be paid at one time but the actual expenditure does not happen until the next year. Trees, stupid as they are, do not understand financial years. They do not understand that human beings and the laws of the land have changed the situation so that, rather than looking at a growing season, we look at a fixed period of 365 days from 1 June. The bill is all about putting certainty back into the industry, assuring investors that they can get the full deduction for their investment. I remind you that they would get the deduction for the investment in any case, but they would get it in a different year. What we want to do is reinstate the deduction provisions that were in the act previously and were inadvertently taken out.

The sunset clause provides uncertainty for the industry, rather than certainty. It is certainty we want. We cannot just say that we will do something for four years, then have a look at it to see if it is working and, if the government and the parliament of the day think it is not working, we can cut it off. That does not provide the certainty we need. I would urge the opposition and the Democrats to consider what the purpose of this bill is. It is to correct an ‘error’, some legislative enactment the government did a couple of years back which had unintended consequences. It reinstates the position. It is providing that absolutely necessary certainty for the industry so that it can provide for Australia’s future in wood and for Australia’s benefit in the jobs that it creates and the activity that it creates in small country towns.

We have a \$2 billion trade deficit in wood and wood products. A lot of that deficit comes from forests that are far less sustainably managed than are Australia's forests. Australia has one of the best records in the world for sustainable forest management, both with native forests and with plantation forests, and it is getting better. We have a \$2 billion trade deficit. What we want to do by encouraging forestry activities, and particularly on this World Forestry Day, is to provide that certainty for investment, which really means jobs—jobs in rural and regional Australia—and security for those small country towns.

I have been given a note by my advisers that the Manager of Government Business wants me to hurry up. That is going to be difficult, seeing as there are quite a number of amendments before the chamber which are going to take time.

*Honourable senators interjecting—*

**Senator IAN MACDONALD**—I am being gagged, but I do seriously say to the Democrats: please understand what this is all about. Senator Murray, I have your amendment.

*Senator Conroy interjecting—*

**Senator IAN MACDONALD**—I thought I said Senator Murray. If I said Senator Brown, I meant Senator Murray. I did say Senator Murray. I am not quite sure what you are on about, Senator Conroy. Obviously, it has been a long week. I know you have a very important dinner tonight—and perhaps you are encouraging Senator Campbell to get me to shut up. Senator Murray, please have a look at this. I do not quite follow your amendment, but no doubt you will explain it in the committee stage. Again, what we really want to do is to provide certainty.

The bill contains two tax measures. One is an amendment to the prepayment rule which requires deductions for prepayments to be apportioned over the period in which the related expenditure occurs. Relaxing the prepayments rule for the forestry industry should particularly stimulate investment in the plantation forestry managed investments industry. The seasonally dependent nature of aspects of the forestry operation, such as

planting, requires that funds are raised in one year to pay for activities in the continuing year. That is the point I made. Stupidly, trees do not understand that 1 July is a cut-off. They grow in their time, and they have to be supported with work and tending during the growing period, regardless of where that period falls in an artificially created taxation year. By doing what we propose, the government supports the 2020 vision target to treble the plantation estate to three million hectares by 2020.

The national forestry policy statement of 1992 aims to expand Australia's commercial plantations to provide an additional economical, reliable and high quality wood resource for the industry. The measures arise from direct consultation with representatives from the plantation timber industry. Industry representatives have indicated that they fully support the measure in its current form. They are particularly grateful to the government and to the Senate for the fact that we have been able to get this bill into the parliament and through the House of Representatives by this particular period of the year.

The other measures affect non-commercial taxation losses. I will not go into them. All senators are well aware, from the explanatory memorandum, what that is all about. This bill does address all of the problems that have been identified, by allowing the commissioner to continue to exercise discretion for those non-commercial losses for all relevant years where this is consistent with the nature of the business activity.

I do again urge support for this in its current form. We are somewhat surprised by the Labor Party's suggestion for a sunset clause. We note—and I have mentioned this, but emphasise—that prior to the election the Labor Party did express support for the passage of this legislation to give effect to what was described as a new prepayment option for the forest industry. The sunset clause would very heavily qualify that support by making it temporary, at best, and by denying the industry the certainty it needs to make long-term planning decisions.

I note that Mr Latham, in the other place, suggested that there might be better options for helping the plantation forest industry to

maintain its long-term growth. If Mr Latham or any of the senators have an idea on that, we would like those options to be put on the table. As I indicated in the other debate on forestry matters in these sittings, I am always open to good initiatives. If there are other ways we can help to achieve the goal that I know the Independents, the Labor Party and certainly the Liberal Party and National parties have for the forestry industry and for those jobs and the small communities that rely on them, I am very happy to work in a cooperative way with all parties to get the right results. As I have mentioned also previously, this is not a political debate. It is not about scoring political points; it is about doing the right thing for the industry, which means jobs for Australians and security for the small country towns.

Question negatived.

Original question agreed to.

Bill read a second time.

**Senator Brown**—I ask that my ‘no’ vote be recorded.

### In Committee

Bill—by leave—taken as a whole.

**The CHAIRMAN**—Senator Conroy, are you seeking leave to move your amendments (1) to (4) together?

**Senator CONROY (Victoria)** (4.38 p.m.)—I indicate that I accept the advice of the government on amendment (3) and seek leave to withdraw that one and to move (1), (2) and (4) together.

Leave granted.

**Senator CONROY**—I move:

- (1) Schedule 1, item 1, page 3 (line 14), after “2 October 2001”, insert “and on or before 30 June 2006”.
- (2) Schedule 1, item 9, page 8 (line 5), after “2 October 2001”, insert “and on or before 30 June 2006”.
- (4) Schedule 1, item 9, page 8 (line 10), at the end of subitem (3), add “and before the taxpayer’s income year that includes 1 July 2006”.

I seek leave to incorporate my remarks in *Hansard* to facilitate the activity of the Senate.

Leave granted.

### *The remarks read as follows—*

I will only be brief as Labor will not be opposing this Bill.

This Bill is designed to reverse a Government decision in November 2001, taken as part of the business tax reform process to remove a tax concession for investors in plantation forestry.

The concession allows investors to claim deductions up to a year in advance of their investment being spent by plantation managers.

Before the last election, the Labor Party agreed to support the introduction and passage of legislation to reverse the Government’s decision.

As a consequence Labor will support the passage of the Bill through the Senate.

However, it won’t surprise anyone who has observed the Government’s implementation of tax changes to know that there have been certain problems with the implementation of the Government’s Ralph-related changes to tax treatment of agriculture in general and forestry in particular.

That is why, only six months after announcing the decision to remove this concession, the Government has come back to the Parliament seeking legislative approval to reinstate the previous arrangements.

The Government’s decision to remove this tax concession, and more specifically the timing and handling of the announcement of the concession’s removal, induced a whole host of distortions into a sector in which it has to be said that investment decisions were already heavily distorted by tax legislation.

The decision to remove this tax concession resulted in an industry gamble on land acquisition—that is, the industry had to purchase land for plantations before knowing what demand there was for investment land in a given financial year.

The Government’s removal of the tax concession frankly resulted in some crazy plantation establishments, because it did not allow for the land mapping, site preparation, weed control seedling order and purchase, planting and fertilising, and so on to take place when it is seasonally supposed to.

In its hubris, the Government tried to bend the seasons of nature to the financial year.

Well, funnily enough, the Government’s changes backfired completely in practice.

As with so many of the Government’s tax changes, the implementation was careless and counter-productive—in this case so much so that before the last election they had agreed to reverse them as they applied to forestry.

Moving on from the question of the Government's mismanagement of tax change, there is a wider argument for tax-advantaging this sector.

The Government's 2020 vision for Forestry identified a significant trading deficit in forestry products and resolved to increase investment in the plantation forest industry in order to address that problem.

It has to be said that the Minister responsible, Mr Tuckey, is no sophisticate when it comes to sectoral policy; and he has run an argument for that investment which could only be described as a Mahathir-style import-replacement argument.

I note that my colleague, Senator O'Brien, has been arguing a good case for investment in order to replace imports in this sector, as a part of a value-added export-oriented industry.

I can only counsel Mr Tuckey that there are more sophisticated arguments for import-replacement than those he currently employs.

On balance, this is a workable proposal, and the revenue implications can be contained to the sector.

The Labor Party will not be opposing the passage of this Bill through the Senate.

We do, however, have an amendment to apply a "sunset clause" to the Bill, and we will be addressing this in debate on the amendment.

**Senator MURRAY (Western Australia)** (4.38 p.m.)—I am conscious of the minister's remarks but I have had discussions with the Assistant Treasurer on this matter. We have heard the remarks of Senator Brown and Senator Murphy, and one of the arguments I have put forward is that, where you are dealing with areas where there is uncertainty as to the financial consequences, and where there is some real philosophical concern—and I do not mean that in the academic sense but in the deep sense—about some of the consequences, it is a useful device to have governments obliged to review the progress and efficacy of something over time. I accept the point that has been made that in financial planning terms that can introduce some uncertainty when you are talking about a long life product—which a tree is, as are some other things—but I have been persuaded, by the case put to me and by the fact that these changes make what is proposed a full five-year scheme, that on balance they are probably useful initiatives. Therefore, we will support the opposition's amendments.

**Senator MURPHY (Tasmania)** (4.40 p.m.)—In regard to Senator Conroy's sunset clause, I am happy to support the amendments, but I would like to ask some questions with regard to the issue of the cost. I have had a chance to read the briefing note that was provided to me by the minister's office. A couple of things are of interest to me. One is the dot point that says:

The Department of Agriculture, Fisheries and Forestry says the actual investment in forestry plantations in 2000-2001 was \$200 million.

I would like to know where the department got those figures from. Indeed, I would like to see evidence of them. The other aspect that concerns me is the tax rate used:

The use of the higher marginal tax rate for investors (50 per cent) the MIEFO costing uses a 37 per cent rate, which is based on analysis of the marginal tax rates of taxpayers likely to invest in schemes.

I would like some evidence of where that view came from because it is certainly not reflected in any prospectus that I have seen, if my memory serves me correctly, nor is it reflected in the evidence given to the Economics References Committee during the course of its inquiry into the mass marketed tax effective schemes. So I would like to get some response to that. I would like an explanation of what the briefing note is referring to when it says:

The tax rate is multiplied by the entire amount of investment in the forestry industry (estimated at \$560 million to \$700 million per annum).

I understand what it is talking about, I think, when it says:

However, investors within the industry are already receiving a taxation deduction for the funds which they invest. It is only those additional investors attracted to the industry who may receive a higher rate of deductions than they previously were and who need to be incorporated into the costing.

I would like an explanation of that, but I assume that the \$25 million is just going to be an additional cost, over and above the existing costs. That again raises the question with me as to why there is a nil cost in 2004-05. I seek some response to those questions.

**Senator IAN MACDONALD (Queensland—Minister for Forestry and Conserva-**

**tion** (4.44 p.m.)—In answer to Senator Murphy's question, the analysis by Treasury uses a figure of 37 per cent, as against 50 per cent, which you used, Senator Murphy. I suppose in the end result it means your analysis as opposed to Treasury's analysis. I would suggest that Treasury's analysis is right. This is work that Treasury have done. They have said that the costing uses a rate of 37 per cent, which Treasury have analysed is the marginal tax rate of the taxpayers likely to invest in the schemes.

This is a very tight budget for the government, I can assure you of that—that is no secret. We are not going to be giving away money that we do not have to or making false assumptions. That is Treasury's estimate of what the marginal tax rate is, on average, for investors. So you either accept Treasury's estimate or you do not, and I cannot do anything more than tell you that that is the case. Perhaps given greater time, I could arrange a briefing with you so you could question Treasury officials on their analysis but I am afraid I cannot do that now. The figure of \$560 million to \$700 million, as I understand, is your figure, Senator Murphy.

**Senator Murphy**—I just wanted to clarify that.

**Senator IAN MACDONALD**—That is your figure. What we are saying is that it is nowhere near that. In fact, the third dot point—it is my department, not Treasury, that has said that the actual investment in forestry plantations in 2000-01 was \$200 million—nowhere near the \$560 or \$700 million.

**Senator Murphy**—I asked you what the evidence is for that.

**Senator IAN MACDONALD**—It comes from the Department of Agriculture, Fisheries and Forestry. I do not have any departmental officials with me but I assume that they have records of this by approaching the taxation investment companies. They have certainly been to us in relation to the need for this amendment. I would, again, back AFFA against, with respect, your assessment. AFFA tells us what was invested last year and that

is what the government is going on. Were they the only questions you raised?

**Senator Murphy**—The other was with regard to the \$25 million.

**Senator IAN MACDONALD**—Again, Senator Murphy, these are the estimates of the tax office and Treasury. They use their resources to make these estimates. They are not trying to pull the wool over anyone's eyes. We have to make a budget balance on these sorts of estimates. Again with respect, I do not suggest that the Treasury or tax officials are being maliciously—

**Senator MURPHY (Tasmania)** (4.47 p.m.)—I assume you have got this briefing note or that somebody on your side has. Has somebody got the briefing note that I have been given?

**Senator Ian Macdonald**—Yes.

**Senator MURPHY**—Under the third dot point, the second subpoint, where it talks about the \$567 million, the note says:

However, investors within the industry are already receiving a taxation deduction for the funds which they invest. It is only those additional investors attracted to the industry who may receive a higher rate of deductions than they were previously and who need to be incorporated into the costing.

What does that mean in terms of this?

**Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation)** (4.48 p.m.)—I will say what I think it means, but I will ask my adviser to tell me if I am wrong. It means that it does not matter when you invest, you get a deduction. But bringing it forward has an impact, but not the impact you are suggesting. That is what that means. As it says, it is the attraction of extra investment because of the concession. What we are saying is the revenue already is losing that money because the tax concession is there—it does not matter when it is paid. This is the extra that it is estimated will come in as a result of being able to claim it all in one year, and that is based on best analysis.

You asked about the nil cost in 2004-05. This is a result of the transitional treatment of the bringing forward of income in the hands of managers of the schemes. For the first years of its operation the amount of \$25

million in 2005-06 is reflective of the annual cost after the transitional period.

**Senator MURPHY (Tasmania)** (4.49 p.m.)—Does the \$25 million so referred represent the total cost or the additional cost?

**Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation)** (4.49 p.m.)—It represents the total additional cost over and above what is already allowable. Could I very briefly have another go at Senator Murray. Senator Murray, you did say you were going to support the Labor Party's amendments for a review. I would probably concede a review but this is not a review.

**Senator Murray**—No, a sunset clause.

**Senator IAN MACDONALD**—Could I convince you to a review position, because the difference is this: a sunset clause—

**Senator Conroy**—This is unseemly.

**Senator IAN MACDONALD**—It is very important to the industry, Senator Conroy. I am sure we will do the right thing in four years time but we are trying to provide certainty. A sunset clause says that this finishes in four or five years unless the parliament should decide to extend it. The review says that this goes on forever—it gives us certainty—unless the parliament says, 'We don't want it anymore.' Perhaps the end result is almost the same. Senator Conroy says it is unseemly. I do not mind being unseemly because I want to try and do the right thing by the industry. Senator Murray, can I plead with you to come to the government and have the review—we do not want the review either, I have to say, because again it provides uncertainty. But of the two—the amount of uncertainty caused by the sunset clause and the amount of uncertainty caused by the review—the review has less uncertainty. So we would take that if we could convince you and your party. I know your party is very keen on plantation forests and the jobs in the small timber communities, Senator Murray. So I make a last-ditch effort to plead with you. We can quickly fix the amendment. With respect, I do not think the Labor Party would be all that concerned if, with your support, we did get a review rather than the sunset clause. It does give the par-

liament the opportunity to review it but it gives more security to the industry—and that is certainly the industry's view—and I would urge you to think about that.

**Senator MURRAY (Western Australia)** (4.52 p.m.)—I should start by putting my credentials on the table. I will not add Senator Harradine to my list but I suspect that, all told, I might have handled more bills than any other person in the chamber, simply because of the weight of tax bills, IR bills and everything else that I have had to handle over time. So I assure you, Minister, that I do understand the difference between a review and a sunset clause. However, if a sunset clause is to operate, the government of the day will look at the bill, review the position and decide whether they are going to continue with the provision that applies. It forces them to come back to the parliament. I understand the purpose of a sunset clause. In this case, I believe a sunset clause will work better than a review process because it obliges the government to come back to the parliament, which is what I want to happen. Accordingly, I support, and my party supports, the opposition's position.

Question agreed to.

**Senator Ian Macdonald**—Madam Chair, could it be recorded for posterity that the government certainly opposes those amendments.

**Senator MURRAY (Western Australia)** (4.53 p.m.)—I move the amendment which appears on sheet 2495:

(1) Schedule 1, item 1, page 3 (after line 25), after paragraph (a), insert:

(aa) the agreement must certify that no areas of native forest, at the time of commencement of this provision, are included in any plantations or parts of plantations;

Note: For the purposes of this paragraph, *native forest* means any area of forest or area of native regrowth subject to a Regional Forest Agreement or the *Regional Forest Agreements Act 2002*.

This is a very brief amendment which will simply ensure that the proposed 12-month rule applies to plantations that are not subject

to clearing. There are persistent reports, particularly from Tasmania but not only from Tasmania, that land is being cleared at an accelerated rate in order to put the land under different forms of land use, and waste is a consequent problem. In some areas trees have been knocked down and removed and the land left idle long before it is turned back to an alternative use.

Our amendment is quite simple; it states that the proposed agreement must certify that no areas of native forest, at the time of the commencement of this provision, are included in any plantations or parts of plantations. The minister would recognise, having heard from Senator Bartlett at length during the very lengthy RFA debate, the intent behind such an amendment, so I do not need to go into any more detail.

**Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation)** (4.55 p.m.)—We will be opposing the amendment. Plantations are managed by plantation investment companies to comply with all relevant state and local laws. These sorts of things are really within the jurisdiction of the states. As you well know, land management is a state responsibility, but they apply, along with state and local laws and regulations, operational codes of practice relating to plantation and native vegetation management. This amendment is attempting, via the back door in a way that I suggest might be unconstitutional, to involve the Commonwealth in land management where the Commonwealth clearly has no jurisdiction. So we will oppose the amendment and rely on the states to properly manage their forests.

**Senator BROWN (Tasmania)** (4.56 p.m.)—Dear oh dear, the minister just exposed a failure of recognition of what is Commonwealth responsibility and what is state responsibility. I support the amendment. I suppose if we followed the logic of the minister we would not be putting any conditions on Landcare money or Telstra money. We would simply say, ‘Give it to the states.’ I guess that is something the minister might look into. He is the Minister for Forestry and Conservation. He is saying that forestry is a Commonwealth matter and he can deal with

that; conservation is not, and so he cannot deal with that. It is nonsense. However, the amendment is not. It is a responsible amendment. It does bring into play the minister’s responsibility for the conservation of native forests in Australia, and I support it.

**Senator O'BRIEN (Tasmania)** (4.57 p.m.)—On behalf of the opposition I indicate that there are a great many positions that are adopted by states which are sensitive to the general intent of the provision which the Democrats propose. It does smack somewhat of recasting of part of the RFA legislation debate. Senator Murray will forgive me if I suggest that this is perhaps a cheeky way of re-entering a debate that we took some time to put to bed last week.

I am assured that there are a variety of policies in the states and territories about the clearing of public native forests for plantation development. Some states adopt positions which would make this provision somewhat irrelevant, certainly in relation to public forests. In relation to private land, the position is certainly not so clear, but I did detail in the RFA debate a program in Tasmania which is aimed at conserving 100,000 hectares of native forest on private land, which means that it would not be logged for any purpose, let alone for conversion to plantation. I seek leave to incorporate in *Hansard* provisions from a web site, [www.gisparks.tas.gov.au/privaterfa/program.html](http://www.gisparks.tas.gov.au/privaterfa/program.html).

Leave granted.

*The document read as follows—*

#### **Private Forest Reserve Program**

##### **About the Program**

Across the world, Tasmania’s stunning forests and unique plants and animals are recognised as something very special.

The Private Forest Reserves Program is working with the state’s private landowners to ensure Tasmania’s natural heritage receives long-term protection. The voluntary scheme aims to conserve 100,000 hectares of native forest on private land.

##### **Forests for the Future**

Tasmania is home to some forest-types found nowhere else on the planet. Some of these are well-protected in existing reserves. Those that are

not adequately reserved are the target of the Private Forest Reserves Program.

Priority forest communities include those dominated by black peppermint (*Eucalyptus amygdalina*), particularly in drier areas of the state. Tasmania's floral emblem, the blue gum (*E. globulus*) is another priority as more than 75% of these forests have been cleared. Tall old-growth forests which feature swamp gums (*E. regnans*), stringybarks (*E. obliqua*) or Tasmanian ironbark (*E. sieberi*) are amongst those sought. Black gum (*E. ovata*) forests require urgent protection as they have been reduced to less than 2% of their original distribution. Another target is Morrisby's gum (*E. morrisbyi*)—one of the world's rarest eucalypts. Only a few tiny stands remain in Tasmania's south-east.

### **Wonderful Wildlife**

Protecting native forest on private land has benefits for Tasmania's plants and animals too.

By conserving blackwood swamp forest (*Acacia melanoxylon*), the habitat of the beautiful white goshawk is being preserved. In the midlands, the Program is helping the Tasmanian bettong which feeds on fungi on the forest floor. The protection of wedge-tailed eagle nests, which are only built in old-growth trees, is critical for the long-term survival of this vulnerable species, and is another priority of the Program. Some of the incredible creatures which live in our forests are tiny, such as keeled snails, stag beetles, and velvet worms which capture prey by shooting sticky threads from their heads. They may be small, but all are important to the Program.

Many special plants are also found in the forest communities targeted by the Private Forest Reserves Program. For example, pretty heath (*Epacris virgata ketteringi*) is being conserved on private land in the south-east. In the Beaconsfield area, Shy Susan (*Tetratheca gunnii*)—one of the state's rarest native plants—is being protected by the Program. Previously listed as extinct, the purple-flowering plant was rediscovered in 1986 and is the subject of an intensive recovery effort.

### **Powranna Reserve**

Powranna is a new reserve located off the Midlands Hwy, 20km north of Cleveland. This new reserve is 280ha of forest and will be proclaimed a Nature Reserve under the National Parks and Wildlife Act 1970 and be the equivalent of an IUCN Protected Area Category 1A, Strict Nature Reserve.

This area of forest is important for several reasons. Firstly it is a good example of Inland *Eucalyptus amygdalina* forest. This particular piece of forest comprises a part of one of the largest re-

maining contiguous areas of Inland *E. amygdalina* forest in the Epping area.

The forest also supports strong populations of two rare and threatened species. *Brunonia australis* and *Pultenaea humilis* are found in significant numbers on the forest block. Both these species are listed as vulnerable under the Tasmanian Threatened Species Protection Act 1995.

### **Prevost Reserve**

The Prevost Reserve has been purchased under the Private Forest Reserves Program, as an addition to the CAR reserve system. This new reserve supports the largely under reserved forest community Inland *E. amygdalina*. The reserve is located 40km south of Launceston.

This new reserve will be proclaimed as an extension to the existing Tom Gibson Nature Reserve. It is adjacent to this reserve, and creates a total reservation area of approximately 900ha. The area will be Managed as an IUCN Protected Area Category 1A, Strict Nature Reserve.

The reserve sites comprises gentle slopes with northerly and easterly aspects and rocky dolerite knolls in the southwest. The vegetation is dry sclerophyll eucalypt forest and woodland with grassy, heathy and shrubby understoreys and two small patches of native grassland. On poorly drained sites sedgey *E. ovata* forest predominates. The remainder of the forested area is made up of grassy/heathy/shrubby *E. amygdalina*. Dolerite substrates in the west support grassy *E. pauciflora* woodland with patches of *themeda* grasslands. Many trees are oldgrowth and live and dead habitat trees are common.

The reserve is high quality habitat for Tasmanian Bettong, *Bettongia gaimardi*. Many other animals can be found at the reserve including frogs, birds and mammals. Some of these are listed here:

### **Frogs**

*Geocrinia laevis* Smooth froglet

*Pseudophryne semimarmorata* Southern Taadlet

### **Birds**

*Petroica phoenicea* Flame Robin

*Platycercus caledonicus* Green Rosella

### **Mammals**

*Tachyglossus aculeatus* Short-beaked echidna

*Sacrophilus harrisii* Tasmanian devil

*Thylogale billardierii* Tasmanian pademelon

*Trichosurus vulpecula* Common brushtail possum

*Vombatus ursinus* Wombat

Many other plants can be found in the reserve including:

Comesperma volubile  
Pimelea humilis  
Goodenia lanata  
Helichrysum scorpioides  
Lepidosperma concavum  
Leucopogon virgatus  
Lomandra longifolia  
Pultenaea pedunculata  
Themeda triandra  
Hibbertia fasciculata  
Gonocarpus teucrioides  
Tetragonea pilosa  
Lissanthe strigosa  
Anagallis arvensis  
Banksia marginata  
Dianella revoluta

#### Seventeen Mile Plain

The Seventeen Mile Plain Reserve is located approximately 40kms West of Wynyard. This new reserve is 2000ha of forest and is intended to be proclaimed a Nature Reserve under the National Parks and Wildlife Act 1970 and be managed as an equivalent to an IUCN Protected Area Category 1A, Strict Nature Reserve. The purchase of this area for reservation was made possible by a joint effort between the Private Forest Reserves Program and the National Reserve System.

This area contains the largest stand of old growth Brooker's Gum (*Eucalyptus brookeriana*) forest in Tasmania. Also present in the reserve are areas of blackwood forest, paperbark swamp forest and non forested areas of buttongrass moorland, heathland and wetlands.

The Seventeen Mile Plain Reserve contains suitable habitat for a number of threatened, rare or vulnerable animals. These include the grey goshawk, wedge-tailed eagle, giant freshwater lobster, keeled snail, velvet worm, hydrobiid snail, dwarf galaxias and spotted tailed quoll.

Located in the reserve are the Montagu Caves which contain bone deposits of great scientific value. Fragments of bones found within the caves include the remains of extinct megafauna—the giant flat-faced kangaroo, *Sthenurus*, which stood 4 metres tall and other extinct animals known as the giant wallaby, the marsupial lion and the giant echidna. The bones are at least 10,000 years old. These are helping scientists to understand more about the fauna that lived in this part of Tasmania in the last Ice Age.

**Senator O'BRIEN**—If there is other material that people want to access about this program, they can access it from that web site.

*Senator Murray interjecting—*

**Senator O'BRIEN**—I will supply it separately, Senator Murray. This document details something about the program. It also refers to three particular reserves which include over 3,000 hectares of private land which has been converted to reserves and protected from any form of harvesting. The picture is one of some differences between management by the different states, but there is one example where there is substantial protection—much more than the 5,000 hectares mentioned in terms of forest being converted to plantation over the last year. I think 11,000 hectares have been approved so far. Another 40,000-odd hectares are under active consideration—at various stages of consideration—at this stage. So the program looks to be pretty close to halfway towards its target, with more to come. The opposition will not be supporting this amendment. Even though we understand that this area is the subject of different treatment in different states, we think it is a matter for the states.

**Senator Brown**—I point out to the senator that the usual courtesy is that documents like that are circulated before incorporation is requested.

**Senator MURPHY (Tasmania)** (5.00 p.m.)—Whilst I have some sympathy with the thrust of the amendment, I am not sure that this is the bill where we ought to be dealing with this issue. Nevertheless, I think it is an issue that has to be dealt with. I want to ask a couple of questions. I will go to that briefing note I was given. Where in the mid-year economic forecast can I find the reference about the rate of 37 per cent? Is it in that, or is it just that that was what was used? As I said, I would like to see some basis. I will not say what I have worked out is more accurate than Treasury, but let me say that there is not a prospectus based company in this country that have, for the purposes of working out their internal rate of return, used 37 per cent—not one.

As I said, if my memory serves me correctly, the Australian Taxation Office, in evidence to the mass marketed scheme inquiry, said that they believed that there were very few people below the top marginal tax rate that invested in mass marketed investments. So I am intrigued a little by Treasury's use of 37 per cent. I am always prepared to learn more and, if there is better information available, I am happy to receive it. But right now I think it is fundamentally flawed. I will not waste the time of the committee, because I know time is running out. We will get on to investments, I suspect, at some point in time. But if there is some reference material that I can read as to how the 37 per cent was arrived at, I would be interested in receiving it. Minister, you might be able to arrange that for me.

**Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation)** (5.03 p.m.)—I will try to arrange through Senator Coonan's office to get Treasury to explain how they got to that. I would just quickly point out, though, Senator Murphy, that a lot of the investors are companies that have a 30 per cent tax rate. So if you average the 30s, the 40s and the 48s, Treasury have done the analysis to get to 37 per cent. But just remember, 30 per cent for companies will bring it down.

**Senator BROWN (Tasmania)** (5.03 p.m.)—On my estimate, using this document, there is an additional 50,000 hectares to be planted. That costs \$5,000 a hectare minimum. At the marginal tax rate of 37 per cent—if we adopt that—the additional cost is \$93 million per annum. Is there some fault in that estimation that the minister might see?

**Senator O'BRIEN (Tasmania)** (5.04 p.m.)—I did not intend to re-enter the debate, but I want to put one more thing on the record. In relation to the sunset clause provisions which were passed, we envisage that this legislation, or its impact, will be reviewed. One of the areas for consideration will be the area that is the subject of this amendment. Whether that is any assistance to Senator Murray or not, I am not sure, but I wanted to make sure it was on the record that the very question that is the subject of this amendment we are not prepared to support at

this stage. We would obviously think, in a thorough review of this taxation measure, this principle ought to be reviewed as well.

Question negatived.

**Senator BROWN (Tasmania)** (5.05 p.m.)—by leave—I move Australian Greens amendments (1) and (2) on sheet 2476:

(1) Schedule 1, item 1, page 3 (after line 25), after paragraph (a), insert:

- (aa) the agreement must certify that no significant native vegetation will be destroyed for the purpose of carrying out the seasonally dependent agronomic activity for which the expenditure is incurred; and
- (ab) the agreement must certify that the land on which the seasonally dependent agronomic activities are to be carried out did not carry significant native vegetation in the five years prior to the activities being undertaken;

Note: For the purposes of paragraphs (aa) and (ab) *significant native vegetation* means:

- (a) any area of vegetation primarily composed of plants that are indigenous to the land in question, including trees, shrubs, herbs and grasses greater than 0.2 hectares in extent;
- (b) native trees with significant value as nesting, roosting or feeding sites for native animals.

(2) Schedule 1, item 1, page 3 (after line 25), after paragraph (a), insert:

- (ac) the agreement must certify that employees and contractors engaged to undertake the seasonally dependent agronomic activities will receive all payments and other benefits to which they are entitled if their employment or contract is terminated; and

The first Greens amendment is similar but more extensive than that just moved by the Democrats. You will note that it says that any area of significant native vegetation—that is, vegetation primarily composed of plants that are indigenous and includes trees, shrubs, herbs and grasses—and native trees have

significant value as nesting, roosting and feeding sites for native animals, requires certification that there has been an environmental assessment before the largesse of this legislation applies.

The second amendment is one that the Labor Party will, of course, support because it safeguards employees. It says that the agreement that is entered into must certify that employees and contractors engaged to undertake the seasonally dependent agronomic activities that are cited will receive all payments and other benefits to which they are entitled if their employment or contract is terminated. I was, of course, joking: this is a worker protection amendment and Labor will oppose it, along with their colleagues in the Liberal and National parties. I did note the minister's acceptance of the figures that I put forward earlier—that the cost is actually an additional \$93 million per annum.

**Senator IAN MACDONALD (Queensland—Minister for Forestry and Conservation)** (5.07 p.m.)—For the reasons I mentioned previously in relation to Senator Murray's amendment, we will not be supporting amendment (1). In relation to amendment (2), if Senator Brown believes in that, there is other appropriate legislation where that should be dealt with. For that reason, I will not be supporting it here. Without bringing a discordant note to this debate, Senator Brown telling people that because I do not respond to some of his more outlandish claims means I accept them is simply not correct. As I pointed out on so many occasions in the regional forest agreements debate, Senator Brown often misrepresents the truth, deliberately or otherwise.

**The CHAIRMAN**—Senator Macdonald, please be careful. You are getting very close to reflecting upon a member in this place. I ask you to exercise some caution.

**Senator IAN MACDONALD**—Thank you, Madam Chairman. The facts are misrepresented and I made that quite clear by demonstration during debate on the **Regional Forest Agreements Bill 2002**. It would only be on a very rare occasion that I would accept anything that Senator Brown said.

**Senator MURRAY (Western Australia)** (5.08 p.m.)—For the record, item (1) that Senator Brown is proposing is obviously very much in line with an expanded version of what we put forward. We obviously support it.

**Senator O'BRIEN (Tasmania)** (5.08 p.m.)—Senator Brown is correct; we will not be supporting these amendments. In particular, paragraph (ab) seeks to impose a provision—I really wonder how it could possibly be complied with with any certainty—which states:

Certify that the land on which the seasonally dependent agronomic activities are to be carried out did not carry significant native vegetation in the five years prior to the activities being undertaken. It is time machine stuff—to be frank. If, for example, the land had been subject to an extremely hot fire and nothing was left, how would you do that? This provision would make it impossible for land to be certified as having been free of that vegetation for five years unless one was carrying out a month by month assessment of the land for five years before its use. I do not think that is practical. In relation to (2), we certainly believe that all these operations should be conducted according to law, which means that the employees are entitled to receive all payments and other benefits if their employment or contract is terminated. We think that is already covered by law and to pass it here would simply be superfluous and an unnecessary provision.

**Senator BROWN (Tasmania)** (5.11 p.m.)—If there is no trouble with safeguarding the workers, then the Labor Party should endorse it, but they will not. Senator O'Brien has an inability to think about the environment. He is actually onto the reason for this. For example, if a place is burnt, you do not assess that as being its ecological value; you look at the ecosystem that has been there and will regenerate. Nature is a marvellous regenerator and the assessment must be made on an area's ecosystem potential. I do not expect Senator O'Brien to understand that. The arguments he puts forward against Labor supporting both clauses are very short indeed.

Question negatived.

Bill, as amended, agreed to.

Bill reported.

#### **Adoption of Report**

**Senator IAN MACDONALD** (Queensland—Minister for Forestry and Conservation) (5.11 p.m.)—I move:

That the report of the committee be adopted.

**Senator MURRAY** (Western Australia) (5.12 p.m.)—For the record, the Democrats would have supported this bill if our amendment on sheet 2495 had been accepted.

Question agreed to.

#### **Third Reading**

**Senator IAN MACDONALD** (Queensland—Minister for Forestry and Conservation) (5.12 p.m.)—I move:

That this bill be now read a third time.

**Senator BROWN** (Tasmania) (5.12 p.m.)—The Australian Greens oppose this bill.

Question agreed to.

Bill read a third time.

### **QUARANTINE AMENDMENT BILL 2002**

#### **Second Reading**

Debate resumed.

**Senator O'BRIEN** (Tasmania) (5.13 p.m.)—I was going to present a full speech on the Quarantine Amendment Bill 2002—there are quite a lot of things to say—but I am mindful of the time and the progress we are making. In relation to amendments which have been circulated, I will make contributions on those in the committee stage and seek leave to incorporate my speech on the second reading debate.

Leave granted.

*The speech read as follows—*

This Bill was introduced into the House of Representatives only last Thursday.

A draft of the Bill and a short briefing note was provided to me prior to its introduction.

The Minister also offered me a briefing on the legislation. The first opportunity for that briefing was on Tuesday 19 March.

While simple in its form this is an important piece of legislation that should be given proper consideration by this parliament.

The timetable the Government is working to is unacceptable to the Opposition.

As I said the Bill was only introduced into the other place last Thursday.

We are now debating this Bill today just seven days later.

The Government then told us it wanted the Bill treated as non-controversial legislation in this place with both its introduction and passage before question time today.

That is not good government.

This Bill provides for the Minister, following the Governor-General's declaration by proclamation, to provide authority to exercise coordinated response powers to deal with an epidemic, or the danger of an epidemic, which has the potential to affect a primary industry of national significance.

It also amends the scope of quarantine to put beyond doubt that quarantine measures extend to the destruction of animals, plants or other goods or things and the destruction of premises.

The Bill also extends to a range of matters for which the Commonwealth may enter into arrangements with the States and Territories.

It also creates a new offence for commercial smuggling that will carry a maximum penalty 10 years imprisonment and/or 2000 penalty units for individuals and 10,000 penalty units for corporations.

And it makes some technical adjustments to the existing illegal importation and removal offences in the Quarantine Act 1908 in accordance with the Criminal Code 1995.

The Council of Australian Governments agreed in June 2001 to the need for continued high priority review and revision of national whole of government frameworks in relation to a major emergency animal disease outbreak such as foot and mouth disease.

As part of that process the Commonwealth, the States, the Territories and industry have been reviewing these frameworks and legislation in relation to the necessary powers to ensure rapid, effective and nationally consistent response measures.

As animal production and health issues are regarded as the responsibility of the States and Territories, it is predominantly State and Territory animal health Acts which will be utilised in the event of an emergency.

However, any such response will require consistency of approach by the States, Territories and the Commonwealth.

This Bill will amend the Act to provide for the Commonwealth to authorise State and Territory agencies to take necessary actions under Commonwealth quarantine powers known as coordinated response powers.

The coordinated response powers will allow the Minister to authorise persons who are the executive heads of national response agencies to give such directions and take such action as the persons think necessary to control, eradicate or remove the danger of the epidemic by quarantine measures or measures incidental to quarantine.

On the face of it those are wide ranging powers that require careful consideration by this parliament.

According to the Government these are not powers to be imposed on the States and Territories but rather the provision of additional powers to them, if and when they are considered necessary.

According to the Government the guidelines are yet to be formulated by the States, Territories and the Commonwealth to provide processes by which the powers provided in this Bill are to be utilised.

The manner in which this legislation is to operate—that is the shifting of certain powers from the Commonwealth to the states and territories—is therefore yet to be determined.

That detail must be an essential part of the consideration of these proposed new arrangements but we are being asked to tick this off sight unseen.

According to the Government the states and the territories support the amendments.

The important questions for the states and the territories are do they agree on guidelines to be followed in the application of this new power.

That is a question that cannot be answered because negotiations on these guidelines have not yet actually commenced.

The Bill also raises a number of important issues relating to the relationship between the Commonwealth and the States that may have implications beyond the management of an animal disease outbreak.

Labor supported the Bill in the other place and will support it in the Senate.

**Senator BROWN (Tasmania)** (5.13 p.m.)—The very important amendment that the Greens will be putting to this legislation is to ensure that the ecological as well as the

economic component of threat to the nation is taken into account. The **Quarantine Amendment Bill 2002** is an important piece of legislation. Effectively, it is to bring into play national emergency measures where a primary industry is threatened by some form of pathogen coming from outside. One just has to think of the cane toad—which was deliberately brought to Australia and is now invading Kakadu and heading for Darwin—to see how important it is that we stop that process at the outset, or indeed the present huge crisis in Tasmania with, it appears, the deliberate introduction of foxes. We have to look beyond primary industry to our ecological systems, and the Greens amendments do that. They do not detract from this legislation; they add to it. They add an enormously important national component of responsibility by saying that, where an ecological community of national significance is threatened by some imported pest, we will take emergency action to stop it. Ultimately, that is good economic as well as good environmental sense and I recommend those amendments to all members of the chamber.

**Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry)** (5.15 p.m.)—I too will not delay the Senate other than to say that I will have some further comments to make on the amendments in the committee stage of the bill. I do commend the bill to the Senate; it is very important for Australia's primary industries.

Question agreed to.

Bill read a second time.

### In Committee

Bill—by leave—taken as a whole.

**Senator BROWN (Tasmania)** (5.16 p.m.)—by leave—I move Greens amendments (1) and (2):

- (1) Schedule 1, item 1, page 3 (lines 11 to 17), omit subsection (2A), substitute:
- (2A) If the Governor-General is satisfied that the epidemic or danger of an epidemic to which a proclamation issued under subsection (1) relates has the potential so to affect an industry or ecological community of national significance that it calls for the exercise of coordinated response powers in accordance with

section 3, the Governor-General may, in the proclamation issued under subsection (1), declare it to be a proclamation to which section 3 applies.

(2) Schedule 1, item 6, page 7 (after line 12), before the definition of *industry of national significance*, insert:

*ecological community of national significance* means any ecological community the disruption of which would be a matter of national significance.

I simply reiterate to the committee, as we were all present, the comments I made a few moments ago in the second reading debate. I commend the Greens amendments very strongly. These are very important amendments; they enhance this bill and in no way detract from it.

**Senator O'BRIEN (Tasmania)** (5.16 p.m.)—I know that I am speaking to another amendment now, but I just want to put my amendment in context. The opposition has proposed an amendment to this legislation that will have the following effect: if the government does not reach agreement with all the states and territories on guidelines for a cooperative approach in relation to the control and eradication of epidemics and the removal of the danger of epidemics, including guidelines for the exercise of a quarantine measure or measures incidental to that purpose, then the provisions of the bill which go to those measures will cease to have effect in 18 months.

I am not certain whether the intent of these provisions that may be amended goes to the issue that Senator Brown raises. In relation to the inclusion of the words ‘ecological community of national significance’, I really am uncertain whether the intention of the bill goes to the same extent as this amendment proposes. It may be that these matters will be considered in discussions between the Commonwealth and the states and territories about the guidelines for the implementation of these provisions, but it is my understanding that that is not the intention of the Commonwealth. Although I do not know at this stage, I suspect that it is not the intention of the states either in relation to these matters.

Senator Brown might say, ‘Of course it would be if this amendment were carried.’ I guess that begs the question as to whether it is intended that these sorts of powers be included in this legislation or whether it might be more appropriate to consider them in the Environment Protection and Biodiversity Conservation Act. That is a matter which, in the context of dealing with this legislation in the very short time that we have had to consider it, causes the opposition some concern. The reason for that is that it is stepping beyond what we understand to be the area of intention of the act. We would not be minded to support this. However, I do think it is incumbent upon the government, in discussion with the states, to consider the ramifications of this legislation. For example, one of the actions which might be authorised and put beyond law in relation to the activities of authorised persons might be the destruction of communities of native animals because their presence might cause the dangerous spread of an epidemic.

I think it is appropriate to consider those factors and deal with them in the guidelines which I understand the Commonwealth intends to develop with the states. There is no doubt that, if that were to occur—and I hope that nothing occurs under these provisions and that they are never used, because we do not want to have an epidemic which would warrant a declaration by the Governor-General and the actions envisaged by this legislation—those sorts of consequences may well be considered. I would strongly urge the Commonwealth to contemplate those in any discussions it has with the states. It may well be—I suspect that it is, but I am open to argument that it is not—that actions which might be in breach of, for example, the Environment Protection and Biodiversity Conservation Act would be put beyond breach by virtue of the operation of these provisions.

In my speech during the second reading debate—which I have tabled and so people have not read it; but if they do ever bother to, they will see that we have only had since last Thursday to consider this legislation—I talked about the passage of this bill. It needs to be pursued so that, in the unlikely event that something does happen, there are these

provisions available. When I come to our amendment I will explain why we are proceeding down that path to ensure that the bill is immediately available but subject to some constraint.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.22 p.m.)—I would like to comment briefly on the government's reaction to the two separate groups of amendments being proposed. With regard to the amendments moved by Senator Brown, he should understand that the measures proposed in this bill have been developed specifically to protect primary industries of national significance in the light of the foot-and-mouth disease experience in the UK. The amendments in this bill have not been developed to deal with the protection of ecological communities. Whether there is a need for emergency measures of that character would need separate and detailed consideration and, as Senator O'Brien has pointed out, it should be borne in mind that separate legislation in the form of the EPBC Act already exists to protect the environment. We do not consider these Greens amendments a suitable application of those concerns in this legislative framework.

The government do not want this bill delayed, with Australia's primary industry being potentially at risk. As Senator O'Brien has pointed out, we feel that it is very necessary to have this bill passed at this time. We do not feel that we need to consider non-essential amendments at this time. For those reasons, we are prepared to agree to the opposition's proposed amendment for the sake of expediency. We do not want this bill delayed, with Australia's primary industry potentially at risk. For that reason, we will be agreeing with the opposition's proposed amendment.

**Senator CHERRY** (Queensland) (5.23 p.m.)—The Democrats will also be supporting the amendment to be moved by Senator O'Brien, and we were pleased to note that the government has agreed to support it. I have no instructions on the amendments moved by Senator Brown. I saw them for the first time as I walked into the chamber, and I think the fact that Senator Brown did not

discuss the amendments with the Democrats indicates a level of some courtesy towards us on his part. As I have no instructions on those amendments, I propose not to support them.

Question negatived.

**Senator O'BRIEN** (Tasmania) (5.24 p.m.)—I move opposition amendment (1) on sheet Br2492:

(1) Schedule 1, Part 1, page 9 (after line 30), at the end of the Part, add:

17A Amendments made by items 1 to 17 cease to have effect in certain circumstances

The amendments made by items 1 to 17 of this Schedule cease to operate at the expiration of 18 months after the commencement of this Part unless the Commonwealth, within that period:

(a) has developed, in consultation with all of the States, the Australian Capital Territory and the Northern Territory, agreed guidelines for a cooperative approach between the Commonwealth, those States and those Territories, for the control and eradication of epidemics, and the removal of the danger of epidemics, including guidelines for the exercise of quarantine measure or measures incidental to quarantine in accordance with the *Quarantine Act 1908* for that purpose; and

(b) has laid a copy of the guidelines before each House of the Parliament.

Briefly, Senator Troeth has indicated the government will support this amendment, perhaps for expediency. We think it needs to be moved for reasons other than expediency. In some respects, this bill creates very extensive powers, the detail of which does not appear in the bill. Examples of the powers it creates include the power to compulsorily destroy animals and property, and, in my view, the power to destroy areas of habitat and the power to restrain the movement of people. No doubt all those things will be fleshed out in discussions between the Commonwealth and the states, and guidelines promulgated in that regard will make clearer just how it is intended this bill will operate in a practical sense.

We have proposed an amendment which requires that the guidelines, once agreement is reached on them, be produced to the par-

liament. If it is the case that no agreement is reached within a period of 18 months—that period was suggested as a compromise by the government—then these very onerous provisions would cease to operate. I take it, from the fact that they have agreed to the period of 18 months, that the government believe it is a doable task. It is not our intention to prevent this legislation from operating but, if differences between the Commonwealth and the states are such that on this important issue they cannot reach agreement within 18 months, I think it is incumbent upon the government to come back to the Senate and explain why.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendment; report adopted.

### Third Reading

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.27 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

*(Quorum formed)*

## THERAPEUTIC GOODS AMENDMENT BILL (NO. 1) 2002

### Second Reading

Debate resumed from 20 March, on motion by **Senator Abetz**:

That this bill be now read a second time.

*(Quorum formed)*

**Senator LEES** (South Australia) (5.30 p.m.)—I wish to express, in the second reading stage, some concerns relating to the Therapeutic Goods Amendment Bill (No. 1) 2002. This is a very good example of a bill that should not be rushed, but as we all know it is certainly being rushed through. It was exempted from the cut-off and is now being put through in a manner and in a space of time in which we are unable to put it through a full committee process. It is a relatively simple piece of legislation but one that requires full consideration, given its nature. It allows the government to simply determine what is a potential threat to Australia is and

then, basically, circumvent the Therapeutic Goods Act by not putting materials or goods through the normal processes if the government decides they are necessary to respond to a potential threat.

The Minister for Health and Ageing can basically do what she—or perhaps in the future he—likes. She can impose time limits and revoke exemptions. All sorts of decisions can be made. The bill gives the minister enormous power. There is no disallowable instrument. Hence, I will be moving some amendments in the committee stage to try to get to a situation where at least there is some parliamentary examination of what the government is planning to do. If there had been a proper committee process, quite a number of organisations would have liked to have discussed with government the types of goods they imagine would need to be rushed through to either be imported or manufactured here—goods that should not go through the normal therapeutic goods processes. We are short of time to even discuss the bill in this chamber, but I will foreshadow some questions, if I may, to the parliamentary secretary and ask for some examples of what exactly the government foresees as a potential threat and some examples of the sorts of material the government thinks would not need to go through the therapeutic goods processes at all.

It certainly is a major cause for concern for us. We understand that the government has an arrangement or has done a deal or whatever with the Labor Party so that the Democrat amendments will not be supported and the powers of the minister will simply be ticked off. I understand the government also has an agreement with the ALP relating to the power of disallowance regarding stockpiling of these hazardous or dangerous goods that have bypassed the processes. I wait with interest to hear the explanation for that.

I really must stress that the Democrats believe that the minister must be accountable to parliament, and he or she will not be. Other than making parliament aware of an exemption, we are not even going to be told exactly what it is. While I understand there are some security concerns in this matter, surely we are able to have a far clearer indication of the

sorts of events that have at least precipitated this sort of action.

In circumstances where there is an ongoing emergency situation and where the threat to public health continues well after that, it may well be appropriate that the Senate and, indeed, the parliament of Australia are involved in ongoing decisions of this nature. But there will be none of that, other than the disallowance motion on actual storage. We are simply not going to be able to respond appropriately.

I will close by saying that this is a very powerful means of putting goods that are potentially dangerous into the Australian community. People in the community, whether they are in the environment movement or the health sector, have not had the opportunity to fully examine what this actually means.

**Senator CHRIS EVANS (Western Australia)** (5.34 p.m.)—The Labor opposition supports the bill, and we will be supporting the bill when we come to the vote. I want to indicate though that we do share some of the concerns of the Democrats about this question of the need for the disallowable instrument in relation to both stockpiling and other matters, and we have been pushing the government to introduce disallowable instrument measures into the bill, to provide those protections we seek. We think the bill would be improved by that.

We are also very conscious of the context in which we are operating and the government's firm view that the original amendments that we were going to proceed with would be rejected when the bill went back to the House of Representatives. We generally reflect the same concerns that Senator Lees has expressed and which are represented in her amendments. We have this afternoon been trying to negotiate with the government, to try to find an outcome which goes some way to meeting our concerns and which also allows the bill to be passed, because Labor is very concerned to ensure that the bill is passed in this sitting. We accept that the government has legitimate reasons for having the legislation passed, and we do not want to delay the bill. In that context, we have been trying to find a way through which

will provide some of the protections with the use of disallowable instruments, particularly in relation to stockpiling, which we have concerns about, but which would also allow the passage of the bill today.

We have been trying to work through that problem, and so we have drafted some amendments of our own, which I think will be agreed to by the government and which will get us to that place. They do not go as far as Senator Lees is advocating we go. Otherwise, I am in complete sympathy with most of the arguments she puts forward, but we are also trying to ensure that we do not unnecessarily delay the bill. I think there is a problem at the moment with the distribution of my amendments. It is hopefully being rectified as we speak. We will be moving those. We are concerned that they do not go quite as far as we would like them to go. As I said, I support the sentiments expressed by Senator Lees, but we are also concerned to make sure that the legislation is passed and that we do not end up with an unnecessary delay.

I will not traverse all the old ground about whether we have had enough sitting time. We have all made those points, but today is the last sitting day of the session. It is unfortunate that already at this time of the year we are having this sort of pressure on the legislative process. Labor will be supporting the bill, but we will be moving amendments at the committee stage which seek to provide some reassurance by virtue of use of a disallowable instrument, without perhaps going as far as Senator Lees would like or Labor would originally have liked.

**Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry)** (5.37 p.m.)—This is important legislation. It will ensure not only that essential unapproved medicines can be rapidly supplied in an actual national emergency but also that any necessary unapproved medicines can be imported or manufactured for stockpiling to meet a potential threat. In answer to Senator Lees's query in her speech, I would like to inform her that the types of products currently being pursued for stockpiling are antibiotics for the treatment of a number of potential biological

weapons such as inhalational anthrax and plague. Those antibiotics are ciprofloxacin, doxycycline and amoxycillin. Technical information is being sought from potential suppliers of old and new types of vaccines for smallpox prior to taking a decision on stockpiling. Other products being pursued for stockpiling are chemical antidotes for treating people affected by the release of nerve agents in a presumed act of terrorism. Internationally, a number of organisations have published lists of essential pharmaceutical treatments for dealing with CBR attacks.

The legislation does recognise that there are risks inherent in allowing unapproved therapeutic goods to be stockpiled or supplied. For this reason the **Therapeutic Goods Amendment Bill (No. 1) 2002** includes a range of provisions to prevent abuse of these new arrangements and to ensure adequate disclosure of the decisions made in relation to those unapproved medicines. I recognise the support of both the opposition and the Democrats for the aims and general application of this bill, but I am disappointed that they plan to move amendments to such a significant bill. I will leave my comments on the amendments themselves until the committee stage.

Question agreed to.

Bill read a second time.

### In Committee

Bill—by leave—taken as a whole.

**Senator LEES (South Australia)** (5.40 p.m.)—by leave—I move Democrat amendments (1) and (2) on sheet 2489 and (1) and (2) on sheet 2479:

- (1) Schedule 1, page 3 (after line 13), after subsection (1), insert:
  - (1A) An exemption in accordance with subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (2) Schedule 1, page 5 (after line 13), after subsection (8), insert:
  - (8A) A variation made in accordance with subsection (8) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act*.
- (1) Schedule 1, page 5 (lines 24 to 31), omit subclause (10), substitute:
  - (10) The Secretary must cause a document setting out particulars of:
    - (a) an exemption under subsection (1); and
    - (b) a revocation or variation under subsection (8);
 to be published in the *Gazette* within 5 working days after the day on which the Minister makes the exemption, revocation or variation. An exemption, or a revocation or variation, is invalid if it fails to comply with this subsection.
- (2) Schedule 1, page 5 (line 33) to page 6 (line 5), omit subclause (11), substitute:
  - (11) The Minister must cause a document setting out particulars of:
    - (a) an exemption under subsection (1); and
    - (b) a revocation or variation under subsection (8);
 to be tabled before each House of the Parliament within 5 sitting days of that House after the day on which the Minister makes the exemption, revocation or variation. An exemption, or a revocation or variation, is invalid if it fails to comply with this subsection.

The amendments are interrelated, and I have already discussed the need that we believe is there for parliamentary scrutiny of the minister's actions. I certainly support government comments that this is a very significant bill. As Senator Evans said, we have in this place been over again and again the fact that we are basically sitting for six weeks in eight months. Here we have a very good example of why we need some extra sitting time. If we had more sitting time, we could put this through the normal committee processes. We could have before the committee not only people with expertise in areas such as antibiotics—some of whom I imagine would certainly have already been through approval processes—but also people from organisations concerned about the stockpiling of some of the chemical agents in particular. I conclude by saying that we will be supporting the Labor amendments. We believe they are at least a very small step along the right road, but we are disappointed at some of the

comments from Labor that they will not be supporting our amendments.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.41 p.m.)—We will not be supporting the Democrat amendments regarding tabling and gazettal. They are particularly concerning and would have the effect of placing in doubt the validity of actions taken to exempt unapproved medicines. The consequences of having the exemption decision challenged on the ground that the decision is invalid are very concerning because the powers already exercised to regulate and control the exempt medicines would be at risk. We are not prepared to let that happen. There are very good reasons for rejecting those amendments.

Question negatived.

**Senator CHRIS EVANS** (Western Australia) (5.43 p.m.)—by leave—I move opposition amendments (1), (2) and (3):

(1) Schedule 1, item 1, page 5 (after line 22), after subsection (9), insert:

*Exemption etc. to be disallowable*

- (9A) An exemption covered by paragraph (2)(a), and a revocation or variation under subsection (8) of an exemption covered by paragraph (2)(a), are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (2) Schedule 1, item 1, page 5 (lines 25 and 26), omit paragraphs (a) and (b), substitute:
  - (a) an exemption covered by paragraph (2)(b); and
  - (b) a revocation or variation under subsection (8) of an exemption covered by paragraph (2)(b);
- (3) Schedule 1, item 1, page 5 (lines 34 and 35), omit paragraphs (a) and (b), substitute:
  - (a) an exemption covered by paragraph (2)(b); and
  - (b) a revocation or variation under subsection (8) of an exemption covered by paragraph (2)(b);

In moving these amendments, I accept the sentiments behind Senator Lees's motion. I think I have already explained why Labor has adopted a middle course. Our amendments provide that the disallowable instru-

ment applies to the exemption the minister has in relation to stockpiling but not in relation to the emergency importation. We would have preferred that both aspects of the minister's power were disallowable. The government indicated that it was not prepared to accept any disallowable instrument in terms of the emergency importation. On balance, we have gone for the middle road, although we have concerns that the current bill says that the exemption is not invalidated, even if they are not tabled, which we think is a flaw in the legislation. The effect of our amendments is to provide for a disallowable instrument under (1) to the stockpile—any action taken in terms of stockpiling of anthrax. Amendments (2) and (3) are just consequential upon that. The effect of the amendments is to provide for a disallowable instrument in relation to stockpiling, and I urge the Senate to support the amendments.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.44 p.m.)—The government will agree to the opposition amendments. We do not consider these amendments to be necessary, but we have agreed to this change in the interests of getting this important piece of legislation through parliament in a speedy manner. Perhaps I could also say that parliament should be aware that any exercise of a power to disallow should not be taken lightly. The consequences of any disallowance of a decision to exempt goods may remove the minister's power to control the previously exempted goods that are already in Australia under the terms of the condition attaching to the exemption.

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) (5.45 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

**STATES GRANTS (PRIMARY AND  
SECONDARY EDUCATION  
ASSISTANCE) AMENDMENT BILL  
2002**

**Consideration of House of Representatives  
Message**

Message received from the House of Representatives returning the States Grants (Primary and Secondary Education Assistance) Amendment Bill 2002, acquainting the Senate that the House has agreed to amendment (10) made by the Senate, disagreed to amendments (1) to (9), and requesting the reconsideration of the amendments disagreed to.

Ordered that the message be considered in Committee of the Whole immediately.

*House of Representatives message—*

**Schedule of the amendments made by the Senate to which the House of Representatives has disagreed.**

(1) Dem (1) [Sheet 2440 Revised]

Schedule 1, page 3 (after line 5), before item 1, insert:

**1A After paragraph 15(b)**

Insert:

(ba) The prescribed requirements for performance information to be reported in accordance with paragraph 15(b) shall include a requirement to report annually on progress being made to implement the detailed plan setting out the procedures for dealing with the physical, sexual and emotional abuse of students required by section 15A.

(2) Dem (2) [Sheet 2440 Revised]

Schedule 1, page 3 (after line 5), before item 1, insert:

**1B After section 15**

Insert:

**15A Specific condition: responsibilities of States in dealing with abuse of students**

(1) A further condition is that a State must do each of the following not later than a date or dates determined by the Minister for the purposes of each paragraph:

(a) provide to the Minister a report on the administration of such legislation as is administered by the State

relating to the protection of children and young persons in government and non-government schools;

- (b) provide to the Minister a detailed plan setting out the procedures for and responsibilities of government schools in dealing with the physical, sexual and emotional abuse of students, either within or outside schools.
- (2) A plan provided in accordance with paragraph (1)(b) must:
  - (a) indicate the ways in which government schools will seek to create an anti-abuse environment; and
  - (b) indicate the means by which government schools will communicate with students about their rights in relation to abuse; and
  - (c) indicate how the plan will be implemented; and
  - (d) be reviewed at least every four years by the Minister, with the first review being completed before the expiration of the 2008 program year; and
  - (e) be approved by the Minister; and
  - (f) be in accordance with the standards set out in the regulations to this Act.
- (3) A further condition is that a State must have enacted legislation requiring the protection of children and young persons to receive grants in accordance with this Act.
- (4) A further condition is that a current law of the State must require that teachers promptly report instances of abuse of students of which they become aware in the course of their employment.
- (5) The requirement in subsection (4) to report may be either a requirement to report to the police or to a relevant government department or agency.
- (6) The Minister shall consult with the relevant State Ministers about the application of the legislation referred to in subsection (4) to other employees of schools in addition to teachers.
- (7) The conditions in this section are to apply to payments made to a State from the beginning of the program year 2003.
- (8) This section is not intended to exclude or limit the concurrent operation of any law of a State or Territory.

(3) Dem (R3) [Sheet 2440 Revised]  
 Schedule 1, page 3 (after line 5), before item 1, insert:

**1C After paragraph 23(b)**

Insert:

(ba) The prescribed requirements for performance information to be reported in accordance with paragraph 23(b) shall include a requirement to report annually on progress being made to implement the detailed plan setting out the procedures for dealing with the physical, sexual and emotional abuse of students required by section 23A.

(4) Dem (4) [Sheet 2440 Revised]  
 Schedule 1, page 3 (after line 5), before item 1, insert:

**1D After section 23**

Insert:

**23A Specific condition: responsibilities of relevant authorities in dealing with abuse of students**

(1) A section 18 agreement must require the relevant authority to provide to the Minister not later than a date determined by the Minister a detailed plan setting out the procedures for and responsibilities of schools for which it is the relevant authority for the purpose of this section (*relevant schools*) in dealing with the physical, sexual and emotional abuse of students, either within or outside schools.

(2) A plan provided in accordance with subsection (1) must:

- (a) indicate the ways in which the relevant schools will seek to create an anti-abuse environment; and
- (b) indicate the means by which the relevant schools will communicate with students about their rights in relation to abuse; and
- (c) indicate how the plan will be implemented; and
- (d) be reviewed at least every four years by the Minister, with the first review being completed before the expiration of the 2008 program year; and
- (e) be approved by the Minister; and
- (f) be in accordance with the standards set out in the regulations to this Act.

(3) The conditions in this section are to apply to payments to a State from the beginning of the program year 2003.

(4) This section is not intended to exclude or limit the concurrent operation of any law of a State or Territory.

(5) Opp (1) [Sheet 2442]

Schedule 1, item 1, page 4 (after line 9), after subsection (4), insert:

(4A) Where the Minister varies the list in accordance with this section, the Minister must do so in accordance with such criteria for the identification of a new school as shall be prescribed.

(6) Opp (3) [Sheet 2442]

Schedule 1, item 1, page 4 (lines 16 to 21), omit the definition of *establishment amount*, substitute the following definition:

*establishment amount* for the program year is as prescribed in accordance with the principle that the amount of a grant allocated to each school will be in direct proportion to the SES score for the school set out in Schedule 4 of this Act so that the largest grant is made to the school with the lowest ranked SES score and the smallest grant is made to the school with the highest ranked SES score.

(7) Opp (4) [Sheet 2442]

Schedule 1, item 1, page 4 (line 28) to page 5 (line 2), omit the definition of *establishment amount*, substitute the following definition:

*establishment amount* for the program year is as prescribed in accordance with the principle that the amount of a grant allocated to each school will be in direct proportion to the SES score for the school set out in Schedule 4 of this Act so that the largest grant is made to the school with the lowest ranked SES score and the smallest grant is made to the school with the highest ranked SES score.

(8) Opp (2) [Sheet 2442]

Schedule 1, item 1, page 5 (after line 2), after subsection (6), insert:

(7) Expenditure of a payment made in accordance with this section shall be restricted to the purposes of such recurrent establishment costs as may be prescribed.

## (9) Opp (5) [Sheet 2442]

Schedule 1, item 1, page 5 (after line 2), after subsection (6), insert:

(8) A school is ineligible for establishment grant funding where:

- the school derives income from student fees; and
- the average level of the amount of fees derived by a school in paragraph (a) is equal to or in excess of the amount equivalent to per capita AGSRC.

**Reasons of the House of Representatives for disagreeing to the amendments of the Senate**

**Senate Amendment Nos 1, 2, 3 and 4**

These amendments passed by the Senate deal with the safeguarding of students' physical and emotional well-being in schools, which is a substantive issue that has much merit. The Government is strongly supportive of the principle of schools as a safe learning environment, principles set out in the *National Goals for Schooling in the 21st Century*, and which all government and non-government authorities are committed to, in strategies to deal with bullying and to stamp out paedophilia.

The Senate amendment is wrongly placed at this point. Such an important national issue needs to be addressed through a process of national collaboration with all States and Territories and non-government education authorities. For the procedures outlined by the Senate to operate effectively, the commitment of all government and non-government school authorities will be essential. The Commonwealth has written to State Education Ministers, the National Catholic Education Commission and the National Council of Independent Schools Association about this issue and will be raising the issue at the 18-19 July meeting of the Ministerial Council on Education, Employment, Training and Youth Affairs.

Accordingly, the House of Representatives does not accept these amendments.

**Senate Amendment Nos 5, 6, 7, 8 and 9**

These amendments would require criteria to be prescribed for the identification of new schools; for expenditure of grants to be restricted to prescribed purposes; for establishment grants to be paid on a sliding scale related to the schools' SES scores; and for eligibility for grants to be related to the level of student fees charged by the schools.

The proposed amendments in effect ask the Commonwealth to introduce unwieldy administrative complexity and duplication of State and Territory processes. This calls into question the capacity of State and Territory Education Departments administrative processes. All State and Territory governments own, operate and manage large schools systems and have the statutory responsibility to register all schools.

The 58 existing schools have an entitlement to \$750 for each student at their school. The effect of the introduction of a sliding scale would be to reduce funding to 52 of these schools by amounts ranging from moderate to significant.

Accordingly, the House of Representatives does not accept these amendments.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.47 p.m.)—I move:

That the committee does not insist on the Senate amendments disagreed to by the House of Representatives.

**Senator CARR** (Victoria) (5.47 p.m.)—The opposition will not be pressing the amendments. I just indicate that there are considerable problems. We are very unhappy about not having our amendments accepted. However, the operation of the review in terms of the agreements that have been struck, I believe, will provide an opportunity to address some of the real concerns that people have about this particular measure. I seek to leave to incorporate my reasons for our decision.

Leave granted.

*The reasons read as follows—*

Madam President, the bill before the Senate provides for funding for the program of Establishment Grants. This program has now been before Parliament four times.

- The first time, in 2000, the Government failed to allocate enough money—by a factor, they said later, as high as 300%;
- The second time, they tried to tuck the relevant clauses away in a huge omnibus bill on research funding and innovation the *Innovation and Education Legislation Amendment Bill 2001*. This bill was the vehicle for the Government's much-vaunted Innovation Package, its flagship policy initiative for higher education. The Opposition requested that the two entirely unrelated matters dealt

with in the bill—university research funding and policy on the one hand, and funding for private schools on the other. The Government, despite its pride in the Innovation Package, refused to take the bill to its conclusion—over the issue of Establishment Grant funding levels. It did this rather than accede to the Opposition's demand that the bill be split appropriately into two.

- Later in 2001, the Government at last did what the Opposition had suggested—it split the bill. And, because the Government was again intransigent over Labor's amendments, the bill failed to pass through the two Houses before Parliament was pirogued.
- Now we have it back for a fourth time. A bad penny always turns up, as they used to say before decimal currency.

#### Cost

Initially, the Government thought that this program would cost a bit over \$4 million over four years. But only a few months later it decided that it had been wrong—that it had vastly underestimated the likely cost. In panic, it tried to legislate not for \$4 million, but for \$14 million. New schools, it said, were now, suddenly, on average much bigger than it had thought. So big that one of them mysteriously appeared on the scene in Western Australia—a brand new school with 837 students! We now know that this, and several other so-called “new” schools were not new at all.

Now the Government has revised its estimate for the four-year cost down a little—back to just under \$12 million. Perhaps it is not expecting any giant schools mysteriously heaving into sight on the horizon before 2005.

But the rubbery estimates associated with this program over the last year don't inspire confidence. It is clear that, here, the Government and its executive arm, the Department, have been wrestling with a program that embodies some fundamental flaws.

#### New form

But this time the bill is in a new form. The Government has given up—as a bad joke—its futile attempts to predict with accuracy exactly how much to allocate for what is essentially an open-ended program, an open-ended commitment.

Instead of nominating global amounts for successive years for this program, the Government has presented us with a per capita formula. This underlines the fact that, here, we are asking the taxpayer to foot a bill for establishment grant funding for new private schools that has no real cap or limit.

The Opposition is uneasy about this. We are uneasy because what it underlines for us is that the program, as it stands at the moment, and in particular the administrative framework that surrounds it, is shaky. It is less than satisfactory.

The fact that the Government has been unable to make up its mind how much this program would cost, and has resorted to an uncapped per capita formula as expressed in this bill, this fact shows that the program as conceived has serious problems.

#### Labor's commitment

Madam President, Labor is committed to providing the assistance promised by the Government to the deserving, genuine new schools that are expecting monies under this program. We believe that *all* schools—not just private schools—face additional costs when they are struggling to establish themselves.

The Government has consistently tried to portray the Opposition as opposing Establishment Grant funding for struggling schools that serve relatively poor communities.

We do not oppose this funding, and never have done so.

#### The problems

However, we have also been consistent ourselves: ever since they became apparent in early 2001, we have consistently pointed to anomalies in this program as conceived by the Government. We have consistently pointed out problems with its administration. We have been consistent in demonstrating that the guidelines for this very program were being flouted by the Government's Departmental officers in administering it.

This meant that:

- What were essentially new campuses of existing schools were provided with establishment Grants;
- A school that did little more than change its ownership and Board of Governors was funded;
- Long-established preschools extending their offerings by one year (to six-year-olds) were funded;
- For-profit schools were apparently funded.

The problems were there. They still are, the Opposition maintains.

Our suite of amendments was designed to address these problems in a genuine and serious manner.

#### Labor's amendments

We are extremely disappointed in the Government's refusal to countenance all but one of these

amendments. As I say, the amendments intended to strengthen this legislation and to strengthen this program. Their purpose was to address the very weaknesses and anomalies I have been discussing.

They dealt with the lack of clear, coherent eligibility criteria to define “new” schools as eligible for an Establishment Grant.

The amendments also dealt with the inherent inequity in the program as conceived by the Government. They went to the issue of inequity in that the Government’s program provides for a flat per capita amount for *all* eligible private schools—rich and poor alike.

So Reddam House School in Sydney, with its marble bathrooms, its café and its TV studio, gets the same amount per student as the Ballarat Steiner School that he opened up in the church hall at Bungaree. The Aboriginal school in the Kimberley receives the same amount per child as the opulent private school set up on the campus of Murdoch University down south in Perth.

And schools that charge fees well above the average per-student amount provided for public schools—up to \$11,500 per year in the case of Reddam House—these schools receive the same as the very low-fee schools catering to families that can’t even imagine paying that sort of money.

Labor’s amendments would have dealt with these problems by, first, creating a sliding scale of per capita grants that reflects the SES status of each school. Second, our amendments would have denied Establishment Grant funding to schools where high fees were charged, and where, as a consequence, facilities are much more luxurious than those that most Australian children are fortunate enough to enjoy.

#### **Government rejects our amendments**

Our amendments were reasonable and sensible.

Yet the Government chose to reject all but one. We are extremely disappointed, Madam President, that the Government has been so petty-minded and intransigent. There were good reasons to accept our amendments, and the Government knows it. It knows that its program, and its legislation, are seriously flawed.

How do we know this?

We know because the Government did *not* reject the most crucial of our amendments, the one that concedes the point: the provision, inserted in the bill by Labor, calling for a thorough review of the administration of the program before the end of next year.

#### **The review**

This review is the centrepiece of the set of amendments moved by the Opposition. It is at the nub of our concerns and, we are confident, will address the serious problems that Labor has consistently pointed out for over a year.

This review, to be carried out by the Government’s own Department, will go to:

- Eligibility criteria of schools for these grants;
- Accountancy and transparency; and
- Administration of the program.

These are all the issues that we have been tirelessly drawing the Government’s attention to. The very issues about which the Government has been in a state of denial until today. The issues that they went to absurd lengths to sweep under the carpet and to explain away.

Now they have admitted the error of their ways. They have agreed to a review.

This review will be established and carried out in consultation with a representative reference group made up of school authorities and organisations. It will report publicly before the end of 2003.

#### **Policy review**

Madam President, following the Federal Election of last year, Labor has embarked upon a major and, in some ways, sweeping policy review—in all areas of policy.

This policy review will include education. We have committed to a close examination of our approach and of the detail of our policies.

In terms of school funding, we will be looking again at the fundamental issues that underlie our policies. We will be subjecting our assumptions to the clear light of day.

We will not abandon our fundamental principles—the principle of universal access to high-quality public education for all Australian kids, and the principle that all schools should be funded by the Commonwealth on the basis of genuine need.

In fact, the principles of Knowledge Nation, I am sure, will continue to inform our policy approach.

On Establishment Grants, and on policies surrounding the funding of new private schools, Labor will be genuinely seeking policy measures to ensure that there is rationality, prudent planning and equity in the Commonwealth’s approach. The kinds of amendments we have proposed for the legislation before the Senate today, and that the Government has unfortunately rejected, indicate the general directions we might well be looking at.

Our commitment to policy review is genuine.

**The Government's policy failure**

The Government, for its part, has failed comprehensively to meet its responsibilities and to be honest about the problems it has created for itself in the funding of private schools—including new private schools. It has failed to look honestly at its own inadequacies in this area.

These problems and anomalies have been, and are, legion. They have exposed the Government to ridicule. And yet the Government declined to act until forced to do so by the Opposition.

The review of the Establishment Grants program that the Government has now, finally, agreed to is to be welcomed. It is a major victory for the Opposition, and our tireless tenacity in bringing the Government to account.

Labor will not be pressing our other amendments. If this review is undertaken properly, working with a genuinely representative reference group, it will be a major step in strengthening the Establishment Grants program and bringing an end to the problems that have been endemic to this program since its inception.

Question agreed to.

Resolution reported; report adopted.

**APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 2) 2001-2002**

**APPROPRIATION BILL (No. 3) 2001-2002**

**APPROPRIATION BILL (No. 4) 2001-2002**

**Second Reading**

Debate resumed.

**Senator WEST (New South Wales)** (5.49 p.m.)—In the debate on these appropriation bills tonight, I wish to speak briefly about an issue that concerns me and a number of people who are members of the New South Wales State Emergency Service. Last year and early this year, there was a series of very significant fires in New South Wales that led to the destruction of a lot of property and livestock—but, fortunately, no lives. A march was held in Sydney on 8 February, which was an opportunity for the people of Sydney particularly but also of other places to say thank you to the firefighters and other people who had given their time, their experience and their ability so ably to help fight those fires. At that march, Mr Anderson, then

representing the Prime Minister, made an announcement that there would be an ex gratia payment made to volunteer firefighters, those volunteers who belonged to or were registered with firefighting brigades. They were told that they would be eligible to receive an ex gratia payment of up to \$160 a day, in lieu of wages forgone and to help to cover their incidentals.

There has been quite a deal of complaint from the firefighters who at that time were members of the SES, because they were not included in this ex gratia payment. They are upset, because they spent many days also fighting these fires and risking their lives to assist the bush firefighters. In many cases where firefighters are brought down from the rural and regional areas, they often wear two uniforms. It depends on what the emergency is. They might have their yellow uniform on for the firefighting brigade they belong to, or they might have their orange uniform on for the SES. But those who had their SES orange uniform on will not be paid any of the ex gratia payment—and they feel that this is very unfair.

We have just completed the International Year of the Volunteer, and these people—and a lot of other volunteers too; we are talking about a couple of thousand people here—assisted with the water-loading of water bombers, as we saw in the pictures taken of *Elvis*. Many SES people were involved in those logistics. They were also involved in the removal and evacuation of many people, and some of those evacuations took place in very scary situations. One can only pay tribute to the valour of these very heroic people, be they bush fighters or SES and other volunteers. They were also responsible for making sure that the firefighters were fed and watered, and this is an important role as well. But these people are being ignored, and they do not feel particularly happy about it.

The Premier wrote to the Prime Minister, and the Prime Minister has written back saying he is only undertaking the same payment that was paid in 1994 when there was another series of disastrous bushfires in New South Wales. I have been advised by Craig Ronan, the President of the SES Association in New South Wales, that he is aware of a

number of SES volunteers who, in 1994, did receive the ex gratia payment. They are justifiably quite upset about the issue.

Mr Anderson has said the dates for which they could be paid would be 24 December to 16 January. This is fine, but those were the dates when the big fires took place around Sydney. There were many other fires in New South Wales which received a schedule 44 classification, which means they were recognised as serious and dangerous bushfires. One burnt around Yeoval for about three weeks. It burnt out many hectares in a national park and on private land. When it broke out onto private land, it killed many thousands of head of livestock, and a number of houses and vehicles were burnt. Fortunately, again, no life was lost. This one was put out well before 16 January but in fact it had started on about the first or second of December. The big blaze that killed the livestock took place prior to 24 December so those firefighters are not eligible.

There was a significant bushfire in the Oberon area, and those firefighters are not eligible. Another significant bushfire nearly wiped out the small village of Eugowra, and those firefighters are not eligible. It is incumbent upon the Prime Minister to have a review of this. One group of volunteers feel they are being given a privilege above the rest. It is not that the firefighters feel the SES should not be getting it; in fact, the voluntary bushfire association is strongly supporting the request of the SES volunteers and other volunteers. It is very important to make sure this discrimination is corrected.

As I said, the Prime Minister said they did not get it in 1994, but I am told by the SES people that a number of them did receive ex gratia payments. So I think it needs to be revisited. It is an important issue that has a number of people in my area, where I live and work in rural New South Wales, quite upset because they are feeling they have been discriminated against. They feel the fire that occurred at the Goobang National Park around Yeoval and Peak Hill is just not getting any recognition. That lack of recognition upsets them greatly, and I want to see that situation rectified.

**Senator BARTLETT (Queensland)** (5.55 p.m.)—I recognise a number of people are trying to speak on the *Appropriation Bill (No. 3) 2001-2002* before 6.30 p.m. so I will be briefer than I might otherwise have been. I am actually going to speak to the bill for a change. Appropriation Bill (No. 3) 2002 is interesting in a few respects. It appropriates \$5.3 million for the Australian Research Council, \$3½ million of which is a transfer from the old DETYA budget. Senators will be aware that in January this year the Minister for Education, Science and Training, Dr Nelson, instructed the Australian Research Council to devote 33 per cent of the National Competition Competitive Grants program to four priority areas. Whilst there is nothing intrinsically wrong with establishing priorities, there are serious questions as to the process by which the decision was determined, the implications for basic research in other fields, the level of the funds devoted to these four areas and the criteria for assessing the success or otherwise of the strategy.

What this direction to the ARC also indicates is the poverty of the government's approach to an industry policy. Indeed, government control over universities and funding agencies to deliver industry and commercial outcomes has become their *de facto* industry policy. So it will surprise nobody in this House, given recent events, that there is another issue of accountability at stake here. Last year the Senate debated at great length the establishment of the Australian Research Council. I suspect we all thought we were establishing a rather more independent body than what has emerged. Be that as it may, it is required in the act that any direction the minister gives to the ARC must be tabled within 15 sitting days.

Today marks the 14th sitting day of the other place since Minister Nelson gave his direction and we still have not seen any tabled directions. So the Democrats will certainly be very interested to see whether Minister Nelson fulfils his obligations on the first day back on 14 May. He would certainly look a bit silly if we had to move a motion of contempt or sought a civil action to ask the board to disclose the direction. He would look even sillier if a non-government parlia-

mentarian chose to table a copy of the document on the minister's behalf. The bill also appropriates an additional \$21 million for ANSTO, the Australian Nuclear Science and Technology Organisation. I understand none of this money is in the contract for Lucas Heights. Whilst we do not seek to denigrate the many fine scientists, technicians and other staff who work for this organisation, it is well to remind ourselves of the extraordinary secrecy and obfuscation that has gone on concerning the contract for the new reactor with INVAP and the arrangement with COGEMA to preprocess waste.

This week alone, Senator Stott Despoja and Senator Carr have moved returns to order concerning very serious questions about the management of accidents and the viability of the new reactor given the parlous state of the Argentinean economy and thus the efficacy of guarantees of INVAP's long-term capacity to fulfil contractual obligations. What characterised the government's handling of these returns to order was the repeated resort to commercial-in-confidence, national security and confidentiality. With the new information that has come to light from Argentina on the state of the Argentinean economy and the state of the relevant organisation which has tendered for the new reactor, to continually hide behind national security, commercial-in-confidence and confidentiality is simply not good enough from the Democrats' point of view.

It is an issue my colleague Senator Murray has pursued in recent times to try to get a better standard of the application of the principle of commercial-in-confidence. The Democrats recognise there are legitimate occasions when that may apply but it seems quite clear that more and more it is being applied inappropriately as an excuse for keeping things from the public eye. The constant resort to commercial-in-confidence could easily be interpreted as yet another instance of this government's contempt for very important institutions such as the Senate and the parliament and the High Court.

In **Appropriation Bill (No. 4) 2001-2002**, the Department of Family and Community Services is seeking \$226 million for:

Participation in the labour force and community life ... facilitated by income support measures and services that encourage independence and contribution to the community ...

That all sounds very good. It is likely that this will be significantly funding the Australians Working Together program of \$157 million. This program involves extending mutual obligation—and, therefore, breaching—to sole parents by compelling them to attend annual interviews and by compelling sole parents of 13-year-old children to undertake part-time work and training. Whilst a program and the use of money in this direction may sound like a good idea, the potential of it being utilised in the context of greater breaching and an extension of breaching is something of concern to the Democrats.

There is one other line item in the appropriation bills that caught my eye as I was going through them, and it is an issue that the Democrats and others will continue to follow up in the break, while we are not sitting here. As senators would know, I am a member of the so-called 'children overboard' committee—the Senate Select Committee for an Inquiry into a Certain Maritime Incident—which, while it will look at that one incident, is also charged with examining the Pacific solution. Of course, one of the aspects of that is the costs and the impacts.

**Appropriation Bill (No. 3) 2001-2002** provides a bit of the answer, and it is a bit of a tragic answer at that. This bill provides additional funding of \$145 million to address unauthorised arrivals, and that is just over the course of the last six months—it is not even a full year's worth of expenditure. The cost to the Department of Immigration and Multicultural and Indigenous Affairs alone—not to the Department of Foreign Affairs and Trade, not to Defence—for just the initial stages of no longer than six or seven months, in terms of additional funding to address unauthorised arrivals, which is code for establishing Manus Island and Nauru, is \$145 million.

To put that in context, I have just mentioned that the entire Australians Working Together program costs \$157 million. The total investment in the first-year implemen-

tation of the so-called groundbreaking Backing Australia's Ability program was \$155 million, and here we are, throwing \$145 million, less than a year's expenditure—if you extrapolate that figure over 12 months, it would go well over the costs of both of those other programs—simply to allow this government to take asylum seekers away from Australia and assess them somewhere else. As we have seen with the legislation that we passed in this place today, it is quite likely that they will end up back in Australia in various guises anyway.

So, even apart from the inhumanity of this policy and its breaching of international conventions and basic standards of decency, the cost of \$145 million that is contained in this bill to cover little more than six months of expenditure simply shows how far this government is prepared to go to buy an election. There is no-one who could justify this or suggest that it is actually an effective policy to assess people in Nauru rather than in Australia or on Christmas Island and then have them come back to Australia anyway, which is where the refugees will end up. If you think the rest of the world is going to take refugees that are Australia's responsibility, you have got to be joking. We will have the refugees back here anyway, we will have the people who are rejected back here anyway under the legislation we passed this morning, but we will be \$145 million poorer as a consequence—and that is just the immigration department for that six-month period. There are no forward estimates about how much it will continue to cost Immigration and there is no estimation of cost for Foreign Affairs, for Prime Minister and Cabinet or for Defence.

Those are issues that the Senate Select Committee on a Certain Maritime Incident will explore in detail over the course of the next month or so because, quite clearly, there are costs to and operational impacts on the defence forces, in particular, as well as our aid program and our foreign affairs areas in the Pacific region. This is a first indication. If we had a bit more time to explore this issue further, I would do so in the committee stage and, potentially, move an amendment in relation to it. But, yet again, as a symbol of my

cooperation—I have been so cooperative about so many things in the last couple of days, despite this government not deserving it at all—I will not do that. I will provide some space for my opposition colleagues to speak, even though they do not deserve it either, given that they supported the government's bill. But there you go, I will be cooperative with everybody, for reasons that escape me. But it is a serious point to make: \$145 million is being unnecessarily spent to generate extra hardship and to undermine the cooperative global approach to dealing with refugees and asylum seekers. It is hard to think of an example of money less well spent than this. Certainly, this part of the appropriation bill would be one that I personally would not be in favour of letting through.

**Senator CARR (Victoria)** (6.05 p.m.)—I wish to speak on the [Appropriation Bill \(No. 3\) 2001-2002](#) and the [Appropriation Bill \(No. 4\) 2001-2002](#). I seek leave to table a New South Wales Ombudsman's report into the Educational Testing Centre at the University of New South Wales, dated February 2002, and a New South Wales Auditor-General's report into the same affair, dated November 2001. I have shown these two documents to the government.

Leave granted.

**Senator CARR**—I seek to incorporate my speech in support of these documents.

Leave granted.

*The speech read as follows—*

Madam President, I rise to speak on the Appropriation Bills Nos 3 and 4, 2002. I also seek leave to table documents pertinent to my remarks, namely the reports of the NSW Ombudsman and the NSW Auditor General's inquiries into the Educational Testing Centre of the University of NSW.

I wish to raise some matters of serious concern on the issues of quality, probity and accountability in connection with research carried out in universities.

An article appears today in the *Sydney Morning Herald* that concerns the Educational Testing Centre at the University of NSW. This is a large unit, employing at various times during the year up to 1000 staff, that carries out surveys, research and educational testing and competitions. The article I mentioned refers to a report by the NSW

Ombudsman detailing his findings on the conduct of the University in its consideration of a protected disclosure alleging maladministration in the Educational Testing Centre. It is to the issue of the alleged maladministration that I wish to speak.

#### **DEST/DETYA contract**

Let me preface my remarks by noting that, according to an answer provided on notice to the Senate Estimates Committee by the Department of Education, Training and Science, this Centre was under contract to the former DETYA in 1998-2000 to the tune of \$200 000. The contract involved survey research undertaken on behalf of the Schools Division of the Department connected with the Discovering Democracy program. The letting of this contract, according to Departmental guidelines, required an open tender process. The Department, however, with the explicit approval of the Minister, went only to limited tender. The then Minister, Dr Kemp, also approved the selection of the Testing Centre for the contract.

This Testing Centre at UNSW, whose reputation, as the Senate will soon understand, is seriously under a cloud, was granted a contract with this Government on the explicit approval of a Cabinet Minister, in a manner contrary to the Government's own minimum procurement standards.

#### **Audit Report**

The Educational Testing Centre has been the focus not only of a damning Ombudsman's report—the details of which I'll come to presently—but has also been the subject of a report of the NSW Auditor General, made public on 21 November 2001.

The Auditor General found that the University did not:

- Adequately monitor the Educational Testing Centre's performance
- Have an adequately documented process to approve ETC's budget, or
- Exercise appropriate oversight of ETC's business decisions and activities.

Further, the Auditor General found that the ETC itself was deficient in its exercise of control over financial and operational management. The findings included, among other things, that the Centre had poor control and allocation of costs and overheads, and inadequate use of budgets for performance monitoring. There was failure to comply with University requirements for:

- Purchasing
- Approving expenditure

- Recruitment and employment of staff
- Approving expenditure on staff functions, and
- Soliciting gifts from suppliers.

The report is damning. It demonstrates clearly that the maladministration and irregularities in the Educational Testing Centre have led to wastage of public monies and substantial unnecessary costs. For example:

- The Director, Professor James Tognolini, has admitted that, "...we lost another \$300 000 [in 1997] because of errors caused by suspect quality control procedures."
- An internal University report found that an IT development project at the Centre involved a cost blowout of almost 300%, or \$1.5 million.
- ETC's purchasing procedures for printing services (totalling \$2.5 million in 2000) did not comply with University procedures, nor with sound practice.
- Business Name Certificates for University products and services, including the name Educational Testing Centre itself, were registered in the name and private address of the Director of the ETC. The Auditor noted that this practice was "entirely inappropriate".

#### **Draft Report and AUQA**

Now this Auditor General's report, in final draft form, was in the hands of the University's Vice-Chancellor, Professor Niland, during the time that the University was under examination by the Australian Universities Quality Agency (AUQA) in October and November 2001. The Management of the University had that report, but did not provide a copy, nor draw attention to its existence, to the AUQA representatives nor was a similarly damning draft final report from the State Ombudsman, also in the hands of the University at the time of the audit, provided to the AUQA. Nor were the University's responses to these reports provided.

The Audit Office expressed its concern as to whether other activities within the University could be functioning with a similar lack of corporate governance and accountability arrangements. The Audit Office considers that "there is an urgent need for the University, and for other universities, to review their corporate governance and accountability framework." [p.3 Performance Audit Report UNSW Education Testing Centre, NSW Auditor General 12 November 2001]

With this sort of condemnation, perhaps one shouldn't be surprised that this report was not passed on to the AUQA.

The mismanagement seems to be endemic to the Centre's administration. Here we have clear evidence of financial irregularities going back many years, and involving millions of dollars. Where whistleblowers have sought to clean up this shoddy affair, they have been persecuted and treated in the shabbiest fashion.

The NSW Auditor General's Report and Ombudsman's Report originate as a result of a complaint made under the NSW Protected Disclosures Act 1994. The complaint alleged mismanagement, waste of public funds, bullying, harassment, nepotism and cronyism within the Education Testing Centre. The Auditor General's Report also refers to the Ombudsman's report, and, if it had been provided to the AUQA, then the extent of this scandal would have had a substantial bearing on the AUQA's work.

The NSW Auditor General expresses great concern that it was as a result of the whistleblower that these problems were revealed: "Many of the problems had existed for several years, but the University failed to detect them or act on them."

This, I put it to you Madam President, was a serious omission on the part of the University. It behoves the University to draw the attention of the AUQA to this report. Not to do so could be said to be concealing vital information and findings from the AUQA. This failure calls into question not only the motives and behaviour of the University of NSW, but the strength, adequacy and effectiveness of the AUQA itself and its processes and powers.

What is the point of establishing a Quality Agency, to safeguard and monitor standards of probity, transparency and so on in universities if the Agency does not have access as a matter of course to vital documentation relating to the University's performance? How adequate are the processes associated with the AUQA? Does it really have the teeth necessary to do its job?

Madam President, these are serious questions. They go to the Government's very intentions in establishing the Quality Agency.

#### **Establishment of Quality Agency**

It's worth going back and looking at that issue.

Why did the Government establish the Australian Universities Quality Agency? It did so largely because of the grave concerns raised, and the significant issues pointed to, by the Opposition about quality assurance in Australian universities—especially in the Senate Estimates process, over the last few years.

The Report of the Senate Committee of Inquiry in 2000, *Universities in Crisis*, proved to be a site

where many of these concerns and profound structural and systemic problems came together and were analysed. This report showed the eroding effects of certain aspects of commercialisation on university activities, including teaching and research.

The Australian Vice-Chancellors' Committee has recently written to me, pointing out that, in terms of university research income, the proportion of this funding that emanates from the Commonwealth has declined over the last decade from 66% to just 55%. Nearly half of university research funding now comes from industry and other commercial sources. Commercial funding, as the report *Universities in Crisis* notes, is volatile. It often comes with strings attached. While this commercial funding indicates a welcome and increasing engagement between universities and industry, it also represents a creeping privatisation of the research activities of universities. Nearly half of university research funding is from private sources—with Telstra, its semi-privatisation came only after a vigorous and lengthy public debate. Here in universities, however, we see a similar outcome with no explicit debate at all. A public-sector activity is also being privatised.

Commercial pressures, and the pressure to increase private income as the Howard Government withdrew from funding of universities, have proved to be crucial in the factors undermining and threatening quality and standards—and probity and financial accountability—in our universities.

The heat, to put it simply, became too great. The Government had to be seen to be doing something. It established the AUQA.

The question is: has it done enough? Does the AUQA as established by this Government meet the concerns of the higher education community, and the Australian community more generally, about quality assurance? Does it, or will it, safeguard the international reputation of our universities' teaching and research? Their standards? Their processes and management? Their financial probity?

#### **Ombudsman's Report**

I turn now to a second report that goes to some of these matters in relation to the Educational Testing Centre at the University of NSW. This is the Ombudsman's Report, referred to in today's press. This is the report that I have sought to table.

It sets out a number of problems associated with the administration and financial management of the Centre. For example:

It states that the ETC signed a consultancy agreement with a legal firm, in which the son of the Centre's Director was employed. Two matters arise in this regard:

- First, the fees charged by the firm were said by the Ombudsman to be 200-300% higher than the range of estimated fees for the work concerned; and
- Second, the ETC, as an unincorporated body, did not possess the legal power to enter into a consultancy agreement, or to sign contracts of employment with key personnel covered by the agreement.

It would appear that the University did not know that these agreements had been entered into. Why not?

And who footed the inflated bill for legal services? The answer is that, in the final analysis, the University footed that bill—the public university, the University of NSW.

Was the Ombudsman's report available to the University of NSW when the Quality Agency visited it late last year? Did the University draw the attention of the Agency to the findings of this report? Once again, we have a report that casts doubt on the processes of the University, and on the assiduousness with which its officers implemented its safeguards, monitoring mechanisms and due process.

**Conclusion—Quality assurance—no assurance**

Madam President, the Government's Quality Assurance watchdog for Australian universities, despite its genuine efforts, does not have the powers or the capacity to do its job properly. Until a more robust regime is put in place, the Australian community, and the international community, cannot be assured that we are discharging our collective responsibilities to safeguard the vital reputation of our higher education system and its fundamental responsibilities: teaching and research.

The financial and administrative irregularities of the Educational Testing Centre, given the findings of both the Ombudsman and the Auditor General, are of such seriousness that ICAC should examine these matters. A body such as ICAC provides the opportunity not only for citizens to come forward, but for allegations to be tested in the open.

**Senator CARR**—While I am on my feet, I also seek leave, given the time—and we are pressed for time here—on behalf of Senator Conroy to incorporate his speech, which the government has seen, on the *Appropriation (Parliamentary Departments) Bill (No. 2) 2001-2002, Appropriation Bill (No. 3) 2001-*

*2002 and Appropriation Bill (No. 4) 2001-2002.*

Leave granted.

*The speech read as follows—*

I rise to speak on the Appropriation bills.

This set of appropriation bills provides us with an excellent opportunity to review the Government's record as a financial manager.

In 1999, this Government heralded a new era in financial reporting with the introduction of accrual accounting.

Accrual accounting—the Treasurer told us—would result in more “transparent and informative public accounts”.

Accrual accounting—the Treasurer told us—would result in “more business like reporting in the public sector”.

More “business-like” reporting?

To which businesses, I wonder, was he referring.

In the last year, newspapers have been filled with reports of businesses that have failed after financial frailties were hidden from view by creative accounting.

Financial frailties that, at best, their auditors failed to see.

And at worst, their Auditors conspired to conceal.

Fortunately in Australia, Government financial accounts are subject to independent scrutiny by the Auditor General.

The Auditor General publishes reports on whether Government financial statements satisfy accounting standards and so provide a fair reflection of the Government's financial position.

Government accounting requirements are set down in Australian Accounting Standards (AAS) 31.

These standards are not guidelines. They are set down in law.

In December last year, the Auditor General released his report on financial statements of Commonwealth Entities for the period ended 30 June 2001.

And the Auditor General came to the view that not all aspects of the Government's accounts satisfied Australian Accounting Standard 31.

He issued two qualifications.

Regarding the first qualification, the Auditor General states in his report that:

“Taxation revenue in the Commonwealth Financial Statements is recognised when tax

payments are due and payable or upon assessment by the ATO”

He goes on to say that:

“This policy does not accord with Australian Accounting Standard AAS31 Financial Reporting by Governments which requires that all of the Government’s assets and liabilities be recognised on an accrual basis, that is in the period to which they relate, regardless of when cash is received or paid.”

Regarding the second qualification, the Auditor General says that the Commonwealth Financial Statements do not recognise, as revenue, the taxes associated with the GST.

Nor do they recognise, as expenses, the associated payment to the States and Territories of the monies raised through this tax.

The Auditor General further states that this treatment of GST does not accord with Accounting Standard AAS31.

During senate estimates hearings in February, The Department of Finance were asked why it is that Commonwealth Financial Statements breach AAS31.

The Minister of Finance interjected, saying that he:

“appreciates that the Auditor General feels bound by some technical ruling”.

Some technical ruling?

The Government considers the application of Australian Accounting Standards as “some technical ruling”.

It is, of course, a coincidence that if GST was recorded as Commonwealth revenue as required by Accounting Standards, this Government would be the highest taxing ever.

And it is of course just a coincidence that the impact of ignoring accounting standards was—according to the Auditor General—to overstate consolidated fiscal performance by more than \$5 billion.

Speaking of \$5 billion:

Treasury submitted evidence to the Estimates Committee in February showing that the Government had sustained a cumulative loss of almost \$5 billion over the last four financial years in the course of managing its liabilities.

These losses were recorded in the financial statements of the Annual Report of the Australian Office of Financial Management, the Treasury agency charged with the responsibility managing the Government’s debt.

These financial statements are prepared according to Accounting Standard 31.

You would, of course, have had to read as far as page 80 of the Annual Report to find any mention of the losses.

There is no mention of the losses in the main body of the report.

The Chief Executive’s Review in the Annual Report instead noted that AOFM had, during the course of the financial year, focussed its capabilities and resources on achieving “its vision of global excellence in sovereign debt management”.

I wonder what response the Chief Executive of a listed company would get if he told shareholders that the company was pursuing its vision of global excellence, while at the same time presiding over a loss of \$1.9 billion in the current financial year and a cumulative loss of \$4.8 billion in the last four.

But then again, he would probably not get away with failing to mention the losses until page 80 of the Annual Report.

Now, where do we find these losses in the budget?

When officials from the Australian Office of Financial Management were asked this question in Senate Estimates they replied:

“In the AAS31 statements you can see the unrealised foreign currency positions reported”.

But what about the budget?

AOFM officials went onto acknowledge:

“In the GFS framework (the losses) are below the line”.

Below the line?

These losses do not appear in the budget.

Treasury officials later argued that the losses that are shown in the financial statements that are prepared on an accrual basis under AAS 31 are meaningless.

Their exact words were

“Frankly, I wonder why we calculate these numbers—”.

The Secretary of the Treasury proceeded to argue the weaknesses of accrual accounting.

This Government was the architect of the accrual accounting system.

The Treasurer hailed the move to accrual accounting, saying it would result in “more transparent and informative public accounts”.

But when this new transparency highlights government mismanagement on a massive scale, suddenly the system has weaknesses.

But of course the issue of these foreign exchange losses is larger than simply how they are recorded in the financial accounts.

The real issue is the financial mismanagement that allowed these losses to occur in the first instance.

The mismanagement that allowed these losses to grow unchecked for five years until they had reached almost \$5 billion.

The policy of swapping the Government liabilities into US dollars began in 1989.

The rationale behind the policy was sound.

Interest rates were lower in the US than they were in Australia, creating the potential for substantial savings in the cost of servicing Government debt.

Up until 1996/97 the policy was hugely profitable, generating savings for Australian taxpayers of \$3 billion.

The profitability of this policy under Labor was confirmed by Treasury officials at Senate Estimates and the Treasurer himself, speaking on the 7:30 report on March 7, 2002.

The Treasurer admitted.

"I think it is fair to point out that the policy commenced under the Labor Party and the Treasury position was that it was actually a profitable position".

The policy was profitable because the savings from lower US interest rates more than compensated for any movements in the exchange rate.

However, since 1997/98, the policy has generated losses of almost \$5 billion.

The reason was very simple.

By 1997 the rationale for the policy had disappeared.

There was no longer any difference between the level of Australian and US interest rates and hence there were no longer any cost savings from swapping Government borrowings into US dollars.

Since this Government came to office the policy has been reviewed no fewer than nine times.

The Treasury itself conducted three reviews in December 1996, November 1997 and August 1998.

The first two were the direct result of the disappearance of any interest savings and the third was triggered by the collapse in the exchange rate.

The Treasurer has refused to release these reviews.

But he insists that none of the reviews recommended a change in policy, despite seismic changes in interest rates and exchange rates.

Despite the fact that there was no longer any rationale for swapping Government liabilities into US dollars.

What defence has the Treasurer offered?

He started by arguing that he inherited the policy from Labor.

- A policy that he kept in place for more than five years.
- He argued that there were in fact no losses.
- Well this depends on which set of the Government's numbers you look at.
- He then argued the losses had no implication for the budget.
- They are "below the line".
- He later argued that he did not know of the losses until November 2001.
- Yet the Treasurer, as responsible Minister, signed off on the swaps strategy annually.
- And each year the Treasurer tabled the Annual Reports from AOFM and Treasury in the Parliament that recorded the losses.

He argued that in allowing the exposure to foreign currency to breach its limit of 15% he was acting on the advice of the Reserve Bank.

- For the record, in December 2000 the Reserve Bank argued against the "mechanical application" of the limit in favour of a "more gradual resolution as market conditions permitted".
- I am not sure that by "more gradual", the Governor was suggesting that exposure be allowed to increase unchecked to over 20% by June 2000.
- I am not sure that by "more gradual" he meant waiting until the last swap matures in 2008 before finally recognising the losses in full.
- After the Treasurer ended the policy, the Reserve Bank approved the proposed schedule for reducing foreign currency exposure to zero
- But stretching it out until 2008 is a policy decision by the Treasurer.
- Under this policy, taxpayers will remain exposed to the risk of further foreign currency losses until 2008.

However, the Treasurer's key defence of his failure to take any action to stem the mounting losses was that he always acted on advice from Treasury and external consultants.

This is untrue.

Last week, the Treasury finally released the reports from these external consultants.

The June 1998 report from UBS recommended a substantive change to the way the Government managed its debt.

The report recommended in the Executive Summary that the "portfolio should be split into two parts" and that the foreign currency "benchmark continue to apply to that portion of the debt that is not targeted for repayment".

When the Treasurer was asked in Question Time on March 11 why UBS's advice in 1998 was not followed, he had no answer.

He finally issued an evening press release that said this advice had "in effect" been followed.

"In effect"?

The advice was not followed.

If it had been, debt repayment could not have contributed to the breach the 15% limit on foreign currency exposure.

The benchmark portfolio would have been insulated from the impact of debt reduction.

That was the whole point of the advice given.

So the Treasurer did not always follow the advice. And that failure to follow advice has cost taxpayers billions of dollars.

Had the advice been followed, from that time forward only part of the portfolio would have been exposed to currency movements and the losses would have been substantially reduced.

The Treasury would have initiated an orderly run down of foreign currency exposure in that part of the portfolio earmarked for debt repayment.

This would have been made easier by the fact that they would have been reducing their exposure when the \$A was rising through the second half of 1998.

But the opportunity was passed up.

So let me say, once again, for the record that the Treasurer did not follow all the advice that was given.

And his failure to do so directly contributed to the size of the losses.

The Treasurer finally acted to, in his words, "end the policy" in September 2001.

He took this decision, he said on the 7:30 Report on March 7 2002, "regardless of market advice".

Which is it Treasurer?

You maintained the policy because of market advice or you ended the policy regardless of market advice?

So, what other defences are there?

Treasury argues that they were not speculating on foreign currencies.

Since US and Australian interest rates converged in 1997, the only way the Treasury could hope to save money by swapping liabilities into US dollars was if the \$A rose.

Treasury was speculating that the Australian dollar would rise.

Treasury has argued that by the time the policy went sour there was nothing they could be done. In their words

"if you had attempted to liquidate in, say, August 1998 or October 1999 you would have needed to have liquidated between \$US8 billion or \$US7 billion at any point in time....It is almost certain that you would have had some impact on the foreign exchange market. As I said earlier, we are a big player in this"

Did they only have two discreet choices: maintaining the exposure in full or cutting it to zero?

Could they not have begun a gradual reduction in their exposure as market conditions permitted?

And market conditions did permit. The currency rose in the latter half of 1998 and they could have used this strength to reduce their exposure.

Perhaps they were hoping that the \$A would return to its former highs and all the losses would be undone.

The risk posed to foreign exchange markets by the Government mismanagement of their currency exposure did not diminish over time.

By late 2000, as we now know, the risk had become so great that the Reserve Bank felt compelled to intervene.

The Defences of both the Treasurer and Treasury have been laid bare.

Or as the Courier Mail concluded:

"The defence of this ineptitude mounted by the Treasurer and the Treasury has been equally as pathetic".

With one or two exceptions, the Press have found the Treasurer's arguments unconvincing.

Alan Wood, writing in the Australian, did argue that if we condemn these foreign exchange losses, we should extend this condemnation to losses sustained as a result of the fall in the value of Telstra of which the Government is a shareholder.

The difference is, of course, that there is a public policy rationale behind the Government holding shares in Telstra—a public policy rationale that the Labor Party continues to support.

There has been no public policy rationale behind the Government swapping its debt into US dollars since 1997, when US and Australian interest rates converged.

Telstra also pays dividend streams to the Commonwealth budget which are unaffected by the vagaries of the stock market.

But we are paying interest on the Treasurer's foreign currency losses.

In its editorial on March 16th, the Australian Financial Review politely argued that the Treasurer "might have got out of its foreign currency exposure a bit quicker".

The Treasurer did not "end the policy" until five years after its rationale disappeared, until it had conducted nine separate policy reviews and accumulated \$5 billion of foreign currency losses.

No bank would, or indeed could, have allowed such a loss making strategy to continue for five years after its "raison d'être" had been invalidated.

But then again, banks don't have that unique lender of last resort, the taxpayer.

Is the foreign currency swaps debacle the only example of Government mismanagement of foreign currency risks?

Sadly, no.

In May 2000, the Auditor General released a report on Commonwealth Foreign Exchange Risk Management Practices.

The report showed that up until April 1999, exchange rate movements had increased the cost of some 220 Defence Departments projects in progress at that time by just shy of \$3 billion.

The Auditor General recommended changes to the Government's practices for managing foreign exchange risk.

In June 2000, a task force was set up that was to report within a month on how to respond to the Auditor General's report.

The report was apparently completed in July 2000 but no action has been taken.

Since that time, Defence has been given an extra budget allocation of \$493 million to make up for a further blow out in costs due to currency movements.

The Finance Minister argued that the practice of automatically making up for currency losses with

additional appropriations was the "right response".

He said that the Government adopted a "no-win no-loss" approach to foreign currency management.

"No-win, no-loss?"

We know the losses—where are the wins?

Do some Departments win as a result of the fall in the dollar—are they perhaps raising revenue in US dollars?

Or is the Finance Minister adopting the Treasurer's approach to foreign exchange risk that "it'll be alright in the long run"

I call on the Finance Minister to respond to the Auditor General's recommendations to review automatic supplementation for foreign currency losses in order to impose some discipline on Departments to manage foreign exchange risk.

I also call on the Minister to respond to the Auditor General's recommendation to determine an overarching Commonwealth position statement on foreign exchange risk management.

So, in conclusion:

This Government has long trumpeted its achievements as a financial manager.

However, a closer examination of the facts paints a very different story.

Government financial mismanagement has cost taxpayers billions of dollars.

The Treasurer's foreign currency gambling losses has cost close to \$5 billion.

The Finance Minister's failure to manage foreign exchange risk has cost another \$3.5 billion and counting.

These \$8.5 billion in losses equates to \$1700 for every family in Australia.

Money that could have been spent on schools.

Money that could have been spent on hospitals.

Money that could have built roads or funded tax cuts.

The Government has failed to respond to advice from its own consultants that would have reduced the losses.

The Government has failed to respond to recommendations from the Auditor General to protect taxpayers from future losses.

Instead the Government has spent its time utilising creative accounting practices in order to hide these losses from public view.

This Government's claim to sound financial management does not stand up to scrutiny.

**Senator HOGG (Queensland)** (6.07 p.m.)—I rise to speak this evening on the **Appropriation (Parliamentary Departments) Bill (No. 2) 2001-2002** and related bills, more so because of what is not there than what is there. Whilst one might say that the issue I am going to discuss does not necessarily receive the highest priority in our community, it is one that undoubtedly touches very many indeed. It is an issue that I speak on because of the recent tragic death of a very young person from our state by the name of Luke Harrop. Luke was a very promising triathlete who unfortunately was killed in an accident on the Gold Coast earlier this year while training. I did not know him personally, but I know that he was respected by his peers. He showed great potential and was a real prospect for a medal at the forthcoming Commonwealth Games.

One might say, ‘What has this got to do with the appropriations?’ Quite specifically it goes to the fact that when I went to search for what is being done in the area of promoting safety for cyclists, whether the cyclists use their bikes for recreation, sporting or commuting purposes, I found very little or no evidence of action by the federal government in this area. It was only when I went to the Department of Transport and Regional Services web site that I found out about the extensive use of bicycles throughout Australia and the need for this government to pay some real attention to the difficulties that are now arising not only in my state but in many states throughout Australia. I found that bicycle ownership, for example, is at least as high as 50 per cent across Australia, that family groups and those in their late 20s and 30s are now involved more in cycling both for recreation and commuting and that the cycling participation rate is increasing.

However, the disturbing thing that I found on the web site was the fact that the cost of bicycle fatalities and serious injuries in Australia annually is estimated at \$500 million—a very extensive cost indeed. The web site itself admits that this is unacceptable. The web site says:

Bicycle accidents represented a disproportionately high percentage of all vehicle accidents resulting in hospital treatment of victims—about 10

to 15 per cent. Bicycle crashes represent 2.4 per cent of road fatalities and an estimated 6.3 per cent of serious injuries.

So the program that was adopted by this government back in 1999 which has a life to 2004, Australia Cycling: the National Strategy, becomes very important indeed. The accident that touched everyone, not only in Queensland but I am sure right throughout Australia, has put a focus on the difficulties that are facing cyclists.

I must confess I have a personal interest here in that I am found out on the roads and the bikeways riding my bicycle, as is my son, who was almost in a serious accident himself in recent times. Also recently while travelling I picked up a Sydney newspaper and there was a story about a young person of 34 who had suffered a bad accident commuting to work. I do not know the follow-up from that particular accident, but the person was in a critical state as a result of a car recklessly, I can only assume, ploughing into the cyclist. That is how the particular article read. In the wake of the problem in Queensland, the Queensland government called a summit, but I found that there is growing concern about this issue. As I say, when I searched for the way in which the government has backed up the national strategy, I found it difficult to come across any clear evidence as to what it is actually doing.

Aware of the time, I am just going to turn to the fact that the strategy addressed a number of issues, including the health aspect, the fact that it is good for both transport and recreation and is bringing people a healthier lifestyle as well as—as the strategy itself admits—reducing greenhouse gas emissions, air pollution and congestion. So there were a number of advantages seen in the strategy that the government adopted. The strategy itself covers a number of objectives, and one of the objectives looks at the fact that the strategy is a partnership between all three spheres of government. It is all well and good to have a strategy, but it is another thing to have the strategy implemented and properly funded and the outcomes of the strategy being reported. Whilst it may not be one of the most prominent programs that the government has run, there was very little

evidence that I could find of the outcomes of the strategy.

It is worth while just looking at some of the objectives or strategies that were undertaken as part of this national strategy. I will go through a couple of the items. Again I got this from the web site of the department of transport. Under the heading 'Strategies', it says that the program aims to develop and implement a national public communication strategy to improve the awareness of all road users as to how they can better share our roads. Then it talks about the responsibilities of the three spheres of government and looks at the performance measure. But when I looked for the performance measure, which is supposed to have some positive outcomes by 2001 and to look further to 2003—of course we cannot get that far yet—I could not even find any result of the outcomes of that particular strategy. Whilst it involves the three spheres of government, one would think that the federal government, as the peak government and the organiser of the strategy, would be able to show some results and some outcomes from this particular program.

The second strategy is: 'To develop and implement a national public communication strategy to improve the awareness of path users as to how they can best share our paths'. So we have road users and path users, and if one believes that there is safety on the bike pathways one needs only to ride on those pathways and meet the difficulties that are confronting the users there. One has the dual area—the roads and the pathways. I think the statistics that I have mentioned here already bear testament to the fact that there is a need for a vigorous campaign and a vigorous program in this area. The strategies go on to talk about 'safety audits and identification of blackspots'. It goes on to talk about developing and implementing 'behavioural programs/initiatives relating to all road users which improve cyclist safety in areas such as motor vehicle speeds and helmets' and also about establishing and monitoring the casualty rate for cyclists.

Whilst those are all very good objectives, I am putting my complaint about safety on the plate now because it is an issue. Whilst I

have not been to the Rural and Regional Affairs and Transport Legislation Committee estimates hearings before, I think I will turn up on the next occasion to pursue this issue, seeing there is such a great interest in it across Australia. When I have flagged with a number of people that I intended to raise this issue in this place, they all expressed their concern at the safety of cyclists in our community. I will be looking to this government and the responsibility that it has—being the senior partner in this strategy, being responsible for the strategy—to ensure that the strategies are being funded properly, that the strategies are working and that there is a reporting of the outcomes.

It was interesting, in the wake of the unfortunate death of Luke Harrop in Queensland, that when the Queensland government held the summit to try and address the immediate problems that arose out of that accident it became quite clear from the participants that one of the major problems being faced by cyclists on the road is the issue of road rage. We should be making cycling a healthier and a safer sport for people to participate in.

We should be ensuring that the government is properly funding this national strategy. Whilst it has a life of 1999 to 2004—and one could say that we are midway through it—one would nonetheless hope that in reading an annual report or reading some of the documentation that is put out one would find some element of federal government funding there. As I have said, to date I have not been able to find that. Maybe it is submerged in some other programs. It may well be a subprogram of one of the major programs under the portfolio. If it is, it is not very clear and it is not very apparent.

It is an important issue. It is an issue that touches all states of Australia. It is an issue that needs to be addressed seriously. We, as either the parliament or the general public, need to be able to identify positive outcomes arising from an initiative which was obviously warmly embraced by not only the federal government but also the various state governments and local governments signing up to the national strategy affecting cyclists

in Australia. I look forward to some positive action by the government in the future.

**Senator ABETZ (Tasmania—Special Minister of State)** (6.18 p.m.)—I thank honourable senators for their contributions to this debate on the appropriation bills. I make two very brief points. I accept that Senator Bartlett and the Australian Democrats hold their view sincerely in relation to the boat people situation. Whilst they would ascribe improper motives to us as a government, I would not do that to them but do suggest that, unwittingly, they provide succour and comfort to the criminal elements that engage in people-smuggling.

In relation to Senator Hogg's comments, let me declare an interest as a keen cyclist as well, having just the other Sunday done a 35-kilometre trip. If my history is right, Senator Hogg would follow in the great tradition of another Queensland senator, Senator Ian Wood, who used to ride his pushbike to the office and back. Once you have achieved that, Senator Hogg, we will talk again. Senator Hogg's comments were very interesting. I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

### Third Reading

Bills passed through their remaining stages without amendment or debate.

### ADVANCE TO THE FINANCE MINISTER

#### In Committee

Consideration resumed from 12 March.

**Senator ABETZ (Tasmania—Special Minister of State)** (6.20 p.m.)—I move:

That the committee approves the statement of Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2001.

Question agreed to.

Resolution reported; report adopted.

## AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002 BROADCASTING SERVICES AMENDMENT (MEDIA OWNERSHIP) BILL 2002

### Referral to Committee

**Senator ABETZ (Tasmania—Special Minister of State)** (6.22 p.m.)—by leave—I move:

That:

- (a) the provisions of the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 be referred to the Legal and Constitutional Legislation Committee for inquiry and report by 3 May 2002; and
- (b) the provisions of the Broadcasting Services Amendment (Media Ownership) Bill 2002 be referred to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report by 3 June 2002.

Question agreed to.

### COMMITTEES

#### Environment, Communications, Information Technology and the Arts Legislation Committee

##### Membership

**The DEPUTY PRESIDENT**—The President has received a letter from a party leader seeking a variation to the membership of a committee.

**Senator ABETZ (Tasmania—Special Minister of State)** (6.22 p.m.)—by leave—I move:

That Senator Bourne replace Senator Bartlett on the Environment, Communications, Information Technology and the Arts Legislation Committee for the committee's inquiry into the provisions of the Broadcasting Services Amendment (Media Ownership) Bill 2002.

Question agreed to.

### PARLIAMENTARY ZONE

#### Approval of Works

**Senator ABETZ (Tasmania—Special Minister of State)** (6.23 p.m.)—by leave—I move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority and the Canberra Tourism and Events Corporation, for temporary works within the Parliamentary Zone, associated with the National Capital 'Canberra 400' V8 Supercar race carnival.

**Senator BROWN (Tasmania)** (6.23 p.m.)—Madam Deputy President, you will be aware that this motion for approval of works within the parliamentary zone was on the agenda this morning. I did say that I wanted to make a short statement before the motion was put through, but it was then put on the *Notice Paper* for May. I was well enough acquainted with the matter at hand to know that that would have created enormous potential administrative difficulties and, potentially, a threat to the whole of the V8 supercar race. I am not a supporter of that race, but I have been here long enough to know that one does not unwittingly thwart the will of the Senate—and I am not doing that; I am now allowing this to proceed.

Had the Special Minister of State, Senator Abetz, been in the house when this was brought before it this morning, I do not believe this difficulty would have arisen. Had he communicated with me, I do not believe it would have arisen. Had he understood the nature of the motion that is before the house and the timetabling in it—

**Senator Ian Campbell**—He had nothing to do with it. It was all my doing.

**Senator BROWN**—Nevertheless, the minister has carriage of this matter and is responsible for it. It is very clear when you look at the attendant papers that there are certain works that are required to proceed before we come back on budget day, and that is not permissible under the terms of this motion. So Senator Abetz allowed a very important permission from this parliament for works in the parliamentary triangle, required to begin between now and the budget sittings, to await the budget sittings. It is a complete bungle by the government and by Minister Abetz. I could not understand it this morning. Senator Abetz said, 'Let's wait until May,' but he had not read the substance of this motion. He put at risk the whole of the race and its timetabling, because I doubt that

parliament would have been of a mind to be recalled simply to rectify his oversight. What a way for a minister in charge of an important event like this to fail! The Manager of Government Business is good enough to be shepherding him and saying, 'This was a matter in my hands,' but the fact is—

**Senator Abetz**—You are missing the target.

**Senator BROWN**—The target is the government.

**Senator Ian Campbell**—You are in the wrong gear, Bob.

**Senator BROWN**—I am not in the wrong gear at all, and time is ticking away so you had better let me finish what I am saying. Let me sum up the misgivings I have about this particular race. First of all, it is losing money. Last year, it lost \$1.5 million, which ultimately comes from the people of the ACT. An amount of \$23 million has been allocated to this race over the coming years; that is equivalent to \$200 per Canberran. If you look at the figures, you will find that \$850,000 is paid this year to a Queensland entity, simply for the rights. Also, when you look at the figures for the first day last year, you see that the bumper return from the first day the year before of 58,000 fell to 39,000. Ticket sales and numbers were down, revenue was down and the race ran at a loss. That is a matter for the government and the ACT administration, but I also want to put on the record that many businesses in and around Canberra, rather than winning from this, lost out. Traffic was significantly disrupted, tourism in the parliamentary triangle was down, noise pollution standards were breached and places like the Lobby restaurant and the Bookplace restaurant at the National Library lost significant business, one would have thought. It is not for us to determine the wherewithal of this race, but it seems to me that there will be more than the losers in the cars who are going to lose out of this race.

Finally, let me say that the government has manifestly bungled this. It is by the good grace of the Greens that I am back here tonight to allow this to go through, but that is proper form.

Question agreed to.

**BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES**

Message received from the House of Representatives returning the following bill without amendment:

Regional Forest Agreements Bill 2002

**COMMITTEES**

**Membership**

Message received from the House of Representatives acquainting the Senate of the appointment of members of the House of Representatives to joint committees, as follows:

Broadcasting of Parliamentary Proceedings—Joint Statutory Committee—Mr Forrest, Mrs Gash and Mr Lindsay

ASIO, ASIS and DSD—Joint Statutory Committee—Mr Jull, Mr Beazley, Mr McLeay and Mr McArthur.

**ADJOURNMENT**

**The DEPUTY PRESIDENT**—Order! It being nearly 6.30 p.m., I propose the question:

That the Senate do now adjourn.

**Education: Funding**

**Senator TCHEH (Victoria)** (6.30 p.m.)—Earlier this week the Senate considered the *States Grants (Primary and Secondary Education Assistance) Bill 2002*. In his speech in the second reading debate on this bill, Senator Carr, as the lead speaker for the opposition, lamented the controversial and deeply divisive debate over private school funding which, in his words, ‘raged throughout the last parliament’ and which, again in his own words, ‘has wrought such damage to the body politic’. Strangely, Senator Carr did not feel concerned about the damage that debate might have wrought not on the nation’s body politic but its ‘body educational’. Senator Carr was also too modest to mention that he had been the chief architect, lead contractor and principal selling agent of that debate.

But he was right about the potently divisive nature of such a debate, especially when so much misinformation, emotion and fixated opinions can affect its content. Let me demonstrate this with one immediate example provided by Senator Carr himself. On

Monday night, as he endeavoured to demonstrate what he saw as the unreasonable support that the government would give to rich schools, Senator Carr cited, under parliamentary privilege, the Reddam House school in Sydney. One of the issues Senator Carr had with Reddam House was that it is associated with three companies that are registered on the ASIC register, none of which is listed as not for profit. To quote verbatim from the *Hansard* record, Senator Carr said: Not-for-profit schools are, of course, not eligible for Commonwealth recurrent establishment grants assistance.

Of course, the exact reverse is true. For profit schools are not eligible for Commonwealth recurrent establishment grants assistance. Only not-for-profit schools are eligible. Yet this was not just a Freudian slip by Senator Carr: he then went on and expanded his argument on this point for another 15 minutes. I am not deliberately targeting Senator Carr, because I do not believe Senator Carr sought to mislead the Senate. I think he made a genuine mistake. It was not a casual mistake, however; it was a genuine mistake. He is so wedded to the idea that only government schools should receive public funding, he has transferred his fixation to the idea that non-government schools do not deserve public funding, regardless of their circumstances or their contribution to education. Obviously, if we listen to the debate on this issue, we realise that Senator Carr is not alone in this delusion. This is a great pity because the education of young Australians is the most important and fundamental responsibility of the current generation. The future of our nation and ourselves is tied up with the quality of the education that we give our children. As John F. Kennedy said:

Think of education as the means of developing our greatest abilities because in each of us there is a private hope and dream which, fulfilled, can be translated into benefit for everyone and greater strength for our nation.

Every Australian parent wants the best possible education for his or her children. It is their right. Part and parcel of this desire is the opportunity for them to have a choice about where their children can receive that education. This also is their right. It is the

government's responsibility and obligation to enable parents to make such a choice.

In discharging this responsibility and obligation, governments should support both public sector education and private sector education. There has never been a federal government that has done more than the Howard government to build up—indeed, rebuild—public sector education while helping and improving the ability of non-government schools to deliver quality education. Since 1996, the Howard government has increased Commonwealth spending on government schools by 36 per cent, through additional funding for national education programs in literacy, numeracy, science and indigenous education, as well as through indexation arrangements that top up Commonwealth funding at significantly more than the inflation rate. It has been the state governments—responsible for 88 per cent of funding for government schools—that have been lagging in education funding. For example, in its last budget, the Labor Victorian government increased funding for government schools by less than two per cent, while the Commonwealth increased its share of funding by more than 5½ per cent.

While funding is important, the Howard government has been equally successful in another essential policy area: that is, building community confidence in all schools by funding support and by raising the standards of education these schools provide. Over the last two years I have had the great pleasure and privilege of visiting 57 schools in Victoria: government schools; non-government schools; inner suburban schools; country schools; schools with over 1,000 students; one school with just 70 students; historic schools dating from the 19th century with some of the same buildings still in use;

brand-new schools; Catholic schools; Islamic schools; infant schools; senior schools with a VET focus; senior schools with a successful academic focus; senior schools with both. All these schools share one common feature: in every one of them I found dedicated teachers, committed parents, supportive community participants and confident and interested children. Truly, in such schools private hopes and dreams are fulfilled and translated into benefits for all and strength for our nation.

**Senator Carr**—Madam Deputy President, I rise on a point of order: I have listened very carefully to what Senator Tchen has had to say. He clearly reads the *Hansard* much more carefully than I do. I must acknowledge that he is correct: there was an error in the speech that I made. The words 'for profit' should replace the words 'not-for-profit'. I seek leave of the Senate to have the record corrected.

Leave granted.

**Senator TCHEN**—I thank Senator Carr for correcting the record. He probably should have done it earlier.

**Senator Carr**—I didn't know about it.

**Senator TCHEN**—He didn't know what he said. I pay tribute to all the teachers, parents, members of school councils, parents and friends associations and other supporters of those 57 schools I visited. Young Australians are, indeed, in good hands. I seek leave to incorporate in *Hansard* a list of the 57 schools, together with their localities and the names of their principals.

Leave granted.

*The document read as follows—*

Date	Name	Suburb	Title	First name	Last name
2000					
27/03/2000	Macleod College	MACLEOD	Mr	Merv	Jones
31/03/2000	Catholic Regional College St Albans	ST ALBANS	Mr	Brian	O'Loughlin
06/05/2000	Wesley College Melbourne	GLEN WAVERLEY	Mrs	Jenny	Wajsenberg
12/05/2000	Glen Eira College	CAULFIELD	Ms	Adele	McMullen
		SOUTH			
21/05/2000	Hillcrest Christian College	CLYDE NORTH	Mr	Tony	Ham
19/07/2000	Melton Christian College	MELTON SOUTH	Mr	Simon	Liefing
23/07/2000	St Francis Xavier College	BEACONSFIELD	Mrs	Maree	Johnson

Date	Name	Suburb	Title	First name	Last name
28/07/2000	Preston Primary School	PRESTON	Mr	John	Nelson
30/07/2000	Thomas Carr College	TARNEIT	Mr	Paul	D'Astoli
04/08/2000	Corio West Primary School	CORIO	Mr	Garry	McCredden
03/09/2000	St Andrew's Primary School	WERRIBEE	Sister	Judith	Geddes
16/10/2000	Buckley Park Secondary College	ESSENDON	Mr	Geoff	Quinn
20/10/2000	Sale College	SALE	Mr	Ian	Wallis
20/10/2000	Southern Cross Primary School	ENDEAVOUR HILLS	Mr	Michael	Small
25/10/2000	Annunciation School	BROOKLYN	Mr	Dan	Mogg
27/10/2000	Sunbury Primary School	SUNBURY	Mr	David	Cook
12/11/2000	Ocean Grove Primary School	OCEAN GROVE	Ms	Lindy	Judd
14/11/2000	Academy of Mary Immaculate	FITZROY	Mrs	Susan	Danckert
18/11/2000	Norlane West Primary School	NORLANE WEST	Mr	Noel	Mullen
19/11/2000	The Islamic Schools of Victoria (Werribee College Inc.)	HOPPERS CROSSING	Mr	Omar S	Hallak
20/11/2000	Gilson College	SYDENHAM	Mr	Mark	Vodell
24/11/2000	Mill Park Secondary College	EPPING	Mr	Peter	Mildenhall
25/11/2000	Lumen Christi Catholic Primary School	POINT COOK	Ms	Trish	Armstrong
2001					
13/03/2001	St Mary's Primary School	INGLEWOOD	Mr	Frank	Dullard
20/03/2001	Broad Insight Group Inc.	BROADMEADOWS	Ms	Leonie	Symes
20/03/2001	St Mary's Primary School	ALTONA	Mr	Leon	Colla
06/04/2001	Sandringham Primary School	SANDRINGHAM	Mrs	Margaret	Hird
30/04/2001	Macedon Grammar School	MACEDON	Dr	Alan	Rose
04/05/2001	Highview Christian Community College	MARYBOROUGH	Mr	Geoff	James
11/05/2001	Girton Grammar School	BENDIGO	Mr	Clayton	Jones
25/05/2001	Wattle Park Primary School	BURWOOD	Mr	Nick	Farley
15/06/2001	St Joseph's Catholic Parish Primary School	SPRINGVALE	Mr	Richard	Hodgson
24/06/2001	St Joseph's College	NEWTOWN	Mr	Paul	Tobias
21/07/2001	Kingswood College	BOX HILL	Mr	Baxter	Holly
23/07/2001	Darul Ulum College of Victoria	NORTH FAWKNER	Mr	Mustafa	Ceylan
25/07/2001	Preston East Primary School	PRESTON	Miss	Brenda	Langmaid
29/07/2001	Columba Catholic School	BUNYIP	Mr	Michael	Hannay
26/08/2001	St Theresa's Primary School	ALBION	Mr	Rob	Costin
07/09/2001	St Albans Primary School	ST ALBANS	Mr	Ken	Baker
07/09/2001	Clonard College	GEELONG WEST	Mr	Michael	Doyle
12/10/2001	Newstead Primary School	NEWSTEAD	Mr	Michael	Bottomley
19/10/2001	Merrilands College	RESERVOIR	Mr	Malcolm	Hosking
28/10/2001	Isik College	BROADMEADOWS	Mr	Ibrahim	Dellal
02/11/2001	Kismet Park Primary School	SUNBURY	Mr	Robert	Rilen
02/11/2001	Gisborne Secondary College	GISBORNE	Mr	Gavin	MacDonald
09/11/2001	Rutherglen High School	RUTHERGLEN	Mr	Phillip	Campbell
18/11/2001	St Joseph's School	BRUNSWICK WEST	Mr	Peter	Chowne
23/11/2001	Warragul Regional College	WARRAGUL	Mr	Russell	Monson
25/11/2001	Catholic College Bendigo Coolock Campus	BENDIGO	Rev	Paul	Kane
28/11/2001	St Thomas Aquinas Catholic School	NORLANE	Sister	Gayle	Connor
05/12/2001	Mont Albert Primary School	MONT ALBERT	Mr	John	Gow
07/12/2001	St John's School	EUROA	Sister	Carmel	Hinkley
17/12/2001	Mooroolbark East Primary School	MOOROOLBARK	Mr	Graeme	Whitby
19/12/2001	St Peter's Primary School	NORTH BENDIGO	Mr	Barry	Ennis

Date	Name	Suburb	Title	First name	Last name
2002					
15/02/2002	Rosanna Primary School	ROSANNA	Mr	Geoff	Richardson
26/02/2002	Olivet Christian College	CAMPBELLS CREEK	Mr	Phil	Chapman
07/03/2002	Elwood College	ELWOOD	Mr	Keith	Muller

### Port Pirie: Magnesium Processing Plant

**Senator BUCKLAND (South Australia)** (6.37 p.m.)—As most people would know, South Australia has been a struggling state for some time because of inactivity by the previous state government. With the change of government to a Labor government, hopefully the situation will now change—I believe it will. The Labor government is committed to see industry development and development of regional areas. The matter I want to talk about tonight, which impacts on both state and federal governments, is a proposed magnesium plant at Port Pirie going under the name of the SAMAG project. On 5 July 2001, the South Australian Governor, on the advice of the Liberal state government, as it was then, approved the development of a magnesium processing facility and a gas fired power station at a site eight kilometres from the city of Port Pirie. The power station has a twofold benefit for the state: not only will it provide the energy required for the magnesium plant—it is a large energy user—but also it will sell excess electricity back into the grid and help reduce the power bills that South Australians are suffering at the moment.

In addition to the magnesium processing plant and power station, which will provide employment for more than 500 workers, there will be extra jobs created in the region in services and related industries. The project is being sponsored by the Port Pirie Council and the Port Pirie Regional Development Board and has the cooperation of the upper Spencer Gulf cities of Port Augusta and Port Pirie. The processing plant will be fed from ore stock that will be mined near Leigh Creek in the far north of South Australia. That mine, like the processing plant, will create further jobs and generate additional new jobs for the transport industry as the ore needs to be transported some 250 kilometres to Port Pirie.

Even though the project has shown itself to be viable and will create hundreds of new jobs in a region which has had consistently high unemployment levels and even though all sectors of the community support the project, the federal government appears to be sitting on its hands in relation to this project. It has been reported to me by many people I have been in contact with that the member for Grey, Barry Wakelin, whose electorate the proposed plant will be in, has not provided the support for the project that the people would like. I know Barry Wakelin as well as, I suggest, the Special Minister of State does. I know that Barry Wakelin does want regional development; I have no criticism of that. However, his attitude to this project needs to be questioned. His negativity towards the people and his lack of confidence suggest that, when the Prime Minister gets around to reading the report, he will not endorse the project. Barry Wakelin's attitude on this matter also says that, if he spoke out in support of the project, he would only show how little influence he has within his party.

In the last three weeks, I have received countless letters, emails and phone calls asking me to do everything I can to see that the SAMAG proposal goes ahead. I can assure those people that all my party and I can do will be done. They understand clearly, as I tell them, that it is not easy to do things from opposition, that the ball is in the court of the government and that they have the next shot to play. The new state Labor government is particularly supportive of this project, as you could well understand, with 500 new jobs expected in one area—an area where we have seen reductions in work forces in Port Augusta, Whyalla and Port Pirie, where things are in decline.

The state Labor government is doing everything it can to see that the proposal is successful, including a gas pipeline from Victoria to supply gas to the power station—an

absolute need. The project will need financial support within the World Trade Organisation guidelines to assist with the construction of the gas pipeline, with a ballpark figure of between \$20 and \$25 million. This continues the commitment of the previous Liberal state government which received strong bipartisan support from the Australian Labor Party in South Australia for the magnesium plant. All residents, from the ordinary citizens of Port Pirie through to the Premier of South Australia, are asking that the federal government support what everyone else in South Australia supports.

Prior to the election, the federal government was prepared to support the AMG project in Queensland asking for \$200 million in state and federal government assistance—a plant which has little likelihood of being successful if it were to be built. SAMAG is asking for less than \$130 million in loan guarantees and has the potential for the lowest full cost position of all current and committed Western producers and a long-term sales agreement has a greater chance of success. So why will this federal government not make a commitment to the proposal? The proposed plant would be in production in 2003 and it is anticipated will produce 52,500 tonnes of product annually in the initial stages, climbing to around 157,000 tonnes. All of this production would be brought by the German automotive component manufacturer Krupp. If the plant reaches its production targets set for 2008, it will be the world's largest producer of magnesium.

There are many other benefits. The Senate would be aware that, through Senator Chapman, a petition of in excess of 4,000 signatures was presented to the Senate prior to the election being called last year. A plant of this nature has many offshoots and provides many values outside the plant itself. The economic value is sustainable growth in regional economics and new jobs. There are social implications—the expectation of a fair, safe and enjoyable lifestyle for those who came to rely on the lead smelters of Port Pirie. And it will be a healthy environment. The environmental elements are already tested and it has been seen safe to build the plant on the shores of Spencer Gulf. The

benefits of this project to South Australia would be enormous. I understand the report has been handed to the Prime Minister by Senator Minchin. We are still waiting for a response from the Prime Minister. Without that response, the project has little opportunity of going ahead. If the federal government can put money into supporting unknown projects with an unknown future, how is it not prepared to put—*(Time expired)*

### Zimbabwe

**Senator MURRAY (Western Australia)** (6.47 p.m.)—I wish to speak tonight about the Zimbabwean situation. I have gathered from the reactions of Julie Bishop MP and Senator Alan Ferguson, who I have seen since their return from Zimbabwe, that what they have experienced has probably changed them forever. I originally went to Zimbabwe for the year 2000 election with Kim Wilkie from Labor, who did an excellent job, and Alan Ferguson. Of course, Julie Bishop and Senator Sandy Macdonald were there at the same time. Things have got much worse since and people have come up against very hard realities there in terms of African politics.

Before I address the main part of my speech I just want to put some matters in perspective relative to my own values and background. At the age of 15 I was in Rhodesia. At that time, I was the only boy in my boarding school at Fort Victoria, which is now Masvingo, who supported majority rule, which led to some interesting experiences. Later on, at university in South Africa, I was an active member and leader in the National Union of South African Students. I rose nearly to the heights of the presidency, which I might have achieved if I had not been deported. I was deported for advocating that majority rule be applied to South Africa and that the anti-apartheid movement be supported. That entailed some dangerous work and activity; now is not the time and place to go into it but it was an environment in which people were banned, detained without trial and, in the case of one of my acquaintances, Steve Biko, killed.

I returned to Rhodesia where I continued to support majority rule and oppose the Ian Smith government. Again, that led to some

interesting experiences in the climate of that time. I also volunteered to join the Rhodesian forces as a territorial member because I strongly believed that the ability of the military to hold the country together was necessary until such time as majority rule could be negotiated. I served nine years as a territorial and saw some active service. It is a historical fact that until South Africa decided the time was up for Rhodesia—until, in fact, John Vorster began to bring Ian Smith undone—it is unlikely that majority rule would have arrived as early as it did.

What did I bear witness to during my time in the forces? In a way, similar to Senator Ferguson and Julie Bishop but I suspect much worse, I saw the reality of terror. Terror consisted of such delicate acts as pulling the lips off the faces of peasants, who were regarded as needing that sort of persuasion, with pliers; chopping peoples' legs off whilst they were held down or mutilating them in various ways. Rape was used, burnings were used, killings were used and beatings were used. Why is this relevant to the situation now? It is relevant because it was the way in which Robert Mugabe's ZANLA, the Zimbabwe African National Liberation Army, were trained by the Chinese communists in the methods of subverting a peasantry.

You achieve great control over people's hearts and minds if you use the instruments of terror effectively. However, along came the 1980 election and everyone, including me, took the view that the past was the past and Zimbabwe could develop into a very prosperous democracy in the African sub-continent and that there was a real opportunity for peace and reconciliation and progress to emerge. Early in the eighties, the instruments of terror were heavily applied. The world media did not take much notice. The people most subjected to the instruments of terror were the Ndbele, the Zulu offshoot who are in a minority in the west of the country. The 5th Brigade—Korean trained, I think, this time—was responsible this time for tens of thousands of deaths and murders accompanied by the usual things: rape, beatings, burnings, lootings and so on.

However, if President Mugabe had retired after eight years, as an American president

would have done, everybody would have thought that was a good show, it worked well. However, in the late nineties political competition came into the Zimbabwean scene, and how did ZANU-PF, the Zimbabwean African National Union party, react? They turned back to terror and to the methods used by ZANLA in the seventies: rape, murder, beatings and torture. They instituted the training and indoctrination through pungwes, through schools, through infiltration at every level of society of the youth militia. Those of you who are familiar with Asian history would know there are marked similarities between the youth militia and the Red Guard in their methods of mobilisation. The consequence has just been the same: you achieve and maintain power.

What is the key to addressing this problem? The key, as it was in the seventies, is South Africa. It is South Africa which provides the lines of credit, fuel, power, essential services and so on. I understand from reliable sources that Libya is now heavily involved in that as well. That is why I say that the outcome that was announced yesterday by the Prime Minister and greeted with applause in the Canadian parliament and elsewhere in the world is just an extension of a policy of appeasement. I do not criticise Prime Minister John Howard. I think he did the very best he could given the circumstances he was faced with. But prior to the election the leadership of Africa's main and most influential states adopted a policy of appeasement. The consequence is that Robert Mugabe, who is a tyrant and a racist—hence my earlier comment about my own credentials of not being a racist in that respect—is now running a police state, and he is running it incompetently at that. This is despite the Prime Minister's best efforts.

I also draw the attention of the Senate and the parliament to the plight of Morgan Tsvangirai. We do know that a number of the judges in the courts have been replaced. We do not know how reliable their independence will be; we can fear the worst. The fact is that Morgan Tsvangirai may lose his life because he has been charged with treason. The SBS film will feature, I think, in a show trial. I say to Australians who have influence: ap-

ply pressure on South Africa because only South Africa can deliver an outcome which will pressure Mr Mugabe to behave much better in what is a police state. The Commonwealth cannot do it; South Africa can.

#### Environment: Sustainable Development

**Senator SCULLION (Northern Territory)** (6.57 p.m.)—I rise tonight to take the opportunity to express my very strong support for the responsible, efficient and sustainable use of Australia's resources and to ensure that we maximise the benefits not only for all Australians today but also for the Australians of the future.

Sustainable use and development of our natural resources is the only way that we are going to be able to hand on to young Australians a resource that is as healthy as it was when we received it. It is different for non-renewable resources, and I think that it is even more important that as Australians we ensure that, when extracted resources are exhausted, we can demonstrate to ourselves that we did indeed receive the maximum benefit from the resource and extracted the resource to its fullest extent.

Firstly, I like to take the opportunity to put on record my disappointment with some of the comments made by the Labor senator for the Northern Territory with regard to the operations of the Ranger uranium mine which borders Kakadu National Park in the Northern Territory. Describing the environmental management practices at the mine as akin to a 'Dad's Army exercise' is irresponsible and scaremongering. The senator's statement that highly elevated uranium concentrates had been discharged into Magela Creek is totally without substance, is misleading and must cause grave concerns for those communities that live downstream of the mine.

The fact of the matter is that the elevated readings that are detected as a matter of course during the wet season are usually the result of heavy downpours of rain that characterise the weather at that time of year. This sometimes results in increased velocity of water flows across low-grade ore piles. To ensure that no increased levels of uranium leave the site, the levels of detectable uranium are monitored comprehensively across

the mine site. Readings must not exceed the focus level—that is, 0.2 parts per billion. To help senators understand how small that is, this glass of drinking water I am holding—safe use of water, standard in Australia—is 20 parts per billion, so it is a fraction of that. When this focus level is triggered the mine takes measures to stem the velocity of the water by adding sand bags to the existing wall. This is a scientifically appropriate water management response, not some Dad's Army outfit as suggested by the Labor senator for the Northern Territory.

The Ranger uranium mine is the most heavily regulated mine in the world, and ERA take very seriously their obligations towards environmental issues. They, like the rest of Australia, appreciate that operating in close proximity to a World Heritage listed national park brings with it a set of responsibilities. All senators, and indeed all Australians, should feel reassured that the Ranger mine is creating valuable jobs, generating wealth through exports, whilst posing no threat at all to Kakadu National Park. Instead of casting doubt over this operation, we should perhaps be holding it up as an example of how extractive mining operations can coexist with the biodiversity values of a national park, again delivering wealth, employment and, at the same time, preserving our natural heritage. Enough said.

When we as Australians proceed with the development of a resource, it is incumbent upon us to ensure that the resource is wisely used and that the benefits from that resource flow not only to this generation but also to those who follow. Timor Sea gas is an excellent case in point. There are a number of options for the development of this field and, depending on your assessment criteria and your values, you could reach differing conclusions about which mechanism of development has the most comprehensive benefits. It is my belief that, to attain the greatest benefits for Territorians, the gas needs to be brought onshore for processing and distribution. This would mean not only jobs and a future underpinned by a sustainable industrial economy but also a huge range of opportunities for future Territorians. I was very pleased to hear Senator Buckland from South

Australia, in an earlier adjournment speech, point out the wonderful and wide benefits to his electorate from the area surrounding Port Pirie and Port Augusta in South Australia. Clearly these developments would not have been possible without access to gas.

You need only to look at the developments that have occurred in the North West Shelf region of Western Australia to see the proof. Can you imagine that coastline if gas had been processed offshore? Where would the vibrant coastal communities of the Pilbara be? Where would the employment opportunities offered by this region for so many young Australians be? The reason those wonderful opportunities are there is that the gas has been piped onshore and processed onshore.

With Timor Sea gas, we have the potential to provide cheap sustainable energy that will underpin sustainable growth of Australian industry into the future. We also have the opportunity to provide for the energy needs of future Australians. We have the opportunity to create sustainable income streams for both Australia and the new nation of East Timor. Perhaps the most important opportunity is to set a very clear precedent to put Australia in control of the resource that belongs to all Australians.

An argument is being offered that we should not dictate to companies about how they develop a resource. In other words, we can tell them only how to behave in an environmental fashion and to behave safely with regard to occupational health and safety and those sorts of related issues. This argument follows that we should allow access to a resource and that our benefit would largely revolve around some taxation, royalty or fiscal benefits. I do not think it really takes into consideration the wide social benefits that are available. We have debated these issues in this place, with the most recent being the regional forestry agreements. We put these in place pretty much as a process that intends to maximise the returns to the community and, at the same time, minimise the impact on the resource. But we do not seem to have that same approach to Australia's gas reserves.

Another example is that the commercial fishing industry has also placed restraints upon themselves to ensure that the returns are maximised and that waste is absolutely restricted to a bare minimum. In fact, I doubt that nowadays we would tolerate any form of the use of our natural resources that allows for inefficient use or for waste. For example, in the extractive industries—bauxite out of Nhulunbuy in the Northern Territory—we ensure that the entire ore body is used. We do not just use a small piece of the ore body; we just take what is sufficient. We ensure that the entire ore body is used.

The proposal to develop the Sunrise gas field in the Northern Territory by installing a Korean-built floating liquid natural gas production platform flags a number of issues not only for Territorians but for the wider Australian community. Apart from the loss of onshore industrial activity—jobs—there are also concerns relating to the efficient use of the gas resource. One of the principal concerns with the floating LNG plant is that, once the plant reaches the end of its life, the gas is too expensive to extract, there is a Defence issue or some other issue associated with the financial aspects of taking the gas, they can simply up anchor and go somewhere else. A gas pipeline, however, would encourage the maximum extraction to receive the maximum return on the capital investment. It would also mean that other fields in the area would remain in reserve and would remain untouched until the existing gas supplies were fully used.

The use of technology should always be encouraged to improve production. I know the proponents of this new technology are very keen on this, but I think they should actually be able to demonstrate that there is a clear benefit to Australia and take into account not only the economic bottom line but also the principles of wise use of our limited natural resources. This should happen before we allow our natural resources to be exploited in any way. These are the principles that govern the use of our other natural resources, and I do not see why Australia's gas reserves should be any different.

I do not stand before you this evening saying there is only one way to progress the

issue of the development of Timor Sea gas, nor do I say I have all the answers to this very complex issue. My position is that, when deciding how to develop these reserves, we must take into consideration issues that I have raised, as we are going to get only one chance to deliver the maximum benefits to Australia from these reserves, particularly on behalf of future Australians. The decisions we will have to make in this place and in the other place that will regulate and guide our wide use of natural resources will have a significant impact on the social and economic legacy that we leave the youth of Australia.

I was very fortunate today to share lunch with three young Territorians. I can assure the House that David, Selina and Iyngaran made their views on this matter absolutely crystal clear. They said that we—that is, us—only have the right to use their future resources in the most sustainable and cautious way.

**Senate adjourned at 7.06 p.m.**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

A New Tax System (Family Assistance) Act—Family Assistance (Immunisation Requirements Exemption) Amendment Determination 2002 (No. 1).

Christmas Island Act—List of applied Western Australian Acts for the period 22 September 2001 to 21 March 2002.

Cocos (Keeling) Islands Act—List of applied Western Australian Acts for the period 22 September 2001 to 21 March 2002.

Quarantine Act—Quarantine Service Fees Amendment Determinations 2002 (No. 1).

Social Security Act—Social Security (Threshold Rates) Determination 2002.

**Indexed Lists of Files**

The following documents were tabled pursuant to the order of the Senate of 30 May 1996 as amended 3 December 1998:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2001—Statements of compliance—

Administrative Appeals Tribunal.

Attorney-General's Department.

Australian Accounting Standards Board.

Australian Bureau of Statistics [nil return].

Australian Competition and Consumer Commission.

Australian Competition Tribunal [nil return].

Australian Customs Service.

Australian Federal Police.

Australian Institute of Criminology and the Criminology Research Council.

Australian Law Reform Commission.

Australian Office of Financial Management.

Australian Prudential Regulation Authority.

Australian Securities and Investments Commission.

Australian Taxation Office.

Australian Transaction Reports and Analysis Centre.

Axiiss Australia.

Commonwealth Director of Public Prosecutions.

Companies and Securities Advisory Committee.

Companies Auditors and Liquidators Disciplinary Board [nil return]

Department of the Prime Minister and Cabinet.

Department of the Treasury.

Environment and Heritage portfolio.

Family Court of Australia.

Federal Court of Australia.

High Court of Australia.

Human Rights and Equal Opportunity Commission.

Insolvency Trustee Service of Australia.

National Crime Authority.

National Native Title Tribunal.

Office of Film and Literature Classification.

Office of Parliamentary Counsel.

Royal Australian Mint.

Superannuation Complaints Tribunal.

Takeovers Panel.

**Departmental and Agency Contracts**

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended on 27 September 2001:

Departmental and agency contracts—Letters of advice—

Australian National Audit Office.

Department of the Prime Minister and Cabinet.

Office of the Commonwealth Ombudsman.

Office of National Assessment.

Office of the Official Secretary to the Governor-General.

Public Service and Merit Protection Commission.

## QUESTIONS ON NOTICE

The following answers to questions were circulated:

### Terrorism: Financial Action Task Force (Question No. 24)

**Senator Bourne** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 13 February 2002:

- (1) (a) Is the Minister aware of the role the Organisation for Economic Co-operation and Development's Financial Action Task Force is now playing in the international effort to combat terrorism through stamping out money laundering; and (b) is the Minister also aware that the organization still considers Nauru's efforts to stamp out the practice unsatisfactory.
- (2) (a) Did the additional \$10 million of aid given in September 2001 include substantial cash payments; (b) is this not contrary to the Minister's 'in kind' description of aid to Nauru; and (c) what transparency and accountability measures have been put in place for these new payments.
- (3) Will the Minister renew his unfulfilled undertaking to provide a listing of the component parts of Australian money given to Nauru as part of the so-called 'Pacific Solution'.

**Senator Hill**—The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

- (1) (a) Yes. The Government regards the Financial Action Task Force (FATF) as a key player in the global fight against money laundering. Australia held the Presidency of the FATF in 1993-94 and has been one of its most active supporters. In October 2001 the FATF held an Extraordinary Plenary meeting in Washington to consider how best to strengthen anti-terrorist financing measures following the terrorist attacks against the United States on 11 September. At that meeting members agreed:
  - to expand the FATF's mandate to include responsibility for setting global standards relating to measures to counter terrorist financing;
  - to adopt a set of eight Special Recommendations on Terrorist Financing; and
  - to adopt a Plan of Action to secure swift and effective implementation of the new Recommendations.

Since 11 September 2001, the Government has taken a range of actions to comply with United Nations Security Council Resolution 1373 (2001) of 28 September 2001 and the outcomes of the FATF Washington Plenary to strengthen measures to combat terrorist financing.

- (b) Yes. Since 1999-2000, under its Non Cooperative Countries and Territories (NCCT) initiative, the FATF has identified a number of non-member jurisdictions, including Nauru, as posing a significant risk of money laundering. Nauru was placed on a list of non cooperative countries in June 2000. Under FATF procedures, if Nauru did not enact anti-money laundering legislation complying with FATF standards by June 2001, FATF members would impose counter measures. In June 2001 the deadline was extended to 30 September 2001. Nauru passed anti-money laundering legislation on 28 August 2001, but it was assessed by the FATF as deficient. The FATF then extended the deadline to 30 November 2001. Nauru did not meet that deadline, and the FATF advised members that counter measures should apply to Nauru from that date. Nauru passed its amended legislation on 6 December 2001 and argued at a FATF plenary meeting in January 2002 that counter measures should be lifted, as the condition leading to their imposition had been met.

The Government supported this position in the plenary session and argued for the FATF to recognise the steps Nauru had taken to comply. This position was supported by Japan, and also Canada and New Zealand. Other members, however, argued that despite the enactment of an adequate law, Nauru was not in a position to implement its law effectively and immediately and therefore counter measures should continue. The decision by the FATF to maintain counter measures against Nauru was taken by consensus, and Australia has implemented that decision.

Australia has taken action to apply counter measures against Nauru. In January 2002 the Australian Transaction Reports and Analysis Centre (AUSTRAC) issued Information Circular Number 26 which requires cash dealers (as defined in the Financial Transaction Reports Act 1988) to give special attention to business relations and transactions with persons, including companies and financial institutions, from Nauru.

The Government remains committed to supporting international efforts to combat money laundering, particularly in the Asia-Pacific region. Consistent with our policy of providing practical support to regional countries to assist their efforts to strengthen their anti-money laundering arrangements, Australia has provided assistance to Nauru to help it comply with the FATF, including the provision of advice and comments on its draft anti-money laundering legislation.

- (2) (a) No cash payments have been made to Nauru as part of the aid package agreed to in September 2001. (b) not applicable. (c) not applicable.
- (3) (a) Australian development assistance to Nauru is targeted at short term and longer term development challenges. The major components address the adequate supply of power and water, priority health and education needs as well as waste management. Australia has also agreed to provide a financial advisor to assist Nauru in its urgent task of economic and public sector reform and is working with the Asian Development Bank in this area.

**Trade: Rural Exports to the Philippines**  
**(Question No. 25)**

**Senator O'Brien** asked the Minister representing the Minister for Trade, upon notice, on 13 February 2002:

- (1) Is the Department currently involved in attempting to facilitate access for Australian rural exports to the Philippines: if so, in each case: (a) what is the product Australia is seeking to export; (b) what was the original timetable set by the department for accessing the Philippine market; (c) what is the process being followed in order to facilitate access; and (d) what is the current timetable for accessing the market.
- (2) In each case, if there have been any delays in accessing the Philippine market: (a) what caused the delay; (b) when did the action or incident that caused the delay occur; and (c) what action has the department taken to overcome the problem.

**Senator Hill**—The Minister for Trade has provided the following answer to the honourable senator's question:

- (1) The Department seeks to facilitate access for all Australian agricultural exports. (a) The Department is currently seeking the lifting of a temporary ban on the importation of meat and bone meal (MBM) to the Philippines. The ban was imposed on all MBM products over concerns about the use of these products as ruminant feed. (b) We are seeking a lifting of the temporary ban as soon as possible. (c) The Embassy has made a number of representations to officials from the Philippine National Meat Inspection Commission, the Bureau of Animal Industry and the Department of Agriculture. The Embassy has also liaised with other foreign missions affected by the temporary ban. Biosecurity officials raised the issue during a visit to Manila in September 2001, as did the Minister for Agriculture, Fisheries and Forestry, the Hon Warren Truss MP, during his visit to Manila in February 2002. (d) As per (b), we are seeking to lift the temporary ban as soon as possible.
- (2) (a) In July 2001, Philippine Agriculture Secretary Leonardo Montemayor signed Administrative Order No. 8, which temporarily banned the importation of meat and bone meal from all countries, with immediate effect. (b) 18 July 2001. (c) As per 1(c).