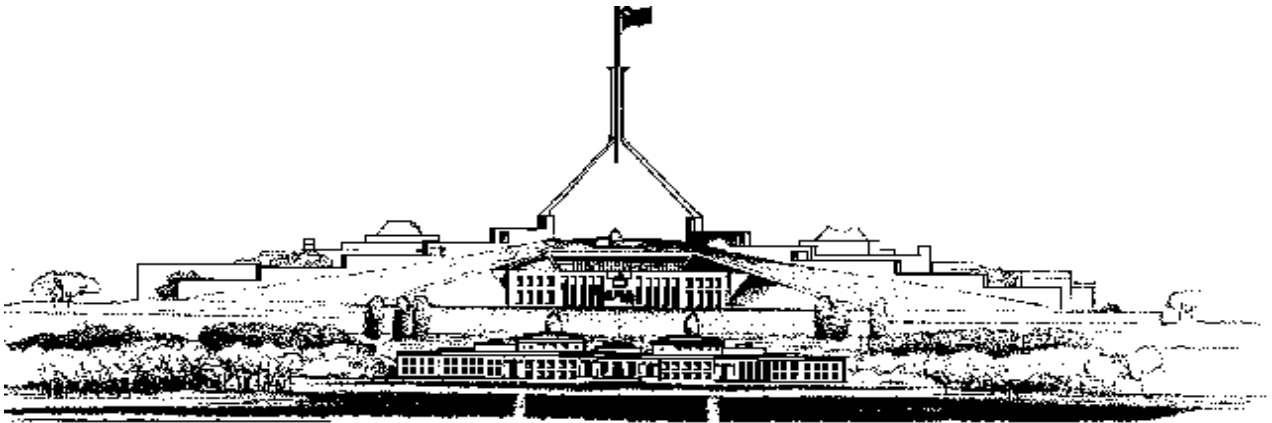




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



SENATE

Official Hansard

No. 12, 2002

MONDAY, 21 OCTOBER 2002

FORTIETH PARLIAMENT
FIRST SESSION—THIRD PERIOD

BY AUTHORITY OF THE SENATE

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Monday, 21 October 2002

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

**AUSTRALIAN SECURITY
INTELLIGENCE ORGANISATION
LEGISLATION AMENDMENT
(TERRORISM) BILL 2002**

Second Reading

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

That this bill be now read a second time.

upon which **Senator Faulkner** had moved by way of an amendment:

At the end of the motion, add:

“But the Senate:

- (a) notes with concern that:
 - (i) the Government’s response to the report of the Parliamentary Joint Committee on ASIO, ASIS and DSD is inadequate;
 - (ii) the Government proposes that, for the first time, Australians not suspected of any offence could be detained by ASIO for questioning;
 - (iii) the Government proposes those detained by ASIO do not have the right to legal advice for the first 48 hours of their detention;
 - (iv) the Government proposes children can be detained by ASIO for questioning; and
 - (v) the Government’s proposals will significantly change the role of ASIO by giving it powers of coercion and detention, and
- (b) therefore refers the *ASIO Legislation Amendment (Terrorism) Bill 2002*, together with the following matters, to the Senate Legal and Constitutional References Committee for inquiry and report by 3 December 2002:
 - (i) the development of an alternative regime in which questioning to obtain intelligence relating to terrorism is conducted not by ASIO but by the AFP, including appropriate arrangements for detention of terrorist suspects, and questioning of persons not suspected of any offence;

- (ii) the relationship between ASIO and the AFP in the investigation of terrorist activities or offences;
- (iii) the adequacy of Australia’s current information and intelligence gathering methods to investigate potential terrorist activities or offences;
- (iv) recent overseas legislation dealing with the investigation of potential terrorist activities or offences; and
- (v) whether the Bill in its current or amended form is constitutionally sound”.

Senator BOLKUS (South Australia) (12.31 p.m.)—I rise to speak on the **Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002** with a backdrop of the events in Bali some nine days ago. I think it is important that, as we deliberate on legislation like this in the Senate, we look at those events and acknowledge that there are a quite a number of lessons in them for us. Like all Australians, I continue to be rocked by those events. We have seen the human dimensions night after night on TV and quite graphically over the weekend. We just cannot run away from the continued grief that parents, husbands, spouses, brothers, sisters, sporting colleagues and we, as a nation, are suffering.

I think we are also confronted by the implications of last weekend, and they will continue to confront us. We share the pain; we share it to the point of being tortured by it. But I think as a nation we have a sense of frustration and we need to take some sort of remedial action. We need to bring the perpetrators to justice but there is a sense of frustration and helplessness in terms of where we start and what we can do. What can we do to ensure that it does not happen again? I will go to that point later on. We are haunted by it and, as a consequence, I think the events of Bali will continue to influence public policy in this country and definitely within our region, if not across the whole world, for quite a long time.

We are affected by those coming home and we are confronted by the challenges but I think we are also deeply affected by the pain caused to the Balinese themselves. I have been to Bali some six or seven times. I

spent my honeymoon there. Like everyone else, I had seen it as a tranquil, peaceful, beautiful place with beautiful people. Even before last week I think many of us were troubled by the impact that the Australian tourist market was having on the lives of the Balinese. As we see the photographs of Balinese families still waiting for parents and children to come home, I think the impact that we have on their lives continues to be brought home to us.

I, for one, think that the steps that have been announced so far in terms of assisting the Balinese—for instance, setting up a hospital—are important steps. But I have also had a view for quite a long time about what we as Australians need to do within our region, particularly in places like Bali—I was involved, for instance, in the reconstruction of the Cambodian national gallery and museum in Phnom Penh when I was Minister for Administrative Services—and I think it is important for us to help those people reconstruct their cultures and place those cultures in a pivotal place in the Kuta of the future. It will be important for us to show that we actually understand those people and will not just help them with medical services—which will probably help tourists more than others, but they will help the locals—but also pay respect to them by setting up some sort of cultural monument so that Australians in the future may be able to understand better the people that have made their home the island of Bali, the playground of Australia.

Moving on from that, I think the issues of the last 10 days have led us to have a greater appreciation of, confidence in and respect for our institutions; the spirit of generosity of the Australian people; and the many tiers and aspects of the professional staff and non-professional support staff who quickly activate themselves beyond the call of duty whenever there is a crisis and get involved in support assistance, from grief counselling to attending to the bruises and picking up the body parts. We really need to respect and pay tribute to the professionals, the airline workers, the cleaners, the volunteers and the paid employees. We should say thank you to them not just for what they are doing but also be-

cause they are making us, as a nation, feel as if there is something we can do.

In the context of this legislation, I think we have to learn from the Bali attack. This is antiterrorism legislation. There is a very direct link with the legislation that was before the parliament just a few months ago. I think we have to learn from the Bali attack and not be spooked by it. It is not an issue which can be handled in the conventional way. Terrorism cannot be fought in the conventional military way. We cannot be spooked by it. We need to address the underlying problems. For instance, in Australia we need to recognise that we do live in a region that has its problems. There is an enormous degree of stability in the level of potential problems that have existed and continue to exist in places like Indonesia, Malaysia and Singapore.

As I said just a few weeks ago in a debate on Iraq in this place, from Kazakhstan to Dili there is potential for problems. We in Australia need to learn from that and we need to assess our performance in the context of the challenges that we have to meet in the region, if not in the broader world community, over the next few years particularly. We have to assess the performance of our key institutions. Was, for instance, the incident 10 days ago a failure of intelligence? Was it the institutions? Was it the political leadership? Was it a failure of resources? Was it a failure of legislative capacity? That, of course, brings us to this legislation. These issues will be for ongoing debate. But you cannot debate these issues without coming directly to the role of ASIO in our society, the potential for ASIO to perform a productive function and the dangers that may be inherent in any excessive power in an organisation like this.

There is an unfortunate tendency in Australian society at the moment to see things in simple terms—good or bad, black or white, us or them. For instance, when it comes to boat people there is a view that says, 'Let them all in.' There is an alternative view that says, 'Let them all out.' We in this parliament need to be confronted by the complexity of all these issues, and a simple solution is more often than not the appropriate solution. As we found with boat people and as I

think we find with ASIO, there is a view in our society amongst some—and they can be either of the extreme Left or of the extreme Right—that ASIO is inherently evil and as such should not be given any extra power at all. I do not share that view. I think those who have worked with this organisation over the years also do not share that view. I have had much experience with them as immigration minister and I know of their value in the screening of people coming to Australia. It was comforting to hear Dennis Richardson, the Director-General of ASIO, before the Joint Standing Committee on Foreign Affairs, Defence and Trade of this parliament just a few weeks ago tell Australians that of the boat people who came around the end of last year not one of them had been identified as being a person of suspicion in terms of terrorism. They had all been cleared of that concern, which had been beaten up before the last election.

I have respect for them and I am pleased that they are over in Bali. I am also of the view that we need to ensure that they can work effectively to meet the new challenges that may have been thrown up by the Bali terrorism act. We have to get the balance right and in that context we have to ensure that ASIO can be effective, but effective within the democratic structures and values that Australians treasure so much.

We also ought to recognise that organisations like that have been asked to address unprecedented challenges. Just a few years ago there were something like one million people coming to Australia per annum. Now it is four or five going on six, seven or eight million. Essentially, it is part of the tourism industry. ASIO have a continuing role that they need to meet, and it is a role that up until now they have met quite effectively. That is not to say that an organisation like that cannot be misused and abused. Though I might have some confidence in some of the people running ASIO, I am sure I do not have the same respect for and confidence in some of their political masters.

We all spent last week saying that we need to reflect on the situation in Bali and learn from it. We had by the end of the week, for instance, the unfortunate behaviour of the

Attorney-General, the hapless Daryl Williams. When asked about these issues, he knew of no alternative but to return to his song sheet of the past and to propose the proscription of an organisation like this—the organisation I am referring to is, of course, Jemaah Islamiah. He thought that proscription would provide all the answers. The challenge for people like the Attorney-General, for leaders in this government and for us is to actually look at the new challenges from Bali and to see whether we need new solutions rather than to go back to those that have been tried and rejected by all sides of politics in the not too distant past. For instance, Daryl Williams says ‘proscribe’. In the current context, who do you proscribe? Is it Jemaah Islamiah? Is it the college Ngruki network or whatever other manifestations it may have? Is it Hezbollah? Is it Masjumi? The list goes on. An organisation like the one that is under prime suspicion with respect to the Bali bombing is not an organisation like the ones that Daryl Williams might be aware of and have close contact with, like the Melbourne Club or the West Coast Eagles. They do not have central membership; they do not have core membership. They do work in cells. It is this sort of loose non-organisation that we need to somehow come to grips with. The formal act of proscription will not do that. Other provisions in this legislation may help to do that. Our challenge is to look at these and to see what the new challenges are.

We also need to build on the strengths of the organisations and institutions that we have running for us. I for one am concerned to ensure that ASIO is not, by the addition of further functions—functions which have not been part of its essential character over the years—derailed and disrupted and maybe even corrupted. As an effective organisation over the years, ASIO has developed important relationships with many Australians, not the least being with migrant groups in our community. ASIO provides information on which state and federal agencies depend quite importantly. We need to ensure that those relationships are not disrupted in any future manifestation or consideration of the powers of ASIO. Do you jeopardise the ongoing strengths of an organisation like this when you give to it the power to arrest, to

detain, to detain for a length of time without reason, to detain in secrecy and to detain young people? My fear is that you do do that, and some of those confidences that are built in the community, from which ASIO derives an enormous degree of information, may very well be jeopardised if we go the wrong way. It is one of those issues that, if this bill finally does go in committee, the committee will have to have a close look at.

We do have some real concerns and those concerns will have to be addressed in the committee process. We are concerned that once again this government, calling for a spirit of national unity, will go off and do things on its own when consultation and a healthy participatory process would have brought about a greater bipartisan outcome. For instance, with respect to this legislation there was no real attempt at bipartisanship. My concern is—and it has to be the concern of many—that this government preaches bipartisanship but knows very well how to play wedge politics. That is one thing the Attorney-General was trying to do in question time last week, unfortunately.

We as a committee will have to address whether the legislation is balanced and fair. We had this challenge before the parliament for the previous regime of antiterrorism legislation which passed just a few months ago. The parliament achieved major amendments. The Prime Minister railed against them at the time, but it was only just a few weeks ago that Prime Minister Howard said of the legislation that came out of this parliament after major amendment by the Senate, 'I believe we have got the balance right.' I think that is what we want people to say at the end of the process in this place. Let us see if we can get the balance right.

We recognise that we need to combat terrorism, but we also recognise that we need to protect the liberties that terrorists want to destroy, liberties fundamental to our system of government that terrorists are threatened by and do in fact want to destroy. At the same time, I think we need to do that in a way that does not provide further oxygen for terrorist cells in our region and afar.

The third issue that needs to be addressed by the committee was raised by the joint

parliamentary committee. For instance, the chair of the committee, the member for Fadden, is on record as saying that the legislation:

... would undermine key legal rights and erode the civil liberties that make Australia a leading democracy.

The government accepted quite a number of recommendations of that joint parliamentary committee but there are five major recommendations that have not been accepted by the parliament, and I think they are recommendations that a Senate committee would have to look at.

For instance, as a first issue, even ASIO agree that the detention of children needs to be reviewed, and I think that is important as a continuing process. The second recommendation of the committee is that there be a three-year sunset clause. The joint committee has proposed a sunset clause. We believe a sunset clause would be a significant accountability mechanism were the legislation to go ahead. That needs to be given further consideration.

The third recommendation is that the Inspector-General of Intelligence and Security be present during ASIO interviews and have the power to stop them if necessary. It is amazing that the government was not flexible enough to pick up a recommendation like that, and there are a couple of other issues as well. They are issues that would need to be addressed by the committee in its deliberations were the legislation to be deemed to be salvageable. I think a fundamental question facing the committee is: are the powers that the government wants to give ASIO powers that are necessary for its better management and greater effectiveness or should some of those powers be powers that are available—as they may very well be at the moment—in other institutions such as the AFP? If they are not available to the full extent, what changes have to be made to AFP legislation to see what we can give them by way of acceptable extra powers? The other question that has arisen during the deliberation of this legislation is the question of constitutionality—and that is a question that I am sure will be confronted by any committee process.

This is extremely important legislation. It is being debated against the backdrop of September 11 and it is being debated against the backdrop of the tragic events in Bali some eight or nine days ago. Once amended, it is legislation that will last forever. It is legislation that, in lasting forever, may have some fundamental impact on the democratic nature of our society and the way in which secretive organisations like ASIO proceed into the future. In that respect, it is important for the Senate to give this legislation some very serious consideration. We cannot ignore, nor should we ignore, the events in Bali. We cannot ignore, nor should we ignore, the events of September 11. But what we do need to take into account is that terrorism cannot be confronted, and it cannot be beaten by jingoistic, nationalistic rhymes that often come out of the mouths of people like the US President. It is complex. It is in our region. It is something that we need to confront by effective institutions. Let us hope that at the end of this process we can come up with an effective answer to some of the issues in this legislation.

Senator LIGHTFOOT (Western Australia) (12.49 p.m.)—I agree with Senator Bolkus: it is something that we need to confront with our institutions. It is a pity that the bill has not been sufficiently supported by the opposite side to put it into legislation. The [Australian Security Intelligence Organisation Legislation Amendment \(Terrorism\) Bill 2002](#) we are considering has been referred to three committees. It is unfortunate that the opposition recently moved a motion in the Senate to refer the bill again to the Senate Legal and Constitutional References Committee for yet another review.

These days it is all too apparent, too painfully and tragically apparent, why we need this legislation. It is not time to play the political blame game. It is not time for an ideological war between the major parties in this place that Senator Bolkus seems to want to indulge in by his contribution here this afternoon. It is not time for the fashionable Left, or the limp-wristed academics, part of the visible fifth column in Australia, to be listened to. Nor is it time for the Left of politics in this place to withhold their support for

essential legislation to give ASIO more teeth at the beginning of this the third millennium.

You cannot, with one hand tied behind your back, fight terrorism and such bipedal filth who, in their demented thought processes, wreak such havoc on the innocents, peculiarly in the name of a god. These terrorist murderers carried out the atrocities in Bali and left 103 people, mostly young Australians, missing. You cannot use democracy to fight terrorism. We do live in a democracy but that is used against us—that weapon is turned back against us. We need ASIO, ASIS and the DSD to be further armed to better combat these forms of atrocities.

For these terrorist murderers, killing seems to be genetic—it seems to be in their DNA. There can be no mitigation of, or excuse for, this unwarranted slaughter of innocent people, whether it is in Bali, New York, Afghanistan or any other part of the world. The Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 helps to redress what is not so much an anomaly but provides an addition, in an evolutionary sense, to our protective services for this country and its citizens. I was disappointed to hear Senator Bolkus say in his contribution this afternoon that he is not going to support the legislation. Either you support this type of legislation or you do not support the full protection of our citizens in this country and overseas.

This bill helps the organisations that I have mentioned to fight these cruel anomalies that need to be redressed now. It does not need to go to another committee; it has been in limbo for too many months now. These animals—and I hasten to say that I do not know of any animals that could be as bad as these terrorist murderers—resorted to such heinous and nefarious wickedness that one could not imagine or describe. Their atrocities were of such unforgivable proportions and such depravity that I do not know how to describe these people. I cannot tell you how revolted I was when I saw the first television news of the slaughter of the innocents in Bali. To have someone in this place say that they will not support bills of this nature or amendments that will give these organisations some teeth and the tools they have re-

quested, I find quite extraordinary. I am not going to resort to blaming the other side, nor am I going to resort to vilifying Senator Bolkus for what seems to be clearly emerging as his opposition to these amendments.

The murderers have indiscriminately taken the precious lives of the guiltless, the faultless, the unblemished and the Arcadians with cowardly stealth in the night. This bill will help to right that and redress those anomalies that have been brought about by these heinous acts of recent times. The ASIO amendment bill gives the ALP, the Greens, the Australian Democrats and the Independents the opportunity to show their abhorrence of the Bali atrocities.

Finally, I offer my condolences not just to the Kingsley football team for their great loss—the greatest single loss of any organisation in the Bali tragedy—but also to Western Australians and Australians for the needless, senseless slaughter of Australian citizens in Bali. This is not a knee-jerk reaction; this bill has fortuitously been around prior to the atrocities in Bali. I would hope that the other side does see reason and that they see the need for organisations in Australia to be provided with the resources to match those of the killers—murderers—around the world to ensure that this sort of senseless, needless slaughter is never again emulated. (*Quorum formed*)

Senator HARRIS (Queensland) (1.01 p.m.)—I rise to speak on the [Australian Security Intelligence Organisation Legislation Amendment \(Terrorism\) Bill 2002](#). Today we are debating a very serious bill which seeks to give ASIO, our domestic intelligence agency, unprecedented, unnecessary and unwanted powers. The bill strikes at the heart of freedom, democracy and civil liberties, and is an attack upon the fundamental natural rights and beliefs that our forefathers fought and died for. ASIO has a history of spying and prying on innocent Australian citizens whose crime was sometimes nothing more than expressing opinions contrary to those held by the political establishment of the day. Up until the 1970s, ASIO's countersubversion branch maintained lists of citizens who could be arrested and interned in camps in the event of war or other national emergen-

cies. Plans to round up and imprison up to 10,000 political opponents in military camps continued until 1971.

In the past, ASIO is known to have maintained intensive surveillance and dirty tricks operations against perceived political dissidents. ASIO bugged offices, tapped phones and planted agents. Media proprietors and leading journalists also worked closely with ASIO, exchanging files, publishing articles based on ASIO dossiers, and fuelling ASIO inspired witch-hunts and frame-ups. Today ASIO is widely perceived to have thrown off its Cold War shackles. In a recent media interview Director-General of ASIO, Dennis Richardson, told a Canberra newspaper that ASIO is a 'contemporary organisation meeting contemporary needs', but when we see the sort of legislation before us today we have to wonder exactly what those contemporary needs are.

For the first time in the history of our nation, ASIO is seeking the power to arrest suspects and to have them detained for 48 hours without legal counsel. Unlike state police and the Federal Police, ASIO is not a law enforcement body; it is primarily an intelligence-gathering agency. ASIO does not perform a law enforcement role or maintain a direct working relationship with the criminal justice system, yet in the name of the war on terror ASIO is now seeking the powers of a secret police force. These powers were not even necessary at the height of the Cold War. One of the most outlandish powers in this bill is that it will allow the Federal Police to detain a person for questioning on behalf of ASIO. The process will be effected via the provision of questioning warrants—warrants that ASIO has never before had the power to seek.

The bill allows access to legal counsel only after 48 hours. ASIO could effectively make a person disappear for two days. Under this legislation, ASIO will be able to question people who are not suspected of terrorist activity but who may have information that may be relevant to ASIO's investigations into politically motivated violence. This new provision is tantamount to a mandatory duty to inform. ASIO will have the power to

compel disclosure of information from a mere suspect. Senators would be aware—

Senator Lightfoot—Mr Acting Deputy President, I rise on a point of order. I do apologise for interrupting the speaker, but I wonder whether you would be able to rule on this. It appears that the speaker is reading a speech and I wonder whether you would be able to clarify whether he is referring to copious notes.

The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)—Senator Lightfoot, there is no point of order. He is referring to copious notes.

Senator HARRIS—Senators would also be aware that ASIO can seek various warrants to search premises, hack into a person's computer, bug a person's telephone conversation and keep people constantly under surveillance. These warrants would be issued by the Attorney-General. It is unknown how many warrants are issued each year. Indeed, the issuing of warrants is only vaguely referred to in ASIO's 2000-01 report to parliament. For instance, there is no public record of the number of telephone intercepts and warrants that are issued. Technically, the phone tapping is simple. The phone company types in the number and flicks the conversation to ASIO, who records or transcribes it. Laws that came into force in the early 1990s ensured that all telcos built this mechanism into their systems so they could respond easily and rapidly to information warrants. If ASIO has nothing to hide then it has nothing to fear, and details pertaining to warrants should be disclosed.

I note that the amended ASIO legislation makes provision for the organisation's unclassified report to include a statement about the total number of requests to issue questioning warrants. However, only the numerical totals are reported; the other details are not furnished. Once a questioning warrant is issued, a person must appear before an authorised authority and provide information or documents requested in relation to that warrant. The person will be deemed to have committed an offence if they fail to appear, give information or produce things associated with the warrant. The privilege of self-incrimination does not apply. In other words,

the person is compelled to answer any questions put to them by ASIO.

In its submission to the parliamentary joint committee which investigated the bill, the Law Council of Australia argued that the abrogation of the right to remain silent and to legal representation was unacceptable. On this point the Law Council of Australia has said:

Any overturning of the right to silence by the imposition of compulsory questioning must be confined as narrowly as possible ... the Law Council does not consider the proposed test—namely whether or not the Minister is satisfied that there are 'reasonable grounds' for believing that the issue of the warrant will substantially assist the collection of intelligence—to be acceptable.

Once a person is taken into detention, at an unknown location, they can only contact an approved lawyer and access to legal counsel may be delayed by up to 48 hours. While an allegation of terrorism, if proven, may certainly justify incarceration, it does not in itself justify detention, for any period of time, without legal counsel.

Let us summarise what we have so far here in this legislation. A person can actually be detained by the police on behalf of ASIO and questioned and they have no right to remain silent. A person can be held without any charges whatsoever, on a mere suspicion. There is no access to a lawyer for a period of 48 hours or, in other words, two days. The detainee cannot even make a phone call. A person could be held totally incommunicado. There is no provision in the legislation that specifies any time restriction on the questioning during that 48-hour period. It appears that questioning could continue for the full 48 hours. These are a flagrant abuse of civil liberties and a horrendous and frightening affront to the decent law-abiding citizens of the country. The mere tabling of this legislation is an imposition and it would be reprehensible if passed in its present form.

On the subject of detention I would like to draw the Senate's attention to the comments by the Law Institute of Victoria:

It is our view that rather than defending democracy, the Bill undermines fundamental human

rights to the presumption of innocence and to be free from arbitrary detention contained within the International Covenant on Civil and Political Rights.

It is unconscionable that any person in our community could be subject to arbitrary detention. It is even more disturbing that this legislation could see children detained, without any ability to notify their family.

.....

In addition, we emphasise that in respect of any detainee, any period of detention should at least be strictly time-limited. It is essential that any detainee be provided with the opportunity to be able to contact family and seek legal advice unless a judge makes a determination to the contrary.

Anything less than these suggestions will see protections that are the hallmark of our civilised democratic society eroded.

I want to make some remarks now about ASIO and foreign intelligence agencies. Australian intelligence organisations are intricately linked with overseas counterparts through the UKUSA agreement, signed into existence shortly after World War II. The partners of the UKUSA agreement—that is, the USA, the UK, Canada, Australia and New Zealand—operate a surveillance network called Echelon. In July 2001, the European Parliament reported on this global system for the interception of private and commercial communications, and ASIO is among the five Australian intelligence organisations named in the European parliamentary report in Annex IV.

Members who were with the Joint Standing Committee on Treaties in 1999 will recall hearing evidence about the UKUSA agreement and the fact that this treaty forms a central plank of US and Australian involvement at the joint defence facility Pine Gap. Members of the committee will recall our own Australian parliamentarians could not even get a canteen tour of Pine Gap. I raise the point about Pine Gap because there have been recent demonstrations there. One Nation does not support unlawful assembly but we do support the right of people to bring to the attention of the Australian public the issues that they oppose.

The proposals in this bill present a significant departure from traditional legal arrangements. In normal circumstances, a per-

son cannot be detained for more than a few hours unless they are charged with an offence. They must be allowed to communicate with a lawyer immediately, and they cannot be compelled to answer questions. Under this bill, ASIO could use various excuses to detain a person because they might have valuable information, because it suspects a person but lacks sufficient evidence to make a charge or simply because ASIO is not yet convinced the person is innocent.

In the last sitting, we saw several key terrorism bills pass through the Senate with the help of the opposition. Let me remind you of Senator Ray's comments in this chamber about the antiterrorism bills, including the [Security Legislation Amendment \(Terrorism\) Bill 2002](#):

The way we must approach these matters is to look at them as if we were in government. We must strip everything away and assume for the moment that we are in government: what would we think was the most appropriate legislation then?

Increasingly, the electorates—that is, our constituents; the men and women of Australia—are asked not to know, but just to trust the government. We are being asked to increasingly grant powers to the government and the government's agencies based on the fact that the government is bringing them forward as legislation. We are being asked to accept the unknown content. Citizens of Australia must not become complacent and we, as parliamentarians, must not blindly accept what comes before us as legislation. World history is replete with facts about dictators and tyrants, and about terrorists who violate every rule of human decency. It is critical that, in responding to a terrorist threat, we hold fast to the rule of law. Secret detentions fail that test. Abolition of the right to remain silent fails that test. Detention without access to legal advice for 48 hours fails that test. On the scales of justice, we are simply losing the balance.

This drastic legislation could bypass the fundamental rights which are the hallmark of Australian justice and our common law heritage. We must not sacrifice our most fundamental principles, or we run the risk of losing our freedom. Public apprehension of

impending violence is the terrorist's most valuable weapon. Apprehension can lead to personal fear, to changes in business or other practices which are unnecessary and damaging to economic or social life and, eventually, to government actions which may undermine our democratic institutions. To date, terrorists have not achieved the suppression of the individuality of Australians. We need to ensure, in this chamber, that we are not doing to the Australian people the one thing that terrorists have not been able to achieve.

During my speech I made a reference to a report from the European Parliament: *Report on the existence of a global system for the interception of private and commercial communications (ECHELON interception system) 2001*. In annex 4 of that report we find ASIO named as a foreign intelligence service that reports to the Minister for Foreign Affairs. I seek leave to table that document.

Leave granted.

Senator BROWN (Tasmania) (1.18 p.m.)—The Greens oppose this legislation. I can no better outline our reasons for that than by going back to the Senate Legal and Constitutional Legislation Committee report which Senator Barney Cooney and I submitted in the wake of the public hearings into the [Australian Security Intelligence Organisation Legislation Amendment \(Terrorism\) Bill 2002](#). It states that the bill:

... marks a sharp fall in the quality of our civil life and of our democratic system. Any present or potential danger it seeks to counter should be met in ways akin to those now operating within our current law enforcement regimen.

In proposing any new legislation the onus is on the proponents to justify why change is needed. This should always be the case, but especially when the proposed changes represents a fundamental change to our civil and democratic rights.

The main proposition in the Bill would be such a change. The bill proposes that people, not reasonably suspected of committing a crime, should be deprived of their liberty. This is a fundamental shift away from principles that in some respects date back to the *Magna Carta*. No one should be imprisoned or detained unless they have a committed a crime or a case can be shown on reasonable grounds that they might have.

There is a little evidence, at least of a public nature, to show the extreme measures provided for in the Bill are needed. There appears an unwillingness on the part of the government and authorities to advance hard and testable evidence which would enable us to assess the need for such a radical change. Nor do they meet the argument that for a community to be free and democratic it must take the risk that some within it will pervert that freedom and democracy.

That is the real heart of the dilemma that we face in dealing with legislation like this. The report from Senator Cooney and me goes on:

Government is forever in search of more and more coercive powers. The promise of law and order has become the staple fare of political campaigns. This creates the danger of diminishing the rights and liberties appropriate to people living in the sort of society we all claim we want. The laws we introduce take from our society the very attributes we declare we most treasure.

There is little attempt in this legislation to accommodate the situation in which vulnerable people may be placed when taken into custody. For example there is no provision made for indigenous people in the way there is under Section 23C (Period of arrest) of the Commonwealth Crimes Act 1914.

In October 1982 Mr Justice King, Chief Justice of South Australia told the Criminal Investigation Bureau of his State:

'I emphasise the need for retaining a proper sense of perspective and proportion because anti-crime zeal can easily degenerate into hysteria and bring in its train greater evils than those which it aims to cure. Crime to a great extent is a by-product of liberty. Wherever men and women are free, a proportion of them will misuse their freedom. Probably the crime rate could be considerably reduced by curtailment of the citizen's freedom of expression and action. The price would surely be too high. Rules of law which protect the citizen against arbitrary arrest and detention, against unfair treatment while in police custody, and which protect his home against arbitrary invasion by persons in authority, must be maintained. Any reduction in the crime rate purchased at the cost of the loss or curtailment of genuine civil liberties would be purchased at too high a price.'

On the 28th July 1983 Mr Frank Vincent QC, as he then was, made the following statement at the Crimes Commission Conference held in the Senate Chamber in the old Parliament House.

"This and every other community have suffered from crime, organised and disorganised, throughout their entire histories. Yet, we are being

subject at the present time to an amazing amount of propaganda which has been introduced in the media in the form of assertion, all of which are likely to engender considerable fear and apprehension in an already fearful community.”

No law now operating in Australia enables authorities to take people into custody solely to gather intelligence from them—

No law does this. The report continues:

Proposed section 34D—

that is, the proposed new section—

of the Australian Security Intelligence Organisation Act 1979 is exceptional. The person is detained not because he or she has committed an offence, or, is under reasonable, or indeed any sort of suspicion, of having done so. He or she is confined because “the prescribed authority is satisfied that there are reasonable grounds for believing that a warrant will substantially assist the collections of intelligence ...” This prejudices the worth of our human rights.

This is radical legislation. It takes away a number of those attributes we have until now held as citizens. They include the ability to walk abroad, confident that we will not be taken into custody without having committed a crime or without having fallen under reasonable suspicion of having done so; the ability to have access to a lawyer of our own choosing when detained; the ability at all times to tell our family our friends our employers and our associates where we are and under what circumstances; our ability as parents to know where the authorities hold our children; the ability for us to attend our own doctors and dentists whenever we are in urgent need of them.

The appropriate course to take with this legislation is to dispense with it.

Barney Cooney had great insight—after a life in the law community and then in this Senate—into the fundamental of our democracy. We should protect the civil liberties which underpin it and which have been written into law over centuries. Those centuries entailed world wars, emergencies and civil insurrection, but they have withstood them. This ASIO legislation crosses the line. Indeed, the *Sydney Morning Herald* pointed out the same thing in an editorial of 16 September, saying:

Meanwhile the Howard Government is pressing forward with proposals to give ASIO powers of arrest and detention, akin to police powers. They are so different from the powers which define ASIO’s existing role of intelligence gathering

that they cross a line. The Government says they are necessary to meet an increased threat from terrorism. But they are not a mere increase in existing powers. Rather, they change the nature of ASIO to a secret police organisation.

Other speakers have pointed to the submissions to the committee looking into this matter—not least that of Professor George Williams. In the *Canberra Times* on 1 September this year, an article by Lincoln Wright stated:

According to Professor Williams, the Government’s plan to give ASIO the power to detain people incommunicado represented the biggest crisis for Australian democracy since Sir Robert Menzies tried to ban the Communist Party in 1950.

Professor Williams said that the ASIO bill has to be sunk. He believed, after talking to the Labor Party and the Greens, that it had been sunk. He said:

It’s clear the ASIO Bill can’t survive this Senate process ...

He said the bill was rotten to the core and he also said:

The Bill would confer unprecedented new powers upon ASIO that could be used by an unscrupulous government.

As Senator Nettle pointed out earlier, he said:

It was part of the apparatus of a police state, and would not be out of place in General Pinochet’s Chile.

These are startling statements grounded in a real analysis of this legislation that none of us can or should ignore. It is very important that we get this legislation right. It is fundamentally important to our society. I reiterate what was being said in some of those quotes earlier—that there is a difficult balance between the law and the rights of people to absolute freedom. But this legislation crosses the line in invading those freedoms in a way this country has never seen before. That is why Senator Nettle and I support the Labor Party’s amendment that this should go to inquiry and that the matters involved—including the secret detention, without rights, of children—should be very carefully scrutinised again. We will support that amendment. It gives us, the whole Australian community, time to think again. I move an

amendment to the second reading amendment moved by Senator Faulkner. I move:

1) After subparagraph (b)(v), insert:

“; and (vi) the implications for civil and political rights of the bill and any proposed alternatives.”

I feel that that amendment may well be adopted. This will ensure that if there is to be an enhancement of the powers of the Australian Federal Police, or indeed some other body set up to implement the provisions of this legislation, it is done with a full understanding of what that will mean for civil and political rights. That is something that Senator Nettle spoke strongly about when we were dealing with this matter last week.

Finally, the word around the corridors is that in the very near future the government may move to make this an urgent bill. Let me comment on that. A move by the government to guillotine the debate on this bill would be outrageous. Here it comes: ‘We’re getting the government to move to make this a matter of urgency.’ That is simply the government using this debate about this important bill for political purposes in the wake of the dreadful tragedy in Bali. There was no flagging of an urgency motion last week. This bill, of all bills, needs a full second reading debate, a full committee debate and it should be—and will be, I believe—referred to a committee so that Australians can feed into it.

Let me reiterate that the government, and indeed ASIO, already has enormous powers to deal with criminals and those who plot violence in our community. Let me again refer to that *Canberra Times* article by Lincoln Wright. It begins with this:

With the right warrant, ASIO can bug your phone, read your e-mails and put a concealed microphone in your house or on your person. And the Government wanted it to be able to do much more.

Let us scrutinise that with the diligence with which we scrutinise bills on a whole range of other matters, taxation bills included. Is this bill not as urgent or important, in terms of our close scrutiny of it, as bills dealing with housing, taxation, education, stem cells and a whole range of other matters? Of course it is, because this bill does cross the line. This bill

would change the way our democracy works and would change the balance between the need for law and for agencies to be able to protect citizens through imposing that law, and our basic and fundamental civil liberties.

For the government to guillotine the debate on this bill would be outrageous. That would be saying, ‘We want to rule by executive here. We don’t want the parliament vetting what we do. We want to eliminate the Senate and parliamentary debate on one of the most fundamentally important bills that we could ever see before this chamber.’ I appeal to senators throughout the Senate not to allow the Senate to be trampled by the executive, by Prime Minister Howard, in this way. It is an outrageous move by the government, and the Greens will be absolutely opposing that. Let the government put its point of view in here and convince us, if it has a different course of action. When you get a government which says, ‘No, we won’t have debate; we want to stop the debate,’ you know it is a government which has a point of view which it cannot substantiate.

There may be a political point of view in this but, unlike the government, we Greens recognise that the community is going to have to live with the outcome of this legislation forever and a day. It sets in train fundamental changes. If the government can justify that, let it debate it. Let it not guillotine it. That is not a democracy. That is moving across the line. I have never heard of a government moving on fundamental legislation like this to gag debate in the parliament on our basic liberties, our basic freedoms, the under-strappings of democracy itself. I doubt whether even back in 1950 the Menzies government tried to guillotine debate on the legislation it was putting through to ban the Communist Party. The government should think again about that. I have no doubt that this government values democracy and liberties in this country no less than we do, but it is making a mistake if it thinks that the best way to safeguard these freedoms is to prohibit debate. That in itself shows that the government may have lost its way here. It should withdraw this motion for a declaration of urgency. One can see the politics that are in it. I think they are pretty base politics,

but they are there and the Senate will have to deal with that. The merits are not on the government's side.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.36 p.m.)—I rise to speak on the **Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002**. I think everyone acknowledges that this is a very important bill for Australia and the protection of Australia's interests. It is a vital element of our package of counter-terrorism legislation and of course with recent events it becomes even more urgent than it otherwise would be. The government is, needless to say, very disappointed that there is a move to have this bill referred to yet another parliamentary committee, which would see delay of debate on this until at least 3 December this year. I think the Senate needs to be reminded that this bill has already been in the public domain since March this year and it is not, as Senator Brown says, an attempt by the executive to railroad debate. This bill has been out there in the public arena since March this year.

As well as that, this bill has been considered by two parliamentary committees. In fact, we have a report from the Parliamentary Joint Committee on ASIO, ASIS and DSD. That committee received over 160 public submissions and held public hearings in Canberra, Sydney and Melbourne. But more than that, this bill was referred to the Senate Legal and Constitutional Committee. The government considered carefully the recommendations made by the parliamentary joint committee and it accepted 12 out of the committee's 15 recommendations and agreed in part to the remaining three recommendations. We have a narrowing down of the difference between the government and the people who are opposed to this bill. The government says that we need to proceed with the debate on this bill and we need to proceed in Committee of the Whole; it is urgent and it is needed for the protection of Australia's interests.

In relation to comments by the opposition, Senator Ray has acknowledged that the alternatives proposed by the government, which were passed in the other place, are

appropriate and 'in some cases better than what the committee could have proffered'. Senator Ray agreed that there were alternatives provided by the government which were better than that which was proposed by the parliamentary joint committee. Senior members of the opposition were members of that committee. It was not until after the government outlined its response to the parliamentary joint committee report that the opposition indicated broader concerns with the bill beyond those raised by the parliamentary joint committee. Those broader concerns are not necessarily shared by all members of the opposition. As I said earlier, Senator Ray has raised queries in relation to some of those differences.

The opposition has warned against knee-jerk reactions to recent events. The government agrees that there should be no knee-jerk reaction to those tragic events in Bali. But this bill has been around since March this year and it has been the subject of extensive debate and consideration by no fewer than two parliamentary committees. Referral again of this bill would result in a third parliamentary committee considering it and it would delay debate until at least 3 December. We do not have that time to wait. The government has repeatedly offered to discuss any remaining concerns with the opposition's leadership team. The government is extremely disappointed that this bill will be delayed further. I urge the opposition to reconsider its position and to allow us to strengthen ASIO's ability to gather intelligence so that we can identify and try to prevent terrorist attacks.

Much has been said about the need to maintain balance. That is precisely what the government is anxious to achieve. The government is mindful that we must not erode civil rights in the name of security—that is why we have extensive safeguards—but at the same time we must not forget the current environment of threat in which Australia finds itself. As indicated by the numerous detailed provisions regarding the proposed warrant regime, the bill includes a number of mechanisms for accountability and review as well as strong safeguards to prevent the abuse of new powers. Contrary to the oppo-

sition's suggestions, we are not talking about a trade-off between civil liberties and stronger security laws. Those who have lost their lives to terrorism were denied those most fundamental of civil rights, and that is something we must not forget. The protection of civil rights is something that all Australians hold dear. Part of that is the protection of the people of Australia. This bill will add to our security agencies' tools and allow us to do just that.

Another aspect has been the issue of these powers vesting in ASIO rather than in the police. I look to the intent of the bill. It is not designed for law enforcement purposes. New terrorism offences were created in other parts of our counter-terrorism package which was passed in June this year. Our key aim in this bill is to enable our security agencies to find out as much as they can about a possible terrorist attack. It is all about prevention—the gathering of intelligence. At present, ASIO is empowered to seek search warrants, computer access warrants, tracking device warrants and telecommunication interception warrants and to inspect postal articles. But ASIO does not have the ability to obtain a warrant to question a person, and that is an essential tool in the armoury of the fight against terrorism. The ASIO bill allows for that gap to be filled by establishing a warrant regime to allow ASIO to question those who may have information relevant to its investigations. The bill is not about punishing individuals; it is about gathering intelligence and about community safety.

Just last Monday in the other place the Leader of the Opposition acknowledged that the most effective way to prevent terrorism is to have good intelligence about terrorists and their operations. In this bill we are providing ASIO with the ability to do just that. Senator Ray disagreed with his colleagues when he said that he did not believe that the Australian Federal Police should be the repository of the proposed new powers. On that point he has stated, 'Conceptually they have got this wrong.' Senator Ray made a good point. It is disappointing that the opposition has chosen to delay this legislation by moving a motion to refer it to yet another parliamentary committee. In uncertain times such as

these we should arm our security agency with the necessary powers it needs to gather intelligence to deter any terrorist action.

Another area of concern has been the application of this bill to children. A number of senators have concerns about the application of this bill to people between the ages of 14 and 18. Whilst I am on this point, I stress that the bill has no application to anyone under the age of 14, so what we are talking about is that age group between 14 and 18. The government recognises the importance of protecting the rights of young people and that is why we have included significant additional safeguards in this bill. For example, these provisions will only apply to young people in cases where the Attorney-General is satisfied on reasonable grounds that it is likely that the person will commit, is committing, or has committed a terrorism offence. All young people will have access to a lawyer and a parent, guardian or other representative and cannot be questioned for longer than two hours without a break. Let us not forget that this applies only to the age group of 14 to 18. There have been reports in the press which have said that this extends further to children aged younger than 14. That is just not right; it is not correct.

Another issue concerned a sunset clause. A number of senators have raised the question of a sunset clause. There is no justification for a sunset clause in this bill. It is an unfortunate reality of the modern terrorist environment that it is difficult to say with certainty when provisions of this bill will no longer be necessary. The government has instead made a provision for a review of the legislation by the Parliamentary Joint Committee on ASIO, ASIS and DSD three years after this bill receives royal assent. That is a much more sensible approach to dealing with the future and with this bill: rather than have a sunset clause which would arbitrarily cut off the provisions of this bill, have a review which will be conducted by the appropriate body—the joint parliamentary committee which was set up to deal with this sort of legislation and agencies such as ASIO, ASIS and DSD. I commend that approach to the Senate.

Another issue concerned access to a lawyer. Senators have raised concerns about the provisions relating to lawyers and access to lawyers in regard to those people who are being questioned. The government agrees that the right of people to legal representation is an important one. We have to recognise, however, that this legislation is designed to cover exceptional circumstances. The government has addressed this issue by ensuring that all persons detained under a warrant will be allowed to contact an approved lawyer. An approved lawyer will be a legal practitioner of at least five years experience who has been approved by the Attorney-General after undergoing a security clearance. That in no way is cutting off access to legal representation or advice.

All warrants that authorise taking a person into custody and detaining them must provide that the person may have access to an approved lawyer. That access may be delayed for up to 48 hours in exceptional circumstances. In order to delay access to an approved lawyer, the Attorney-General must be satisfied that it is likely that a terrorism offence is being, or is about to be, committed and may have serious consequences. Delaying access to a lawyer will therefore only be possible in the most serious of cases. So the presumption is that you start with access to a lawyer unless there are exceptional circumstances to dispel that presumption. Of course, after 48 hours there is an absolute right to have access to a lawyer.

I have briefly outlined the safeguards contained in this legislation. They are substantial safeguards and the government has taken on board the vast majority of the recommendations made by the parliamentary joint committee. ASIO's work is extremely important in protecting the security of this country. Recently, I visited Indonesia and was accompanied by the Director-General of ASIO, Mr Dennis Richardson. I saw first-hand the importance of the work that ASIO was doing and the importance of gathering intelligence. As the minister responsible for the Australian Federal Police, I see this when we deal with transnational crime. It is equally so when you are dealing with terrorist groups and the threat of terrorism. You

have to have the tools and the means by which to gather that intelligence. Of course, you have to balance that with the individual liberties of Australians, and we have done just that in this bill.

Let me turn to the question of urgency which I touched on. I foreshadow that I will shortly move a motion to declare that the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 is an urgent bill. I will do that for the important reasons that I have outlined. If that motion is successful, I will be seeking that we allow the Senate time to debate this bill. That time would be as set out in the motion being circulated in the chamber, which states:

on Monday, 21 October 2002, commencing not later than 4.30 p.m. till 6.30 p.m. and from 7.30 p.m. till 9.50 p.m.;

on Tuesday, 22 October 2002, from not later than 4.30 p.m. till 6.50 p.m.; and

on Wednesday, 23 October 2002, from 9.30 a.m. till 12.45 p.m., and from not later than 4.30 p.m. and concluding at 6.50 p.m..

This motion would allow the Senate time, spread over three days, to comprehensively debate the details of this bill yet again—to canvass yet again the provisions of this bill. The bill we have here is one which has been amended as a result of parliamentary committee recommendations. We have had this bill out in the public domain since March of this year. It has already gone to two parliamentary committees. We believe that the time which I have just set out is sufficient for this very important bill to be canvassed by the Senate. It would be better to adopt that course of action, rather than delay this bill by yet again referring it to another parliamentary committee, where debate on this bill will not be revisited until at least 3 December of this year.

It is an important bill. Senator Brown has said the executive is trying to railroad it. The government rejects that: look at the time that this bill has been out in the public domain and at the scrutiny that it is has had. The parliamentary joint committee, as I recall, had some 160 submissions and it held various hearings. This bill should have had that sort of scrutiny, but now we have come to a

time when enough is enough and it is appropriate for this Senate to go in committee, go through the provisions of this bill and deal with them accordingly. Australia needs to have the protection offered by a bill of this sort in this environment, the threats of which have increased during recent events. I reject any allegation that this is a knee-jerk reaction to what has occurred in Bali. This bill has been around for a long time and it has been under the scrutiny that I have mentioned, and I will not go over that again. But what has happened is that the demand for the provisions of this bill has been greatly increased by what has happened in Bali. If we do not get on and pass this bill, we will be denying ASIO, our security agency, such essential tools as the ability to have a warrant to question a person. ASIO has all those other powers. Why not allow ASIO to also have the power to question a person, with the attendant provisions and safeguards that I have mentioned? This is an extremely important part of our counter-terrorism package. It is one that we need now, and I urge the opposition and others opposed to this bill to rethink their position in the best interests of Australia.

Declaration of Urgency

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.53 p.m.)—I declare that the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 is an urgent bill and I move:

That the bill be considered an urgent bill.

Question put.

The Senate divided. [1.58 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	29
Noes.....	<u>35</u>
Majority.....	6

AYES

Abetz, E.	Alston, R.K.R.
Barnett, G.	Brandis, G.H.
Calvert, P.H.	Campbell, I.G.
Chapman, H.G.P.	Colbeck, R.
Coonan, H.L.	Eggleston, A. *
Ellison, C.M.	Ferris, J.M.

Heffernan, W.	Johnston, D.
Kemp, C.R.	Lightfoot, P.R.
Macdonald, I.	Macdonald, J.A.L.
Mason, B.J.	McGauran, J.J.J.
Minchin, N.H.	Payne, M.A.
Reid, M.E.	Scullion, N.G.
Tchen, T.	Tierney, J.W.
Troeth, J.M.	Vanstone, A.E.
Watson, J.O.W.	

NOES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Bolkus, N.
Brown, B.J.	Buckland, G. *
Campbell, G.	Carr, K.J.
Cherry, J.C.	Collins, J.M.A.
Cook, P.F.S.	Crossin, P.M.
Evans, C.V.	Faulkner, J.P.
Forshaw, M.G.	Greig, B.
Harradine, B.	Harris, L.
Hutchins, S.P.	Kirk, L.
Lees, M.H.	Ludwig, J.W.
Mackay, S.M.	Marshall, G.
McLucas, J.E.	Moore, C.
Murphy, S.M.	Murray, A.J.M.
Nettle, K.	O'Brien, K.W.K.
Ridgeway, A.D.	Sherry, N.J.
Stephens, U.	Webber, R.
Wong, P.	

PAIRS

Boswell, R.L.D.	Conroy, S.M.
Hill, R.M.	Lundy, K.A.
Knowles, S.C.	Hogg, J.J.
Patterson, K.C.	Denman, K.J.

* denotes teller

Question negatived.

Senator Ray did not vote, to compensate for the vacancy caused by the resignation of Senator Herron.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Health: National Burns Response Plan

Senator MOORE (2.02 p.m.)—My question is to Minister Vanstone, representing the Minister for Health and Ageing. Is the minister able to advise the Senate of the detail of the agreement put in place by Commonwealth, state and territory health ministers in July this year to produce a coordinated national response to major incidents involving burns? In light of the Bali terrorist attack and the now ever present danger of bushfires, can the minister indicate whether

the implementation of a national burns response plan will be made a necessary priority?

Senator VANSTONE—I thank the senator for the question. Senator, I am generally aware of the issue that you raise and I am advised that that matter is progressing but I do not have a specific brief to give you specific details. As with all things done in the federation between the Commonwealth and the states, this is not as easy as we would like. We always look back when something has happened and wish it had not happened, in any event, and certainly wish some things could be done sooner, but I can assure you that the Commonwealth is working on this as steadfastly as it ought to be and I assume the states and territories are as well.

Senator MOORE—Mr President, I ask a supplementary question, particularly on the issue of Bali. Can the minister confirm that the International Commission on Missing Persons has offered its assistance in the process of identifying victims of the Bali terrorist attack? Has the government taken up this offer of assistance, if made?

Senator VANSTONE—I did not notice that that was particularly supplementary to the question. No, I cannot confirm that. I will get some advice and get back to you.

Indonesia: Terrorist Attacks

Senator CHAPMAN (2.05 p.m.)—My question is directed to the Minister for Justice and Customs. Will the minister update the Senate on the efforts of Australian law enforcement agencies to hunt down those responsible for the Bali atrocity and bring them to justice? Will the minister also advise the Senate about the progress of identifying the bodies of victims and returning them to their families in Australia?

Senator ELLISON—Since I reported to the Senate last week on this matter, the figure for Australians about whom we have very serious concerns has been reduced to 92. Thankfully, there have been Australians found in Bali and they are well and safe. But of course that figure remains and we have serious concerns for those 92 Australians. Last Friday the Australian Federal Police and the Indonesian National Police signed an

agreement to form a joint Indonesian-Australian police investigative team into the Bali bombings. This agreement followed a meeting between President Megawati; the Minister for Foreign Affairs, Alexander Downer; and me. It gives the AFP equal partnership in the conduct of the investigation and builds on the already strong relationship between the Indonesian police and the Australian Federal Police.

As the Senate would be aware, within 24 hours of the tragedy occurring, a multidiscipline team from Australia was on site in Bali. I might add that this agreement provides for such things as security at the crime scene, the taking of evidence and the comparing of information. The AFP, of course, is a highly experienced police force. It has dealt with complex murder cases and war crimes investigations and has a mandate to investigate criminal terrorist acts. I have every confidence in its ability in relation to this investigation and I can say that we welcome also the international involvement of other police forces who have had experience in such tragedies as the World Trade Centre and other bomb attacks and terrorist attacks. We now have, with the Indonesian-Australian joint police investigative team, officers from France, Germany, the United States, Japan, the United Kingdom, New Zealand, Korea, Sweden, Taiwan and Hong Kong who are all assisting.

At this time we have 109 Australian law enforcement officers and specialists in Bali as part of the investigative team. Sixty-two members of that team are from the Australian Federal Police and the remaining number are made up from the various state and territory police forces, and we acknowledge the assistance we have had from those police forces.

Investigating the bombing in Bali is an enormous task. To date over 6,300 questionnaires have been completed by passengers returning from Bali. Of those, approximately 450 witnesses have indicated that they have worthwhile information, and detailed statements will be taken from these people. Approximately 100 victims are currently in hospitals around Australia and they also need to be interviewed. As I advised the Senate

last week, in a number of instances where shrapnel and glass were taken from these patients, medical staff also need to provide statements for evidentiary purposes. Furthermore, it has been established that approximately 200 people were treated by Australian Defence Force personnel in Bali and discharged. The Australian Federal Police has obtained details for those people and they are being traced internationally so that they can also be interviewed.

Of course, there is the issue of disaster victim identification, and this is something which is of high priority. This is being carried out as expeditiously as possible so that families can be reunited with victims. We have over 50 law enforcement officers from Australia directly involved in the disaster victim identification process. This is a complex process and we have secured the cooperation of the states and territories, and recently two state coroners have been up to Bali in order to ensure that state processes are also followed. This is a very important aspect and we are pursuing it as far as possible. (*Time expired*)

Senator CHAPMAN—Mr President, I ask a supplementary question. The minister did give some insight into the progress being made with regard to the identification of victims and the return of bodies to Australia. Could the minister give further information on that very important issue?

Senator ELLISON—We have employed CrimTrac, as I mentioned, in relation to its database to assist with the identification of the victims. The Australian Federal Police has established a forensic major incident centre in Canberra with representatives from all state police agencies. We have to remember the state coronial requirements so that when we bring the victims back to Australia they are not delayed by state or territory law. That is something we are working on with the state and territory coroners, because it is essential that once we bring those victims back to Australia their loved ones can receive them.

Indonesia: Terrorist Attacks

Senator CHRIS EVANS (2.10 p.m.)—My question is directed to Senator Hill, the

Minister for Defence. Can the minister confirm reports that at least one alert, issued by virtue of an email on 27 August 2002, was issued to military personnel in his portfolio who were intending to travel to various parts of Indonesia? Would the minister confirm that military personnel who were contemplating travel to Indonesia after 27 August were told by the principal security adviser in the Defence security branch that the normal state of alert for the country had recently been upgraded or heightened? Was Bali or any other particular Indonesian province assessed by the minister's own department as involving a higher level of security threat to personnel than Indonesia more generally?

Senator HILL—No, unless the honourable senator is referring to something I have not seen. There has been nothing that I have seen that would suggest that. There was the issue of the interpretation of an email that was referred to in the press over the weekend. That, with respect to the journalist, was misinterpreted in the report. The Defence security people do not have any information other than that which comes through the range of intelligence agencies. They would have access to all of that information in communicating with Defence interests but they certainly did not have any additional information. They did not reach an alternative different to that of other agencies.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I thank the minister for his response. I am not clear from his answer whether he was confirming that an alert was issued by Defence, warning military personnel against travelling to Indonesia. If so, what was the nature of that alert? When was it issued and why had they taken the decision to issue an alert that had a heightened sense of security? I ask the minister to confirm that that was issued, when it was issued and what the rationale was behind changing that advice to Defence employees.

Senator HILL—As I said, I do not think that is the case, but it is very difficult to respond to a reference to an alert when I am not aware of the alert to which the honourable senator is referring. I interpreted his question to relate to the article that appeared in the *Herald Sun*. My advice is that, in that

instance, it is simply the Defence security people responding to questions that are asked by Defence personnel regarding visits to Indonesia. The conclusions that were reported in that advice were taken from the advices of other agencies and added nothing new. In fact, I think the email response guided Defence officials to the travel advice issued by DFAT.

Indonesia: Terrorist Attacks

Senator JOHNSTON (2.13 p.m.)—My question is to the Leader of the Government in the Senate, Senator Hill. Will the minister inform the Senate of the international reaction to the Bali bombings?

Senator HILL—The international response to the attacks on innocent civilians in Bali last week has been swift and strong. The international community has roundly condemned this latest act of barbarity. Messages condemning the bombings and offering condolences have come from the United Nations, the United States, the UK, New Zealand, Canada, China, Japan and a host of others. President Bush has sent a personal message of support and sympathy to the Australian people and has made it clear that the US will support our efforts to track down those responsible for these attacks.

It is also particularly pleasing to see such a strong response from the nations in our own region, many of whom are grappling with the internal threat posed by terrorist cells. The messages of support from nations around the world have provided reassurance that Australia is not alone in its hour of need. Many of these nations have offered practical assistance in the aftermath of the bombings. The United States, Britain, Japan, Germany and others have sent specialist investigators to Bali to assist in the work of figuring out how the attacks unfolded and to take part in the search for evidence which would indicate who is responsible. As I said last week, the New Zealand government made available a C130 Hercules from the Royal New Zealand Air Force to assist in the evacuation of the injured from Bali. Our government and the Australian people are extremely grateful for these efforts, not just for the practical benefits they have brought but also for their symbolic significance.

Not only Australian citizens lost their lives in this senseless attack; citizens from New Zealand, Canada, the United States, the United Kingdom, Germany, Nigeria, Greece, Poland, Switzerland, Portugal and Brazil are believed to be among the dead, and of course many Balinese also lost their lives in this attack. It only goes to show that this was an indiscriminate attack aimed at bringing about the greatest possible loss of life and the greatest possible terror impact. Mr President, it has underlined that no-one is safe from terrorists and that terrorism is a problem which all nations must confront.

Indonesia: Terrorist Attacks

Senator FAULKNER (2.16 p.m.)—My question is also directed to Senator Hill in his capacity representing the Prime Minister and the Minister for Foreign Affairs. Can the minister confirm that the US global security alert of 10 October was the basis of the government's warning of terrorist threats against Australian power stations? Can the minister also confirm that this same US alert also contained specific warnings about threats to people travelling in the region? Given that the government acted immediately on the basis of this US advice to put our infrastructure on a higher security alert, what action did the government take in relation to the US warnings of threats to persons travelling in the region?

Senator HILL—I think I should confer with the Attorney-General on this matter, for it was the Attorney-General, I understand, who issued the alert, presumably on the advice of ASIO—and I refer to the alert in relation to power installations and the like. I am unsure whether he declared publicly the source of advice—either the original source of evidence or whether it had come to him through ASIO—and that is what I would like to check with him. At the same time I will check with him the extent of the advice he received and exactly what was covered by the raw intelligence. I think it would be better that I respond to Senator Faulkner after that.

As we did say last week, there has been a higher state of alert within the region after the attacks of 11 September last year. From time to time when particular pieces of intel-

ligence have come to us that would suggest particular targets then the level of alert has varied and the specific advice has been changed accordingly. In addition, of course, I remind the Senate that at the time of the attacks in Bali the ASIO level of threat assessment was high. It had in fact been at high for the previous 12 months since the attack upon the United States. Presumably, visitors to the region would take into account that assessment of a high threat alert and also the specific guidance that was given by DFAT through its travel advisories, and of course that specific guidance referred to the events of bombings within Indonesia and the threats that are associated with them.

Senator FAULKNER—Mr President, I ask a supplementary question. I appreciate the minister's commitment to check with the Attorney-General in relation to the US global security alert of 10 October. I wonder in that circumstance, Minister, whether you are able to say—if not, could you also check—whether there was any other information in the possession of the government which led the government to believe that more weight might be given to the threat against infrastructure, if you like, as opposed to the threat against persons. I appreciate that some of this information might be better directed to the Attorney-General and, if so, perhaps I could ask you to further clarify that.

Senator HILL—I will further clarify the matter, Mr President, and by tomorrow I should be able to come back with a response from the Attorney-General.

Family and Community Services: Housing

Senator BARTLETT (2.15 p.m.)—My question is to the Minister for Family and Community Services. I refer to the growing crisis in housing affordability in Australia which is demonstrated by the dramatic decrease in the availability of low-cost rental housing; the fact that over 90,000 low-income Australians in the private rental market are now paying more than 50 per cent of their income in rent; the dramatic decline over the last 10 years in government investment in public and community housing; and the enormous leap in the price of housing for those wishing to buy a house. Minister, given the upcoming meeting of state and territory

ministers to finalise a new Commonwealth-state housing agreement, will you give a commitment to ensure the federal government significantly increases its funding support for housing and particularly ensures that the agreement will clearly address the need for more affordable and secure housing for low- and middle-income Australians?

Senator VANSTONE—I thank the senator for the question and for the opportunity to clarify some misunderstandings under which the senator is clearly labouring. Yes, there is a meeting of Commonwealth, state and territory housing ministers in Hobart on Friday. I am unaware that the meeting is meant to finalise an agreement. We have had one meeting in the past where we have said that officers would go away and look at a range of initiatives to see if we could better supply low-income public housing in Australia. The meeting on Friday will be to discuss developments since then.

So if you are seeking to raise expectations either independently or have had them raised yourself, I think you can put them aside. The second misunderstanding you have is with respect to Commonwealth involvement in public housing and assistance for low-income people for public housing, which you describe as diminishing. In fact, this is simply not the case. It is important to understand that the Commonwealth has two ways of providing assistance to low-income recipients. One is through the Commonwealth-state housing agreement where by way of block grant we fund the states and the states then provide public housing. The second is by way of rental assistance for people who are on income support. People who are in public housing are not eligible for rent assistance. So there are two categories of people who need assistance and the Commonwealth helps them both. When you add those two figures together, the Commonwealth's support for public and low-income housing is, in fact, increasing. It is important to recognise the role that rent assistance plays, because there would be a number of people for whom public housing would not be appropriate—not appropriate because either they do not have the highest need or they may be looking for work, for example.

The states by their decisions to put public housing in outlying areas—I will not say deplorable management of public housing, but I will say their deplorable management of urban transport—have made it very difficult for people in public housing to actively look for work and make work worth while because of the cost of getting to and from the places where the jobs really are. So for someone in that predicament looking for work, rental assistance in the private rental market is much more likely to be of real help to them than public housing which is provided by the states, so stubbornly, in areas where there is no work. We are negotiating with the states over these matters and I hope that between us we can produce better outcomes not only for recipients of public housing but for low-income people who need assistance—for example, rent assistance.

Senator BARTLETT—I thank the minister for her answer. Mr President, I ask a supplementary question. As the minister stated, the meeting this Friday is to look at ways of developing the new round of the Commonwealth-state housing agreement to increase assistance particularly for low-income people in terms of housing. But clearly, as the minister's own answer demonstrates, Commonwealth funding has not been enough to address housing affordability. Is it not the case that actual funding under the Commonwealth-state housing agreement for public and community housing has declined over the last 10 years? Whilst I acknowledge the government's contribution under rent assistance, is it also not the case that this has not kept pace with the increase in the cost of the private rental market, particularly for low-income earners? Is it not the case that the cost of housing is increasing and the ability of the average Australian to afford housing is decreasing? What measures is the minister going to put forward to the meeting of Commonwealth, state and territory housing ministers to address this crisis? (*Time expired*)

Senator VANSTONE—I thank Senator Bartlett for his question. As I said in my answer, the Commonwealth's contribution to public sector and low-income housing has been increasing. You add the Common-

wealth-state housing agreement money and the rental assistance money together to come to that answer. You indicated that you do not think that rental assistance is adequate. You referred to increased rents—around Australia, I presume. But you must understand that all welfare benefits are paid on a uniform basis—we treat Australians equally—and, of course, housing in some areas is much more expensive than it is in others. This is one of the dreadful difficulties with providing assistance not only in the area of housing but also in a whole variety of areas. There are different costs between the states and even within the states. I do not have a magic wand to solve that. I do not believe anybody else does either. I think it is a matter of sitting down with the states and working out how we can contribute to a better supply as effectively as we can. (*Time expired*)

Defence: Health Services

Senator CHRIS EVANS (2.27 p.m.)—My question is directed to Senator Hill, Minister for Defence. Can the minister advise why the decision was taken to close No. 6 RAAF hospital in Laverton and to outsource all Victorian ADF health services? Doesn't this decision seriously reduce the ADF's health and aero-medical capability? Given the tremendous work performed by ADF medical personnel in East Timor and, of course, in recent days in Bali, and the increased deployment of Australian troops overseas, how can this decision be justified? What will happen to the highly skilled medical reservists who live in Victoria, given that all the ADF health services in that state will be outsourced?

Senator HILL—I thank Senator Evans for his question. As I recall it, I think this is what might be referred to as an aged issue. What I can say to the honourable senator is that the ADF and the RAAF in particular responded magnificently to the crisis in Bali in providing not only the aircraft and crews but also the medical support to enable that evacuation to work so effectively. As I said last week, I am sure that all honourable senators would thank the ADF for its very professional, capable and sympathetic performance in relation to that mission. When you look at the issues of the hospital facili-

ties that they have provided in Dili and other such capabilities, they also seemed to have carried out that function very professionally and very capably. In relation to the Laverton issue of reservists that is raised by the honourable senator, I will seek some further advice on that, but I think it was a decision that was taken some time ago.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I refer the minister to his assistant minister's press release of last Thursday. If that makes it an aged issue, I am sorry, but we tend to find press releases come out late on a Thursday afternoon. That press release announced the outsourcing of all ADF Victorian health services to Mayne Health. Since then, a number of ADF personnel have contacted me about the effective abolishment of their jobs. When you were getting information, was it confirmed that a number of personnel who were assisting in the evacuation of the wounded in Bali had their jobs abolished as a result of Thursday's decision? Could you advise what steps you are going to take to ensure their continued involvement with ADF health services and how ADF health capability will be maintained under a privatised service, given that they will not be able to deploy overseas in the same way ADF personnel do?

Senator HILL—I will look at that. As I recall the issue, Mayne Health were replacing another outsource provider. As the honourable senator shakes his head very confidently, I will refer to Minister Vaile for the details of the matter and will respond to Senator Evans in due course.

Agriculture: Sugar Industry

Senator HARRIS (2.30 p.m.)—My question is to Senator Ian Macdonald. Minister, could you please advise the Senate of what the interest rate will be for the low interest loan component of the federal sugar assistance package? In asking this question, I duly note that to date there has been only one successful applicant accessing the Queensland government's low interest loan package. The state announced these loan facilities with great fanfare and made much of the \$20 million that was being made available to cane farmers. In two months there has been one

application totalling just \$20,000. That would tend to suggest that this component of the state's package has failed to deliver.

Senator IAN MACDONALD—I thank Senator Harris for the question. The final details of the Commonwealth's package on interest rate subsidies have not yet been determined, so I am not able to indicate to you today exactly what the Commonwealth's interest rate subsidy will be. Senator Harris, you do make a point about the Queensland government's initiative in interest rate subsidy. As I understand it, although I am not particularly competent to answer for the Queensland state Labor government, their interest rate subsidy provides loans at 6.07 per cent. I agree with you, Senator Harris, and with people in the sugar industry that that is not a terribly generous interest rate subsidy. I know there are commercial loans around of not much more than that, so the interest rate subsidy from the Queensland government is, as I said, not particularly generous.

There have not been a lot of takers. You mentioned that your understanding is that only one person has taken up the loan—that is my understanding as well—and that is somewhat of a concern. Senator Harris, you will recall that the Commonwealth announced with Queensland an assistance package of \$150 million for the sugar industry in the difficult times that it is currently experiencing, with \$120 million of that package being provided by the Commonwealth government and \$30 million by the Queensland government. The money from the Commonwealth is intended to fund regional adjustment, diversification and industry rationalisation, and that will be driven by local committees under the direction of an industry guidance group. The Commonwealth's package will also provide short-term income support measures for 12 months to help stabilise the industry. As you said, we are going to provide interest rate subsidies to support replanting. The exact detail of that is not available as I speak but it will be available very shortly. We are providing payments of up to \$45,000 each for farmers wishing to exit the industry.

In relation to the measures for income support, Centrelink has already distributed some 700 income support claim forms and has commenced processing those claim forms. They will be dealt with as expeditiously as possible so that the money can get out to those in need. The income support assistance will be backdated to 1 October. To you, Senator Harris, and to my other Queensland colleagues I say that any farmers or harvesters interested in applying should contact Centrelink at their local agency or on the toll-free number, or they can complete an online registration form. Senator Harris, there is an MOU between the Commonwealth and Queensland as to what the two governments can provide. That does, of course, require the removal of any impediments to industry reform. However, I make it clear that the export single desk marketing arrangements will not be reviewed as part of the Commonwealth-state agreement.

Senator HARRIS—Mr President, I ask a supplementary question. I thank the minister for his answer. In that answer, the minister made a reference to the board that will administer the program. Could the minister advise the Senate as to how the growers will be represented on that board? Will the minister commit to the federal government delivering an interest rate that is of real benefit to the growers?

Senator IAN MACDONALD—I hope that every element of the Commonwealth's package will be of real benefit to the growers. Whilst I cannot announce the details of the interest rate subsidy at the moment, as I said, I am confident that it will be of considerable assistance to the industry. Senator Harris, you also raised the issue of what we are calling the industry guidance group and you asked how the industry would be represented. It is meant to be a group that will give guidance to local committees. Local committees will be made up of people from the industry and community leaders. This overarching group will give the local committees some guidance. The local committees will have a range of expertise. They have not yet been absolutely finalised either, but Mr Truss's department is working very heavily on that at the moment and we hope

to be able to make an announcement shortly. *(Time expired)*

Agriculture: Grain Shortage

Senator O'BRIEN (2.36 p.m.)—My question is also to Senator Ian Macdonald, representing the Minister for Agriculture, Fisheries and Forestry. Has the minister seen reports that hundreds of intensive livestock farmers are in danger of seeing their operations collapse under the pressure of drought induced grain shortages and exploding grain prices? Is the minister aware of statements by the Australian Wheat Board's Mr Mitch Morison that grain supplies have gone from a surplus last year to a very tight situation this year? Is the minister also aware of a statement by a Grainco general manager, Mr Simon Warner, that there may be a need to import grain if there is no improvement in seasonal conditions into next year? What action is the minister taking to ensure that these key intensive industries do not collapse as a result of the current drought?

Senator IAN MACDONALD—Senator O'Brien asked firstly whether I was aware of media reports and I can indicate that, in general, I am. I am not specifically aware of the comments attributed to senior officials in the grain growers organisation but I am sure that Mr Truss, who is the minister with direct carriage of these matters, would have had that information before him. There is certainly a concern that the drought will impact upon grain crops; it can have a very serious impact on all elements of the primary industries in Australia which rely on them. It is, as Senator O'Brien well appreciates, a very unfortunate situation. At a time when our commodities are attracting very good prices worldwide and certainly when they are needed within Australia, we have this insidious drought over which, of course, nobody has any particular control and which is cutting us off at the knees, so to speak.

Senator O'Brien, I am not quite sure what we can do to save the grain industry from the impacts of drought. Perhaps you have some suggestions on how to deal with the elements that would do so. What we have done with our Farm Management Deposit Scheme, as you know, is provide a scheme whereby farmers can put money aside on a tax-free

basis during the good times; those moneys are then available for farmers experiencing drought or other natural calamity situations to withdraw to help them out in difficult times. They are the sorts of things governments can realistically do. I am not quite sure what you think the government might be able to do to make sure the industry keeps going when drought is stopping it dead in its tracks but I would be interested in any suggestions you might have. I will also ask Mr Truss—who, as I said, is the minister with day-to-day control of these issues—whether there is anything further he would be able to assist you with in answer to the questions that you have raised.

Senator O'BRIEN—Mr President, I ask a supplementary question. Given the crisis now engulfing many in the poultry, pork and beef feedlot industries, why is the minister refusing to direct the Australian Bureau of Agricultural and Resource Economics to conduct a national grain audit so that these intensive industries and food manufacturers are given a clear picture of current grain availability and future supply?

Senator IAN MACDONALD—I simply do not know whether the minister has directed ABARE or not. I would doubt that he has point-blank refused to do that. I would suspect, Senator O'Brien, that there would be a lot of information available through particular industry organisations and elsewhere that would give us some reasonable idea of this. Again, I will refer that to Mr Truss for his response to the issue that you have raised.

Indonesia: Terrorist Attacks

Senator McGAURAN (2.41 p.m.)—My question is to the Minister for Family and Community Services and the Minister representing the Minister for Health and Ageing, Senator Vanstone. Will the minister update the Senate on how Australia's health care and social security systems are assisting the victims of the terrorist attacks in Bali and their families?

Senator VANSTONE—I thank Senator McGauran for the question. Senators may like to know that Senator Patterson, on behalf of the government, is visiting a number

of hospitals around Australia that are treating victims of the Bali bombing. Following the remarks that she made last week in the Senate, her department has continued to liaise with state and territory health authorities on the availability of hospital treatment capability especially in relation to burns patients. The advice received is that critical care units, while under stress, still have capacity to take additional patients. At present some 94 victims are being treated in Australian hospitals: 38 in Perth, 22 in Sydney, 14 in Darwin and fewer than 10 in Melbourne and Adelaide.

Media reports have suggested that certain organisms resistant to antibiotics and never seen before by Australian doctors have been isolated from the wounds of Australian patients brought to Australian hospitals from Bali. Expert advice available to the department of health is that a small number of organisms resistant to several antibiotics have been isolated. However, these bacteria have been previously isolated from time to time in Australian hospitals and Senator Patterson has been assured that there are alternative antibiotics available in Australia to which these bacteria are sensitive and that the burns can be properly treated.

The federal government has agreed to cover any out-of-pocket expenses for the treatment of injuries as a result of the bombings in Bali. The assistance will cover the difference between the Medicare rebate and the fee charged by the doctor for medical services. It will cover the full cost of medicines under the Pharmaceutical Benefits Scheme, including any co-payments that would normally be payable, and the cost of allied health services that are certified by a doctor as necessary and related to the injury. The government will also be paying the cost of air fares or road or rail transport for the patient and accompanying family members to travel from hospital to their home town.

Three seriously injured Indonesian patients were flown to Darwin on Saturday, 19 October and their families accompanied them. Unfortunately one of the patients died shortly after being admitted to the Darwin hospital. The two others were transferred to Perth later that day. The health department has worked with Australian and Indonesian

medical staff in Bali to obtain descriptions of the injuries of Indonesian nationals who may be evacuated to Australia so that hospitals can be well informed prior to their arrival. Importantly, last Friday the government authorised that non-Australian victims of the bombings being treated in our hospitals would be treated as Medicare patients.

Counselling is a major concern. Each state and territory has put in place counselling services for the many people who may have been traumatised by the event, and the government has asked to be advised if any further assistance in providing these services is required. Further to that, as a part of its national coordination role, the Department of Health and Ageing is assisting in the compilation of a full list of people who have been admitted to Australian hospitals as a result of injuries in Bali. That list will help health authorities in the management of longer term health support, including access to mental health services later.

Centrelink is running a 24-hour, seven-days-a-week hotline that Australians can reach by dialling 13 61 25. They can get help for themselves and for their families and friends including streamlined access to financial support, possibly a two-week special payment, access to social workers and counselling, financial assistance for travel and a daily living allowance for people visiting hospitalised relatives in Australia and for those intending to travel to Bali to identify relatives. Centrelink has made contact with all hospitals and state services to offer support and assistance with counselling and information.

Drought

Senator STEPHENS (2.45 p.m.)—My question is to Senator Ian Macdonald, representing the Minister for Agriculture, Fisheries and Forestry. I am sure that the minister is aware of the Farmhand appeal to assist farm families in immediate need of financial relief. Is the minister aware that, during the 1994 drought, the then Labor government matched Farmhand funds on a dollar for dollar basis? What is the government's response to the call to match Farmhand emergency relief funds in the current drought crisis?

Senator McGauran—Keating never admitted that there was a drought!

Senator IAN MACDONALD—The drought is obviously having a very major impact upon rural and regional Australia and particularly upon farm families in country Australia. I welcome the establishment of the Farmhand Foundation. As you know, Mr President, that aims to raise a total of some \$20 million to provide relief to people suffering the effects of drought and to promote long-term strategies to help manage future drought. I am very pleased to see that private enterprise and the community are taking an interest in the issue of drought and its impacts on the country as a whole. I should point out to the Senate that, while the welfare provided by the federal government is means tested, nonperiodic assistance provided to farmers by the Farmhand Foundation does not count towards their income. Social security legislation states that emergency relief or similar types of assistance are not counted as income. I recall, back in those days, when a previous government provided some money to a similar type of appeal. I think I heard Senator Boswell or Senator McGauran saying that Mr Keating, in those days—

Senator Sherry—It was not Senator Boswell!

Senator IAN MACDONALD—It was Senator McGauran saying that Mr Keating would not acknowledge that there was drought on at that particular time. I accept that, if Senator McGauran has said that, it is no doubt correct. He obviously has a better recollection of it than I have. But I would point out to the senator that the Commonwealth does very substantially contribute to those who are impacted upon by the drought. There have been a number of questions in the Senate and there is a lot of comment about the drought exceptional circumstances and the money that the Commonwealth is putting into that. You would be aware that in Bourke and Brewarrina a number of applications have been received for that, and that will provide Commonwealth money for those who need assistance. It provides Commonwealth money. It provides money from the Australian taxpayer for which the Commonwealth government is custodian.

Those funds are flowing, so the Commonwealth taxpayer, through the Commonwealth government, does make a substantial contribution to those in drought areas. I would not have thought that that was a matter to smile or laugh about, Senator Evans. You must be of a naturally happy disposition. But it is a serious concern, and the Commonwealth government is making a substantial contribution through the drought EC relief.

Senator STEPHENS—Mr President, I ask a supplementary question. Is the minister aware that many Australian businesses and individuals have already donated to the Farmhand appeal? Is he also aware that state governments, including the governments of Queensland and Victoria, have made substantial contributions to the appeal? Why will the Howard government not do the decent thing and match the Farmhand emergency relief on a dollar for dollar basis?

Senator IAN MACDONALD—I am aware that private industry and individuals have contributed and I said that in the answer to your original question. I am also aware that various state governments have made contributions. I do say that, really, some of what the state governments are giving is pretty good in the publicity stakes but not much good when it comes down to actual help on the ground. If the states were really concerned about this, they would help the Commonwealth better. They would agree with Mr Truss on reform that is needed for exceptional circumstances payment. The states have dug their toes in. They refuse to help there. But they are pretty good at throwing in a few dollars when it comes to a high profile publicity campaign. They are very good at that but, when it comes to real relief, the states are found wanting. I wish that it was not this sort of political issue and that the states would genuinely—(*Time expired*)

Centrelink: Breaching

Senator CHERRY (2.50 p.m.)—My question is to the Minister for Family and Community Services. Does the minister recall announcing in March:

... we will make it easier for job seekers by reducing the penalties for failing to attend an inter-

view without a reasonable excuse. This will now become an administrative breach ...

This was an announcement welcomed by the Ombudsman as:

... more in keeping with the distinction made within the Act between administrative and activity test breaches.

How then does the minister respond to the recent report on breaching by the Ombudsman stating that, despite the minister's announcement, FACS officers had told him that:

... failure to attend an interview will still be treated as an activity test breach in many circumstances.

Has the minister's department retreated from her ministerial statement in March?

Senator VANSTONE—I have a few remarks to make about the breaching report and, to the extent that they do not address what you specifically asked, I will come back to you. We do, of course, welcome the Commonwealth Ombudsman's insights into the administration of breach penalties. We have already taken steps to implement, or have already implemented, the vast majority of those recommendations. We are grateful that the Ombudsman acknowledges that the considerable work recently done by Centrelink and FACS has in fact helped to resolve many of the problems that his investigation was in the process of identifying. Because of the work we have already done, breach numbers have been trending downwards since June 2001. My advice is that there were 30 per cent fewer breaches in 2001-02 than in 2000-01. Breach numbers should fall further when the effect of the 1 July changes are felt.

I am grateful to you, Senator, for recognising the changes that were made on 1 July. A number of people have, for whatever reason, attempted to bypass the government's genuine efforts to make sure that breaching applies to people who have no genuine excuse and who are just trying to get out of looking for work and to be sensitive to the needs of those who are particularly vulnerable—for example, people with a mental disability, an alcohol problem or a drug problem. The changes we made in July were specifically targeted at helping those people and avoiding the need for them to go through

a breach process and therefore an appeal to get the payment reinstated. The government rejects only one recommendation, and that is No. 4, which suggests that the requirement to attend interviews with Centrelink or Job Network providers should not be included in activity agreements. Activity agreements will not include a requirement to attend Centrelink interviews, but the requirement for the job seeker to attend the office of their Job Network provider may be included. That is an important part of their participation requirements which of course ensure that job seekers obtain the help they need in obtaining employment assistance. Senator, I did hear the part of your question that has not been answered, and I will have a look at it and come back to you.

Senator CHERRY—Mr President, I ask a supplementary question. In light of last week's report by the Welfare Rights Network on the high incidence of breaching and its effect on young people, can the minister assure the Senate that, where an unemployed person fails to attend an interview with a Centrelink officer or fails to attend one with a Job Network member or community work coordinator, Centrelink will impose an administrative breach penalty rather than the current activity test penalty and that, after a person has entered into a preparation for work agreement, all subsequent requests for attendance at interviews with the Job Network member or community work coordinator will come under the administrative test provisions rather than activity test provisions?

Senator VANSTONE—By way of rephrasing, Senator, you have simply asked the same question again. I thank you for restating the question and giving me the option of answering it either way, but my answer remains the same.

Agriculture: Sugar Industry

Senator McLUCAS (2.54 p.m.)—My question is to Senator Coonan, the Assistant Treasurer and Minister for Revenue. Can the minister advise the Senate when the government will announce the terms of its proposed tax on sugar? Is the minister aware of growing opposition to this new tax? Further, is the minister aware that the head of CSR Sugar,

Mr Ian McMaster, has told the *Herald Sun* newspaper that a sugar tax is simply unworkable, regardless of whether it is pitched at consumers or manufacturers? Minister, when will the details of the new tax be revealed?

Senator COONAN—I thank Senator McLucas for the question. The package, and of course the tax that forms part of the package, will provide valuable assistance to individuals and to industries at a time of need. I would have thought Senator McLucas, being from Queensland, would be vitally interested in ensuring that an industry that is in some distress does receive the assistance it needs. Of course, the levy is part of a scheme which is intended to secure a profitable future for the sugar industry through initiatives that include farm aggregations, rationalisation of transport and harvesting systems and diversification into alternative crops. The scheme is worth up to \$150 million over four years with a large proportion of the package being funded by a levy on domestic sugar sales. Details of the arrangement, so far as I am aware, are yet to be finalised. Given the significant details yet to be resolved, the exact treatment of the scheme is of course not yet clarified.

To be carping on about levies that are necessary parts of packages to assist industries in need is really typical of the constantly critical opposition. The Labor Party claim to be interested in solving problems, but of course there is never any proposal as to how they would be funded. We all know that the Labor Party would do nothing except simply tip the nation back into debt. This government takes a responsible approach to funding its initiatives. It is interesting that Labor did not seem to have any qualms at all about imposing the Medicare levy when it was in government. That was back in 1984; that levy is still with us. This government understands that there are occasions when either industries or programs that are essential parts of providing services to the Australian community need revenue to be raised, and a levy in circumstances where there is part of a package is entirely appropriate. The Labor Party seems to forget of course that they did run up something in the order of \$96 billion

in debt. Given half the chance, they would do it again—we all know that. This government takes the most responsible approach to any measures that raise revenue, and the levy as part of the sugar package is an entirely responsible measure to assist an industry that deserves some assistance and a measure which I thought Senator McLucas would entirely support.

Senator McLUCAS—Mr President, I have a supplementary question. Can the minister confirm that, since the Howard government won office in 1996, it has imposed a gun tax, a dairy tax and an Ansett tax—it wanted to impose the Timor tax—and it is currently considering introduction of the tourism tax and a tax to fund Australian military action? As the minister representing the highest-taxing Treasurer in Australian history, why won't she tell the Senate when details of the sugar tax will be revealed?

Senator COONAN—Thank you for the supplementary question, Senator McLucas. But, once again, it really displays the fact that you have very little grasp of the nature of this levy and very little understanding of what in fact is a high-taxing government and what is not. Have you seen, for instance, the recent OECD survey which puts Australia amongst the lowest taxing nations in the developed world at something like about the sixth lowest taxing nation? I would suggest you check your facts before you make those sorts of suggestions as part of your supplementary question. When details of the levy are available, they will be announced.

Drought

Senator WATSON (3.00 p.m.)—My question is also directed to Senator Coonan, the Minister for Revenue and the Assistant Treasurer. Will the minister update the Senate on what steps are being taken to assist Australians affected by the current drought?

Senator COONAN—Thank you for this most important question. I acknowledge Senator Watson's longstanding interest in the welfare of Australians in rural and regional areas and, in particular, his interest in the welfare of families suffering because of the current drought. I am pleased to be able to inform the Senate that a range of responses is

being taken to assist Australians who are struggling because of the drought, including some responses within the Treasury portfolios. We are now facing a situation where drought has been officially declared in more than 85 per cent of New South Wales and about one-quarter of Queensland, while 22 municipalities in Victoria have been drought declared.

The government is taking a broad view of what may be done for those people suffering the impact of drought. This includes assistance with taxation issues through the ATO and through tax-linked policies designed to assist farming families and the community. Specifically, I would like to inform the Senate and those who are listening to these proceedings about a recent announcement made by the tax commissioner, Mr Michael Carmody. In a move that I welcome wholeheartedly, the commissioner has said that anyone affected by the drought who believes that they may have a difficulty in meeting their tax obligations should contact the tax office as soon as possible to get help. Clearly the current drought could have a significant impact on some people's ability to meet their tax obligations on time, and the ATO recognises that.

I can assure the Senate that, like the government, the ATO is concerned about the impact the drought may be having on families in rural and regional Australia and wants to ensure that people know they can approach it to discuss their circumstances and to see if they are entitled to relief. I am informed that the tax office will take a sympathetic view and do everything possible to assist people who may not be able to meet their tax obligations as a result of the drought. Importantly, this applies not only to farmers and to people living on the land but also to people such as local business people whose income is derived from drought-affected areas. The ATO will look at circumstances on a case by case basis, as people from different regions and industries are being affected to different degrees.

Depending on how severe different financial circumstances are as a result of the drought, there are two forms of assistance possible. Firstly, people may be able to be

given more time to pay tax debts, without interest charges. Secondly, some may be able to pay any tax debts by instalment, without interest charges. Arrangements will be made according to people's ability to pay. The tax office has a longstanding policy of assisting people whose inability to meet a tax obligation is directly attributable to a natural disaster such as drought. Taxpayers will also need to remember that, while they may be eligible to organise their tax affairs and payment arrangements to provide some financial relief at a difficult time, they do still need to keep up with their reporting obligations.

On the tax front, many senators would also be aware of the government's very successful Farm Management Deposit Scheme and how that is helping farmers in this terrible drought. The deposits were introduced by this government in April 1999. They are a tax-linked, risk management tool for primary producers which effectively allows farmers to set aside some of their pretax income in good years when their marginal tax rate is higher, deferring the tax payable income until they withdraw it in a low-income year. It is the kind of practical, commonsense approach that Australians expect from their federal government.

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

**QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS**

Indonesia: Terrorist Attacks

Defence: Health Services

Senator HILL (South Australia—Minister for Defence) (3.04 p.m.)—I want to add to the answers I gave to two questions I got from Senator Evans. The first was in relation to the email from the Defence Security Authority. Consistent with what I said, I am advised that there was no additional information mentioning a specific threat to Bali. The email was written in the context of the broader threat to Western interests in Indonesia and South-East Asia. When that threat warning was disseminated through Defence, a number of people in Victoria raised questions about their travel plans to Bali. The email was written to answer their questions

by reiterating that there was no specific threat and that individuals should monitor the DFAT travel advisories for any destination, including Bali. The Defence Security Authority, as I said, does not independently assess the terrorist threat overseas but instead draws on ASIO threat assessment and DFAT travel advisories to provide tailored advice on the threat to specific Defence activities.

In relation to the question that was asked about the outsourcing of non-operational ADF health services in Victoria, I was partly right and partly wrong. I was correct in saying that I believed the matter was aged, in the sense that I am told that the decision to market-test was in fact taken after an ANAO audit report in 1997. I was wrong in that it was only recently that the outcome of that process has led to an announcement of Mayne as the preferred tenderer. I should emphasise, however, that under this arrangement the 86 military medical staff will be redeployed to core capability areas such as operationally deployable health support units. So, in contrast with what Senator Evans said, they are being taken from non-deployable areas to be put into operationally deployable areas and are therefore more likely to be able to assist in such occurrences as that which occurred in Bali. It was interesting that, of the 45 medical personnel from the ADF involved in the Bali response, only four had come from Laverton.

Furthermore, it should be emphasised that this is not going to result in a lesser standard of health care for ADF personnel in Victoria; in some areas, the tender not only maintains but also improves upon current health services delivery in Victoria. Areas of improvement include on-base in-patient services at Albury-Wodonga and primary health care at RAAF Williams, which of course is at Laverton, as mentioned by Senator Evans. Out of that we get the advantages of redeploying personnel to operational areas, enhancing the health service available in non-deployable requirements in Victoria and saving money as well.

**QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS**
Agriculture: Grain Shortage
Agriculture: Sugar Industry
Drought

Senator O'BRIEN (Tasmania) (3.08 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Forestry and Conservation (Senator Ian Macdonald) and the Minister for Revenue and Assistant Treasurer (Senator Coonan) to questions without notice asked by opposition senators today relating to drought assistance and to a proposed tax on sugar.

The Howard government's inaction in relation to the current drought—it is perhaps the worst drought in 100 years—as evidenced by those answers particularly, is nothing short of breathtaking. The drought is having a devastating impact on the cropping and livestock sectors—I have seen that impact first-hand—and it is now eating into the viability of key intensive industries such as the poultry, pork and beef feedlot industries. The poultry industry employs 35,000 people directly, while indirect employment is about five times that number; the pork industry generates about the same number of regional jobs; and the beef feedlot industry generates about 6,000 jobs. If the crisis in those sectors worsens, there will be a further negative impact on the local businesses that supply them. Tragically, many areas of rural Australia are now in a downward spiral, but you have to say that to date there has been precious little help from Minister Truss, the Minister for Agriculture, Fisheries and Forestry. In relation to intensive industries, his view seems to be that everything is fine. Last week, in response to my call for a national grain audit, he said that there is no problem in relation to feed grain. Senator Macdonald told the Senate today that he thought that the minister would not have refused to do that but, contrary to that, he did.

It is clearly not the view of those industries or of major grain traders such as Grainco that there is no problem; the problem was referred to by Grainco over the weekend. But I understand that the minister is about to take action in relation to drought. In fact, his antidrought strategy might al-

ready have commenced. He is going to run an advertising campaign. I have a copy of his advertisement and can give interested senators a sneak preview. It is headed 'Commonwealth drought assistance'. There are two big problems with that advertisement. Firstly, three of the programs identified attract a substantial level of funding from the states. The states provide funding for both the Rural Financial Counselling Service and the FarmBis program. Local rural communities also make a contribution to the counselling service in either cash or kind. The states provide funding to farmers through the exceptional circumstances program. Those programs represent not only Commonwealth drought assistance but Commonwealth, state and, in part, industry drought assistance. Secondly, farmers do not need yet another Howard government political advertising campaign; they need help.

That was an embarrassing response by Mr Truss, I must say. He was not prepared to recognise, in his usual reactive way, that there was a problem until it was pushed under his nose. Contrary, as I have said, to what Senator Macdonald said in answer to my question today, when he doubted that Mr Truss would have refused to commission the Australian Bureau of Agricultural and Resource Economics to find out just how much grain was available and what the potential problem was, that is exactly what he did. He has said that he will not be commissioning ABARE to inquire into the state of grain reserves in this country.

I am sure that the pork, chicken and beef feedlot industries are amazed that there is such a cavalier approach to matters that are of fundamental interest to them. You do not have to take my word for it; look at the major rural publications in this country. In the leading few pages of every paper there are articles about the problems that these intensive industries face because of the cost of grain in this country. The cost of grain is increasing because of the shortage that has been occasioned by the drought—something that the Commonwealth government, in their advertising campaign, seem to be trying to tell people that they are concerned about, but the reality is that all they are concerned

about is public perception, not the interests of the farmers and communities whose livelihoods and welfare are being so dramatically affected by the shortage of rainfall and whose very industries and livelihoods may be curtailed because of these policies. (*Time expired*)

Senator FERRIS (South Australia) (3.13 p.m.)—Senator O'Brien and I were on the committee that took evidence on the egg industry just last Thursday. We heard at first-hand from a representative of the industry association about the difficulties that are confronting that industry as one of the intensive industries that are reliant on feed grains. Anybody who has travelled, or is travelling, in rural and regional Australia can clearly see the extent of the drought and the heartbreak to families in those areas. On Friday morning, when returning to my state of South Australia, I looked out the window of the aircraft to see what previously would have been a most attractive sight: the patchwork of grain awaiting harvest. Normally at this time of the year it is a very attractive sight—the different coloured grains ready for harvest—but on this occasion our Mallee Region, which extends into Victoria, is a very sad and sorry sight. There is very little crop at all, and the crop that has been planted is greatly stressed if not already dying.

There is no doubt that Australia is in the grip of a dreadful drought. Many of the states are now drought declared. I think almost 90 per cent of New South Wales is now drought declared. A couple of weeks ago I took a trip through the middle of Australia—I have spoken about it in this place before—to talk to people living in the drought declared areas and to have a look for myself. I do not remember a drought as bad as this since the 1982 drought in South Australia. However, when compared with those opposite when they were in government, this government has well recognised this drought and has already put in place some significant changes to government programs to deal with drought and to improve arrangements for drought.

The first important thing that this government did was introduce farm management deposits, a policy that we came into government with and implemented some years ago.

I am very glad to see that good seasons in this country over the last few years, including five years in South Australia, have meant that a significant amount of money could be put aside in farm management deposits. In South Australia, 6,700 farmers have been able to put aside money to cope with a bad year; they have \$337,000. More importantly, a total of just over \$2 billion is now held in farm management deposits by 43,000 farmers. As Senator Coonan said in an answer just a few minutes ago, that money can now be taken from those farm management deposits for the running of properties during these very straitened financial times.

There are other federal government initiatives and measures that apply to exceptional circumstances to reduce difficulties faced by drought affected farm families, such as welfare support. In previous years we have talked about the difficulty of rapidly getting money to farm families affected by exceptional circumstances of one sort or another. We have now changed those arrangements to make sure that welfare support is available in application areas from the day it is deemed that a prima facie case for exceptional circumstances is being made. No longer do we have those month-after-month delays that were the policy of the previous government, which is now so critical of this government, where people knew they were in drought but had no opportunity to do anything about it.

The second important thing that this government has been involved in is predictive modelling, which is going to be used to enable applications to be considered sooner. It is all very well to come in here and criticise what we are doing. We have improved the policy pre-1996, and I think it is important that that is recognised when criticisms are made about policies in this situation. The drought is dreadful: it is widespread and it is historically one of the worst in living memory. It behoves all of us to do what we can to assist those families and not to come in here carping and criticising because it is considered that our policy is in some way deficient to a policy pre-1996. (*Time expired*)

Senator STEPHENS (New South Wales) (3.18 p.m.)—I rise to take note of the answer given by Senator Ian Macdonald to my

question in question time today. The question was about the Farmhand appeal and the reason why the federal government will not match those funds dollar for dollar. The question really is: how substantially is the Commonwealth government assisting those people who are in drought affected areas? Just this past weekend, I spent my time at the Murrumbateman field day. Murrumbateman is just down the road from Canberra. The field day is a significant gathering of regional farmers and producers around this district. The extent to which the drought is impacting on producers around the southern part of New South Wales was evident at that field day.

In terms of the Commonwealth's response to drought, unfortunately, the government has been troubled by the fact that the Treasurer, Peter Costello, did not factor into his budget the possible impact of drought and failed to see the signs that were clearly there for those of us who understand them. As several speakers today have said, the predictions for the drought are: farm production will be down 10 per cent; farm incomes will be down to about 50 per cent; the total financial impact, as suggested by ABARE, will be some \$5 billion; the winter grain crop, as we have heard, will be down more than 40 per cent; wheat will be down more than 50 per cent; and cotton will be down between 18 and 30 per cent. They are significant production losses, which will have a significant impact on the economy.

The issue of the Farmhand appeal is quite significant because the impact that will have on regional communities is significant. Many people working as farm labourers and those involved in downstream activities of farming suffer significant reductions in income supply when production does not take place. They are the people we see working in our regional abattoirs or cotton mills—those kinds of industries. Their shiftwork is reduced quite significantly and the skills that we have in our regional communities are diminished and quite often lost. So one of the devastating impacts of a drought is that we do lose our regional skills, our rural skills, and people are forced off the land and forced out of those industries into other work.

The need for the dollar for dollar contribution to the Farmhand appeal is now greater than ever. The need is probably as great, or even greater, than it was in 1994. Although Senator Ian Macdonald was reluctant to address the issue and answer my question today, state governments contribute significant amounts of money. For example, the Victorian government announced a \$27.7 million drought package for Victorian farmers, and the New South Wales and Queensland governments have also announced multimillion dollar programs in those areas of their states affected by drought. Both the Victorian and Queensland governments have provided cold, hard cash to the tune of \$500,000 to the Farmhand appeal for emergency relief. But so far the Howard government has ignored Labor's call to do what Labor did in 1994 and match the Farmhand relief funding on a dollar for dollar basis. In regional and rural communities where people are now struggling, it is the cash component that is going to make a difference. I again call on the federal government to reconsider this issue and match those funds.

Senator McGAURAN (Victoria) (3.23 p.m.)—We have heard from Senator O'Brien, Senator Stephens and other speakers on this motion to take note of answers concerning the drought. All of us are only too well aware of the effects of drought on farm gate prices, on farmers and on the welfare of their families and of the cascading effects on small business throughout the rural sectors.

Senator Ludwig—How would you know about the drought?

Senator McGAURAN—I hear an interjection from Senator Ludwig, a Brisbane based senator, questioning how anyone would know about the drought.

Senator Ludwig—Mr Deputy President, I rise on a point of order. My office is in Beenleigh, which is not in the Brisbane CBD; it is in fact in the country.

The DEPUTY PRESIDENT—Order! There is no point of order. Senator McGauran, worry about addressing your remarks to the chair and forget those other comments.

Senator McGAURAN—What a hopeless attempt to make himself look ‘country’! Let us put aside all this feigned sincerity for the rural sector that the Labor Party have. You fool no-one. You have not fooled the electors, because you hardly hold any seats out there. They know only too well your record when you were in government and you had your chance to respond to drought. I am talking about a drought that was sustained for some four years between 1990 and 1994. None of you over there, I notice, were in government at the time; none of you were in parliament at the time, so let me remind you. There was a farmhand appeal then. What did the Keating government give to the farmhand appeal then? Not a zack.

Opposition senators interjecting—

Senator McGAURAN—I have a good corporate memory. I am starting to get one; I am starting to feel as though I have been here quite some time. I will tell you what: the Channel 9 program *Sunday* did a special in support of the farmhand program and it was not until then, some four years after an incredibly dry season in this country, that the then Prime Minister, Paul Keating, declared the exceptional circumstances of drought. Prior to that, Paul Keating refused to acknowledge that there was a drought in this country. He said:

I notice the National Party running around saying I should be standing in a paddock in some drought affected area.

Drought is around now in Australia all the time so we have said let’s try and cover this as a normal recurrence of rural life.

That was the philosophy of that government towards the rural sector, and they duly suffered in 1996 for the words I have quoted from Paul Keating. Why shouldn’t that be the philosophy that still holds across the opposition? It was set by the cabinet of the time and that information was given away by one of their greatest number-crunchers, a former senator of this parliament. Former Senator Richardson admitted quite coldly and calculatingly, which was part of his very nature, that the Labor Party cabinet of Hawke and Keating quite often dismissed the rural sector—in particular the farmers down at the farm gate—because they always knew that

they could never get anything better than one per cent of the vote from it. If you doubt what I say, go to an old Laurie Oakes *Bulletin* article—Laurie Oakes quite often gets an intriguing leak—where he quotes a source that that was the feeling of the time, confirmed by former Senator Richardson. That is the Labor Party philosophy; that is what the rural sector recall of your attitude towards drought. How desperate can an opposition get! How desperate is such an opposition! You cannot even connect with your own workers in the seat of Cunningham. What foolish chance do you think you have with regard to the rural sector? You hold very few seats in the rural sector. Those in that sector know your performance when it comes to drought. Of course, as previous speakers have indicated to us and told us, this government is acting through farm management deposit schemes and through tax payments and relationships with the tax department.

Senator McLUCAS (Queensland) (3.27 p.m.)—I also rise to take note of answers to questions about the impact of the drought on rural and regional communities and Senator Coonan’s response to my question about the sugar package. Sadly, the responses from Senator Ian Macdonald and from Senator Coonan had a consistent theme. Unfortunately the theme that has emerged today is, ‘We don’t know.’ Essentially, Senator Macdonald said that the government does not know how to assist the grain industry. Further, he would not say if the government would follow Labor’s policy of supporting Farmhand on a dollar for dollar basis. I would like to correct Senator McGauran’s corporate memory, which he says he has so much of nowadays, because I am advised that in fact Labor did match the previous Farmhand contributions on a dollar for dollar basis under the Hawke Labor government. I wish he would listen, because he might learn something and add to the corporate memory of which he has so much, according to him.

Senator McGauran interjecting—

Senator McLUCAS—So we did; we have just got that on the record, okay? We did contribute on a dollar for dollar basis, so I suggest that you may have misled the Sen-

ate through the words that you used in your contribution before mine. Finally, my comments go to Senator Coonan's answer. Senator Coonan did not know when or how the sugar tax might be imposed so that the sugar industry in Queensland, in particular, might have some confidence in the package that the government is putting up. I note that there is a long way for the government to go to gain the sugar industry's confidence at the moment because of the delay in responding to a crisis that the minister should have been aware of for at least a year.

Industry growers, millers, harvesters, mill workers—all the people in sugar towns—are looking for some surety and for some understanding of what the government is going to do and how it is going to be delivered. They want to know how the government will fund the assistance package but they have no surety and they have diminishing confidence in this government's being able to provide them with an answer as to how they can move forward.

But it is important to note that Senator Coonan did make one thing absolutely clear today. She made it absolutely clear that what is being proposed is a tax on the consumption of sugar. It is not a levy; it is not an arrangement. Senator Coonan, in her own words, said very clearly that what is being proposed is a tax. But, to return to my theme, we are still not sure whether the tax will be imposed on the consumers of sugar or the manufacturers of sugar. So, whilst we are clear that it is a tax, we do not know whom we are going to tax in order to fund the sugar assistance package. It is simply not good enough to say that we do not know. Farmers, farm communities in drought, sugar farmers and sugar communities need to understand government policy so that sensible, practical decision making can occur.

Particularly over the last year, I have noticed the increasing inaction of the minister in responding to events, both climatic and industry based, in primary industry. We have seen, over the past six months, bungles in the exceptional circumstances payments. Mr Truss advised the House of Representatives on 19 September that welfare payments for farmers covered by Bourke and Brewarrina

exceptional circumstances applications would be 'available immediately'. The minister then issued a media statement confirming his commitment and saying that eligible Bourke and Brewarrina farmers would get immediate income support. Five days later, Mr Truss told the parliament that welfare assistance would be available while their EC applications were assessed. Twenty days later, all that farmers in drought affected New South Wales have had from the Howard government is Mr Truss's broken promise. It is exactly the same story with the sugar industry immediate assistance package. It was promised and finally eventuated some three weeks after the date that Mr Truss told sugarcane growers that they could expect to receive the application forms. In fact, when growers contacted Centrelink, Centrelink's advice was, 'We don't know anything about it.' (*Time expired*)

Question agreed to.

Family and Community Services: Housing
Senator BARTLETT (Queensland—
 Leader of the Australian Democrats) (3.33
 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Family and Community Services (Senator Vanstone) to a question without notice asked by Senator Bartlett today relating to housing affordability.

As the minister indicated, there is a meeting of state, territory and federal ministers responsible for housing in Hobart this Friday to look at advancing the development and finalisation of the latest round of the Commonwealth-State Housing Agreement, which is coming up for renewal. It is crucial, in the Democrats' view, that when that agreement is finalised the federal government's role in it specifically addresses, in a proactive and effective way, the need for the current crisis in housing affordability to be addressed.

It does not really matter what area of housing you are talking about—everybody is aware of the massive increase in the cost of buying a home in most parts of Australia. There have been absurd increases of 80 per cent, 100 per cent or 120 per cent in many capital cities over the last five years. That might be great if you are a property investor but if you are just a family or a person trying

to buy a home it is simply untenable and, I would suggest, bordering on obscene.

The government introduced its First Home Owner Grant, which was welcome and indeed necessary to regenerate activity in the housing sector following the introduction of the GST, but it was an increase of \$7,000. There have certainly been some indications that it was misused by some people but it was hardly an amount which would cover the dramatic increase in private housing costs in recent times. I think it is worth noting that with the government's decision to wind back that grant there are potentially significant amounts of money for the government to put into housing funding.

According to the *Financial Review* on 19 September, the cost of the First Home Owner Grant was about \$3 billion in the first two years, which was about twice its original budgeted cost. So, with the government's announcement that it is paring back that scheme, the savings from doing so are also likely to be much bigger than initially thought. The Democrats believe that a big chunk of those savings must go into public housing, community housing and supported accommodation and must go to all those people excluded by poverty from the housing market, as well as helping with the extra costs required of those people in the private rental market.

Figures released by ACOSS just last week showed that over 90,000 low-income Australians in the private rental market are paying more than 50 per cent of their income in rent. Again, the federal minister might say, 'We're putting money into it through the rent assistance scheme rather than just through the Commonwealth-State Housing Agreement.' That is welcome as far as it goes but the point has to be made that that amount of money is not keeping up with the increase in the cost of private rentals. That is why people are paying 50 per cent of their income in rent, which is simply untenable and should not be expected. The amount of rent assistance for many people is \$50 a week. If you are student on Austudy it is zero; you do not get any assistance. I do not think anybody would suggest that \$50 a week, whilst it is welcome, goes very far towards the cost of

private rentals for many people these days, particularly in some of the larger capital cities like Sydney. That reality has to be acknowledged and it has to be addressed.

It is not good enough for the federal minister to say, 'The state departments have run their housing departments badly.' Maybe they have but it is the federal government's responsibility, surely, to ensure that a primary area—one of the most fundamental areas if you are looking at avoiding poverty and ensuring opportunity—is housing and housing costs. If that fundamental is not addressed then all those other fundamentals about education opportunities and employment opportunities are irrelevant, because if people cannot get secure and affordable housing then a lot of the rest does not go along with it.

The amount of money being put into new housing stock in the public and community housing sector is continuing to decrease and the amount of new stock is continuing to decrease. We have a crisis in the public housing sector, we have a crisis in the number of people able to afford private rental and we have a crisis in the affordability of buying a home. The federal government has to have a holistic approach to this. As Laura Tingle wrote in the *Financial Review* today, there is no 'holistic approach at the federal level' to housing policy in such a fundamental area. We cannot just sit back and take the approach we have to date. Despite the efforts of some in the private sector, like the Housing Industry Association, who have looked at trying to get low-income housing and affordability addressed, the issue—(*Time expired*)

Question agreed to.

PERSONAL EXPLANATIONS

Senator McGAURAN (Victoria) (3.38 p.m.)—I seek leave to make a brief personal explanation, as I claim to have been misrepresented.

Leave granted.

Senator McGAURAN—On a point of clarity, I believe that the Senate may have been—

Senator O'Brien—Misled. We'll allow you to withdraw.

Senator McGAURAN—‘Misled’ is far too strong a word. If my comments, and I will need to check them in *Hansard*, were to lead the Senate to believe that I said that no money was given by the Keating government to the then farmhand effort, my point was that there was no acceptance—

Senator Ludwig—Mr Deputy President, I rise on a point of order. It seems to me that Senator McGauran is now going on to the reasons behind the point he wishes to make. I think he should confine himself to the necessary part of the question that he wishes to make an explanation on, rather than go into the detail.

The DEPUTY PRESIDENT—There is no point of order. Senator McGauran, be careful with your comments.

Senator McGAURAN—All right. I would like to see the *Hansard* to see what I said. I know certainly what I meant, and that was that there was a delay by the Keating government in accepting that there was a drought in this country, and it was not until they accepted that there was a drought that proper assistance was forthcoming. That was forced upon them by a media campaign. It was not until the media got involved that that government accepted that there was even a drought in this country, and then assistance was forthcoming—and, yes, to the farmhand effort of the time.

FUEL: ETHANOL

Return to Order

Senator IAN CAMPBELL (*Western Australia—Parliamentary Secretary to the Treasurer*) (3.40 p.m.)—by leave—The Senate agreed to a motion moved by Senator O’Brien on 16 October seeking documents relating to the government’s consideration of an ethanol excise and production subsidy and some related matters. Due to the number of agencies involved in the coordination of the response it has not been possible in such a short period of time to comply with this order. I can indicate that the government intends to comply with the order as soon as possible and fully expects to be in a position to do so shortly.

Senator O’BRIEN (*Tasmania*) (3.41 p.m.)—by leave—I move:

That the Senate take note of the statement.

The Senate sought copies of documents relating to the government’s dealings on ethanol for a number of good reasons. Australian motorists are entitled to know the details of government negotiations on the content of the fuel they put in their petrol tanks. Australian taxpayers are entitled to know the details of the government’s private deals on excise and production subsidies. Australian businesses are entitled to know when special assistance is being given to one business on the basis of its close relationship with the government. Further, Australia sugar growers are entitled to know when they are being duped into thinking that the government cares about their future. The Senate did request the documents. The request was made because the government has been evasive about its policy framework and basis to date.

The first important issue is the failure of the government to establish a maximum ethanol content in fuel. It is important that it is clear that the government has known for two years that unregulated ethanol use in petrol is doing damage to motor vehicle engines and engines of other devices—marine devices and other devices used in agriculture and in ordinary home use. Its failure is also undermining community confidence in the legitimate use of ethanol in petrol products. What is needed is the immediate establishment of a maximum allowable standard for ethanol in petrol and a requirement that the percentage of ethanol in petrol is disclosed to consumers when they purchase a product. Why has the government failed to act? That is what the full production of the documents requested by the Senate is likely to reveal, and it brings me to the second and third reasons for the Senate’s request for these documents.

Taxpayers and business owners are entitled to know when the government is involved in special deals, especially when those deals result in preferential treatment for a business that happens to have a close relationship with the government. Contrary to claims made by some members of the government, it was not the Labor Party that first suggested that the relationship between Manildra and the government might be in-

fluencing its ethanol policy. It was suggested by Mr Brian Nye, the Executive Director of the Australian Institute of Petroleum. It is Mr Nye's clear recollection that at a meeting with the Minister for Agriculture, Fisheries and Forestry on 21 August—

Senator Ian Campbell—Mr Deputy President, I rise on a point of order. The senator sought leave to take note of my statement, which quite explicitly said that the government intended to comply with an order of the Senate and that it was not able to do so today but would be doing so shortly. That was for one reason, and that was the number of agencies involved. If the senator does need to take note of that rather simple and precise statement, he should be required to speak to that and not to open up an entire debate about alternative fuels in Australia in the 21st century.

Senator O'BRIEN—The statement is in relation to a decision of the Senate, and the decision of the Senate is to require the minister to produce documents which relate to the specific issue that I am addressing. I am addressing the importance of the production of this information now, and it will become clear—

Government senators interjecting—

Senator O'BRIEN—The parliamentary secretary suggests that I am wasting time. I do not think it is the case that I am wasting time at all, Mr Deputy President. But in addressing the point of order, I say it is entirely relevant for me to address the basis of the statement—the basis of the statement being the motion of the Senate and the importance that it be complied with.

The DEPUTY PRESIDENT—Order! There is no point of order.

Senator O'BRIEN—As I was saying, it is Mr Nye's clear recollection that, at a meeting with the Minister for Agriculture, Fisheries and Forestry on 21 August, Mr Truss told him that the Prime Minister would not permit any decision on ethanol that adversely impacted on Manildra, run by the Prime Minister's mate Dick Honan. Mr Truss, of course, denies this statement, and it is clear that both Mr Nye and Mr Truss can-

not be accurate in their description of the meeting.

It is not much of a stretch to imagine the Prime Minister's view creeping into a conversation about the government policy on ethanol—and, after all, the place of the National Party in the cabinet room is tenuous at best. The Liberal Party does not need the National Party to form government and the current Nationals in cabinet hardly justify a place on performance.

Senator Ian Campbell—Mr Deputy President, I rise on a point of order. If the honourable senator opposite is going to stay within standing orders, he must remain relevant, and having a discussion about the internal make-up of a cabinet could not possibly be construed as relating to the very short, concise statement I made in relation to the timing of the government's response, which is not at issue. The issue of course is the co-ordination of the departments to ensure that the Senate order is complied with. The government is doing the right thing by complying in a timely manner with the order. The honourable senator opposite is using this occasion to extend the deliberation of the Senate, to filibuster, to waste time, and, quite frankly, if the senator wants to do that, then he is showing that he does not have a bona fide request. He is simply trying to play cheap politics with this debate and, quite frankly, the government should note the senator's motivation when it comes to how timely its response is.

The DEPUTY PRESIDENT—Order! There is no point of order. Senator O'Brien, you should watch what your remarks are referring to in the debate.

Senator O'BRIEN—I will do that and, certainly, it is not my intention to waste the Senate's time, Mr Deputy President, and I would be quicker without the interruptions.

Senator Ian Campbell—Talk about it when you get the documents, when you know what you are talking about. Don't waste time!

Senator O'BRIEN—It is interesting that we had a very indefinite presentation about the time span that would be required to present these documents. There have been re-

turns to order that I can recall when that material which is readily available has been supplied and other material, which has been more difficult to obtain, has been supplied later. But that is not what is offered.

Senator Ian Campbell—Very insightful!

Senator O'BRIEN—Thank you. I accept your compliment, Senator. Mr Truss, I must say, told the House of Representatives on 25 September that a handwritten record made by a member of his staff supported his version of events. Why can't that be tabled? If Mr Truss could rely upon it in the House of Representatives last month, why can it not now be tabled as it is one of the relevant documents, as I understand it, that the Senate has required to be produced? On the one hand, Senator Macdonald is saying, 'We are going to produce this document sometime,' and I am suggesting that this is a very important—

Government senators interjecting—

Senator O'BRIEN—I am happy to allow you—

Senator Ian Campbell interjecting—

The DEPUTY PRESIDENT—Order! Senator Campbell, it would be easier for you to keep out of the debate. If you want to get into the debate, you have got your opportunity.

Senator O'BRIEN—It is certain that Mr Truss would not move an inch outside the clear parameters set by the Prime Minister on a matter as important as fuel policy. If it is okay for the National Party to sell out its constituency on Telstra, I have no doubt it is okay to accommodate one of the Prime Minister's mates.

I must say that, in relation to the return to order, it is clear that access to all the records of Mr Truss's meeting with Mr Nye will give the community a better picture of events that transpired and allow the veracity of Mr Truss's claimed to be tested. Only by revealing the other documents requested by the Senate can the government demonstrate that it has nothing to hide in relation to its recent ethanol decisions. The public already knows that the 12-month ethanol production subsidy will disproportionately benefit Manildra with a likely benefit of \$15 million over the next

12 months. What we do not know is why the government decided to adopt a policy that benefits one company in that way. Certainly Mr Honan and his company, and the Australian Biofuels Association, are entitled to advocate policies that benefit their business interests. They are entitled to meet with ministers and make representations to government.

The Australian community is entitled to expect the government to protect its interests. The government should not refuse to cap ethanol limits in petrol. The government should not refuse to require disclosure of ethanol content. The government should not have imposed this excise on ethanol and pretended that it was based on a desire to help the sugar industry when it knew all too well that the overwhelming majority of the benefit would fall to Manildra, and Manildra makes ethanol not based on sugar at all but on wheat starch.

Of course Senator Macdonald and the government would know that is the case. That is why they are embarrassed in relation to the production of material which will show that statements the government has made about its desire to protect the sugar industry with this excise are suspect. The sugar industry has told me that the excise is absolutely counterproductive to sections of the sugar industry that desire to improve their returns by adding to the value of the crop from the production of ethanol—they say that that will just not happen. When you add excise to the price of ethanol, it will become less competitive with the alternative that it is designed to replace, the petroleum product.

That is why the government has been reluctant to produce this material. I say again that if Mr Truss in the House of Representatives can refer to handwritten notes why can't they be produced today? Why can't the government say: 'We can comply with this material, which we can easily find, and we will produce the rest later.' Of course, the government does not do that and neither does Senator Ian Campbell tell us when this matter will be complied with.

Senator Ferguson—Shortly!

Senator O'BRIEN—‘Shortly’ might mean next year as far as this government is concerned. I am afraid to say that this government has form in relation to returns to order. There are numerous returns to order which it has declined to comply with. There are numerous returns to order about which it has produced a very basic amount of information—and certainly not full compliance with the orders of the Senate in relation to production of documents. Why then would the opposition not be concerned and perhaps suspicious about the suggestion, ‘There is a great deal of information and a number of sources have to be gone to, so we are going to delay and reply later when we know that there is information in the hands of the government now which can be produced.’

It was not my intention to take an extensive period of time in relation to addressing this matter. I hope that the government comes into this chamber—and when it says, ‘Shortly’, I mean during this week—to present this information. Alternatively, it would be appropriate for the government to attend this chamber and say when it does precisely intend to comply with this return to order. That would be a much more productive and constructive way to deal with this matter rather than the sort of antics we have seen from the Manager of Government Business in the Senate today.

Question agreed to.

PETITIONS

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

Science: Stem Cell Research

To the Honourable The President and the members of the Senate assembled in Parliament

This Petition of certain citizens of Australia draws the attention of the House to the growing concern in the Australian community about the proposed legislation to allow destructive research on human embryos.

Your petitioners call on the House to prohibit all research on human embryos which is destructive of a human embryo in anyway damaging to a human embryo.

by **The President** (from 22 citizens).

Terrorism: Suicide Bombings

To the Honourable the President and members of the Senate assembled in Parliament

We the citizens of Australia note that the practice of suicide bombing is a crime against humanity. This crime and its participants, organisers and supporters are guilty of a crime which has been committed against innocent civilians.

Further, we the undersigned note that there is no moral, religious, or political justification for this crime.

Your petitioners, declare therefore, that the perpetrators of these crimes should be prosecuted and punished by the appropriate international courts of justice.

We the citizens of Australia call on the Senate to act immediately to facilitate a debate at the next United Nations conference to declare, clearly and unequivocally, that the practice of suicide bombing is a crime against humanity.

by **Senator Forshaw** (from 941 citizens).

Petitions received.

NOTICES

Presentation

Senator Eggleston to move on the next day of sitting:

That the Environment, Communications, Information Technology and the Arts Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 22 October 2002, from 7.30 pm, to take evidence for the committee’s inquiry into the provisions of the Telecommunications Competition Bill 2002.

Senator Allison to move on the next day of sitting:

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts References Committee on urban water management be extended to 19 November 2002.

Senator Bartlett and **Senator McLucas** to move on Tuesday, 22 October 2002:

That the Great Barrier Reef Marine Park Amendment Regulations 2002 (No. 5), as contained in Statutory Rules 2002 No. 209 and made under the Great Barrier Reef Marine Park Act 1975, be disallowed.

Senator Heffernan to move on the next day of sitting:

That the time for the presentation of reports of the Rural and Regional Affairs and Transport Legislation Committee be extended as follows:

- (a) provisions of the Egg Industry Service Provision Bill 2002 and a related bill—to 23 October 2002; and
- (b) Australian meat industry and export quotas—to 13 November 2002.

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

That—

- (1) On Monday, 11 November 2002:
 - (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 11.40 pm;
 - (b) the routine of business from 9.30 am to 12.30 pm and 7.30 pm to 11 pm shall be consideration of the Research Involving Embryos Bill 2002 and the Prohibition of Human Cloning Bill 2002; and
 - (c) the question for the adjournment of the Senate shall be proposed at 11 pm.
- (2) On Tuesday, 12 November 2002:
 - (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.40 pm;
 - (b) the routine of business from 12.30 pm to 2 pm and 7.30 pm to 11 pm shall be consideration of the Research Involving Embryos Bill 2002 and the Prohibition of Human Cloning Bill 2002; and
 - (c) the question for the adjournment of the Senate shall be proposed at 11 pm.
- (3) On Wednesday, 13 November 2002, the hours of meeting shall be 9.30 am to adjournment, and standing order 54(5) shall apply as if it were Tuesday.
- (4) The Senate shall sit on Friday, 15 November 2002 and that:
 - (a) the hours of meeting shall be 9.30 am to 4.25 pm;
 - (b) the routine of business shall be consideration of the Research Involving Embryos Bill 2002 and the Prohibition of Human Cloning Bill 2002;
 - (c) the sitting of the Senate shall be suspended for 45 minutes from approximately 12.30 pm; and
 - (d) the question for the adjournment of the Senate shall be proposed at 3.45 pm.

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

That—

- (1) On Wednesday, 23 October 2002:

- (a) consideration of government documents shall not be proceeded with; and
- (b) the routine of business from 6.50 pm to 7.20 pm shall be consideration of the following bills:

Broadcasting Legislation Amendment Bill (No. 1) 2002

Insurance and Aviation Liability Legislation Amendment Bill 2002

Family and Community Services Legislation Amendment (Budget Initiatives and Other Measures) Bill 2002

Egg Industry Service Provision Bill 2002 and the Egg Industry Service Provision (Transitional and Consequential Provisions) Bill 2002

Excise Laws Amendment Bill (No. 1) 2002 and the Excise Tariff Amendment Bill (No. 2) 2002

Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Bill 2002

Aboriginal Land Rights (Northern Territory) Amendment Bill 2002.

- (2) On Thursday, 24 October 2002, the Senate shall stand adjourned immediately after prayers.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.55 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Aboriginal Land Rights (Northern Territory) Amendment Bill 2002

Broadcasting Legislation Amendment Bill (No. 1) 2002

Egg Industry Service Provision Bill 2002

Egg Industry Service Provision (Transitional and Consequential Provisions) Bill 2002

Excise Laws Amendment Bill (No. 1) 2002

Excise Tariff Amendment Bill (No. 2) 2002

Excise Tariff Amendment Bill (No. 1) 2002

Customs Tariff Amendment Bill (No. 2) 2002

Family and Community Services Legislation Amendment (Budget Initiatives and Other Measures) Bill 2002

Inspector-General of Taxation Bill 2002

Insurance and Aviation Liability Legislation Amendment Bill 2002.

I also table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in *Hansard*.

Leave granted.

The statements read as follows—

ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 2002

Purpose of the Bill

The Bill will add five parcels of land to Schedule 1 of the Aboriginal Land Rights (Northern Territory) Act 1976.

Reasons for Urgency

One parcel of land which is the subject of the Bill lies in the area of Harry Creek East in the Northern Territory. Passage of the Bill would enable traditional owners, the Harry Creek East community, to relocate to that land and hold it as freehold title.

Seven families, representing 35 people belonging to the Harry Creek East community, will be unable to utilise the land they currently occupy, because that land lies on the site of the proposed Darwin to Alice Springs Railway. The timetable for construction of this railway is running significantly ahead of schedule and the early commencement of clearing and associated structural work was not envisaged at the time the Bill was introduced.

Clearing equipment for construction of the railway, including bulldozers, has already arrived on the site. The next stage of construction will be to clear and compact an area for the pile driver, prior to commencement of work for the bridge foundations. This will threaten the only water supply available to the community, namely bore water, and will pose serious health and safety risks to members of the community.

Passage of the Bill will enable a grant to the community of freehold title to the land at Harry Creek East, which will be necessary for the construction of appropriate long term housing to proceed on that land for the benefit of the community. It is desirable that the Bill be passed as soon as possible to minimise the health and safety risks to those members of the community who utilise the land which is now the railway construction site.

(Circulated By Authority Of The Minister For Immigration And Multicultural And Indigenous Affairs)

BROADCASTING LEGISLATION AMENDMENT BILL (No. 1) 2002

Purpose of the Bill

This Bill is intended to delay the introduction of high definition television (HDTV) quotas in mainland State capitals until 1 July 2003.

Reasons for Urgency

Commercial free-to-air broadcasters in mainland State capitals are currently required by law to commence broadcasting at least 20 hours per week in high definition digital TV (HDTV) format from 1 January 2003. It is proposed to delay the commencement date for the 20 hour per week HDTV quota obligations on these broadcasters by six months. This is a holding action to be put in place while the Government considers possible changes to the digital television and datacasting regime, both to add new flexibility to the HD quota obligations, and to encourage consumer take-up of digital equipment. It is necessary in order to avoid short term compliance problems because although the HD quota obligations take effect in these areas on 1 January 2003, it is likely that there will be insufficient time for introduction and passage of any possible broader legislative changes to the regime before that date.

(Circulated by authority of the Minister for Communications, Information Technology and the Arts)

EGG INDUSTRY SERVICE PROVISION BILL 2002

EGG INDUSTRY SERVICE PROVISION (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) BILL 2002

Purpose of the Bills

The Egg Industry Service Provision Bill will provide for a company limited by guarantee under the Corporations Act to be declared as the industry services body. The company will undertake industry service provision, including new statutory levy funded generic promotional activities and delivery of the egg industry's research and development (R&D) needs.

The Egg Industry Service Provision (Transitional and Consequential Provisions) Bill will provide for the transfer of assets and liabilities associated with the Rural Industries Research and Development Corporation egg R&D programme to the declared industry services body.

Reasons for Urgency

The egg industry has undergone a difficult period since deregulation of the state marketing arrangements. The Newcastle disease outbreak, increasing pressure from the retail sector, declining egg consumption due to perceived health implications and animal welfare concerns have all contributed to a significant decline in profitability and the number of producers. Those producers who remain are looking as an industry to address key determinants of the future profitability of their businesses.

The Australian Egg Industry Association, the industry's national representative body, resolved in late-2000 to establish a new structure that could respond quickly and decisively to the pressures on the industry. The Association consulted widely on the proposal between April and September 2001 and an industry vote revealed widespread support for a new company and promotional levy.

A common theme throughout industry meetings was the urgency for change. The industry would be extremely disappointed if the new arrangements were not implemented by the target date of 1 January 2003. All necessary transitional arrangements will have been made by then and financed on that basis. Given that the company will take at least six months to generate results for the industry, consideration of the Bills over more than one sitting will only serve to extend the period of pressure for producers. On this basis, it is imperative that the Bills are introduced and passed in the Spring sittings.

(Circulated by authority of the Minister for Agriculture, Fisheries and Forestry)

**EXCISE LAWS AMENDMENT BILL (No. 1)
2002**

**EXCISE TARIFF AMENDMENT BILL
(No. 2) 2002**

Purpose of the Bills

The Bills will implement the Budget announcement to impose excise on the higher of the actual or labelled alcoholic strength of excisable beverages.

Reasons for Urgency

The alcohol labelling and excise payment measure is retrospective to the time of the announcement, 14 May 2002, and it is desirable to provide certainty to affected taxpayers.

(Circulated by authority of the Treasurer)

EXCISE TARIFF AMENDMENT BILL**(No. 1) 2002****CUSTOMS TARIFF AMENDMENT BILL****(No. 2) 2002****Purpose of the Bills**

The bills will incorporate into the Excise Tariff Act 1921 and the Customs Tariff Act 1995 all Excise and Customs Tariff Proposals currently tabled in Parliament including:

- Excise Tariff Proposal No. 1 (2002)—Diesel/Water Blends;
- Excise Tariff Proposal No. 2 (2002) and Customs Tariff Proposal No. 1 (2002)—Product Stewardship Oil Exemptions; and
- Excise Tariff Proposal No. 3 (2002) and Customs Tariff Proposal No. 2 (2002)—low alcohol beer excise reduction.

The bills will also amend the Excise Tariff Act 1921 and the Customs Tariff Act 1995 to remove the application of indexation provisions from the Product Stewardship Oil levy.

Reasons for Urgency

Enactment of the bills prior to 1 February 2003 is required to avoid further indexation taking effect on the Product Stewardship Oil levy. Further, Excise Tariff Proposal No. 1 (2002) must be validated within 12 months of the date of tabling which is 20 February 2003.

(Circulated by authority of the Treasurer and the Minister for Justice and Customs)

**FAMILY AND COMMUNITY SERVICES
LEGISLATION AMENDMENT (BUDGET
INITIATIVES AND OTHER MEASURES)
BILL 2002**

Purpose of the Bill

The Bill will give effect to a 2002 Budget initiative to clearly set out the duties and obligations of people who act as nominees for social security or family assistance customers. The Bill will also amend the social security law to streamline the process to allow more people caring for certain terminally ill children to qualify for carer payment.

Reasons for Urgency

The Bill needs to be passed in the 2002 Spring Sittings so as to allow finalisation of supporting administration ahead of the proposed 1 July 2003 commencement date for the nominees initiative. Early passage of the Bill will also enable more people caring for certain terminally ill children to qualify for carer payment.

(Circulated by authority of the Minister for Family and Community Services)

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**INSPECTOR-GENERAL OF TAXATION
BILL 2002**

Purpose of the Bill

The Bill establishes the office of the Inspector-General of Taxation as an independent statutory authority. The Inspector-General will provide a new source of advice to the government on tax administration. The Inspector-General will identify systemic issues of concern in tax administration.

Reasons for Urgency

The office of Inspector-General of Taxation is intended to be operational by the end of 2002 and funding was included in the 2002-03 Budget for the establishment of the office.

There is a government commitment and community expectation that the office will be established and operational by the end of 2002. The creation of the office of Inspector-General is a response to serious concerns of taxpayers and tax professionals regarding tax administration. The urgency of the Bill stems from a need to address systemic problems in taxation administration without further delay.

(Circulated by authority of the Minister for Revenue and Assistant Treasurer)

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**INSURANCE AND AVIATION LIABILITY
LEGISLATION AMENDMENT BILL 2002**

Purpose of the Bill

The Bill will:

- amend the Damage by Aircraft Act 1999 to exclude passive owners (such as lessors) from liability for damage on the ground;
- amend the Insurance Contracts Act 1984 to allow for the exemption, by regulation, of third party aviation war risk insurance from cancellation provisions; and
- amend the Civil Aviation (Carriers' Liability) Act 1959 to correct an error that imposes a liability on foreign charter operators which is inconsistent with Australia's international obligations.

Reasons for Urgency

The Australian aviation industry (airlines, airports and service providers) is currently facing major difficulties obtaining sufficient third party aviation war risk (terrorism) insurance (ie, principally for damage caused on the ground). In most part, this is a result of the insurance industry taking a

highly conservative approach to aviation insurance since the events of 11 September 2001.

The minor amendments proposed to the Damage by Aircraft and Insurance Contracts Acts will remove impediments to Australian aviation enterprises gaining full access to the international insurance market for third party war risk insurance. The amendments will mean that insurers and reinsurers will be able to deal with third party war risk insurance proposals from the Australian aviation industry in the same manner as the rest of the world and are expected to largely resolve the current shortage of cover for most sectors of the industry.

The amendments have the strong support of the Australian aviation industry, as well as Australian-based insurers who expect to be able to access the larger international market in order to meet the demands of local clients.

Since September 2001, the Government has been providing indemnities to cover the difference between the amount of cover commercially available (ranging from zero to an insufficient amount) and that held by aviation enterprises before the terrorist attacks. Passage of the amending legislation is also likely to significantly reduce the number and size of indemnities provided by the Commonwealth.

The opportunity is being taken to propose passage of a minor amendment to the Civil Aviation (Carriers' Liability) Act 1959 in order to correct a long standing minor error.

(Circulated by authority of the Minister for Transport and Regional Services)

Withdrawal

Senator TCHEN (Victoria) (3.56 p.m.)—Pursuant to notice given on the last day of sitting on behalf of the Regulations and Ordinances Committee, I now withdraw business of the Senate notice of motion No. 1, standing in my name for 10 sitting days after today.

Postponement

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Murray for 23 October 2002, relating to the reference of matters to the Community Affairs References Committee, postponed till 19 November 2002.

General business notice of motion no. 110 standing in the name of Senator Stott Despoja for today, relating to Australia's in-

volvement in any pre-emptive military action, postponed till 22 October 2002.

LEAVE OF ABSENCE

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

That leave of absence be granted to Senator Denman for the period Monday, 21 October to Thursday, 24 October, inclusive, on account of ill health.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Reference

Senator RIDGEWAY (New South Wales) (3.58 p.m.)—I move:

That the following matters be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by the last sitting day in 2003:

- (a) current rural industry-based water resource usage;
- (b) options for optimising water resource usage for sustainable agriculture; and
- (c) other matters of relevance that the committee may wish to inquire into and comment on that may arise during the course of the inquiry, including the findings and recommendations from other inquiries relevant to any of the issues in these terms of reference.

Question agreed to.

Community Affairs References Committee

Reference

Senator HUTCHINS (New South Wales) (3.58 p.m.)—I move:

- (1) That the following matters be referred to the Community Affairs References Committee for inquiry and report by the last sitting day of June 2003:
 - (a) the extent, nature and financial cost of:
 - (i) poverty and inequality in Australia,
 - (ii) poverty amongst working Australians,
 - (iii) child poverty in Australia, and
 - (iv) poverty in Australian communities and regions;

- (b) the social and economic impact of changes in the distribution of work, the level of remuneration from work and the impact of under-employment and unemployment;
 - (c) the effectiveness of income-support payments in protecting individuals and households from poverty; and
 - (d) the effectiveness of other programs and supports in reducing cost pressures on individual and household budgets, and building their capacity to be financially self-sufficient.
- (2) That, in undertaking its inquiry, the committee also examine:
 - (a) the impact of changing industrial conditions on the availability, quality and reward for work; and
 - (b) current efforts and new ideas, in both Australia and other countries, to identify and address poverty amongst working and non-working individuals and households.

Question agreed to.

CARERS WEEK

Senator RIDGEWAY (New South Wales) (3.58 p.m.)—At the request of Senator Allison, I move:

That the Senate—

- (a) notes that:
 - (i) the week beginning 20 October 2002 is Carers Week,
 - (ii) there are 2.3 million people in our community who care for a relative or friend who has a disability, mental or chronic illness or who is frail aged, and
 - (iii) carers provide 74 per cent of care needs to people requiring care, saving health and community care systems around \$20 billion per year;
- (b) congratulates:
 - (i) carers around Australia for their selfless support of family and friends, and
 - (ii) Carers Australia for its work to have carers recognised for their contribution; and
- (c) urges the Federal Government to seriously consider ways to offer further support to carers who often feel isolated in the community.

Question agreed to.

PLASTIC BAG (MINIMISATION OF USAGE) EDUCATION FUND BILL 2002

First Reading

Senator BROWN (Tasmania) (4.00 p.m.)—I move:

That the following bill be introduced: A Bill for an Act relating to the establishment of a fund for the purpose of education about plastic bag damage to the environment, and for related purposes.

Question agreed to.

Senator BROWN (Tasmania) (4.00 p.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 BROWN (Tasmania) (4.00 p.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 bill would provide for the collection of a levy of 25 cents on plastic bags at the retail point of sale which would be paid into a national environment fund. The amount charged will be indicated on till receipts.

The levy will not apply in limited exempted cases, for example on baked goods, non-packaged fruit and vegetables or fresh meat and fish. It will not apply to paper bags or other similar non-synthetic packaging, but other 'biodegradable' bags are not exempted.

The national environment fund, administered by the Minister for the Environment, is to be used to minimise the impact of, and for education about, environmentally hazardous waste in Australia. However, the purpose of the levy is not to collect funds but to change customer behaviour and reduce the environmental impact of the billions of plastic bags disseminated each year in our nation—3.3 billion from supermarkets alone.

Plastic bags have a costly impact on Australia's environment—not least the living marine ecosystem. Whales, dolphins and fish die from plastic ingested in mistake for squid or jellyfish.

Similar levies elsewhere have been notably successful. A levy of approximately 27 cents per plastic bag, imposed by regulation in Ireland in March 2002, led to a 90 percent reduction in plastic bag usage within 5 months, with much popular approval.

Bans or levies on plastic bags have also succeeded in Germany, Denmark, Italy, South Africa, Taiwan, the Northern Mariana Islands and Suffolk County in New York State.

In Australia, one opinion poll, in 2002, put support for a plastic bag levy at 79 percent.

I commend the bill to the Senate.

Senator BROWN—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

PLASTIC BAG LEVY (ASSESSMENT AND COLLECTION) BILL 2002

First Reading

Senator BROWN (Tasmania) (4.01 p.m.)—I move:

That the following bill be introduced: A Bill for an Act to provide for the assessment and collection of a levy on the use of plastic bags at the retail point of sale.

Mr Deputy President, I have here a very good Senate calico bag to deliver that bill to you for your perusal, due to the weight of the document.

Question agreed to.

Senator BROWN (Tasmania) (4.01 p.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 BROWN (Tasmania) (4.01 p.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 bill would provide for the collection of a levy of 25 cents on plastic bags at the retail point of sale which would be paid into a national environment fund. The amount charged will be indicated on till receipts.

The levy will not apply in limited exempted cases, for example on baked goods, non-packaged fruit and vegetables or fresh meat and fish. It will not apply to paper bags or other similar non-synthetic packaging, but other 'biodegradable' bags are not exempted.

The national environment fund, administered by the Minister for the Environment, is to be used to minimise the impact of, and for education about, environmentally hazardous waste in Australia. However, the purpose of the levy is not to collect funds but to change customer behaviour and reduce the environmental impact of the billions of plastic bags disseminated each year in our nation—3.3 billion from supermarkets alone.

Plastic bags have a costly impact on Australia's environment—not least the living marine ecosystem. Whales, dolphins and fish die from plastic ingested in mistake for squid or jellyfish.

Similar levies elsewhere have been notably successful. A levy of approximately 27 cents per plastic bag, imposed by regulation in Ireland in March 2002, led to a 90 percent reduction in plastic bag usage within 5 months, with much popular approval.

Bans or levies on plastic bags have also succeeded in Germany, Denmark, Italy, South Africa, Taiwan, the Northern Mariana Islands and Suffolk County in New York State.

In Australia, one opinion poll, in 2002, put support for a plastic bag levy at 79 percent.

I commend the bill to the Senate.

Senator BROWN—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DOCUMENTS

Plastic Bag Levy (Imposition) Legislation

Senator BROWN (Tasmania) (4.01 p.m.)—by leave—I table a copy of the Plastic Bag Levy (Imposition) Bill 2002, which unfortunately cannot be originated in the Senate as it is a tax bill.

Senator Bolkus—Mr Deputy President, on a point of order: I did say to Senator Brown during the introduction of his last bill that it was something that Bronwyn Bishop would have been proud of, but is it appropriate for the senator to table a bag that is made in China in support of his arguments?

Senator Mackay—What about the Tibetans?

Senator Bolkus—'What about the Tibetans?' says Senator Mackay. Can Senator Brown explain to us why he is doing this?

The DEPUTY PRESIDENT—There is no point of order.

Senator Ferguson—My wife uses string bags.

The DEPUTY PRESIDENT—We are not discussing bags, Senator Ferguson.

Auditor-General's Reports

Report No. 12 of 2002-03

The DEPUTY PRESIDENT (4.03 p.m.)—In accordance with the provisions of the Auditor-General's Act 1997, I present the following report of the Auditor-General: Report No. 12 of 2002-03—*Performance Audit—Management of the Innovation Investment Fund Program: Department of Industry, Tourism and Resources—Industry Research and Development Board.*

NEW BUSINESS TAX SYSTEM (CONSOLIDATION, VALUE SHIFTING, DEMURGERS AND OTHER MEASURES) BILL 2002

Report of Economics Legislation Committee

The DEPUTY PRESIDENT (4.04 p.m.)—Pursuant to standing order 38, I present the report of the Economics Legislation Committee on the New Business Tax System (Consolidation, Value Shifting, Demurgers and Other Measures) Bill 2002, together with the *Hansard* record of proceedings and documents presented to the committee, which were presented to the Deputy President on 18 October 2002. In accordance with the terms of the standing order, the publication of the report was authorised.

Ordered that the report be printed.

INDONESIA: TERRORIST ATTACKS

Letters of Condolence

The DEPUTY PRESIDENT (4.04 p.m.)—I present letters of condolence from the Ambassador of the Hashemite Kingdom of Jordan, His Excellency Dr Khaldoun Tharwat Talhouni, and the Speaker of the Indonesian House of Representatives, Speaker Akbar Tandjung, in relation to the recent terrorist attacks in Bali.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator FERRIS (South Australia) (4.04 p.m.)—On behalf of the Chair of the Finance and Public Administration Legislation Committee, Senator Mason, I present additional material received by the committee relating to hearings on the budget estimates for 2002-03.

COMMITTEES

Foreign Affairs, Defence and Trade Committee: Joint

Report

Senator FERGUSON (South Australia) (4.05 p.m.)—I present the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade entitled *Visit to Australian forces deployed to the international coalition against terrorism*. I seek leave to move a motion in relation to the report.

Leave granted.

Senator FERGUSON—I move:

That the Senate take note of the report.

I am delighted to present this report on behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade. Senator Payne and I were the only two senators involved. Senator Payne is currently chairing a session on peacekeeping at the International Conference of Women in Policing, so she will be unable to speak to the report today but intends to at the first possible opportunity in the adjournment debate. The report reports on a visit undertaken in July this year by a delegation of nine members from the committee to the Australian Defence Force personnel deployed on active service in the Middle East and Central Asia as part of Australia's contribution to the international coalition against terrorism. The delegation travelled by Defence Force aircraft and met with personnel deployed at the Australian National Command Element in Kuwait, Royal Australian Navy personnel enforcing UN sanctions against Iraq in the Persian Gulf, Royal Australian Air Force personnel conducting air-to-air refuelling operations from Kyrgyzstan and forces from the Special

Air Service regiment conducting operations in Afghanistan.

The visit was part of a wider program of activities being undertaken by the committee to monitor Australia's ongoing commitment to the war on terrorism. Those members fortunate enough to participate in the visit now have a far more comprehensive understanding of the nature and the effectiveness of Australia's commitment than can be achieved by receiving briefings in Parliament House. This report is one of the ways in which we are seeking to make this experience available to a much wider audience. An equally important element of the visit was to demonstrate Australia's strong bipartisan support and the support of the Australian community for the Defence Force personnel deployed on these operations.

We were extremely impressed by the outstanding professionalism and dedication to duty displayed by our servicemen and servicewomen in demanding and at times hostile circumstances. They are performing with great distinction and have earned the respect and admiration of the international forces with whom they are working. All Australians should be immensely proud of their achievements and the contribution they are making to the success of the international coalition against terrorism. In our report, as well as describing the visit, we make a number of observations about Australia's forces commitment to the coalition. It was clear, for example, that each of the force elements deployed is making a highly relevant contribution and is displaying outstanding levels of professionalism and commitment.

The quality of the contribution is demonstrated by the extent to which Australian forces are directly engaged in the planning, conduct and coordination of operations. In Afghanistan, the special forces task group is fully integrated into the coalition effort and provides a niche capability built upon a unique mix of training, skills, tactics, temperament and equipment. In the Persian Gulf not only are our ships operating at a high tempo but also tactical control of the whole Maritime Interception Force is currently being exercised by an Australian commander and his staff. In Kyrgyzstan, the RAAF crew

and ground crews were, until their recent return to Australia, achieving remarkably high levels of aircraft serviceability and mission success. In addition, an Australian officer was intimately involved in operational planning and coordination as the coalition air operations officer.

We were also interested to learn more about the complex command and control arrangements in place for the ADF contribution to the coalition. Although not implying that there are significant failings in the command structure, we have concluded that elements of the existing structure warrant careful consideration. We will, through our Defence Subcommittee, further examine the effectiveness of these arrangements and any other arrangements developed for similar deployments in the future. One matter on which we have made recommendations is the issuing of awards to deployed personnel to recognise their service. Our first recommendation is that the government and the Department of Defence take concerted action to overcome the evident delays in issuing the Australian active service medal to those personnel entitled to receive it. Ideally, this medal should be awarded immediately upon the completion of a tour of duty. A second recommendation is that, given the warlike nature of this deployment, the Minister for Defence should consider issuing an Australian campaign medal to those Australian Defence Force personnel who have served in operations in support of the international coalition.

There is no doubt that the international coalition's current operational tempo has diminished, especially in Afghanistan. It is widely accepted that the initial phase of the operation has passed and that the priority now is to help the Afghan government establish effective control within its territory. The recent return of the RAAF deployment and the public debate about the possible recall of the special forces contingent are evidence of a new phase of operations. It may, however, be premature to expect the imminent return of all Australian deployed forces. Continued vigilance is required in Afghanistan to prevent al-Qaeda and Taliban forces from regrouping before the Afghan govern-

ment is able to exert security control. Moreover, the work of the Maritime Interception Force in the Persian Gulf seems unlikely to wind down in view of ongoing debates in the United Nations about the enforcement of UN resolutions against Iraq.

Of course, the terrible bombing in Bali reminds us all that the fight against terrorism is far from over. Whatever the future holds, the delegation's visit was a remarkable opportunity to meet with the soldiers, sailors, airmen and airwomen of all ranks involved in the war on terrorism, to better understand the nature of the operations in which they are engaged and to appreciate the circumstances and environments in which they are operating. The war on terrorism is a just cause and every Australian serving in support of the international coalition does so with the goodwill, gratitude and absolute support of the Australian community.

In conclusion, I would like to acknowledge some of the ADF personnel who made our visit such a success: Brigadier Gary Bornholt, the commander of the Australian national contingent, who hosted our visit and was on hand throughout the visit to provide us with expert advice; Commander Mike Noonan, from the Royal Australian Navy, the brigadier's chief of staff, who played a central role in developing and delivering the visit program; Squadron Leader Paul Baskin and his colleagues at Headquarters, Australian Theatre, who helped to coordinate the program from the Australian end; and, last but not least, Lieutenant Colonel Roger Noble, the committee's defence adviser, whose advice and assistance from beginning to end was invaluable, and we certainly appreciate the ongoing assistance that we receive from Lieutenant Colonel Roger Noble. Thank you to all of the abovementioned and also to the men and women of the ADF who received us warmly and briefed us professionally at every location, notwithstanding the fact that they were in the midst of a heavy operational schedule.

I would also like to place on record our appreciation for the secretary of the committee, Grant Harrison, who came with us on that visit and who was responsible, together with Lieutenant Colonel Noble, for putting

together a program in a very short time, and we thank them for the work they did and the professional manner in which they conducted themselves. Particularly to Grant Harrison and the staff of the secretariat, we owe an ongoing thanks for not only the professional way in which they arranged for this visit to take place but also for their ongoing work in other aspects on the war on terrorism.

We visited the Middle East at a time when climatic conditions were at their worst. Every day we were in Kuwait it was over 53 degrees. We had tremendously high temperatures out on the Gulf during our nights on the *Arunta* and the *Melbourne*. The temperatures were not much cooler in Kyrgyzstan and Afghanistan. To see the conditions that our troops are working under during their rotation staggers us both in the manner in which they are conducting their day-to-day work in the heat and in the fact that they are so professional in everything that they have done. They are very highly regarded by other international forces, particularly by the joint commander of operations, Lieutenant General Dan McNeil from the United States Army. We had a meeting with him and he spoke to us of the high regard in which he held our SAS troops, who are currently serving in Afghanistan. This was a very worthwhile visit and one of the most valuable delegations that I have ever been on in my 10 years in this parliament. I commend the report.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.15 p.m.)—I would also like to speak to the report entitled *Visit to Australian forces deployed to the international coalition against terrorism* of the Joint Standing Committee on Foreign Affairs Defence and Trade, of which I am currently the Democrats' representative. I wanted to speak to the report—regardless of not being able to participate in this delegation—because it is an important report in the context of a lot of the debate happening in Australia at the moment. It is predominantly a factual report. I am not saying that all the committee's other reports are not factual, but this report focuses particularly on the specifics of what is happening rather than drawing a lot of policy con-

clusions. It is useful to examine the report in terms of the nature and range of Australia's involvement in this region, particularly in the context of the current debate about the war on terrorism.

There was a noteworthy statement towards the end of the second chapter of the report about Australia's commitment to the war on terrorism. What has been specifically identified as part of our military contribution to the international coalition against terrorism includes the involvement of two Orion long-range maritime aircraft, an Australian special forces detachment, two Boeing 707 refuellers, a naval task group with an amphibious command ship and a frigate as escort, four FA18 strike aircraft and one frigate with embarked helicopter capability. It might not be something that could take over the world, but it is not an insignificant military contribution, given some of Australia's limitations in the overall resources available to it. At the end of chapter 2 about Australia's commitment to the war on terrorism the report states that, whilst the focus of the visit was to meet with the personnel currently deployed, it was conducted during a period of intense international and domestic debate about the Iraqi regime of Saddam Hussein, particularly the extent to which the regime is continuing to develop weapons of mass destruction and, if so, what action should be taken. The report also states that 'since the return of the delegation this debate has intensified'.

Of course, senators and members have participated in parliamentary debate on these matters. The important point to emphasise there is: how much does the international coalition against terrorism that Australia is a part of link into the Iraqi issue? Those links and those debates need to be had and that specific linkage needs to be made if the coalition government—the Prime Minister and the cabinet—is continuing to have Australia positioned as a supporter of the US approach.

Senator Ferguson—They are two different issues.

Senator BARTLETT—You say they are two different issues, and they are two different issues, but you specifically mention them

in your report—and I think it is appropriate that you have because your visit took place during a period of intense international discussion. This report outlines the amount of Australian military commitment in the region, in a range of countries, and again I would say that it is worth reading for that purpose. I believe they are two different issues and that they need to be debated as two separate issues. That is why the Democrats are keen to ensure that any discussion about Iraq that we need to have is not blended in with the legitimate concern and great angst that the community currently has in relation to terrorism and its threat to Australia—which of course has been brought home so much more tragically in the last week or so. I do think we need to keep them separate, but we also need to acknowledge that there is already a significant Australian military commitment in this region in relation to the coalition against terrorism and what the implications would be for not just that military commitment but any extra military commitment we may wish to provide if we as a nation were to support any engagement against Saddam Hussein.

It is no secret, and I want to make it clear, that the view of the Democrats is that we should not be supporting any war with Iraq. But I also think that, regardless of what the view of the Democrats is, we need to be ensuring that the public debate is fully informed. The Democrat view alone is not going to determine whether or not we engage in a war against Iraq. What I am particularly keen to ensure is that the debate surrounding that question is fully informed, and that needs to include our current military involvement in the coalition against terrorism and, if we are going to be involved with Iraq, whether that will then be diverted or whether there will be additional resources. The issue, even in the context of the coalition against terrorism, is whether or not this involvement needs to be reconsidered, given the events in Bali in the last week. Leaving the question of Iraq to one side, do we now need to look at reorientating our resources? I am not putting forward a specific position on that, but I do think that that is part of the debate that has now shifted on another step, sadly, with what has happened in Bali.

I would like to draw attention to a couple of other things in the report. The range of areas in which that commitment is being implemented is interesting. The committee went to a number of places. I find it disappointing that I was not able to be part of this delegation for various reasons, because it does look like it would have been an incredibly valuable delegation for parliamentarians to be a part of. We often hear cheap shots—sometimes valid shots—taken at parliamentarians for overseas trips. Apart from the fact that the delegation had to engage in 53-degree heat, which would not have been pleasant, it is worth emphasising that those are the conditions that our personnel have to engage with every day. I think a couple of our cricketers found it a bit hard to do it two days in a row. Our personnel have to do it day after day. They might not be playing cricket, but I am sure they are still pretty difficult conditions for them.

This is a perfect example of an incredibly valuable delegation for parliamentarians to be involved in to get a real sense of what is happening, what it means in reality on the ground, also emphasising the value of engagement with some of these countries. It would be ideal if we could find ways of engaging with countries such as Kyrgyzstan other than through warlike situations or military engagements, but it is still worth noting, as this report does, the value of having a little bit more contact with a country like that, a country that historically we have not had many dealings with. All those sorts of links can be beneficial.

As the report outlines, the number of countries involved in the international coalition against terrorism is substantial—not all of them through military commitments. We need debate on what is and what is not appropriate in terms of the activities of that coalition, because some of its activities, quite frankly, the Democrats are concerned about. We, with I think everybody in this place and everyone in the Australian community, share a goal of working to eradicate or reduce the threat of terrorism, and that is why we need a debate as to the best way of doing that.

There are many countries involved in that coalition, as the report details. That in itself

can be a way of looking to develop greater linkages, greater understanding across countries about our different ways of dealing with things, about how best to effectively address what is now the international, the globalised, problem of terrorism. In that sense, again, it is valuable to have these sorts of activities and to have parliamentarians link in to them.

These activities are worth while for our armed forces. Our armed forces do not get a say about where they are sent. They dedicate themselves to the service of our country, and they go where they are sent. The recommendation in this report that active service medals be provided more promptly is a positive one that I hope the government will take up. It is important to recognise the work that our armed forces are doing.

We, from all of our different political perspectives, need to debate what is appropriate use of military engagement and what is not—such as military engagement in Iraq, which the Democrats are strongly opposed to. As strongly as the Democrats oppose Australia's involvement in a war on Iraq, and as strongly as we will continue to campaign on that issue, that should not be seen as an attack on those Australian men and women who serve our country through our armed forces and who go where they are sent. They should always have our support. More particularly, they should have our support when they return as veterans of military engagement. There is plenty of room for improvement in that area as well. I commend the report and seek leave to continue my remarks later.

Leave granted; debate adjourned.

**National Capital and External Territories
Committee
Report**

Senator LIGHTFOOT (Western Australia) (4.25 p.m.)—I present the report of the Joint Standing Committee on the National Capital and External Territories entitled *Striking the right balance: draft amendment 39, national capital plan*. I seek leave to move a motion in relation to the report.

Leave granted.

Senator LIGHTFOOT—I move:
That the Senate take note of the report.

I have pleasure in presenting this, the committee's second report for 2002. Draft amendment 39 of the national capital plan was first brought to the committee's attention in February 2001. A revised version of the draft amendment was provided to the committee in April 2002. The committee considered this revised version and, in May 2002, decided to seek a reference from the minister to conduct an inquiry. In particular, the committee wished to learn why the original provision of draft amendment 39, which removed the designated area status from the Deakin-Forrest residential precinct, was not included in version 3 of the draft amendment.

The committee was well aware of the competing interests in this matter and the need to strike the right balance between them: there is the ACT government, which seeks to provide a consistent and equitable set of planning and development processes throughout the territory; there are the residents and leaseholders from the area, many of whom wish to protect the residential character of the area; and there are others, especially those with properties fronting State Circle, who want to improve the area and enhance the value of their properties. The Commonwealth, as represented by the National Capital Authority, is charged with safeguarding the national capital significance of the area and encouraging development outcomes appropriate to the setting of the area.

Mindful of these sometimes conflicting interests, the committee sought to ensure that all parties were given every opportunity to present their views. To this end, a full day was allocated for a public hearing on 21 June 2002. A second public hearing was held on 26 August 2002 to hear evidence from Sir Lenox Hewitt, who has two family properties fronting State Circle. That the inquiry generated a considerable degree of interest is evidenced by the receipt of 15 written submissions. In all, the committee heard evidence from 12 witnesses, including a number of residents and leaseholders, representatives of the ACT government, the National Capital Authority, the Royal Australian Planning Institute and a local property developer.

In its deliberations, the committee focused on three principal issues. The first was to determine who should have planning control over the area in question. The majority of the committee shares the concern of the National Capital Authority that current and proposed changes to territory residential policies have created some planning uncertainty. The majority of the committee believes that, in this climate of uncertainty, the Commonwealth should retain planning jurisdiction over the area. The majority of the committee also believes that National Circuit constitutes an appropriate outer boundary for the area. The report's first recommendation, therefore, states that the designated area status currently applicable to the Deakin-Forrest residential area between State Circle and National Circuit be retained. Some members, however, have drawn a conclusion different from that contained in recommendation 1. An alternative view of planning control and the appropriate outer boundary is articulated in the minority report, which recommends that the designated area status of the area in question be uplifted from all but the blocks fronting State Circle.

The second issue confronting the committee was the nature of future development in the area. The area is a well-established residential precinct, for the most part exhibiting the best of Canberra as the garden city. The committee as a whole therefore recommends that the land use policy should continue to be residential and that non-residential development should be prohibited.

The committee shares the concerns of some residents/lessees that many of the properties fronting State Circle have fallen into disrepair and detract from the national significance of the area. Both the National Capital Authority and Mr Richard Drummond of State Circle Developments presented the committee with different residential development scenarios for State Circle. The committee chose, however, not to judge which type of residential development proposal was most suitable for State Circle. The committee's primary concern is to ensure that any redevelopment of the State Circle sites be consistent with the residential char-

acter of the area. Further, the committee believes that the design and landscaping of the area should be of a standard commensurate with its status as an area of national significance. These views are expressed in recommendation 3 of the report.

The third issue considered by the committee was that of the consultation processes used by the National Capital Authority. The committee believes that, in relation to the redevelopment of No. 15 State Circle, the authority failed in its duty to the residents/lessees of the area and ignored the committee. The authority admitted its mistake and has sought to rectify its procedures. In view of the committee's recommendation that the Commonwealth retain planning control over the area, the committee has further recommended that changes be made to the act to ensure greater public consultation by, and access to, the authority with respect to works approval in the area.

Mr Acting Deputy President, I express on behalf of the committee our gratitude to all those who participated in the inquiry and to the staff of the secretariat. I would also like to take this opportunity to thank my committee colleagues for their work and support throughout the course of the inquiry and reporting process. Having said that, I commend the report to the house.

Senator LUNDY (Australian Capital Territory) (4.32 p.m.)—With the tabling of the Joint Standing Committee on the National Capital and External Territories report on draft amendment 39 of the National Capital Plan, I wish to make a few comments about this issue and the role of the National Capital Authority. This report is the result of the committee's inquiry into the merits of revised draft amendment 39 of the National Capital Plan, which related to development of the Deakin-Forrest residential area of Canberra. The issue being investigated here is primarily one of planning certainty and consistency and red tape.

The Labor members of the joint standing committee support chapters 1, 3 and 4 of the majority report. However, we differ significantly with respect to the conclusions drawn in chapter 2 and the resulting recommendations. I would like to take this opportunity to

explain why. Section 39 is the final remnant of residential land under the jurisdiction of the National Capital Authority. This is an anomaly that creates complexities for residents in the area. The Labor members of the committee sought to find a balance. On the one hand we saw the need for consistency, certainty and clarity in planning guidelines and consultation processes for the residents within section 39; on the other hand we were conscious of the need to improve prospects for high-standard redevelopment for the State Circle frontage precinct of section 39, in keeping with the national significance of State Circle.

For Labor, the principle of consistency in the planning and consultative process for residents in the ACT is overriding. We believe that one set of planning and consultation rules should apply for all residents and lessees in the ACT. This set of rules is determined by the democratically elected ACT government and expressed through the Territory Plan. The Labor members of this committee therefore believe that the appropriate and principled position would be to uplift section 39 from designated area status. This is where we differ from the coalition members, who think the NCA should remain in control. Under Labor's proposal, section 39 would be subject to the Territory Plan as varied from time to time by the ACT government. This would remove the anomaly of section 39 being the only remnant of residential land under the jurisdiction of the National Capital Authority.

It is worth noting that the report we are tabling today is highly critical of the way in which the National Capital Authority consulted residents and lessees in the section 39 precinct throughout this process. This was a significant factor in the Labor members determining that the NCA is ill-suited for this role. In addition the committee, like some of the residents of State Circle, was not made aware of redevelopment approval for the dual occupancy during the time when the committee was considering draft amendment 39. This led the committee to note, on page 43:

Such action leads the Committee to conclude that the NCA was inclined, on this occasion, to have treated the Committee contemptuously.

This is a serious reflection on the NCA. The committee also found that, as a matter of principle, an opportunity for redress should be offered to any residents or lessees in section 39 who may have been disaffected by NCA decisions. The committee has therefore recommended that the Australian Capital Territory (Planning and Land Management) Act 1988 be amended to require public consultation by the NCA in relation to works proposals in designated areas.

Whilst I am generally happy with the committee's recommendations—other than the first recommendation, on which we differ—the Labor members' minority report outlines our points of differentiation from the report and, in particular, our concerns about the operations and consultation processes of the NCA. It is worth reflecting on the pattern of decision making by the NCA over the last few years. Under the previous Carnell Liberal ACT government, every conceivable proposal was ticked off by the NCA—on more than one occasion without going through due process and consulting appropriately with the joint standing committee.

For example, there was the approval of the Futsal slab without adequate consultation. Then there was the Floriade fence, which was erected so that people could be charged to enter Floriade. Then there was the lack of consultation on the sensitive Reconciliation Place proposal. More recently there was the NCA's involvement in land sales. Their hands-off approach and nonparticipation in decisions about land sales in the national capital was inexplicable and clearly suited the coalition's political agenda. Finally there was the V8 Supercar fiasco, where the NCA's intransigence meant that the event was never given the chance to be successful once the Labor ACT government uncovered the appalling truth about the true costs of the V8 race.

The NCA is solely responsible, in my view, for ensuring that the car race would not be given a second chance to survive by refusing to consider a date change for the event. This change would possibly have

made enough difference to boost the number of attendees, hence making the race a viable prospect and reducing the amount that ACT taxpayers were left to pay. All of these things show how senior NCA officials have allowed themselves to be caught between their charter and the political interests and campaigns of the coalition government. Far from being frank and fearless, they have become sloppy and compliant, with an agenda that is not their own.

In reaching these conclusions over section 39, I find that I am in the regrettable position of no longer being able to convince myself that the senior management of the NCA is acting impartially, and for this I hold the coalition government responsible. But I am also expressing my disappointment in the role that the NCA has played. Ultimately, it means that I have little confidence in the NCA as an institution. Perhaps it is struggling with its role and identity. It is supposed to be a strong, apolitical institution providing a steady hand and keeping a watchful eye on the parliamentary triangle and the status of Canberra as the national capital. I think it is a disgrace that such an important institution as the NCA has been dragged down in this way.

Senator Kemp—Mr Acting Deputy President, I raise a point of order. I have been listening very carefully to the senator's remarks. I have to say that I think her comments on the NCA are completely over the top. It is one thing to differ from a recommendation of a report and the decisions of the NCA; it is another thing to personally attack the people who are involved with the NCA. I think it is most unfortunate.

The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)—There is no point of order, I am sorry.

Senator LUNDY—It is my hope that the institution either improves or finds new leadership to ensure that credibility is restored as soon as possible. Credibility and certainty around planning processes in the ACT are critical for our economy, for investment and, of course, for jobs and employment. I commend the minority report to the Senate. I thank the staff of the committee and the participants in the inquiry as they served to highlight several crucial issues confronting

the ACT and planning arrangements for the future.

Question agreed to.

Treaties Committee: Joint Report

Senator KIRK (South Australia) (4.39 p.m.)—On behalf of the Joint Standing Committee on Treaties, I present the 48th report of the committee entitled *Treaties tabled in August and September 2002*, together with the *Hansard* record of proceedings and minutes of proceedings. I seek leave to move a motion in relation to the report.

Leave granted.

Senator KIRK—I move:

That the Senate take note of the report.

The report contains the results of an inquiry conducted by the Joint Standing Committee on Treaties into 10 treaty actions tabled in the parliament on 27 August and 17 September 2002. Specifically, the report deals with six subject matters, and I will mention each of these briefly.

First, the amendments to the schedule to the international whaling convention maintain the ban on commercial whaling and permit aboriginal whalers in some parts of the Northern Hemisphere to continue their hunt. This accords with Australia's long-held position on the banning of commercial whaling and the limited hunting of whales by Aboriginal subsistence cultures to meet demonstrated traditional, cultural and dietary needs. The committee notes that Australia's domestic legislation provides stronger protections for whales in Australian waters than those afforded under the convention.

The second subject matter is in relation to two agreements regarding compensation for oil pollution damage caused by spills from tankers. The changes to the limitation amounts in the 1992 protocol of the International Convention on Civil Liability for Oil Pollution Damage and the limits of compensation in the 1992 protocol of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage will have the effect of increasing the existing limits in both conventions to take account of the erosion of their

value by inflation since 1992. The committee accepts that it is in Australia's interests to accept the proposed amendments to these conventions as they were supported by all interested parties and are minor by nature. However, the committee anticipates an improvement in the notification processes for such actions. In this case, both had been tacitly accepted before the department notified the joint standing committee.

The third subject matter is in relation to two protocols amending double tax agreements with Canada and Malaysia. These are similar to several other treaties examined by the committee since its inception in 1996. The general aim of the DTAs is to promote closer economic cooperation through the elimination of overlapping taxing jurisdictions and to prevent international fiscal evasion. The specific aims of the proposed protocols I am referring to today amending the DTAs with Canada and Malaysia are to align these agreements with current Australian tax treaty policies and practice. The committee has recommended ratification in both cases.

Following recommendations in report 46 of the committee, Treasury provided greater detail on the specific issues and quantitative gains and losses that will accompany the amended DTAs with Canada and Malaysia through supplementary NIAs for each protocol. The committee notes and is satisfied with the efforts of Treasury to provide fuller and more specific details in relation to individual DTAs that come before it. Concerns about the inability of the government to quantify some amounts while apparently being more certain of others continue to occupy the attention of the committee in relation to the estimated benefits and losses accompanying the extension of tax bearing arrangements with Malaysia.

The committee recognises that economics is far from being an exact science and it requires the making of assumptions about the conduct of individuals who have open to them a large number of possible actions. However, the committee urges that Treasury continue in its efforts to provide as much information as possible about the assumptions on which it makes its policy decisions

and what it hopes to achieve from the actions it implements in DTAs.

The fourth matter is the agreement between Australia and the USA concerning security measures for the reciprocal protection of classified information. This sets out the procedures and practices for the exchange and protection of classified information and for visits between Australia and the United States of America. The agreement is similar to ones concluded with other countries and will set uniform standards and procedures for exchanging classified information between all government departments and agencies in both countries. The proposed agreement provides the necessary protocols and security assurances to facilitate the exchange of classified information by ensuring that the information is protected by legally binding obligations.

In response to the concerns of some Australian parliamentary representatives, the committee was assured by the Department of Defence that members of parliament have access to classified information with no requirement for a security clearance. In the context of article 11 of the treaty, the committee expressed concern about the ability of Australian members of parliament to visit joint facilities in Australia and the arrangements for visits of American elected representatives to those sites. The committee requested further information from the Defence Security Authority on this and other matters but it is still awaiting clarification on some points. Despite the committee's concerns about some aspects of the agreement, it is the opinion of the committee that the treaty overall is in the national interest and should be ratified.

The fifth matter that this report covers is the Treaty between Australia and the Hellenic Republic on Mutual Assistance in Criminal Matters. It is similar to several others already in place between Australia and other countries, and it is based on the Australian model mutual assistance in criminal matters treaty. Mutual assistance can be requested under the Mutual Assistance in Criminal Matters Act 1987, but a country is not obliged to provide it. Therefore, a treaty providing legal obligations on both parties

makes the process more certain and more efficient. The committee agrees that this proposed treaty action will make mutual assistance in criminal matters between Australia and Greece more efficient, and has recommended ratification.

The sixth and final matter concerns the purpose of the Agreement between the Government of Australia and the Government of New Zealand relating to Air Services. This is to allow direct air services between Australia and New Zealand to facilitate trade and tourism. This is an open skies agreement. It is the first of its type and it is in keeping with the principles of the Australia-New Zealand Closer Economic Relations Trade Agreement and the Australia-New Zealand Single Aviation Market Arrangements, or SAM, which entered into force on 1 January 1983 and 1 November 1996 respectively. The committee was advised that, as this is an open skies agreement, virtually all the barriers that pertain to the normal bilateral treaties have been removed. The agreement will confirm the existing liberal aviation rights between the two countries, as in the SAM arrangements, as well as remove some of the remaining restrictions in the aviation arrangements between Australia and New Zealand. The committee agrees that, by facilitating the development of the single aviation market between the two countries, the agreement will promote benefits by way of inbound tourism, freight operations and greater air travel options for Australian consumers, and it recommends that binding treaty action be taken. It is the view of the committee that it is in the interests of Australia for the treaties considered in report 48 to be ratified where binding action has not already been taken, and the committee has made its recommendations accordingly. I commend the report to the Senate.

Senator KEMP (Victoria—Minister for the Arts and Sport) (4.48 p.m.)—I thought I would speak briefly about the Joint Standing Committee on Treaties report, particularly as Senator Chris Ellison is in the chamber. It gives me a great deal of pleasure to see a Labor senator talking about treaties and the careful consideration of treaties by the treaties committee. I recall when we were on the

other side of the chamber the foreign minister would sometimes come in and dump on the chamber scores of treaties, none of which had been considered by the parliament. One of the procedures that a number of us were very keen to have adopted was a more considered approach to treaty making by this parliament. Senator Chris Ellison and his committee that inquired into this matter were able to build on a lot of good work by others and they made some proposals. Many of those proposals were adopted, including the proposal to form a treaties committee. I wish to record this because Senator Ellison is now in the chamber, and I had a particular interest in this matter for some considerable time. The secretary of that committee was a Ms Twomey, who did an absolutely outstanding job. The report *Trick or treaty?*—if I remember rightly—was a landmark report of that Senate committee. As I said, I think this was a very important change in the procedures of the Senate. It was a very good change in the procedures of this parliament. It meant that, for the first time, treaties could be examined in an appropriate matter.

Senator O'Brien interjecting—

Senator KEMP—Senator O'Brien carries on, but he was part of that group, I suspect, which was completely opposed to the proper consideration of treaties. Senator Kirk, it was a pleasure to hear your speech. It was a pleasure to hear about the careful consideration that was given to treaties by this committee. I commend the committee for its strong work.

Question agreed to.

Membership

The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)—Order! The President has received letters from a party leader and an Independent senator seeking to vary the membership of committees.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.52 p.m.)—by leave—I move:

That—

- (a) Senator Lees be appointed as a participating member of the following committees:

Economics Legislation and References Committee

Finance and Public Administration Legislation and References Committees

Foreign Affairs, Defence and Trade Legislation and References Committees

Rural and Regional Affairs and Transport References Committee; and

- (b) Senator O'Brien replace Senator Lundy on the Environment, Communications, Information Technology and the Arts Legislation Committee for the committee's inquiry into the provisions of the Renewable Energy (Electricity) Amendment Bill 2002.

Question agreed to.

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (SPECIAL BENEFIT ACTIVITY TEST) BILL 2002
FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (BUDGET INITIATIVES AND OTHER MEASURES) BILL 2002
MEDICAL INDEMNITY AGREEMENT (FINANCIAL ASSISTANCE—BINDING COMMONWEALTH OBLIGATIONS) BILL 2002

INSURANCE AND AVIATION LIABILITY LEGISLATION AMENDMENT BILL 2002

AUSTRALIAN ANIMAL HEALTH COUNCIL (LIVE-STOCK INDUSTRIES) FUNDING AMENDMENT BILL 2002

First Reading

Bills received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.53 p.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the *Notice Paper*. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.55 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (SPECIAL BENEFIT ACTIVITY TEST) BILL 2002

As part of the 2000-2001 Budget, the Government announced a range of measures addressing the issue of unauthorised arrivals in Australia. This bill gives legislative effect to one of these measures.

From 1 January 2003, certain recipients of special benefit who hold a visa of a type that has been issued for temporary protection, humanitarian or safe haven purposes will be subject to an activity test regime that is similar to the one that currently operates in relation to newstart allowance.

Under the new special benefit activity test, nominated visa holders will be required to search for work, to participate in vocational training, the Work for the Dole program and other prescribed activities, and to enter in Special Benefit Activity Agreements. They will also be subject to compliance testing, including fortnightly reporting requirements, and to penalties for non-compliance with the activity test or with the terms of their Special Benefit Activity Agreement.

Nominated visa holders will also be subject to other conditions relating to industrial action, seasonal work, and moving to an area of lower employment prospects. These conditions are all comparable with conditions that apply to newstart allowees.

The activity test and these other conditions will only apply to nominated visa holders who, from 1 January 2003, apply for special benefit and are of work-force age, or who reach work-force age after that date.

The new conditions will not apply to people who are permanently incapacitated for work. Provisions in this bill also provide for exemptions from

the activity test where a person has caring responsibilities, is temporarily incapacitated for work, and in special circumstances and other prescribed situations, similar to newstart allowance.

The measures contained in the bill aim to encourage social and economic participation by treating work-force age holders of visas issued for temporary protection, humanitarian or safe haven purposes in a similar way to Australian nationals of work-force age. That is, they will be required to be self-reliant and to fulfil a mutual obligation to the Australian community. The measure also reinforces community support for the humanitarian immigration program.

FAMILY AND COMMUNITY SERVICES
LEGISLATION AMENDMENT (BUDGET
INITIATIVES AND OTHER MEASURES) BILL
2002

The Family and Community Services Legislation Amendment (Budget Initiatives and Other Measures) Bill 2002 will enable the implementation of one Budget initiative and one non-Budget measure.

First, the bill provides for a 2002 Budget initiative relating to nominees. The amendments form a part of the measures being undertaken to give effect to the Government's commitment to implement a simpler and more coherent social security system.

In terms of the day to day administration of the social security system nominees are very relevant to youth allowance, age pension and disability support recipients who have difficulty managing their own financial affairs.

Currently, the law only provides for a payment nominee and arrangements relating to correspondence are dealt with administratively. Similarly, the current law does not clearly set out the duties and obligations of nominees. With an ageing population the use of nominees is likely to increase so it is considered appropriate to address these issues now.

This bill repeals the current nominee provisions in the social security law and the family assistance law. It inserts new Part 3A in the Social Security (Administration) Act 1999 and new Part 8B in the A New Tax System (Family Assistance) (Administration) Act 1999, which addresses the deficiencies in the current law.

The provisions in the bill distinguish between a correspondence nominee and a payment nominee and sets out the duties of payment nominees in relation to payments they receive.

The bill also consolidates within the framework of the social security law a number of administrative practices relating to nominees.

The Privacy Commissioner will be consulted in relation to the implementation of the nominee amendments because of privacy issues that are involved.

Finally, the bill also includes amendments relating to profoundly disabled children aimed at allowing more people caring for certain terminally ill children to qualify for carer payment. The need for these amendments was identified in the Government's response to the Review of the measure to extend carer payment eligibility to carers of children with a profound disability.

MEDICAL INDEMNITY AGREEMENT
(FINANCIAL ASSISTANCE—BINDING
COMMONWEALTH OBLIGATIONS) BILL
2002

On 3 May 2002, a provisional liquidator was appointed to United Medical Protection and its subsidiary, Australasian Medical Insurance Limited (the UMP Group). This followed a resolution of the Boards of the UMP Group on 29 April 2002 to make an application for the appointment of a provisional liquidator.

The purpose of the Medical Indemnity Agreement (Financial Assistance-Binding Commonwealth Obligations) Bill 2002 (the bill) is to appropriate funds for payments in accordance with an indemnity agreement between the Commonwealth and the UMP Group. The bill also confirms the Government's commitments under the indemnity agreement.

On 29 April 2002, the Government announced that it would provide a short-term indemnity to the UMP Group to allow the members of the UMP Group to continue practicing.

On 1 May 2002, the Minister for Health and Ageing wrote to medical practitioners stating that the Commonwealth would guarantee to the provisional liquidator the obligations of the UMP Group to pay any amount properly payable in the period 29 April to 30 June 2002 for claims under a current or past policy. Interim arrangements for the payment of some claims were entered into on 22 May 2002 and approved by the Supreme Court of New South Wales on 24 May 2002.

The Commonwealth also committed to providing a guarantee to the provisional liquidator or to any subsequently appointed liquidator to enable the provision of cover in respect of valid claims that arise at any time for:

- holders of a current policy, for events that occur between 29 April and 30 June 2002; and
- holders of a policy that expires and is renewed by the provisional liquidator before 30 June 2002, for events that occur between 29 April and 30 June 2002.

On Friday 31 May 2002, the Prime Minister announced an extension of the guarantee to 31 December 2002 on modified terms. These arrangements allow the provisional liquidator to:

- meet claims notified in the period 29 April to 31 December 2002 under an existing (or renewed) claims made policy;
- renew policies on a claims made basis for the period until 31 December 2002; and
- continue to meet claims that were notified before 29 April 2002 and are properly payable in the period 1 July 2002 to 31 December 2002.

The Prime Minister also announced on 31 May 2002 that the Commonwealth would introduce a levy to fund any liability incurred by the Commonwealth under a Medical Indemnity Agreement as a result of the extension of the guarantee on modified terms. This levy would be part of broader levy arrangements to meet the unfunded incurred but not reported liabilities (IBNRs) of medical defence organisations. Separate legislation for the levy on certain medical practitioners, and the IBNR scheme will be introduced once the details have been finalised.

It is intended that a deed of indemnity between the Commonwealth, the UMP Group, and the provisional liquidator of the UMP Group will be entered into and will form a binding legal agreement between the parties to give effect to the arrangements announced by the Government. That is, the Medical Indemnity Agreements covered by this bill will be legally binding notwithstanding the operations of this bill. The provisions of the bill are not intended to imply that any future Commonwealth indemnity needs to be supported by legislation.

This bill provides for an appropriation out of the Consolidated Revenue Fund for the purposes of payments in accordance with the bill. While funding is not required immediately, the bill will provide for the funds when required.

INSURANCE AND AVIATION LIABILITY LEGISLATION AMENDMENT BILL 2002

The purpose of this bill is to amend two Acts to ensure a sustainable basis for liability for third party damage on the ground and the provision of

aviation war risk (including terrorism and hijacking) insurance in response to the post 11 September withdrawal of this cover by the commercial market. The amendment to the Damage by Aircraft Act 1999 ensures passive owners (such as lessors and financiers) are exempted from third party liability to damage on the ground. The amendments to the Insurance Contracts Act 1984 will allow for the exemption, by regulation, of third party aviation war risk insurance from the cancellation and variation provisions of the Act. We are also taking the opportunity to correct a minor technical error in the Civil Aviation (Carriers' Liability) Act 1959, to ensure foreign charter operators are excluded from certain liabilities under the Act.

The Damage by Aircraft Act 1999 imposes strict and unlimited liability on both the owner and operator of an aircraft, who are jointly and severally liable. The Act ensures that an innocent person (or that persons' family) is properly compensated if an aircraft, or part of an aircraft, causes death or injury to the person or damage to their property on the ground. As a result of the 11 September attacks, aircraft lessors and financiers have expressed their dissatisfaction with this liability rule arguing that it is unfair and inconsistent with other sectors of the economy and the law in other countries. The amendment exempts passive owners from liability for damage to third parties on the ground.

Following the 11 September terrorist events, aviation third party war risk insurance was withdrawn from the global market—an unprecedented event. Some insurance has since returned, but major Australian airports and other Australian-based aviation service providers have been unable to purchase sufficient war risk insurance.

While domestic insurers can cover smaller insurance placements, the market for aviation insurance is principally offshore, reflecting the fact that only a global market provides the critical mass for this line of specialised insurance. The provisions of sections 53 and 63 of the Insurance Contracts Act 1984 prevent the variation and cancellation of existing insurance policies. It is standard industry practice for war and terrorism risk contracts to have seven-day or thirty-day cancellation provisions in case some catastrophic event occurs, as losses rising from terrorism can be extremely large. Consequently international insurers are refusing to insure Australian-based aviation companies. The proposed amendment will address this problem by enabling cover for war and terrorism risks to be excluded from sections 53 and 63 where prescribed by regulation.

Other aspects of protection provided to the aviation industry will remain.

Finally, the bill makes amendment to the Civil Aviation (Carriers' Liability) Act 1959 to correct an inadvertent error which imposed a liability on foreign charter operators which is inconsistent with Australia's international obligations under the Convention for the Unification of Certain Rules relating to International Carriage by Air, Warsaw 1929 (the Warsaw Convention). The correction ensures that Australia imposes certain liabilities only upon Australian airlines, not foreign charter operators.

I should note here that the world aviation community, through the International Civil Aviation Organisation, has proposed a new international liability regime to consolidate and reform the Warsaw Convention. Australia is currently well advanced on a process that is expected to lead to the ratification of the Convention for the Unification of Certain Rules for International Carriage by Air, Montreal 1999 (the Montreal Convention). There is nothing in these amendments that would be inconsistent with eventual ratification of the Montreal Convention by Australia.

AUSTRALIAN ANIMAL HEALTH COUNCIL
(LIVE-STOCK INDUSTRIES) FUNDING
AMENDMENT BILL 2002

The amendments to the Australian Animal Health Council (Live-stock Industries) Funding Act 1996 will enable the new Emergency Animal Disease Response (EADR) levies and charges to be paid to Animal Health Australia through the normal appropriation process from the Consolidated Revenue Fund. The Amendment Bill also provides a mechanism for levy and charge monies collected in excess of a livestock industry's liability to the Commonwealth to be appropriated to fund the promotion or maintenance of the health of animals as well research and development activities as requested by industry.

In February 1998 the then Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ) "endorsed the need for a national policy on funding principles for pest and disease emergency management". Following a lengthy and detailed process commencing in 1998, Governments and industry determined that the cost sharing arrangements in place since 1955 were inadequate to deal with the scale of most existing or emerging emergency animal diseases. The Australian Animal Health Council (AAHC), known as Animal Health Australia, coordinated the development of new national cost-sharing arrangements for EAD responses,

through an exhaustive consultation process involving governments and livestock industry stakeholders. A new cost-sharing agreement, the Government and Livestock Industry Cost Sharing Deed in Respect of Emergency Animal Diseases, was prepared by Animal Health Australia based on the outcomes of that consultative process. This agreement is known as the Emergency Animal Disease Response Agreement (EADRA). The arrangements provide for the sharing of the eligible costs of a disease response by governments and affected industries and will replace the previous Commonwealth-States Cost Sharing Agreement.

Under the terms of this new agreement, the Commonwealth may be required to underwrite a livestock industry's share of costs of an emergency animal disease response. The Commonwealth has agreed to underwrite the cost of reacting to an emergency animal disease outbreak on the proviso that livestock industries, which have signed the EADRA, agree to an appropriate repayment scheme. These signatories have agreed and will fund their responsibilities, under the new agreement, through the imposition of a new animal disease levy. Initially, the new levy will be set at zero, with the exception of the honey bee industry. For all current signatories, except the honey industry, this means that there will be no increase in the levy burden from the outset. To allow the repayment arrangements via a levy or charge to come into law, it is necessary to amend the Australian Animal Health Council (Live-stock Industries) Funding Act 1996.

Once an industry's debt to the Commonwealth has been acquitted, the Amendment Bill provides for monies collected in excess of this amount to be redirected to fund the promotion or maintenance of the health of animals. This may include re-direction to the industry's R&D Corporation and be deemed to be R&D levy or charge. This R&D component will be matched by the Commonwealth, as is currently the case. The new EADR levies and charges component will not be matched.

Clearly, the benefit of returning any excess levy collections to research activities is that the industries will benefit from these funds as well as the Government's matching dollar for dollar research and development funding.

In addition, the impact on business will be minimised as existing levy and charge collection arrangements are to be used with no change to the paperwork required of businesses/producers already paying levies and charges.

This legislation has the full support of industry groups and producers. It establishes arrangements

for the long term funding of emergency animal disease outbreaks and so assists in providing certainty for the planning of EAD responses.

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

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

COMMITTEES

Legal and Constitutional References Committee

Report

Senator BOLKUS (South Australia) (4.56 p.m.)—I present the report of the Legal and Constitutional References Committee entitled *Migration zone excision: an examination of the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 and related issues*, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

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

Leave granted.

Senator BOLKUS—I move:

That the Senate take note of the report.

I am pleased to present this report of the Senate Legal and Constitutional References Committee on the [Migration Legislation Amendment \(Further Border Protection Measures\) Bill 2002](#) and related matters. Senators will recall that the government introduced this bill into the Senate on 20 June this year, the day after the Senate disallowed almost identical regulations under the Migration Act. The bill seeks to extend the definition of ‘excised offshore place’ under the Migration Act to a huge number of Australian islands off the northern half of the continent: almost all the islands from a point south of Exmouth in Western Australia to the Coral Sea islands east of the Great Barrier Reef.

At the start of this inquiry, the Department of Immigration and Multicultural and Indigenous Affairs was unable to tell the committee how many islands would be affected. It turns out that, at this stage, almost 4,900

islands are involved. The effect of this bill would be to ensure that any asylum seeker arriving at those places would be deemed to be an ‘offshore entry person’ and be treated differently from those who manage to make it to the Australian mainland or, indeed, to other islands off the Australian coastline. This different treatment applies to the type of visa that such people may apply for, their access to review of determinations about their refugee status and their access to the courts on other matters.

What the government is proposing in this bill is the excision of islands that may be only several hundred metres off the mainland on the basis that this policy will somehow deter people from seeking to come to Australia at all. The policy ignores the fact that desperate people fleeing from persecution, in genuine and well-founded fear for their lives, are unlikely to be deterred from pushing onwards for a few extra metres to make the mainland. Despite ministerial pronouncements that the objective of this legislation is to deter boat people from mainland Australia, evidence from senior departmental advisers to this inquiry made it very clear that the opposite is likely to happen. The Department of Immigration and Multicultural and Indigenous Affairs told the committee:

The Bill, by extending excised offshore places to islands off the northern coast of Australia, and therefore requiring people smugglers to bring their vessels closer to mainland Australia ...

Australian Federal Police Commissioner, Mr Keelty, shared the assessment that the bill would lead to people smugglers coming direct to the mainland. The committee asked him whether it was anticipated that boats would now come closer to mainland Australia. Commissioner Keelty responded:

That would be what we anticipate for those vessels intending to arrive in Australia: rather than leave the passengers to the unknown fate of arriving on a remote island or reef, they would be forced to come to the mainland.

These officers have indicated that the bill will drive boats to mainland Australia. Yet this will somehow be preferable, even though people landing on mainland Australia will not be affected by this legislation! Accordingly, opposition senators find that this

bill is self-defeating and for that reason should not be passed.

In addition, the committee heard of other serious concerns about this bill during the inquiry. In particular, the committee heard evidence about possible breaches of Australia's international obligations, especially under the refugee convention. The committee heard significant concerns from the UNHCR, international law experts and legal and human rights groups, as well as many other individuals and organisations. Many argued that Australia was potentially in breach of its non-refoulement obligations, either under the refugee convention or other conventions to which Australia is a party, including the convention against torture, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. The committee of course takes these concerns seriously. Australia does have a responsibility to ensure that it complies and is seen to comply with the obligations it has voluntarily assumed. In matters of international law, even more than in relation to domestic legal issues, there will always be room for argument as to whether and to what extent particular obligations are being met.

The UNHCR expressed concern that the guidelines for the processing of applications by asylum seekers were not available. The guidelines were only released by the department towards the end of this inquiry—long after initial assessments were made. The committee believes that the refugee determination processes must be transparent and that there must be sufficient safeguards for the rights of those who are fleeing persecution. During this inquiry there were other serious concerns which led the committee to make a series of recommendations. First, it was pointed out that offshore entry people could be left in legal limbo, since there is no obligation under the Migration Act for the government to take any action at all with regard to them, and there are no effective means of bringing such cases before the courts. Instead, there is reliance on ministerial discretion to 'lift the bar' to assist appropriate cases. The committee believes that this situation should be remedied.

Second, the committee considers that the initial assessments of refugee status of offshore entry people should be subject to a review by an external body. Third, the committee does not support the use of declared countries for holding and assessing claims for refugee status by those people who have landed on Australian soil. The process is expensive and wrong in principle. If the government persists in this policy, we recommend that, at the very least, the Migration Act should be amended to include adequate safeguards when declaring countries for this purpose, along the lines of the safe third country provisions elsewhere in the act.

The committee is also concerned about the broader issues. Rather than a reactive, disproportionate and punitive response to the flow of refugees, the committee considers that more efforts can and should be made towards addressing the flow of refugees in other ways. The committee urges the government to engage with the UNHCR and other countries to develop a more proactive and effective regional response in a timely manner. Australia is already involved on a number of different levels; more can be done and more should be done when Australia first gets wind of conflicts and flows of asylum seekers. Finally, the committee recommends that, if the bill should proceed contrary to our recommendations, its application should not be retrospective.

There are a number of people I would like to thank in respect of this inquiry. The committee secretariat played, as they always do, a pivotal and constructive role. I would like to thank the secretary, Mr Peter Hallahan, the principal research officers Louise Gell and Noel Gregory, Michelle Lowe, the committee's executive assistant and, from the library, Mr Nathan Hancock, who also assisted the committee's deliberations extensively. In closing, I also thank all those people who took the time to make submissions and to give evidence to the committee, including the Indigenous communities on Elcho and Goulburn islands. I would also like to thank my committee colleagues, including deputy chair Senator Marise Payne, who assumed the role of chair during the committee's visits to those communities. As I said before, the

committee secretariat need to be acknowledged for their work in the inquiry. I commend the report to the Senate.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (5.04 p.m.)—I would like to speak briefly to this report as well. The legislation that is part of its terms of reference will no doubt be debated at some stage in the not-too-distant future, so I can speak on it in a bit more detail at that time. As the Democrat member participating in this inquiry, I want to put on record my thanks to the committee secretariat and to those who put in submissions and gave evidence. The evidence reinforced the Democrats' longstanding concern that the broad Pacific solution of the government is one that breaches our international obligations in many areas. More importantly, I think it breaches fundamental standards of how to treat human beings in a compassionate and humane way.

In relation to the specifics of the legislation and the issues relating to excising islands—I think the total ended up being 4,600-odd islands affected by the legislation—among the fundamentals of the evidence is the fact that a number of contributors, including the department, suggested that excising islands could potentially drive people to be even more likely to go direct to the mainland. That seems contrary to the government's intention. More importantly, it is contrary in terms of the safety and wellbeing of the people on board those vessels.

Last Saturday was the first anniversary of the tragic sinking of the vessel that came to be known as SIEVX. Three hundred and fifty-three people—more than half of those women and children—drowned in that tragedy. I am not trying to make big political points out of that—it would have occurred, obviously, regardless of whether or not those islands had been excised; I believe that at that stage they had not been excised—but it simply highlights the fact that people on boats are engaged in a dangerous activity. They are not criminals. They are not people whose potential fate we should ignore. We should not ignore their safety by providing them with an incentive to go even further and try to actually reach the mainland rather

than an island. That just adds to their difficult situation and the risks they face.

For the Democrats there is also the broader issue of the extra cost to Australia that is involved. Hundreds of millions of dollars are being put into building a new detention centre on Christmas Island, which is already excised from the migration zone, enabling people to be detained there out of sight, obviously, away from scrutiny and in an area where they are not able to access legal rights under the Migration Act. We have already seen the problems with Manus Island and Nauru in terms of people not being able to be adequately scrutinised and having their ability to access legal rights dramatically reduced. Further excising islands, as this legislation intends to do, simply further entrenches that unfair and inappropriate system.

I am very pleased that the ALP has maintained its position of opposition to this aspect of the government's policy. It is quite a strong report that the majority of the committee have adopted with Labor and the Democrats. I hope that this is a sign of an ongoing strengthening of the ALP's position on this issue—that it is not just drawing a line here and saying, 'No further,' but that it will start actively working to wind back some of the completely inappropriate aspects of the government's policy through the Pacific solution in particular and associated issues like temporary protection visas. This is an issue that will be revisited, hopefully later this week, when the 'children overboard' committee report is finally tabled. Some of those issues relating to the Pacific solution will be more broadly and further examined, so I will not go into them in any further detail now. I commend the report to the Senate.

Senator SCULLION (Northern Territory) (5.09 p.m.)—I rise to support the [Migration Legislation Amendment \(Further Border Protection Measures\) Bill 2002](#). I am somewhat miffed. This is the second excision bill that has been introduced into this parliament, the first being the [Migration Amendment \(Excision from Migration Zone\) Bill 2001](#). The subsequent bill simply extends the concepts of the original bill into new areas.

There is nothing complex about that. I am very surprised that the Labor Party have brought to this house a whole range of conundrums without actually bringing some sort of legislation that would repeal the original act and further unwind the border protection measures that have been so successful and that we have already put in place.

It is curious that Senator Bartlett said he is very pleased that the Labor Party have in fact maintained their opposition to this aspect of government policy. I would like to note that, in the second reading debate on the Migration Amendment (Excision from Migration Zone) Bill 2001 and related bills, the shadow minister for immigration, the Hon. Con Sciacca, said:

The opposition will support these migration legislation measures contained in the Migration Amendment (Excision from Migration Zone) Bill 2001 and related bills ... The measures are in accordance with our bipartisan approach to matters of this nature.

... ..

It is very important when we talk about ... the integrity of our borders, when we talk about people who come here on an unauthorised basis, that we do so in a way that both governments, of whatever political persuasion, and oppositions do their best to think about the nation and the security of the nation and ensure that, wherever possible, these matters are looked at in a bipartisan way.

That is hardly maintaining their opposition to these things. They were clearly very supportive and undertook to continue to support these issues. Labor's decision to oppose the bill completely reverses their earlier position in regard to a whole range of issues. They claim in their majority report that the bill is self-defeating. I have heard Senator Bolkus speak about the fact that, if we excise the islands, people will go straight past the islands and to the mainland. This completely ignores the suite of measures that have been put in place to ensure that people do not do that. Some of the most draconian penalties that have been put in place include a five-year sentence for a first offence, with a mandatory penalty of three years, and an eight-year sentence for a second offence, with a mandatory penalty of five years. I have a history in small business. I can tell those who

have not been in small business that spending three or five years behind bars is not the way to move forward. It sends a very clear signal: if you are in the business of smuggling people and trafficking in human lives, don't come to Australia. It is a very clear signal.

People say, 'What about the islands? They are just a couple of kilometres from the mainland; why bother?' This obviously comes from a group of people who do not understand or have not visited the islands in that area. The whole idea of avoiding apprehension for non-compliance is to ensure that you avoid contact with the authorities. People may not realise it, but the roads that connect the mainland infrastructure do not go to the islands. Clearly the islands are an opportunity for people who are involved in smuggling people to ensure they escape apprehension for non-compliance.

There has been much discussion about international obligations with regard to non-refoulement. Australia has a clear obligation not to return a refugee to the frontier from which they first fled—that is quite clear. None of the parties who suggested that this might happen could provide us with any evidence whatsoever that refoulement has occurred. They also went on to say, 'What about our obligations? You can't just pass on obligations to other parties. You can't pass on obligations to Manus Island or Nauru.' In terms of Manus Island, New Guinea is a signatory to the convention. It takes up those issues under the convention. The Australian contract with Nauru to look after these people states:

Any asylum seekers awaiting determination of their status or those recognised as refugees, will not be returned by Nauru to a country in which they fear persecution, nor before a place of resettlement is identified.

It seems pretty clear that those countries that have joined with us are not going to be able to refoule anyone. We are not, nor have we been, in breach of any of our convention requirements. In the opposition's report they also recommend that an external body, such as the magistrates or the Refugee Review Tribunal, provide for an appeal process on the original statement. We questioned a body

that I thought was a bit of an authority on this matter: the United Nations High Commission for Refugees. When questioned, the UNHCR stated that all persons who seek asylum in the excised area will have their claim for refugee status assessed against the criteria contained in the refugee convention, which would include an internal administrative review of a negative decision, and that that appeal would be completed by a different officer. That is in line with the UNHCR policy for processing asylum seekers. Australia has adopted that policy in these circumstances so that we use the very best world standards to ensure that these people are properly assessed.

The report dealt widely with consultation with Indigenous and Torres Strait Islander communities. Government members would agree that the consultation process certainly was not very timely and was hardly comprehensive. Whilst I was involved in some of the earlier parts of that, I recognise—possibly from the some 20 years that I have been involved in the process of discussing and consulting with Indigenous communities—that it is an issue right across the board that successive governments need to do better.

‘Consultation’ is an interesting word, and I have to suggest that it does not just mean a visit. Reading the majority report, you would reckon that we just popped in for a visit and popped out again and said that we went there. Consultation is all about visiting people and reflecting the views of the people that you have met. I note that at the front of the report—it must be pretty galling to Indigenous people—it states:

A most eloquent statement about the proposal to excise these close islands came from Mr Alan Keeling.

Mr Keeling goes on in a way that shows he has absolutely no knowledge of the area and knows nothing about the issues. If he was from Goulbourn Island one would not be surprised to see his statement right at the front of the report, but he was a visitor from Queensland who was there for half a day, one of the white people who was there. So let us quote him up-front—I think ‘disingenuous’ is a pretty reasonable term for that sort of thing. The comprehensive and over-

whelming view of the island communities is that they support this bill. I will quote briefly from a description given by the Tiwi Land Council at Land Council meeting No. 224, which was held at Ngulu on 12 September:

Members expressed surprise that there could be any opposition to the Commonwealth legislation to assist in the protection of our coastal zone and deny access to foreign persons or vessels on the shore of Bathurst and Melville Island.

It goes on to say:

Our member for Arafura, Marion Scrymgour MLA was also at our meeting and agreed that it was helpful for there to be such legislation ...

That is a Labor member representing Aboriginal people in the Northern Territory. I am not sure who is out of step. The report went on to quote people like Richard Gandhuwuy, who says:

I would like to strongly support the new proposal that the committee is looking into now that is going to be part of the legislation to control the coast, especially in Arnhem Land, Northern Territory. I would like to strongly support that legislation to go ahead and be approved by parliament and become a law, an act.

I do not think there are too many surprises in that respect. They very strongly support this legislation because, unlike the Labor Party, they see it as a further protection measure, which is all it actually is. The communities are very keen to increase their level of contribution in border protection to the islands and seas directly adjacent to their homes, and there is also a high degree of recognition of the existence of their contribution. There is a clear need for government to review employment opportunities in this regard and I will be personally pursuing that. I have reported the wishes of these communities and I have had some very positive responses from government.

I have spoken before about the plethora of quarantine issues that are associated with this legislation, but there are some principles that I would like to go through. The bill simply extends the concepts embodied in the first bill. The Labor Party said they would give bipartisan support to the affected bill. The bill is part of a suite of measures to provide further border protection and they have been dramatically successful, with no arrivals

since last November. Australia has met and will continue to meet its obligations under the UN convention for refugees and other conventions. We have confirmed that there is no evidence of refolement. Our assessment processes are endorsed and supported by the UNHCR. Indigenous communities have been consulted and absolutely support this bill. The bill adds to our already strong quarantine border control measures. This bill provides for further border protection, something which is in the interests of all Australians, and I commend the support of this bill to all senators.

Senator STEPHENS (New South Wales) (5.19 p.m.)—This inquiry provided an opportunity for there to be some consultation and considered scrutiny of the current system of dealing with those who enter Australian territory without a visa. This kind of scrutiny has been manifestly lacking during the initial implementation of this draft of legislation. The report of the Legal and Constitutional References Committee, entitled *Migration zone excision: an examination of the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 and related issues*, provides some timely advice on the problems inherent in the Howard government's current system of border protection.

The *Migration Legislation Amendment (Further Border Protection Measures) Bill 2002*, under such long-awaited scrutiny in this report, relates to the further excision of approximately 4,891 islands from Australia's migration zone for the purposes of applying for a visa. This, of course, is an extension of the legislative basis of the disaster that has been the Pacific solution. The report examines the questions of why it might be necessary or advisable to excise these further islands, considering that they are particularly close to the mainland. The report is a resounding criticism not only of the legislation under consideration but also of the implementation of the previous excision measures. Most immediately, it recommends that the excision of these further islands not go ahead.

I would like to take note of some of the issues that were raised in the report, particularly in chapter 6. Firstly, there is the ques-

tion of consultation. As Senator Scullion acknowledges, members of the committee, including me, travelled to Elcho and Goulbourn islands in the Northern Territory to speak with residents there about how the legislation might affect them and how they felt about the consultation process to do with the bill. Whilst this legislation does not affect the citizenship of those living in the areas that are to be excised, there was not enough effort made to ensure that those people understood that. The committee notes:

... there has clearly been uncertainty and anxiety in some indigenous communities arising from a lack of consultation and communication about the Bill ...

It also notes:

Government consultation with affected communities prior to the introduction of the bill appears to have been minimal and manifestly inadequate. The Torres Strait Regional Authority told the Committee that there was no consultation other than a phone call from the Minister just prior to the announcement in the national media.

Similar concerns arose in the islands of the Northern Territory. Giving evidence of behalf of the Warrawi community, Mr James Marrawal said:

When you came out that time, we did not know what was going on. In the back of our minds we were thinking: why are we getting kicked out from the rest of Australia? After all, we are enrolled for federal Commonwealth elections.

Consultation is important to people, particularly people who might not have many opportunities for involvement with political processes. This bill, for all its flaws, does not involve any surrender of sovereignty, but debate in the media and in parliament did speak in these terms. How, then, can we expect people in areas that are being excised to know the legal niceties? What proportion of the general public understand that this bill involves 'excising islands from the migration zone for the purposes of applying for a visa'? Who knows what the migration zone is? Not consulting or communicating effectively with communities in areas proposed to be excised was a serious oversight on the part of the government and caused these people much unnecessary anxiety.

The committee notes in the report that DIMIA acknowledged shortcomings in the process of consultation with affected communities. DIMIA explained further that the regulations that were made on 7 June, and that were subsequently disallowed, were made in haste because the People Smuggling Task Force had information that suggested that a boat was 'on the way soon'. This kind of haste is not the way to make good legislation, particularly legislation that can affect the lives of people fleeing persecution, as this bill does.

Another issue raised by the report was concerns expressed in submissions about the terminology that has been used in this bill, the debate surrounding it and the issue of refugee flows more generally. The United Nations High Commissioner for Refugees, in its submission, argued that the language used in the bill, the related legislation and the debate 'diverges from accepted meanings'. In particular, the UNHCR criticised the use of the expression 'unlawful asylum seeker' during parliamentary debate on the bill. Its submission states:

Although an asylum seeker may arrive unlawfully, either as a result of a lack of appropriate documents or a failure to seek access to sovereign territory through legal entry points, the right to seek asylum, including for those arriving illegally, is a lawful act under international law. Linking the word 'unlawful' to the term 'asylum seeker' is therefore incorrect as entry in search of refuge and protection should not be considered an unlawful act.

Other submissions reiterated this concern, not only with the language that has been used by the government in this debate but also with the intentions and effects of this language. Obviously language is powerful in shaping people's beliefs and understanding of any issue. This government has been successful in using language that creates an impression of an asylum seeker who is jumping the queue, who is playing outside the rules, who is greedy, who is a threat to our society, who is utterly unlike us. In my experience of those who have arrived in Australia as refugees, these descriptions could not be further from the truth.

A submission from barrister Robert Lindsay cited international expert Professor

Goodwin-Gill in discussing the way in which—

The ACTING DEPUTY PRESIDENT (Senator Collins)—Order! The time for the debate has expired.

**AUSTRALIAN SECURITY
INTELLIGENCE ORGANISATION
LEGISLATION AMENDMENT
(TERRORISM) BILL 2002**

Second Reading

Debate resumed.

The ACTING DEPUTY PRESIDENT (Senator Collins)—The question is that the amendment moved by Senator Brown to Senator Faulkner's second reading amendment be agreed to.

Question agreed to.

The ACTING DEPUTY PRESIDENT—The question now is that Senator Faulkner's second reading amendment, as amended, be agreed to.

Senator Faulkner—Madam Acting Deputy President, I rise on a point of order. I apologise for not knowing this, but there was a proposed amendment, though not in a senator's name, circulated on behalf of the Australian Democrats.

Senator Ellison—They didn't move that.

The ACTING DEPUTY PRESIDENT—It has not been moved.

Senator Faulkner—That is what I wanted to check, whether the amendment had been moved or not. If it has not been progressed, that is fine. Thank you for your guidance.

Question put:

That the amendment (**Senator Faulkner's**), as amended, be agreed to.

The Senate divided. [5.31 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	37
Noes.....	<u>31</u>
Majority.....	6

AYES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Bolkus, N.

Brown, B.J.	Buckland, G. *
Campbell, G.	Cherry, J.C.
Collins, J.M.A.	Conroy, S.M.
Cook, P.F.S.	Crossin, P.M.
Evans, C.V.	Faulkner, J.P.
Forshaw, M.G.	Greig, B.
Harradine, B.	Harris, L.
Hogg, J.J.	Hutchins, S.P.
Kirk, L.	Lees, M.H.
Ludwig, J.W.	Mackay, S.M.
Marshall, G.	McLucas, J.E.
Moore, C.	Murphy, S.M.
Murray, A.J.M.	Nettle, K.
O'Brien, K.W.K.	Ridgeway, A.D.
Sherry, N.J.	Stephens, U.
Stott Despoja, N.	Webber, R.
Wong, P.	

NOES

Abetz, E.	Alston, R.K.R.
Barnett, G.	Boswell, R.L.D.
Brandis, G.H.	Calvert, P.H.
Campbell, I.G.	Chapman, H.G.P.
Colbeck, R.	Coonan, H.L.
Eggleston, A.	Ellison, C.M.
Ferguson, A.B.	Ferris, J.M. *
Heffernan, W.	Hill, R.M.
Johnston, D.	Kemp, C.R.
Knowles, S.C.	Lightfoot, P.R.
Macdonald, J.A.L.	Mason, B.J.
Minchin, N.H.	Payne, M.A.
Reid, M.E.	Scullion, N.G.
Tchen, T.	Tierney, J.W.
Troeth, J.M.	Vanstone, A.E.
Watson, J.O.W.	

PAIRS

Carr, K.J.	Patterson, K.C.
Denman, K.J.	McGauran, J.J.J.
Ray, R.F.	Macdonald, I.

* denotes teller

Question agreed to.

Senator Lundy did not vote, to compensate for the vacancy caused by the resignation of Senator Herron.

Original question, as amended, agreed to.

Bill read a second time.

Referral to Committee

The PRESIDENT—The **Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002** is now referred to the Senate Legal and Constitutional Affairs References Committee.

BUSINESS**Rearrangement**

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (5.35 p.m.)—I move:

That intervening business be postponed till after consideration of the government business order of the day relating to New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Bill 2002.

Question agreed to.

**NEW BUSINESS TAX SYSTEM
(CONSOLIDATION, VALUE SHIFTING,
DEMERGERS AND OTHER
MEASURES) BILL 2002**

Second Reading

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

That this bill be now read a second time.

Senator CONROY (Victoria) (5.36 p.m.)—The **New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Bill 2002** brings forward a further series of measures from the Ralph Review of Business Taxation. The opposition indicated clearly in the House that we support the principles underlying this bill. However, we asked for it to be referred to the Senate Economics Legislation Committee to enable more detailed scrutiny of this extremely complex legislation. Senators would be aware that the committee report was tabled today.

Having considered the evidence presented to the committee, the opposition continues to have reservations about the implementation of some of these reforms. In particular, we remain concerned about the impact of the compliance costs of both the new consolidations and the value-shifting regimes. We also remain concerned about the overall revenue impacts of the business tax reform package. I will speak in more detail about these reservations shortly; however, on balance, we consider that the evidence provided to the committee suggests that these measures will make a positive contribution to business tax reform. On this basis, the opposition is willing to support the bill. We will of course keep a watching brief on the continuing is-

sues of concern as the measures come into operation.

Let me now make some overview comments about each of the individual measures before turning to our continuing concerns in further detail. The consolidations measure, a key recommendation of the Ralph review, will allow groups of wholly owned entities to choose to be taxed as a single entity rather than on an entity by entity basis. The second tranche of consolidation provisions in this bill sets out cost-setting rules for the initial formation of the consolidated group. It also deals with the treatment of attribution accounts held in relation to interests in foreign entities and with the transfer and pooling of foreign tax credits. Overall, the consolidation measure is expected to cost approximately a billion dollars over the forward estimates period. I note that this second tranche modifies a number of the ongoing rules set out in the initial tranche of legislation, addressing the revenue integrity concerns pursued by the opposition in both houses and through the Senate committee process.

These changes are welcome, as are the further integrity measures set out in the third tranche, which was passed by the House last week. As I indicated during the debate on the first tranche of consolidations, the opposition has consistently supported the principles underlying this reform to minimise compliance costs and to strengthen the integrity of the tax system. We continue to support those principles. This bill also introduces a general value-shifting regime, GVSR, which is another recommendation of the Ralph review. The regime applies mainly to interests in companies and trusts that are not consolidated but meet control or common ownership tests. The value-shifting regime targets arrangements that distort the relationship between an asset's market value and its relevant tax cost base. The GVSR is expected to result in a gain to the revenue of \$480 million over the forward estimates. The opposition supports this reform in principle to strengthen the integrity of the tax system.

The bill also contains provisions to provide tax relief for demergers. These aim to ensure that there is no capital gains tax event for a restructuring that leaves the underlying

economic position unchanged. This measure also originates from a recommendation of the Ralph review. However, the actual provisions in the bill go significantly beyond the original recommendations. The revenue cost of this measure is listed as 'unquantifiable' due to the difficulty in estimating the extent of behavioural change induced by the measure. The opposition supports the principle of this reform to ensure that taxation does not unnecessarily drive the choice of structure in which a business chooses to operate. Finally, the bill contains some consequential amendments that arise from the government's new imputation system. These will ensure that entities effectively owned by nonresidents and tax-exempt entities cannot trade the benefits of the franking credits. The new imputation system is not expected to have any revenue impact. This is an uncontroversial reform, and Labor supports it.

Against this background of in-principle support for the measures, let me now turn to some remaining areas of concern regarding the detail of the legislation. Many witnesses providing evidence to the committee highlighted the high degree of complexity of these business tax measures. It is no wonder they did so: the three tranches of bills containing consolidations by themselves come to more than 650 pages of new legislation and nearly 900 pages of explanatory memoranda. In its submission the Council of Small Business Organisations of Australia noted that 'the legislation appears difficult to understand, in particular trying to match up both the 1936 and 1997 tax acts which themselves do not necessarily fit well together'. Mr John Morgan, of Freehills, noted that 'the detail set out below is horribly technical' and went on to say that 'this is revealing in itself about the complexity of the legislation'.

Of course, I recognise that consolidation is a major measure and that the bills have also covered some other substantive measures, such as the new value-shifting regime. Dealing with complex taxation concepts and transactions must, by necessity, introduce a base level of complexity into the drafting, but the sheer volume and intricacy of the provisions being brought forward in this area mean that a general, interested taxpayer can-

not possibly understand anything more than the highest-level summary of the legislation. Evidence provided to the committee suggests that tax agents are not that much better placed, particularly since they are still coming to terms with the continuing debacle of the so-called 'simplified tax system'.

I repeat the call of the shadow Treasurer in the other place for the government to give proper attention to clearer, plain-English expositions of the tax principles in the legislation itself and in the explanatory material prepared for the parliament. It is high time the government recognised the damage this increasing complexity is causing. It is the single most important reason behind the continuing anger about the compliance burden imposed by the tax system on Australian business. With regard to the current legislation, a great deal of concern was expressed to the committee regarding the start-up compliance costs imposed by this new consolidations regime, especially for small business. For example, Mr Paul Drum, from CPA Australia, noted in oral evidence:

... the feedback from our members is that it costs between \$25,000 to \$30,000 to work through the exercise on whether or not you should consolidate. The answer at the end of the day might be no, you should not, but you still have to do the work to determine what best suits your group.

Mr Ken Mansell, from the Institute of Chartered Accountants Australia, stated in evidence:

The cost that we were looking at—and we are talking about a large listed organisation—was up to around \$50,000 or \$100,000 because we had a large group of companies, but I would not imagine that you could do the process for less than \$10,000 if you are talking about a series of companies with a number of assets in those companies.

The evidence is clear that the main costs would be at start-up and that compliance costs for many groups may decrease once they are in the consolidations regime itself. However, this begs the question—if, as Mr Tony Stolarek remarked, the start-up costs are like 'the valley of death that the light horsemen charged through'—just how many small businesses the government is prepared to sacrifice in the charge.

I note that the committee received somewhat mixed evidence on how many small to medium enterprises would be affected by the new consolidations regime. However, even on the conservative figuring of the Treasury, it would seem that the number eligible to consolidate will be approximately 35,000 groups, with roughly 100,000 entities. As noted previously, the start-up costs will likely be incurred by all eligible groups, just to check whether or not they need to consolidate. So this suggests that the start-up compliance costs across the SME sector alone could be in the order of \$875 million to \$1,050 million. The opposition believes that this is a serious concern and calls upon the government to re-examine its transitional arrangements for small business. Options were provided to the committee to lessen this initial impact on small business by providing a permanent small business carve-out from the consolidations regime or by extending the transitional period by another year. In the absence of detailed consideration of the full ramifications of these proposals, the opposition is not in a position to endorse either option. However, it is a particularly pressing issue in light of concerns raised with the committee regarding the extra compliance costs imposed by the new value-shifting regime as well.

The committee processes focused attention yet again on the revenue implications of the overall business tax reforms. As I indicated in the debate on the previous tranche of consolidations, Labor's support for the Ralph reform package has always been on the clear condition of revenue neutrality. Of course, we all know that this condition has not been met—just another in a long list of Howard-Costello government broken promises. The government has been trying to hide this broken promise through an increasingly cursory treatment of the costings of the major tax expenditure measures in this and similar business tax bills. For example, for the first tranche of consolidations, the parliament was then being asked to pass a billion dollar measure on the basis of a 50-word costing—\$20 million a word! At least on that occasion, further detail on the costings for the measure was provided, on request, through the committee process.

However, a similar level of detail has still not been forthcoming on the revenue questions posed regarding the demergers measure. This is not an accident, and Senator Murray will know this because he attends the same estimates hearings I do. We have consistently asked Treasury for a costing of the revenue position of the entire Ralph package. We have consistently asked for it. We have consistently been fobbed off at estimates because the government know they have ratted on their commitment, in writing, by the Treasurer to Simon Crean, the then shadow Treasurer. They have ratted, and they do not want to tell the Australian community, this parliament, the true cost of the Ralph package as it stands now following the rating. It is not an acceptable position to have Treasury fobbing us off, it is not an acceptable position for the Australian parliament not to be in possession of vital information before it passes this bill and it is certainly not acceptable for the bureaucrats to just stonewall because it is embarrassing to their political masters. They have a duty to this parliament, they have a duty to the Senate estimates process on accountability, to provide the information to the parliament when the parliament asks for it.

As I said, the revenue cost of this measure was simply listed as 'unquantifiable' in the explanatory memorandum, apparently due to the difficulty in estimating the extent of behavioural change introduced by the measure. Evidence provided to the committee by the Treasury indicated that the 'costing would be quite small' and 'the measure itself is trying to remove tax impediments that stop corporate restructures that would not have otherwise occurred'. However, this clearly does not address the amount of tax forgone on the corporate restructures if they do occur under this new regime. This may be considered a nominal cost, but the opposition considers that it would have helped to form a fuller picture of the impacts of the measure. In particular, given that the demergers measures go substantially beyond what was proposed in the Ralph review, the opposition considers that it would have been appropriate for the committee to have been given some indication of the scale of these extra concessions. Although the evidence to the committee pre-

sented a reasonable economic case for each of the extensions, there was no chance to judge the real trade-offs involved because of the lack of information on revenue costs.

The concern remains that business groups are too willing to cherry-pick the Ralph reforms, losing the careful balance struck at the time to maintain revenue neutrality. I note that a recent article in the *Sydney Morning Herald* by Jane Counsel states:

... without the tax relief, potential acquirers of either WMC's alumina or minerals arms could have faced a capital gains bill of up to \$1 billion.

This is a serious nominal cost and arises from only one of several high-profile potential demergers. We will be watching this new benchmark for the costing of tax expenditures very carefully. We will see if the Treasury displays this free and easy acceptance of the 'behavioural change' argument when it comes to tax expenditures proposals in other sectors.

The other outstanding issue from the committee process that I would like to take up is whether demerger relief should be extended to participants in employee share ownership schemes. Labor considers that genuine employee share ownership plans open the way for direct ownership and control by working people of the productive capital to which their labour is tied. They help to emphasise democracy in the workplace, participation by employees in decision making and, ultimately, the cooperative sharing of the benefits of economic success. The evidence provided to the committee suggests that considerable discussion has already taken place at an officials level on this issue. I also note that the minister has flagged that there will be a further announcement regarding the tax treatment of employee share schemes in the context of the government's response to the House of Representatives inquiry into employee share ownership in Australia. I urge the minister to move quickly on this issue to ensure that members of genuine employee share ownership schemes are not disadvantaged in the high-profile demergers which are foreshadowed to occur soon after the passage of this legislation.

We believe that the committee process has made a valuable contribution in providing proper parliamentary scrutiny to the bill. It has brought to light some significant difficulties hidden away in the detail of this very complex legislation regarding compliance and revenue costs in particular. Notwithstanding these concerns of detail, however, we consider that this bill makes a positive contribution to the process of business tax reform. Accordingly, Labor support the bill.

Senator MURRAY (Western Australia) (5.50 p.m.)—The *New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Bill 2002* is a consequence of the government's new tax system. In August 1998, the government announced its new tax system election policy and, as part of its consequent comprehensive tax overhaul, business tax reform resulted from the July 1999 Ralph Review of Business Taxation. This bill further implements agreed measures arising from Ralph—which all parties supported—particularly those measures affecting the consolidation of losses. The essential purposes of the bill are to introduce a general value-shifting regime which will apply as an integrity measure to prevent tax minimisation through the shifting of values from one set of assets to another, providing capital gains tax relief where a separate entity is demerged from a group if certain conditions are met, introducing largely technical components of the consolidation regime—many concerned with the treatment of international income—and amending the simplified imputation system to incorporate existing integrity rules.

This bill has been to the Senate Economics Legislation Committee. Labor sent it there, and they were very right to do so. The committee's report is a useful analysis of both the bill and the surrounding issues. The bill is substantial, lengthy and complex, and its financial consequences are unclear. Supposedly, they are not very revenue significant; however, my interpretation of the evidence given to us and my feeling concerning this bill is that we should actually be very unsure as to its revenue consequences. The issue of potential compliance costs in particular has caused considerable angst, but it

is notable that even those who were most strongly critical of both the complexity of the bill and the potential compliance costs still urged the committee and the Senate to pass the bill. In other words, they would prefer it passed, even with its deficiencies, because they believe its provisions will deliver greater efficiency and greater opportunities for economic improvement.

The committee has established that there are problems with respect to consolidations; with beneficial ownership; with the same business test; sharing agreements; losses from capital investments and the available fraction; overdepreciation and dividends; allocable cost amounts and uniform capital allowances; substituting accounting periods; continuity of ownership; profits accrued; linked assets and liabilities; privatised assets subject to particular uniform capital allowance limitations; and other matters. This long list, however, is of mostly technical issues. That is not to derogate from their importance; they do elicit strong opinions from those affected. Because of an implementation date of 1 July 2003 and high compliance requirements for those affected, there is some urgency in passing the bill.

While the proposed value-shifting rules have an association with the consolidation regime, they will also apply to capital gains tax events which are not connected with a consolidation. The proposed rules—known as the 'general value shifting regime', GVSR, to emphasise their general application and also to distinguish them from the specific rules applying to value shifting which currently apply in relation to certain share arrangements and asset stripping—are an integrity or anti-avoidance measure. Members of the committee and witnesses will recall that there was some discussion as to whether this fairly complex integrity measure was warranted and whether part IVA would be sufficient in these respects. Frankly, I am not in a position to judge. The committee as a whole has accepted Treasury's advice that this is the best way to go.

The term 'value shifting' applies in cases where the value of one asset has increased while there is a decrease in relation to another asset held by the same entity in order to

achieve a better tax position for the asset holder. Because of that motive, you have to devise antitax avoidance integrity measures. As the valuation relates to assets rather than to income, the taxation advantage sought to be achieved will relate to capital gains tax rather than to income tax.

As noted, the proposed rules, while of general application, are associated with the introduction of the consolidation regime, which will substantially increase the opportunities for companies to revalue assets as subsidiary companies join a consolidated group. As under the consolidation regime, there will be no CGT implications from the change in ownership so long as the consolidation rules are followed. There will be an opportunity to value assets in such a way as to achieve the best CGT result. This is particularly the case for smaller individual assets, such as trading stock, and intangible assets such as goodwill, for which a range of valuations may be made.

Currently, there are specific rules relating to value shifting in relation to share value and asset stripping. Briefly, a tax advantage can be denied where there is a scheme under which value is shifted from one share to another to reduce the CGT payable on the disposal of the share from which the value has been shifted—in other words, where it was a tax avoidance measure. This can be achieved in a number of ways, such as by the issue of discounted shares to the taxpayer or an associate which reduces the value of the shares already held or by transferring value from shares subject to CGT to pre-CGT shares. Asset stripping can occur where value is transferred between companies under common ownership, with the result that either a capital loss is triggered or a capital gain is reduced. The Income Tax Assessment Act contains provisions to deny a tax advantage where there is value shifting or asset stripping of this type, but these rules have been subject to some criticism.

The Ralph Review of Business Taxation report entitled *A tax system redesigned* found many problems with the existing legislation, including inconsistent application with, for example, value shifting applying to shares in companies but not to interests in trusts and

rules only applying where companies are under 100 per cent common ownership rather than under the same control. There are high compliance costs associated with ensuring there is no technical breach of the rules, and the legislation containing the rules is very complex, largely as a result of it being without a solid base and needing to be constantly amended.

To overcome these and other difficulties with the existing rules, as well as improving the integrity of the tax system, the Ralph report recommended a system of general value-shifting rules. As part of the recommendations, a *de minimis* exemption was proposed. This was seen as desirable to reduce compliance costs. The Ralph report stated that following consultation it was considered that a comprehensive *de minimis* exemption was needed which balances integrity considerations and containment of compliance costs—a small statement of large consequence, as we see in the legislation.

The Ralph report also made a number of recommendations regarding the new GVSR, including that the GVSR apply to all entities and their associates, that the rules apply where there is control rather than ownership of the other entity, that a *de minimis* rule be introduced and that value shifts be recognised at the time they occur rather than at the time they are realised—a real-time provision. The implementation of the GVSR was foreshadowed in the Treasurer's initial responses to the Ralph report. That announcement was connected with the initial deferment of the proposed entity taxation regime, which it now appears will not be implemented.

The GVSR to be implemented by this bill was announced by the Assistant Treasurer on 27 June 2002 as part of the second instalment of legislation dealing with consolidation. The proposals were described as an integrity measure to prevent revenue loss arising from asset revaluation when entities consolidated. The explanatory memorandum estimates the revenue gain from the GVSR at only \$480 million over four years, which I guess you can lay off in this bill against the \$1 billion cost to the revenue of consolidation. I must say that it is a complex way to raise \$480 million. It can be seen from this

revenue estimate that there is not expected to be a spike in revenue returns during the initial period of the operational consolidation regime, which could be expected if entity groups were waiting for the current legislation to be passed. It is also not clear whether the gain to revenue will exceed revenue loss that could be expected if the GVSR were not introduced, or from existing law, although the revenue gain appears to result from the extension of the rules to entities other than companies.

Turning to demergers, to my mind a demerger is, philosophically speaking, the reverse side of the merger coin. In other words, if you have tax and Corporations Law provisions allowing mergers you should have the same allowing demergers. Simplistically, the term 'demerger' refers to the situation whereby an entity which operates in more than one area separates the various business activities into individual operations with separate identities and legal recognition and the interests in the new and old entities are in the same proportions. Currently, a demerger would result in capital gains tax consequences for the owners of the interests in the old and new entities, as the sale of the new entity would be considered a realisation of the value in the old entity and so a realisation of any gains or losses made would constitute a capital gains tax event. Put simplistically, the legislation is trying to render people no worse off as a result of demerger.

The Ralph report recommended that, subject to a number of conditions, a demerger should not give rise to a capital gains tax event. One of the main recommendations of the Ralph report was that there be no tax consequences where a widely held entity, generally one with 300 or more members, splits its operations into separate entities so long as the members' interests remain the same in nature and proportion—that is, in the same economic position—as they were prior to the demerger, and that the tax value of the members' interests be spread over the old and new interests. Secondly, the report recommended that a demerger be taken to be a realisation of assets not subject to CGT, as they were owned prior to the introduction of the CGT regime on 20 September 1985, and

that the assets receive a value equal to that immediately after the acquisition as part of the new structure. Thirdly, the Ralph report recommended that the post-CGT assets have their value apportioned according to their existing CGT value—that is, that there not be a CGT event—and in the same proportion as their interests in the new entities.

The Ralph recommendations were made in the context of the introduction of the entity taxation regime which, according to reports concerning those proposed recommendations, now appears to have been deferred indefinitely. The Ralph report recommended that the demerger rules have effect from the same time as the entity taxation regime came into effect. Whilst I am talking about demergers, I should indicate that Senator Conroy raised the question of the 20 per cent arbitrary figure that was introduced. That was covered in the committee's considerations and in their report. I remain unconvinced by that 20 per cent cut-off. I am not going to do anything about it, but I would suggest that both the Treasurer and the Treasury keep their eye on it with a view to removing or amending it at some stage in the future. The only thing I can say is that I just do not really get it—and neither did Senator Watson when he was dealing with it.

Turning to the consolidation provisions, the Ralph review recommended that consolidated income tax treatment for groups of entities be introduced. It recognised that the introduction of a consolidated regime would involve significant change but that the need for such reform stemmed from the high compliance costs, high tax revenue costs and concomitant complex anti-avoidance provisions associated with the current tax treatment of company groups. The review believed that consolidation would offer major advantages to entity groups in terms of both reduced complexity and increased flexibility in commercial operations, driven at present by intragroup transactions being ignored for tax purposes. It believed that the long-term benefits of this reform would be well worth the associated short-term transitional costs.

Somewhere in my memory is an estimate that about \$39 billion of losses are hanging around awaiting the results of consolidation

reform. What that eventually means in terms of potential dangers for revenue or potential income as a result of increased economic activity I do not know and I am pretty certain the Treasury do not know. Anyway, they have taken an educated guess that the cost is going to be \$1 billion over the first four years.

The first stage of this consolidation round was passed in June this year and a third tranche was due—and I think has been announced—in September. While the principles behind the consolidation regime are relatively straightforward and well known, the provisions implementing the regime are complex and technical, with many different circumstances being covered. One of the challenges that should face the Treasurer, the Assistant Treasurer and the Treasury department is that, once all this has been bedded down and has found its way into the normal operation of the market, perhaps we can return to the tax law and try to find some way to simplify it—if we regard much of what we are doing now as transitional rather than stuff which should be in there permanently.

It is worth noting that foreign investment fund rules apply where a resident, including a company, invests in a vehicle which operates in an offshore low-tax area. The rules aim to prevent the use of such vehicles to minimise tax, although there are a range of exemptions from the foreign investment fund rules for genuine investments. FIF—as it is known—attribution accounts operate to allow credit in respect of tax paid to prevent double taxation of investment returns from taxation in the low-tax area and in Australia.

There is a series of transitional rules which will apply in respect of groups that consolidate in this financial year and in the next financial year. The main impact of the provisions is that a prospective head company may choose to have certain entities joining the group treated as chosen entities. These will receive concessional treatment, including that the value of trading stock need not be recalculated, that value shifting and loss transfer rules will not apply and that existing CGT cost bases may be retained for assets which have a value lower than their depreciated value. The provisions aim to

allow the head company to accept the current tax valuations used by the joining entities during the transitional period. Imputation is a small but important part of the bill. Schedule 13 of the bill will introduce a number of technical rules aimed at preventing the trading of franking credits by companies which would otherwise not receive a benefit under the imputation system, because, for example, they are nonresidents or they receive exempt income.

In conclusion, the evidence that was presented to the Senate Economics Legislation Committee not only suggests but affirms across-the-board support for the bill regardless of its complexity and depth, the difficulties with compliance and the need for further amendment that was exhibited in the committee considerations. There are a number of submissions from what I would call serious players that pointed out shortcomings in the legislation which could be improved by amendments. We do not expect those amendments to be brought forward during this debate. We would expect, though, that Treasury would seek to add some of those amendments to the third tranche bill that is coming forward. I presume it is to be dealt with this year. If that were so, that would be helpful for many of those dealing with the bill.

There were legitimate calls for no further delay in the passage of this bill. I think that is accepted by all parties. Delays would significantly impact on demergers in particular and on consolidations. There seems to be an overwhelming cry for some stability and certainty following the great taxation change that has occurred over the last six years. During the committee process it was acknowledged that the underlying principles of the legislation are sound, are widely endorsed by business and have multiparty support in parliament. The introduction of the legislation to parliament was preceded by a lengthy, comprehensive period of consultation and review, which was regarded with some gratitude by those who had been consulted. Even though the legislation is long and complex, the professionals do seem to believe they can cope with that. There is ongoing review and that is proving constructive

and productive. So although the bill remains with significant technical and design flaws, we do concur with the other political parties that it is necessary to pass it as urgently as possible. We will be supporting the bill and we will not amend it.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (6.10 p.m.)—I thank honourable senators for their contributions and for their overall support of the **New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Bill 2002**. It is a very complex bill and the cooperation of all senators, particularly at the committee stage, is much appreciated. In view of the expressions of support it is unnecessary for me to address all of the concerns, at least in my summing up.

I reiterate that it is vital that this bill receives passage for business certainty. That has been noted by all speakers. The consolidation measures are relevant to many corporate restructures currently under consideration. The Corporate Tax Association notes that the uncertainty created by the delay in unconditional passage of the bill is now creating commercial difficulties in the business community. In addition, many corporates are wanting to make disclosures in their December financial statements concerning consolidation. The fact that the measures have not been passed is also cited as the main reason for the slow take-up of the measures, particularly amongst smaller businesses.

All measures contained in this bill have been the subject of an effective consultation process with business. This consultation will continue. This process has been widely praised by external stakeholders. I believe that the process, combined with the recommendations of the Senate committee, should provide sufficient comfort for senators that the measures in this bill should be enacted as a matter of urgency. I commend the passage of the bill.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

MEMBERS OF PARLIAMENT (LIFE GOLD PASS) BILL 2002

Consideration of House of Representatives Message

Consideration resumed from 17 October.

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (6.13 p.m.)—I move:

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

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (6.13 p.m.)—Last Wednesday in the chamber I moved a simple request for an amendment to the **Members of Parliament (Life Gold Pass) Bill 2002** to ensure that the definition of spouse in that bill was consistent with just about every other piece of Commonwealth legislation—and, for that matter, state legislation. It has often been said and long been accepted in this country that the term ‘spouse’ encompasses both de jure and de facto spouses, but for some inexplicable reason the government is insisting on harking back to an archaic and superseded definition of spouse that limits ‘spouse’ to those that are legally married. The government voted against the opposition’s request when the bill was debated in the Senate last week, it refused the request when the bill went to the House of Representatives and now we have the minister moving again that the request not be insisted on.

As I have stated, the opposition support the bill itself. This bill imposes reasonable limits on the use of the life gold pass entitlement and it strips the entitlement altogether from any life gold pass holders who are found guilty of a corruption offence. These are steps in the right direction. I did argue that any such changes to entitlements would be better dealt with by the independent Remuneration Tribunal. Nevertheless, the government chose to bring them forward by way of legislation, and that is what we have to deal with in this chamber. We have supported the legislation and the government has effectively got its bill. You have to ask yourself: why is the government making such a meal out of a simple, logical and rea-

sonable administrative amendment? Could it be that the responsible minister, Senator Abetz, is playing some sort of fundamentalist social engineering game? Could it be the beginning of a crusade by Senator Abetz and his coreligionists to restore the historical, purist, legalistic definition of spouse to the statute books? Is Senator Abetz trying to 'out' spouses of parliamentarians who are not legally married? Whatever anyone thinks of the entitlement to the life gold pass for long-serving parliamentarians and former prime ministers, conformity with what has long been accepted as a social norm should not raise an eyebrow but using an archaic and superseded definition of spouse should. After I moved my request last week, Senator Abetz attempted to take some high moral ground when he said:

... you could have the possibility of somebody being legally married still and having a de facto spouse, and both of them benefiting from the amendments that are being put forward today.

What absolute claptrap! What absolute nonsense from the minister! He actually then flagged the possibility of some sort of menage a trois arrangement where a member of parliament travels with two spouses. You should not laugh from the chair, Mr Chair, particularly when the microphone is on. He flagged the possibility of a menage a trois arrangement where a member of parliament travels with two spouses—the married one and the de facto one—and he or she claims a life gold pass travel entitlement for both. This is the sort of nonsense that this minister argued in this debate in the Senate.

The one thing I would say about Senator Abetz is this: he certainly has a vivid imagination. He would be better off getting a job writing scripts for soap operas than being the Special Minister of State. Do not laugh, Mr Chair. I have warned you! This is the sort of absolute nonsense that we have to put up with here. Then Senator Abetz invoked section 53 of the Constitution, claiming that my request for an amendment—which I had previously moved as an amendment—would have the effect of increasing a charge or burden on the people and therefore it fell outside the Senate's powers of amendment. Let me say this: any additional cost to the taxpayer

as a result of permitting de facto spouses as well as de jure spouses to travel with their partners would be very, very small. This is just Senator Abetz scrambling round for a fig leaf to cover his fundamentalist view of the world.

The definition which parliament agreed to use in the Parliamentary Entitlements Act back in 1990, 12 years ago, was the standard contemporary definition, which includes both de facto and de jure spouses. That is logically the definition that we should be using in any legislation that relates to parliamentary entitlements. The definition that I support simply reflects the way society is—the fact that couples choose to live together on a genuine domestic basis. Some choose to walk down the aisle; some choose not to. Some choose to be legally married; others—and let me be frank about it, myself included—choose not to. A spouse is a spouse.

It is simple to identify a person's spouse, whether or not they are married. If the Department of Finance and Administration is so hopelessly incompetent that it cannot easily identify the spouse of a current or former member of parliament, it is time to give it away, as far as I am concerned. If the Department of Finance and Administration cannot work out, for the purposes of an entitlement, whether these people are married or de facto, it may as well shut up shop and hand the whole show over to the Treasury, which a lot of people want it to do anyway. I actually believe the department can do it. It can do it on its ear. What gets in the way is this absurd, ludicrous, outmoded, archaic nonsense from this fundamentalist ratbag of a minister who is trying to say to parliamentarians, while pushing his moral—

Senator Abetz—Mr Temporary Chairman, I rise on a point of order. I have listened with some concern to the leader's language. I am not sure whether one of the words is parliamentary, but I just invite him to desist seeking to reflect on what he believes are certain people's religious views. I think it demeans the debate; it demeans Labor. I can understand Labor's anger after the Cunningham by-election, but I suggest they do not take it out on me.

The TEMPORARY CHAIRMAN (Senator Brandis)—Order! Senator Faulkner, the word ‘ratbag’ is unparliamentary and I ask you to withdraw it.

Senator FAULKNER—If it is unparliamentary, I certainly withdraw it. Having withdrawn the word ‘ratbag’ in my description of Senator Abetz, I will give some advice to Senator Abetz: get real. Join the rest of us in the 21st century. Give up this ludicrous crusade. Accept that in this day and age spouses include both de facto and married partners and they should be treated equally. Do not come in here and push your pathetic and miserable moral opinions down our throat—or anybody else’s. Just accept that we are now in the 21st century and it is up to government and all of us to act accordingly.

My view is that this is nonsense—what this minister is proposing is absolute rubbish. I have said before that the opposition support this legislation. One wonders sometimes whether it is worth having an argument with a minister like this; nevertheless, these are important principles. Most Australians would understand that, if they were the slightest bit interested. They are probably not, and I can understand that. Given that this matter is before us and the government has proposed that the Senate not press its request, the view of the opposition clearly is that we should press the request. It is important in this day and age to accept that de jure and de facto couples be treated equally. That just seems to me to be commonsense. Let us just get on with it.

Senator MURRAY (Western Australia) (6.27 p.m.)—In view of the numbers, it is important that I record our view in relation to whether we will press for this amendment. As everyone knows, I and the Australian Democrats consider that the life gold pass should be abolished. We consider that it is an indulgent, unjustified and anachronistic waste of taxpayers’ money. However, we are dealing with an amendment put by the Leader of the Opposition. We concur with that amendment. I invite you to remember that the committee unanimously said the following:

The committee also notes that, while in accord with the definition applied by the Remuneration Tribunal, the definition is inconsistent with that in the *Parliamentary Entitlements Act 1990*. It considers that consistency should be pursued in definitions applying across related legislation, wherever possible ...

The Democrats will insist that the amendment go through.

Senator BOLKUS (South Australia) (6.28 p.m.)—I rise to speak on this matter before the chamber. Twelve years ago, as Minister for Administrative Services, I was responsible for introducing, and having carriage of, the legislation that Senator Faulkner talked about—that is, the *Parliamentary Entitlements Act*. Twelve years ago this parliament accepted the definition of spouse—de jure and de facto. Surprisingly, Senator Abetz, the world has not collapsed, the roof has not fallen in, promiscuity has not run rampant through the streets—

Senator Faulkner—Or the parliament.

Senator BOLKUS—Or the parliament, as far as we know. The fact of the matter is that it is an obscenity, a waste of time and an abortion of priorities for this government to be coming in at this particular stage of the parliamentary process, in the context of major national and international issues, and insisting on perpetuating on the Parliament of Australia some antiquated view of the world held by one.

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

Senator BOLKUS—This is the morality of one being sought to be imposed on the body politic in this country, and what a morality of one it is. Life is a bit fortuitous in a sense. I was just having dinner during the break—though the service was so slow I did not have any dinner—and I was talking to a couple of friends. I asked them how long they had been married. They said, ‘We have not been married. We have been together for 27 years’—and for four years before that in their relationship. For 27 years—and they have a 13-year-old child and a 10-year-old—they have been living in an enormously harmonious family. I had to say to them: ‘Do you know that Senator Abetz thinks that you and your spouse should be second-class citi-

zens? It is not just Senator Abetz who thinks that. The tail has wagged the dog. Senator Hill also thinks that you should be second-class citizens and that you should not have the same rights as people in de jure marriages. Senator Vanstone, Senator Payne and Senator Scullion think the same. That Alan Missen generation of Liberal, Senator Alston, also thinks that you should be second-class citizens. You may have been together for 27 years, you may not have had an argument in that time and you may have brought up two wonderful little kids, but Senators Abetz, Hill, Vanstone, Payne, Alston, Coonan and Knowles all think that you should not have the same rights as people living in de jure spousal relationships in our society.' They said, 'Why is it the whole government?' How do you explain to people like that that the tail is wagging the dog?

Senator Abetz has intimidated everyone else who is in opposition to this archaic and anachronistic moral view of the world. The morality of one is imposing his will on the body politic in this country. They understand that people like Senator Minchin, Senator Heffernan and Senator Abetz may have that Queen Victoria view of the world that seems to permeate their closed minds, but they cannot for the life of them understand what people like Senators Hill, Alston, Coonan, Knowles, Vanstone, Payne and all the others on the other side are doing marching in line with Senator Abetz on this one. This is the morality of one; this is anachronistic, this is not modern Australia; this is the old John Howard picket fence view of the world. Surprisingly for this parliament, society in this country has moved on. But you cannot explain it, as I say, to those constituents of mine who have been together in a de facto relationship for 27 years.

What sense of priorities does this government have? Is it that the wedge is so important, so paramount in national political affairs, that it will apply it anywhere? Last week the hapless Attorney-General was talking about the power of proscription and how we have got to pass his legislation which has been condemned by all sides of the parliament. His answer to the international terrorism problems is to go back to the

past. You can understand them wanting to play wedge politics on that. You can understand wedge politics being successful for them. But, again and again, the world is in the grip of international terrorism. This country has suffered one of the greatest, if not the greatest, acts of violence perpetrated upon it in its own backyard, and what does this government want to do? It wants to perpetuate a debate which takes us back to 10 years ago. In 1990 I introduced this legislation. The Liberals then were much better people, much more tolerant and much more sensitive, than they are now. Did they oppose it at the time? Did they fight against it and rail against it in the way that Senator Abetz rails against it now, or did they face the reality of modern Australia and recognise that people can have genuine, longstanding, rich spousal relationships that are not de jure? Of course they did. The legislation was passed. The parliament did accept it.

Blind morality and prejudice drive the minds of those who bring this issue back into the parliament now. May the modern day Queen Victoria smirk as Senator Abetz writes his notes, but what sort of perverted, antiquated mind is it that brings these sorts of issues into this place to waste the time of this parliament when there are so many more important issues? What a rudderless government. I would like to know who put the lunatic in charge of the asylum. Is there no one at the core of the government at the moment saying, 'Listen, this guy is on a frolic. Let's put the leash back on him'? No, there doesn't seem to be.

Just before the break we had this moral indignation: no-one can reflect on the religious views of Senator Abetz. He got up and raised a point of order saying, 'Senator Faulkner is reflecting on my religious views.' Senator Abetz, your religious views are no more important to me than the morals and attitudes of many others in this society. I will not have you force them on me, and nor will I have your view being forced on so many other Australians. Smirk and laugh as you may, I will tell you what: your colleagues, the Hills, the Vanstones and the Paynes, do not go back to their electorates and say, 'We do not recognise de facto

spousal relationships.' Of course they do not. Let them go back to those inner suburbs that they belong to, to their friends, and explain to them why, tonight, they are supporting your move to reject the legitimacy of de facto relationships.

As I say, what a sense of priority, what a distorted mind, what a rudderless government and what a mind full of fantasies! I was just amazed on the weekend. I picked up the paper and there was the allegation: 'Legislation may lead to menage a trois.' Says who? Says Senator Abetz. Well, what do you dream of at night, Senator Abetz? That is what I would like to know. What sorts of fantasies drive your mind? What sorts of fantasies drive your politics?

Senator Abetz—I never said that. You know I didn't.

Senator BOLKUS—'I never said that,' he says. We have had this legislation in place for 12 years now. As I said, it was accepted by the parliament in 1990 when I introduced the legislation. If there had been a rort on this level, don't you reckon the department would have woken up to it? And, Senator Abetz, do not look at us and say that this is the side of immorality. Had there been a menage a trois it could have been on your side. Which colleague are you reflecting on? Let us get back to some basics on this. Let us get back to some reality. The reality is that the position the Senate has taken is one which fits very much in line with contemporary Australia.

Then we are told that section 53 is invoked here and as a consequence we may have constitutional problems. What about the Clarence Darrow of Tasmania—section 53 of the Constitution and all the gravity you can deliver that argument with? Well, Senator Abetz, legislation has been amended in this place time and time again and no-one has raised that spurious argument. It is incredible that on an issue like this the government is not just wasting the time of the parliament and the nation, ignoring important issues, it is also trying to press the rewind button on social engineering. That is what it is all about: press the rewind button and go back to the fifties and pray that no-one lives in a non de jure spousal relationship. I must ad-

mit, Senator Abetz, you have taken it much too far this time.

One looks at the profile of Australian relationships and Australian marriages; much research is done on that. Almost one in 10 couples in Australia live in a non de jure relationship situation. They have kids; they live together; they own property. Our legal system recognises it; our family law system recognises it; many of our legal institutions recognise it. But for some reason in comes the time warp, in comes the rewind button, and Senator Abetz wants us to go back to the fifties and sixties—or I should say the fifties, not the sixties.

Senator Crossin—The thirties even.

Senator BOLKUS—The thirties and the fifties—a time when he and his leader, the Prime Minister, would have been at their most comfortable. But the fact is that this country has moved on. And the fact is that most people in this country think that the debate should have moved on. The fact is that after 12 years of trial, if you want to call it that, under existing legislation, those sorts of fears, paranoias and inner thoughts—those dark inner thoughts that Senator Abetz is motivated and driven by and concerned about—have not come to realisation. We are actually responsible enough in this place. You will not, Senator Abetz, get your menage a trois, quatre, cinq and whatever that you might be concerned about. The system is in place to ensure that you do not.

Let us get over this fanciful indulgence of the minister. This is an issue that should not have been brought back to the parliament tonight. This is an issue that should have been dispensed with last week. This is an issue on which the minister should have acknowledged that he got it wrong. They should have let it go through to the keeper. This is an issue on which the government should have acknowledged that one in 10 Australians lives in a de facto relationship. This is an issue on which the minister should not have been allowed some pursuit of enforcing his Queen Victoria style of morality on the rest of this country.

I am concerned about entitlements and how they are used. The legislation was put in

place 12 years ago. That legislation acknowledged the reality of Australian society 12 years ago. Australian society has not pressed the rewind button to the 1930s and 1940s. Australian society lives on quite happily. What is most concerning to me is not what is in Senator Abetz's mind, because I gave up worrying about that quite some time ago. What is of major concern to me, Senator Abetz, is what you have done to your colleagues.

Senator Abetz—Very gracious, very gracious.

Senator BOLKUS—I am not gracious. I face reality. When you are faced with a concrete block you know you really cannot etch away at it and try and dismember or dismantle it. What we have in your sense of morality in this society is a concrete block. What I want to know is how you have intimidated your leader. Who ticked off on this in the Prime Minister's office? Who ticked off on this in Senator Hill's office? Is the caring face of the government, Senator Vanstone, not concerned about this definition of spouse? Is Senator Payne not concerned about it? In the lower house are people like Brendan Nelson, Christopher Pyne and so on not concerned about what you are now defining family as? Are they asleep at the wheel, are they distracted or are they just gutless? Are they gutless in the face of intimidation by this minister? I do not know. What I do know is that the parliament should bounce this back to the House of Representatives and the House of Representatives should grow up. Thank you.

Senator COOK (Western Australia) (7.43 p.m.)—I rise in this debate to speak in support of rejecting the message from the House and remaining behind the original decision of the Senate. I did not speak in the first debate. I thought the issues in the first debate when the bill proper was before us were covered more than adequately by a series of outstanding contributions from the minor parties and the Labor benches and therefore did not feel the need to add my voice to them. But on this occasion, given what is before us, it is entirely appropriate that I speak and that I declare my interests up-front.

I am a happily married man and have been for—my wife will kill me for not remembering exactly the amount of time—about 20 years. If I were to retire from parliament tomorrow or at the end of this term, I would be entitled to a gold pass. Under the terms of what the government is proposing, that entitlement would come to my family. So I do not have a vested interest in opposing this message, because the entitlement is established. But, having said that I do not have a vested interest in a personal sense, I do have a vested interest when I turn to my duty as a senator in this place representing Western Australian electors in the federal parliament. I have a duty to speak on their behalf. Even if I were disadvantaged in a personal sense, that would still remain my duty. I want to make this point up-front: there is a confusion by some that our public duty is to be confused with our private interests—that is not at all the case. We have a public duty despite our private interests, and the public duty here is to oppose what the government is wanting to impose on the parliament.

I make this challenge forthrightly and directly: if the government really believes that the relationship of entitlement should be one in which a proper certificate of marriage has been effected rather than a de facto relationship—and we know it does not, but I will come to that in a moment—then take this issue to a double dissolution and let the people of Australia vote as to whether they believe the government is right or whether they believe that we are right. I know, on figures that have come to me, that almost 80 per cent of young married couples have lived in a de facto relationship or in a stable, healthy, loving partnership for not one but up to five years before marriage. No-one sees that as being unreasonable. In fact, in many cases they see no need for matrimony, because what is intrinsic and important to them is the strength, love and nature of the relationship. You take that out there and ask people if that is not so and people will say that it is so.

One in 10 relationships in this country consists of those that live in a non de jure relationship, so you have lost 10 per cent of your vote straight off. But the other thing about what the electorate thinks on this is

that the electorate understands modern mores and conventions and respects them. This is a tolerant society. Only an arrogant government could come forward believing that it was not, and so I return to the central point: call an election on this point if you have got the guts. I can promise you this: you will go down with a huge thud and we will occupy almost every seat in the green chamber. Bring it on!

The second point I want to make is that those who have come forward with this amendment ought to go and get a life. They ought to stop prying into the domestic household relationships of honourable members and senators and, for that matter, using that as some sort of gauge or template for the rest of the community and focus on what is important: is there a stable, strong, caring and long-running relationship? If there is, that is fine and that represents the community norm. The government knows that, because if it had any guts and if it actually believed what it was on about here and had the courage of its convictions, it would have called up every act of the federal parliament and asked all of the states as well to review all of their acts where they explicitly recognise de facto relationships. Has it ever done that? Of course it has not done that. It knows that there would be a massive revolt in the Public Service if it tried. It knows that it would be before the antidiscrimination tribunals around this country if it even thought about it. It knows that there would be a rebellion in the states, because the states—thank God—have a humane, tolerant and understanding view of what human relationships in the modern era are about.

So has the government got the courage to be consistent? No, it has not. Does it intend to be? No, it does not. Why not? Because it thinks it is on a little winner here or on some perfectly stupid right wing reactionary approach to what life should be like under a right wing, reactionary government. Only a government that is a supremely overconfident and arrogant and completely out of touch with how ordinary Australians live their lives would think for a moment about this amendment. If it is an illustration of just how out of touch the government is then I

welcome it because it enables to Australians to see the character and nature of the government that we have in this country, which has for a long time been hidden from view by wedge politics and political opportunity. It enables us to actually see the innate nature, character and small-mindedness of what is at the heart of this government when it comes to human relationships.

We have been lectured by those on the conservative side for God knows how long about social engineering. I am proud of some of the social engineering that Labor has been responsible for, because it has brought a degree of transparency, fairness, tolerance and open-mindedness to the way in which we live our lives in this country. They are the values we celebrate as Australians; when we talk in the world about our values, they are our values. You can talk about social engineering, but that is what the purpose of it has been. There are excessive examples, and I do not support those.

But what we have here is some retro social engineering. This is the government from an ideologically narrow, blinkered, reactionary, conservative view saying, 'Life will conform to our ideology, and we'll make laws in order to ensure it does.' That is what they are saying, 'We'll make laws in order to ensure it does.' That is social engineering. Those on the other side that were proselytised in opposition to social engineering for a long time ought to get up and now apologise, because they are the agents of trying to do it here.

When the current Prime Minister came to power in 1996, I remember well that in some of his early dog whistling speeches he got up and said that he was opposed to political correctness. I might say that I am opposed to some of the excesses of political correctness. I was opposed to political correctness, for example, when someone described my dear friend and former colleague John Button as 'short'; they were told that they should describe him as 'height challenged'. How ridiculous! Of course that is beyond the pale. And I think that sort of political correctness is just a joke.

But political correctness does have a point to it as well; it is not all bad. Political cor-

rectness is trying to express in a sensitive way, if handled correctly, a consideration for your fellow citizen. Does this government want to do that? No, it does not. Does this government want to encourage intolerance? Yes, it does. Does this government want to divide the community? Aye, it does. Does this government enact laws that try to be divisive? Yes, it does. And does this government pursue a wedge political agenda? Of course it does, and it cannot pretend otherwise. But I come back to my original opening comment: if you have got the guts to actually believe in the position, then force it to a double dissolution and we will have a debate about what the family relationship really is. I think you will be surprised. Australians value the tolerance and value the different types of relationships that they can have.

This amendment should fail for two reasons. It is, in the first instance, a hypocritical proposal. If it were not, then we would see the legislation that is on the books of this parliament relating to other parliamentary entitlements repealed. They would do that. We would have a raft of amendments applying this principle. We would see superannuation entitlements for Commonwealth public servants repealed to take account of this, because they have this provision in the legislation. We would see, through the Executive Council and through COAG, efforts made in consultation with the states to uniformly impose the standards on the rest of Australia. We would see at least that the government have the courage of their convictions. If this is a conviction of the government, then it is notably an exclusive conviction that relates only to this bill; it does not relate to any of their conduct anywhere else in any of the legislation under their control, nor has there been any effort to actually deal with it. I am not inviting them to, as I think it is sensible to have that legislation in the manner that it is; what I am inviting the government to do is to recognise that commonsense and extend it to this item of legislation.

In the second instance, we are required to represent the community in this place. And if one in 10 marriages in Australia are of a de jure nature, then we are required to reflect that too. If the parliament is not a reflection

of the community—and if in the parliament the different views, the different attitudes to life, the different political convictions are not represented—then we are unrepresented in this place. It is important that this parliament is a microcosm of Australian society because, after all, we legislate on behalf of that society. And if we do not properly reflect it and represent it, then we are unrepresentative of it.

It is a plain fact that in this parliament there are de facto relationships. It is a plain fact that they are recognised for travel entitlements; it is a plain fact that that represents about the degree of how it applies in the wider community, and we do reflect that social trend. Therefore it just follows, it is a plain fact, that we should be consistent in all of our laws. As it presently stands, somewhere upwards to 80 per cent of Australians live in a de facto relationship before marriage, and that is a fair enough thing. They represent all walks of life; they come from all sorts of political backgrounds, including conservative and progressive. They come from the middle class, the upper class, the lower class, the working class. They come from the farming and regional and rural communities too. Whether someone has a fundamentalist view about this, that they ought to all be 'churched' and no-one can choose, goes against the philosophy of the Liberal Party.

Members of the government often come into this place and talk about choice and the right of individuals to make a choice. The plain fact is that a lot of Australians have made that choice about their domestic relationships. The important thing about that choice, the thing that should inform our mind about that choice and the thing that we should in a tolerant and considerate society have most regard for is that it is a long-term, stable, caring relationship between adults who genuinely are committed to that relationship. If the government gets its way in a small way, the thin end of the wedge will be inserted here to prevent that tolerance and to prevent that choice. You might want to try and get off on some political argument about the gold pass, because no-one likes politicians and no-one likes political perks. But if

you insert the thin end of the wedge here at this point, there is no guaranteeing that you will not want to insert it everywhere else, which I guess brings me to where I came in: if you really believe it, go and have an election on it and let's see who wins.

Senator GREIG (Western Australia) (7.58 p.m.)—I, too, rise to speak in support of insisting on the amendments to the **Members of Parliament (Life Gold Pass) Bill 2002**, and I do so for a number of key reasons. Firstly, I think it is very important for all of us to understand that marriage for most people is a choice. You have the option to marry, unless of course you happen not to be heterosexual. But statistics recently released from the Australian Bureau of Statistics, the ABS notes dated the 22nd of the 8th of this year, show the following in relation to marriage and divorce trends:

In 2001 there were 103,100 marriages registered in Australia, the lowest number recorded since 1978—

At that time there were 103,000 marriages but in a significantly reduced population. It continues:

The 2001 figure was a decrease of some 10,300 marriages when compared with 2000 and a decrease of 10,800 marriages when compared with 1981. While marriage rates per 1,000 unmarried population (aged 15 years and over) are not yet available for 2001, the marriage rate trend since 1981 shows that marriage is declining. Marriage rates for the unmarried population fell in 2000 to 34 per 1,000 unmarried men and 32 per 1,000 unmarried women from 35 and 33, respectively in 1999 and 55 and 53, respectively in 1981.

There were 55,300 divorces granted in Australia in 2001, the highest number granted in the last 20 years. This was an increase of 5,400 on the number of divorces granted in 2000 and an increase of 13,900 in 1981.

Divorce rates for the married population are not yet available for 2001. However, since 1981 divorce rates, while fluctuating, have shown an increasing trend. In 1987 the divorce rate was at a low of 11 divorces per 1,000 married population. Since 1987, divorce rates, while still fluctuating, have shown an upward trend to a high of 13 in 1996. The divorce rate in 2000 was 12.

What does that tell us? I think the fundamental thing it tells us is that people are voting with their feet—many more Aus-

tralian are choosing not to marry. Because they are doing so, they ought not be discriminated against by this government in any area of an otherwise bona fide domestic relationship. The statistics also suggest that divorce is increasing. While that is not a pleasant thing, the statistics also suggest that, of those people divorcing who will remarry, some 50 per cent will find that their second marriage fails. So there are, and will be, many people either about to divorce or remarrying after a divorce who are going to be in a de facto situation not recognised by this government or this minister for the purposes of this or some other legislation.

I agree with Senator Cook that there is such a thing as social engineering. I would argue very strongly that the engineering being done here is the engineering of the government failing to recognise the reality of Australian relationships in contemporary Australia and trying to impose a model that harks back to the 1950s. I remember Senator Abetz as minister saying in his second reading speech on this legislation that this was not about discrimination. That is an absurd statement. It is also patently false. This bill is about discrimination. It discriminates in favour of those people who are legally married and discriminates against those people who are not legally married or who cannot legally marry. And for many tens of thousands of Australians that is a reality. I would like to draw to the minister's attention and read into *Hansard* a press release dated today from the Tasmanian Gay and Lesbian Rights Group: **HISTORIC MEETING: TAS LIBS HEAR CASE FOR GAY AND LESBIAN COUPLES.**

In what has been described as an historical first, the Tasmanian Liberal Party was briefed today on the discrimination experienced by same sex couples.

At the invitation of Liberal leader Rene Hidding gay and lesbian community representatives briefed all Liberal members on a wide range of issues including superannuation, wills, medical decision-making, adoption and the registration of relationships.

Representatives at the meeting included Tasmanian Gay and Lesbian Rights Group spokesperson, Rodney Croome, Australian National University sexuality law lecturer, Wayne Morgan,

and Hobart gay couple Dave Arnold and Peter Brown.

Mr Brown, a former mayor of the Hobart municipality of Clarence, and Mr Arnold, a retired teacher, spoke of the legal problems they have encountered during their twenty year relationship.

“The fundamental point is that the law as it stands says our relationship doesn’t matter and that we are second class citizens”, Mr Brown said.

Wayne Morgan answered a number of questions about the experience of reform in mainland states, legal definitions of relationships, adoption, and the need for registration.

“A registration scheme is important to ensure that couples are easily able to prove their relationship status if required”, Mr Morgan said.

Mr Croome opened the meeting by pointing out that this was the first briefing of a Tasmanian political party by gay community advocates and contrasts markedly with past Liberal Party hostility to lesbian and gay issues.

“Ten years ago, in the midst of the desperately bitter and divisive gay law reform debate, it was my great hope that one day Tasmanians could sit down together and discuss gay and lesbian issues rationally and constructively. Today that hope has become a reality”, Mr Croome said.

Sadly, while that might be a reality for the state of Tasmania and state Liberal politicians, we continue to find, even through a Liberal senator such as Senator Abetz, that that is not reflected in federal legislation or federal approaches to legislation that deal with relationships.

It is easy for Senator Abetz to suggest, as I think he has, that those people who want to take advantage of these privileges through the gold pass system should simply marry when in fact many people cannot because that is denied them under legislation. I approached this issue recently when I was dealing with the [Marriage Amendment Bill 2002](#) in this place a few weeks ago. I asked the following question of the minister in that debate, Senator Chris Ellison, who said he would get back to me but who I note has not done so. I asked a question, which I will ask again of the minister here tonight:

Minister, I understand the Marriage Act 1961 as presently drafted will recognise marriages which are valid at local law overseas. Section 88 of the act provides that its object is to give effect to chapter 12 of the Convention on the Celebration

and Recognition of the Validity of Marriages signed at The Hague on 14 March 1978. Further, it provides for the recognition of a marriage which was, at the time it was solemnised, recognised as valid.

The issue that I think is still unclear in Australia is, in relation to a same sex marriage valid at local law in an overseas jurisdiction, whether part IVA of the Marriage Act would permit recognition of that marriage in Australia. I think this is an interesting question when it has been argued by the High Court that section 51(xxi) may not provide legislative authority for the Commonwealth to provide for the recognition of same sex couples. In other words, the government has said in previous legislation that it will recognise all valid marriages that have been done at local law overseas. Yet we have the situation now where, in areas of the Netherlands and in other countries, local law does provide for the legal recognition of same sex couples. Where, then, does that leave us with this legislation? The reality is that there are retired members and there will be retiring members who are in or will be in long-term same sex relationships, and I do not believe this legislation ought to discriminate against them.

In moving his amendment to this legislation, Senator Faulkner chose wording that I am not fully comfortable with because I do not believe it addresses the issue of same sex couples. We had that debate to some degree when I was first inducted into this place. One of my first acts in 1999 was to seek a change to the Senate standing orders in relation to pecuniary interests for senators, arguing that the definition of spouse within that requirement excluded same sex couples. I argued that it ought to be the case that same sex couples should have the same responsibilities as other couples in nominating the property, assets and so on of their partners in the Senate’s list of pecuniary interests. That argument was supported, curiously, by the government. So we have the extraordinary situation where the government is arguing that same sex couples must have the same responsibilities as other couples but not the same rights.

I have been listening to debate in the parliament during this and last week and I think senators will agree that question time has been very different. It has been very solemn. In some ways it has been quite effective and moving because we have heard reasonable, good and incisive questions and had genuine, compassionate and sensible answers from the government. If only it were like that every day. I was listening to questions to Minister Vanstone about what welfare entitlements would be available to the surviving partners of those people who were killed or injured in the Bali tragedy, and I know without having to ask that those entitlements do not apply to same sex partners, and so it is across all areas of Commonwealth legislation that relate to relationships.

It would be interesting to do a straw poll of those MPs and senators who are in long-term de facto relationships. I would think the number would be reasonably high. The evidence suggests that the working environment of this place is not conducive to long-term marriages. As Senator Cook has done, I guess I have to express my own interest in this, having been in a long-term relationship—as it happens, a same sex relationship—for almost 17 years. I do not aspire to be here for 20 years. I do not know that the electorate aspires to that either, but we will give it a go. My argument is not a personal one; my argument is one of broader advocacy. The issues we are canvassing here are broader than the one specific issue before us.

It is not only irritating but also offensive for a minister or, to be fair, a government to suggest that only one category of relationship is worthy of a particular recognition or a particular privilege. That is way out of step with community attitudes. I think it is way out of step with community understanding and it simply does not reflect the reality of Australian contemporary relationships. I find it extraordinary that, at a time when most states and territories to varying degrees are reforming and modernising their state based acts in relation to not just same sex couples but other de facto areas of jurisdiction, that is not being reflected at a Commonwealth level. And that results in a significant range of discrimination in areas as diverse as we

are seeing tonight—not just the gold pass, which is a fairly discrete area of legislation, but also social security, immigration, veterans' affairs, taxation and so on.

The amendments first moved ought to be adhered to. They are far from radical; they should not be controversial. I express my disappointment again that they do not include same sex couples. We have had the debate about the definition of de facto many times in here, yet again we find extraordinary contradictions not just in this bill but also, as I have said, in declarations of senators' interests. There is also the situation where, if you happen to be a Commonwealth public servant in a same sex relationship and you are posted interstate with your work, the Commonwealth will provide for the transfer of your partner. So you have an extraordinary situation where de facto relationships and same sex couples relationships are recognised in the Commonwealth Public Service—that is an area of Commonwealth interest and concern in legislation—yet it is not reflected specifically and deliberately in the bill before us today purely because I think of a specific government agenda to push an ideological position in opposition to the creeping reforms we have had so far in this area. Those reforms have been positive and necessary and I think this is an attempt to stand against that and, in a tokenistic and iconic way, send a message from the government to the broader community that it will not be reflective of community relationships and community acceptance of those relationships but will set its own agenda against those.

Senator HARRIS (Queensland) (8.14 p.m.)—I rise to speak in response to the House of Representative's message 172 relating to the **Members of Parliament (Life Gold Pass) Bill 2002**. I want to convey to the chamber that, until I heard Senator Faulkner's vitriolic attack on Senator Abetz, I was not really moved one way or another in relation to the message. I believe that that attack, while it may have been directed primarily at Senator Abetz, was actually an attack upon the entire basis of our parliamentary process. If we look at the procedure that we follow each morning in this chamber, the President

before taking the chair reads the following prayer:

Almighty God, we humbly beseech Thee to vouchsafe Thy special blessing upon this Parliament—

we directly request from God a blessing on this place—

and that Thou would be pleased to direct and prosper the work of Thy servants—

so we as senators within this chamber are calling upon God for clear direction for the decisions that we are going to make—

... to the advancement of Thy glory—

that is to the advancement of the glory of God—

and the true welfare of the people of Australia.

We do that each morning when we commence each day's sitting of the Senate. The document upon which our entire Commonwealth is predicated is the Constitution of the Commonwealth of Australia—the Commonwealth of Australia Constitution Act—and the opening paragraph that we agree to states:

Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God ...

The unity of this nation is based on our relying on the humble blessing of Almighty God. So our constitutional base is that of a Christian society. The process that we follow in this chamber each day is based upon Christian principles. How can we, when it does not suit our purpose, turn our back on those principles and walk away from that basis—the entire foundation of everything that we commit and swear allegiance to when we come into this place? The message from the House of Representatives clearly indicates that it cannot agree to the definition of the word 'spouse' contained in the Senate's amendment, which states:

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

Let us look at the biblical definition of a husband and wife, and that of a family.

Marriage is an institution that is ordained by God to satisfy a couple's needs and to provide a sanc-

tuary for the upbringing of children resulting from that marriage.

Upon the question of marriage, Paul wrote in chapter 7, verses 1 to 5 of his Letter to the Corinthians:

Now, to deal with the matters you wrote about. A man does well not to marry. But because there is so much immorality, every man should have his own wife, and every woman should have her own husband. A man should fulfil his duty as a husband, and a woman should fulfil her duty as a wife, and each should satisfy the other's needs. A wife is not the master of her own body, but her husband is; in the same way a husband is not the master of his own body, but his wife is. Do not deny yourselves to each other, unless you first agree to do so for a while to spend your time in prayer; but then resume normal marital relations.

We could not find a more defining definition than that of a husband and a wife—that is, a person who has entered into the sanctity of marriage.

We talk about consistency in our laws. How do we achieve consistency in our laws? We achieve consistency by looking to that direction that we request each morning when we commence each Senate sitting. If we want to have even more clarification than that, let us look at some of the quotes from our eminent High Court judges. I would like to cite Her Honour Justice Mary Gaudron in the *Wakim* case in 1999:

However, the judiciary has no power to amend or modernise the Constitution to give effect to what Judges think is in the best public interest. The function of the judiciary, including the function of this Court, is to give effect to the intention of the makers of the Constitution as evidenced by the terms in which they expressed that intention. That necessarily means that decisions, taken almost a century ago by people long dead, bind the people of Australia today even in cases where most people agree that those decisions are out of touch with the present needs of Australian society. The starting point for a principled interpretation of the Constitution is the search for the intention of its makers.

I go back to the section of our Constitution that I quoted from, which clearly sets out that our Constitution is an act entered into by the people of all of the states that were in existence at that time 'humbly relying on the blessing of Almighty God'. So it is with some sadness that I see in this place such an

attack upon the basis of our Constitution and upon the process upon which this chamber relies on a daily basis, and that is direction from Almighty God. The day that we return to that, we will see laws in Australia that are, as our prayer says, to the glory of God and the welfare of the Australian people.

Senator LUDWIG (Queensland) (8.23 p.m.)—I chose not to speak on the **Members of Parliament (Life Gold Pass) Bill 2002** in the second reading debate because, after consideration of it by a committee and after reading the committee report, I thought that was not required. The Labor opposition supports the bill, the government supports the bill and the minor parties are a mixed bag in relation to the bill. Therefore, I thought speaking to the bill would just demonstrate that, yes, we do support the bill, so I chose not to do so. When I had a look at the amendments to the bill which were requested by this house, I thought they were sensible ones. There did not seem to be a reason why they would be denied. The report by the Finance and Public Administration Legislation Committee was almost unanimous. There was a dissenting report by One Nation and additional comments by Senator Andrew Murray but, by and large, the report reflected the views of Labor and the government.

This bill is about the members of parliament life gold pass. The bill was introduced into the House of Representatives on 26 June 2002 and was referred to a committee. Considerable debate was generated about the gold pass; it did not generate considerable debate about the issue that now has been insisted upon by Senator Abetz—that is, the definition of ‘spouse’. If the intention of this bill, introduced by the government, was about winding back the clock in relation to the definition of ‘spouse’—in other words, taking a view that I think is out of step with current thinking—then that is very sad indeed.

Senator Abetz—You don’t understand it, Joe.

Senator LUDWIG—I will take that interjection, Senator Abetz. You really do amaze me. I will digress for a second, because the view that you adopted during the committee stage, quite frankly, amazed me. The arguments that you put forward to jus-

tify why you would not include de facto spouses in the definition simply amaze me. In scratching around—almost in the dark, it appears—you came across section 53 of the Constitution. Section 53 is interesting, but I do not think it helps you one little bit, Senator Abetz. Section 53 says:

Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate.

Senator Abetz, perhaps the difficulty with your argument in the first place is that you did not read further than the beginning of section 53, but I am sure that in summation you can try to correct that. Section 53 goes on to say:

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items ...

That was exactly what was done, as I understand it. The request for an amendment was in fact made by this house to the House of Representatives. The message from the House says:

Mr President

The House of Representatives returns to the Senate **a Bill for an Act about Life Gold Passes, and for other purposes**, and acquaints the Senate that the House of Representatives has considered the message of the Senate requesting—

requesting—

the House to make an amendment in such Bill.

There is your request. There is no technical form that you had to bother about, Senator Abetz. You could have simply picked up the amendment as is and booted it through—and one wonders why you did not do this—when the bill was in the committee stage. It seems to me that you are trying to wind back the clock, as suggested by Senator Faulkner and a number of other senators on this side. I do not think that is true, is it? I do not think that is really the intention of this government.

I cannot imagine that the people on the committee who recommended the amendment—Senator Mason and Senator Brandis—really believed that they supported you in winding back the clock in relation to the definition of spouse. If they did, I would be

only too happy for them to come down and declare that to be the case, but I would be shocked and amazed to think that they would support that. It would be partisan of me to say that Senator Faulkner and Senator Forshaw would be of my view that there is no problem with amending the definition of spouse. Paragraph 3.13 of the committee report stated:

The Committee notes the widespread opposition to the proposed definition of spouse in Clause 4, Part 1 of the Bill. The Committee considers that the definition of spouse is too limited and should be broadened to reflect current mores.

There is no need for me to read any further in relation to that provision. I cannot for the life of me follow why the Howard government would want to continue to insist on the narrow definition of spouse that the committee brought to light.

The good work that committees do stretches across a number of areas. They deal with issues such as views about the legislation—they deal with matters of substance—but they also deal with technical issues alongside the thrust of the legislation they are currently reviewing, and as part of that process they throw up issues, perhaps minor issues, on which they suggest minor improvements to the legislation. Committees might also suggest issues that have perhaps been overlooked during the drafting stage of legislation. That is what I thought could have happened, Senator Abetz. That is what I thought would have been the proper answer. I did not think Senator Abetz had a narrow, old or retrospective view of the issue or a view out of touch with society as a whole. I thought the truth was more that it was simply an oversight of drafting by the government and that the committee's good work would pick it up and amend it—not a big deal—to include the broader definition of what a spouse is in modern times.

We did not find that. During the committee stage we had the debate, which I listened to. Then the House of Representatives supported this narrow view. At that point in time was it, as Senator Faulkner said, a case of wag the dog? I do not know. Stubbornness comes to mind, and perhaps nonrecognition of what a modern day act would include. It

would include a broad definition of what a spouse is, not the narrow view which is expressed in the bill. For those we can perhaps call constitutional Lilliputians, the argument dealing with section 53 of the Constitution is that this is really an appropriation that increases the annual return of revenue, which you would then have to deal with somehow. But it is a theoretical construct. We do not know, because no-one has claimed or no-one might claim. You cannot say, 'We add ten grand here,' or 'We take away five grand there.' The class is too broad to determine. It is an indeterminate class, because there might be some people going through divorce who might also have—

Senator Abetz—The class of beneficiaries has increased.

Senator LUDWIG—I do not want to go there. Other people might have different relationships and arrangements from mine. I am happily married and my wife ensures that we will remain that way. Others are in de facto relationships and are happily married. One of my best friends is in a de facto relationship—and has been so, I suspect, for the last 20-odd years—and his de facto ensures that he also maintains that relationship. There is no reason to wind back the clock—to narrow the definition. The reason really escapes me. I do not think you have stated it, Senator Abetz, and perhaps you can provide a better answer in this debate than you have to date. The class is so broad that the constitutional argument you raised before is extraordinarily weak; it is so weak that I do not think you should rely on it. If we throw that to the side and say, 'We accept that that is just not something you can really rely on'—

Senator Abetz—High Court next stop.

Senator LUDWIG—That is why I am here, Senator Abetz. That is why I have decided to come down and contribute to this debate. I cannot for the life of me understand why, in a modern world, we would try to go back to an old, narrow definition. We know that for the sake of consistency it would be far better, as the committee said, to ensure that the legislation was consistent with other legislation. This legislation is now, by the government's hand, not consistent. You have a new definition of what we would regard as

a spouse—a very narrow definition. The question that struck me was whether that would become a bit like a bushfire and start to grow and go through the whole area. The Sex Discrimination Act was passed back in 1984. Section 6 of that act prevents discrimination on the grounds of marital status as interpreted under section 4.

I do not wish to go so far as thinking that you are trying to change the 1984 act, but one wonders whether or not that is your intent. I would appreciate some clarity in respect of your view of the issues surrounding the introduction of the Sex Discrimination Act 1984. Senator Bolkus went back 12 years or so to 1990, when this definition was structured. I will go back a bit further and ask the fundamental question of whether or not you still agree with the Sex Discrimination Act of 1984. The act prevents discrimination on the grounds of marital status as defined in section 4, which says:

marital status means the status or condition of being:

- (a) single;
- (b) married;
- (c) married but living separately and apart from one's spouse;
- (d) divorced;
- (e) widowed; or
- (f) the de facto spouse of another person.

That is what it means. I do not know why you cannot rely on that definition to begin with. It beggars belief that you do not.

It beggars belief that we have to have this argument again—it has been raised since 1984 and it was clarified in 1990, yet we are now having the same debate. You are trying to progress an argument that is really made out of thin air. Firstly, you have relied on the constitutional issues—you remember Gulliver's travels, no doubt; that is what it reminds me of.

Senator Abetz—Lillipudlian!

Senator Ludwig—Yes, that is the issue. Of course, we are not really after small minds in relation to the constitutional issues. What we want is broad minds. What we want is for people to be able to look ahead and say, 'This is what society is, this is what we

should have, these are the current laws and this is the definition that fits within the framework that we accept.' We should not try and put people into a second-class category. We should not then try to wind back the clock into other areas. Why do you not come clean, Senator Abetz, and not wag the dog? Ensure that the legislation is sound and is capable of meeting the expectations that are held for it; ensure that the committee's work was well done. That is what it was all about—the main argument was had and put. Why do you not give up on this small, narrow issue that you are trying to hold on to? It does not make sense. (*Time expired*)

Senator WEBBER (Western Australia) (8.38 p.m.)—Like my colleagues Senator Ludwig and Senator Cook, I did not speak in the initial debate on the [Members of Parliament \(Life Gold Pass\) Bill 2002](#). Like Senator Ludwig I chose not to, because I saw it as being a fairly straightforward matter of extending an existing entitlement to a relationship and of recognising those relationships further down the track when it came to entitlements for those who have retired from this place. I was a little staggered to discover that in fact this issue was to be redebated and that it was proving to be a little contentious with some on the other side.

Being a relatively new member in this place, I have had cause to examine the definition of spouse contained within other entitlements and other legislation. Like others who have spoken before me, I should also declare my interest in that I do not have a spouse—de facto, married or otherwise. I am actually single. I do not even have a spouse who cannot be recognised under existing legislation. It remains to be seen whether I would ever qualify for something that came remotely close to a life gold pass. However, in having a look at the entitlements that those of us who are members of this place can access, I became acquainted with the access that a spouse would have to certain travel and other entitlements. I presume that the thinking behind that was about the support the person who you are in a committed relationship with gives you in fulfilling your public duties and about the somewhat arduous role that we get to fulfil in this place.

When I examined this more closely, I realised that there was in fact even more flexibility when it came to the spouse travel entitlement. Because I do not have a legally recognised spouse, I would actually be able to transfer that entitlement to another member of my immediate family. So it would seem that, when you are a participating member of this place, there is enormous recognition of the contribution that spouses and other immediate family members make to the conduct of your duties and of the support that you need from them. There is indeed quite exceptional flexibility in the way that we interpret the provision of those entitlements.

You accept that, as you carry out your day-to-day operations while you are here as a member of this place, but you can then look further at, say, retirement. Section 4B of Parliamentary Contributory Superannuation Act says:

For the purposes of this Act, a person had a “marital relationship” with another person at a particular time if the person ordinarily lived with that other person as that other person’s husband or wife on a permanent and *bona fide* domestic basis at that time.

The section goes on to talk about qualifying periods for that. It says that in some cases it is three years and in other cases it is taken as being five years. It talks about when that time actually commences. Section 4B(ii)(b) goes on to say:

... the person had been living with that other person as that other person’s husband or wife for a continuous period of less than 3 years up to that time ...

It talks about the trust looking at relevant evidence so that it can form an opinion as to whether it was a genuine relationship, and then it says:

.. that the person ordinarily lived with that other person as that other person’s husband or wife on a permanent and *bona fide* domestic basis at that time;

whether or not the person was legally married to that other person.

So it would seem that, if you are an existing member of this place, there is flexibility about the relationship definition in terms of spouses accessing entitlements. That flexibility does not extend to Senator Greig’s

particular circumstances, but, as I said, it does allow me to extend the entitlement to a member of my immediate family, because I do not have a partner.

The act then talks about accessing retirement incomes and we have a fairly flexible definition of spouse there—you do not have to actually be legally married. As Senator Ludwig said, when this original legislation was considered by the Finance and Public Administration Legislation Committee there was considerable debate. The committee’s report goes into some detail about the significant opposition from the community to the proposed very narrow definition of spouse. Indeed, they say in their report:

The Committee notes the widespread opposition to the proposed definition of spouse in Clause 4, Part 1 of the Bill. The Committee considers that the definition of spouse is too limited and should be broadened to reflect current mores. The Committee also notes that, while in accord with the definition applied by the Remuneration Tribunal—

and therein lies a bit of the problem—

the definition is inconsistent with that in the Parliamentary Entitlements Act 1990.

Surely it would make a great deal of sense if we had one consistent definition of what a relationship was and what a spouse was throughout the entire consideration of our entitlements as members of this place. After all, we have a very consistent definition of what a spouse or a partner is within the other pieces of government legislation.

One of the other causes for concern that I have when considering this legislation is that, whilst I accept this legislation is framed to address some fairly recent concerns about the administration of entitlements and to address some community concerns about some fairly untoward happenings in certain circumstances, it seems to me that it is important to have legislation like this that outlines a framework for the future—that actually deals with the people that are likely to be contributors to and members of this place in the future and with the basis their relationships are likely to be on.

As has been mentioned earlier in this debate, nationally *de facto* couples make up almost 10 per cent of all persons living in

couple type relationships. In Western Australia that percentage is even higher, with 12 per cent living in a de facto type relationship. So, of the, say, 408,000 couples in WA presently, 12 per cent of them are living in a de facto relationship. Further analysis of those statistics shows that there is, as has been mentioned before, a much higher proportion of de facto partnering in younger people. Of all the de facto partners in 1997, 56 per cent were aged 20 to 34. The next highest percentage was in the adjacent age group of 35 to 39. We are seeing an increasing number of younger people coming into this place and we accept that young people are more likely to form de facto style relationships than more traditional marriage relationships. We are seeing the entrance of younger people like Senator Nettle and Senator Payne into this place. In fact, even I fit into the second age cohort mentioned there—only just, these days! Well, I do have two years to go. It would seem to me that it is ridiculous for us to set out to frame legislation that has a very strong chance of excluding 50 per cent of people's relationships. It is just ridiculous to set out to deliberately try and pass legislation that will exclude more and more members of this place.

As I have mentioned before, most other government legislation in fact has a fairly straightforward recognition of a relationship and of what a spouse is. Even our Department of Defence is more than happy to recognise that a spouse in relation to an employee includes a de facto spouse. A de facto spouse in this case—and this will not suit Senator Greig—means a person of the opposite sex to the employee who lives with the employee as the husband or wife of that person on a bona fide domestic basis. As has been mentioned before, Immigration takes that definition of a relationship into account when considering people's eligibility to come to this country. The Commonwealth's own superannuation scheme—used by those who are employed by people in this place—accepts that a spouse can actually be a de facto spouse. It says, in defining who can access benefits after a member of the scheme has died, that a spouse who survives a deceased person is defined as a person who was in a marital relationship with the de-

ceased person at the time of the person's death, and that a marital relationship means ordinarily living with another person as that other person's husband or wife on a permanent and bona fide domestic basis. So for people that are employed by members of this place it is very clear, in terms of them accessing their entitlements, that a de facto is included as part of the definition of a spouse. In social security law, when it comes to determining people's ability to access government benefits the government has absolutely no problem in accepting the definition of a de facto spouse and including a de facto as a bona fide partner.

In my own state of Western Australia, we have just been through quite a detailed process—as Senator Greig would be aware—of reviewing all of our laws to make sure they incorporate people's partnership arrangements. Whilst I accept that extending these to same sex relationships causes some concern to those opposite, they have no trouble accepting heterosexual de facto relationships in other pieces of their legislation, as I have outlined before. My state in fact now accepts a de facto partner in all forms of its legislation. I will go through some of the more interesting examples that they had to consider. A de facto partner who is aged 18 years or over will now have the same rights as a spouse, under the Anatomy Act 1930, to prevent anatomical examinations of a person who has died. Under the Workers Compensation and Rehabilitation Act 1981, a surviving de facto partner of a deceased worker will now have the same access as a surviving spouse to compensation payable in respect of death. An official visitor appointed under the Mental Health Act 1996 will now have a disqualifying interest in respect of a particular association or organisation if that person's spouse or de facto partner has a financial interest in that association or organisation. Under the Judges Salaries and Pensions Act 1950, a surviving de facto partner of a judge who has died will now have the same entitlements to that judge's judicial pension as a surviving spouse of a judge. If we can actually address this kind of reform for the judiciary and for all of the employees of the Commonwealth—and therefore for all of those that are employed by members of this

place—it seems to me appropriate that that definition of a spouse should apply to all entitlements for the members of this place as well.

Senator ROBERT RAY (Victoria) (8.52 p.m.)—I will not speak for terribly long on the House of Representative's message relating to the **Members of Parliament (Life Gold Pass) Bill 2002**. Also, I apologise to the other speakers in this debate because, as I have been at a committee meeting, I have missed their contributions. I find the government's attitude on this a little strange. The definition of spouse as it currently applies to gold pass holders is completely different to the definition that is in the Parliamentary Entitlements Act. It seems to me to be absolute commonsense to bring them in line. As I understand it, at the moment if you are a member of parliament and you are in a de facto relationship, your partner can be your nominee for travel to Canberra, for interstate travel and possibly even for overseas travel. If that is the case, why would you want to draw the distinction just for the gold pass use?

We know that there will always be anomalies in the system. We know that there are problems in the way that parliamentary entitlements are currently administered because they are administered partly by the Remuneration Tribunal, the Senate and the Department of Finance and Administration. No-one is particularly happy with these divisions because there tend to be overlaps and differences in definitions et cetera. I notice that the Senate Finance and Public Administration Legislation Committee did consider this issue at some length and came down with a unanimous view that we should take up the definition of spouse that is in the Parliamentary Entitlements Act 1990. I do not hold any member of parliament to the views that are in this report as to the views that they put in this chamber. We all go to party meetings, and in the mix of debate there they are entitled to accept a majority view. But this committee did come down with that as a recommendation and a considered position.

What are the arguments put against this? The only ones I know of are those that I have read about in the paper. It is argued that in

this legislation we are increasing an entitlement. But the legislation is basically about reducing entitlements. To clean up this anomaly now rather than hope that maybe the Remuneration Tribunal will get around to doing it in one or two years time seems too obvious an opportunity to miss at this stage. I do not know what extra expenditure would be involved—I cannot give a calculation to the chamber—but it would not be much. I am the third gold pass holder to speak in this debate from the Labor Party side of the chamber and, as far as we know, none of us are going to trouble the starters with this new definition. We are all married. I make no further comment as to the status of our marriages, but it is almost certain that we will be taking our de jure—

Senator Conroy interjecting—

Senator ROBERT RAY—I thought you might! We would be taking our de jure wives with us if we ever accessed the gold pass. Therefore there is absolutely no self-interest at all. I assume that is the same with esteemed Temporary Chairman Watson in the chair here tonight. Not everyone is in our position; that has to be acknowledged. Not everyone is in the same circumstances. Life, its variations and its ducking and weaving mean that some people end up in a de facto relationship rather than a de jure relationship. I do not want to pass judgment on them here tonight. This particular amendment, if it does not get up, sees a judgment being passed in some form on them. It is not necessarily a moralistic judgment, but I do not see why we should try to distinguish between the two here when we do not distinguish between them in a whole range of other legislation. If we were coming in here tonight and asking for special treatment, we would be entitled to be knocked back. Some people have mounted a very strong argument that same sex couples should be included here, but they are not included, in general, in the Parliamentary Entitlements Act, and therefore we do not seek to have it as a special case included in this piece of legislation.

I take the government at its face value: I assume there are no other agendas here. Its one objection is that it might increase expenditure. Expenditure is expenditure—I under-

stand that. But if the department is looking for some savings, we could all make some suggestions in relation to parliamentary entitlements. For instance, the House of Representatives printing entitlement is \$18 million a year. I do not blame this government for that, by the way. This is as much a Labor scheme as a Liberal scheme; there is no question about that. If we are looking to make big savings, stopping the output of \$18 million or \$19 million worth of self-serving propaganda—and that is about all it is these days—will fund a lot of de facto travel. In fact, it will fund it 20 times over in all probability. So I do not accept the argument that in some ways we are trying to—and I do not think it is alleged that we are trying to do it through a backdoor or any other method—increase expenditure. That has never been the intention. None of us could calculate the actual amount of increased expenditure because we do not know the marital status or otherwise of our former colleagues. In fact, I do not even know it of some of my current colleagues; I never ask them. But, in my guesstimate, it is not going to be a large amount of expenditure.

I believe the opposition and other parties in this chamber are right to press this particular amendment to the bill, and I hope the government can accept that. Also, I hope they think we are approaching this in good faith rather than just as some sort of snout in the trough approach, which I really do not think it is. And I do not think the all-party committee approached it in that particular way. They saw it as a perfect chance to rationalise. Normally we would not legislate on things such as the gold pass. But the government have seen fit to do so for the proper reason of wanting to bring it into line, especially in terms of corruption, with community standards and the superannuation bill of 1989. They are also taking the opportunity to cap the entitlement at a reasonably generous level. We all agree with that. We are so close to agreement on these matters, it is a pity that this particular issue cannot be resolved. But we do persist because we believe it is justice for all partners.

Why have partner travel at all? It has always been regarded as one of the supporting

factors in either current or post political life. As you know, spouses, partners, are allowed nine trips to Canberra a year and three interstate trips. But we go further. For ministers we allow spouses unlimited travel with their husbands or wives who are ministers, because we recognise the valuable role these people play—in an unpaid capacity, I might add. How often do you hear a minister's wife thanked or praised for the selfless work that they put into community projects and to supporting their wife or husband in their political career? You never hear any praise at all. Many partners make enormous sacrifices. To say afterwards, 'The former minister or member of parliament can travel and you can't,' just because there is a de facto rather than a de jure relationship, does not make sense to me. I do hope that, at some stage, anyway, the government will take those views into consideration.

Senator ABETZ (Tasmania—Special Minister of State) (9.00 p.m.)—The House of Representatives has considered the request of the Senate to amend the definition of 'spouse' in the *Members of Parliament (Life Gold Pass) Bill 2002* and has not made the requested amendment. It is important, the request having been considered, that the Senate now conclude its deliberations and pass the bill without further delay. The bill seeks to limit the expenditure from the public purse by life gold pass travel. It has numerous provisions to enhance the integrity of the arrangements to increase transparency and accountability and, importantly, to require forfeiture of the pass in the event of a conviction of a corruption offence.

Further delays in the passage of this legislation will mean that these significant improvements are delayed or even put at risk. It seems that those opposite are willing to block forfeiture of the life gold pass on corruption conviction for the sake of increasing the cost to the public purse. It is very important in considering the definition of 'spouse' to recognise—and I would invite those opposite who have made what I kindly describe as uncharitable comments—that travel on the pass has only ever been available to holders, their legally wedded spouses and widows, so all this talk about winding back the clock is

false and is being used to make a personal attack on the basis of someone's alleged religious beliefs.

The thrust of the bill is the recognition of community concerns to limit the benefits available under the pass, not to expand them. Labor's amendment would include both a de jure and a de facto spouse. It follows that it would also include both a widow who had been the de jure spouse and a widow who had been the de facto spouse, and it raises issues of definition of what constitutes a genuine domestic relationship and duration. Given the current amendment, those issues are not resolved. It is for Labor to prosecute their amendment or their request. The various problems associated with the definition could be resolved if Labor were genuinely interested, but their existence points to the inappropriateness of debating the acceptability or non-acceptability of de facto relationships in the context of the consideration of this bill. Can I simply repeat: the life gold pass has never extended to de facto relationships, and it is the government's view that it is not the time to move to do so. It is not the time because, as explained earlier, the bill is about capping and limiting the entitlement, not about expanding it.

It is interesting that this definition of 'spouse' for the life gold pass has been in place since 1976. So much for Senator Bolkus's quite outrageous contribution earlier this evening! He presided as minister over this regime. He told us proudly how he had amended certain legislation, but for some reason he never felt motivated to change this definition. I put it to you that was for very good reason, because it was a decision of the Remuneration Tribunal, now standing since 1976. In the 13 years of Labor government, did Labor once seek to move to change that definition? No, they did not. Since being in opposition, have they written to the Remuneration Tribunal asking for a change? As I understand it, no, they have not. Yet all this affected righteous indignation, that was personally directed at me, just falls flat and is exposed as so shallow and hollow when you understand what the true facts are. The definition has stood since 1976; Labor never did anything about it in

13 years in government and, in six years in opposition, never approached the Remuneration Tribunal to change its own definition. Indeed, legal advice was received in 1992—whilst Labor were still in government—which pointed to the distinction made by the tribunal between the definition in the Parliamentary Entitlements Act and the life gold pass where no such reference to the definition of spouse is made.

The Labor government got that advice, but they did not move. Was that because some mad religious zealot was controlling the Australian Labor Party, or somebody who professes the Christian faith? I do not think so. Those quite ill-considered attacks earlier and later on this evening were, I believe, unjustified. More importantly, they just do not stack up when you are actually apprised of the history and have some knowledge about the matter. Can I say to my friends in the Democrats and the Greens that it is somewhat amazing that they beat their chests and say, 'The life gold pass should be abolished—but just in case you do not abolish it, we want to ramp up the entitlements under it.' That really is a bit of a conflict. It is very two-faced. You go out to the public and say, 'We champion the cause of abolishing the life gold pass. Damn those nasty big parties; they kept it—but now we will help support ramping up the benefits that come from it.'

I suggest to Senator Cook that it is time for him to consider another career. If he honestly believes that a double dissolution would be something that would excite the people of Australia on the issue of ramping up the life gold pass entitlement, it is a case par excellence of where the Labor Party and a leading luminary such as Senator Cook have simply lost touch with reality. If the Senate continues to insist on this request, it will be telling the Australian people that increasing the benefits under the life gold pass is more important to them than taking it from those people that have been convicted of corruption offences. That is what the Labor Party vote, the Democrats vote and the Greens vote will undoubtedly do.

Mr Temporary Chairman, you were fortunate not to have been in the chamber earlier

when senators opposite conveniently used the debate around this bill for a personal attack on me based on what they believe are my religious views. If they are genuinely interested in knowing what my religious views are, I would be happy to have a cup of coffee with them and discuss the subject. For the benefit of Senator Faulkner, Senator Cook and Senator Bolkus, I will not be screaming at them, pointing with my finger and using the sort of intolerant and intolerable language that they used. It is a bizarre thing that those who preach tolerance are so often the most intolerant within our community. They know in their hearts that they twisted and distorted the debate on this matter to enable the vilification of what they think may be my Christian beliefs.

As you would know, Mr Temporary Chairman, we all bring our views. It was very interesting to observe one of the honourable senators opposite, finger waving, saying, 'Don't you impose your morality on me!' Of course, what they were doing was seeking to impose their morality into the discussion. We in the Liberal Party are a broad church. We have atheists; we have those of the Christian faith; we have people of other faiths. As honourable senators opposite know, when you have government legislation it goes through all the systems of the backbench committee, the party room, cabinet et cetera.

As for the suggestion that I could somehow intimidate my leader, the Prime Minister, and others, I must say I was truly humbled. I confess to nearly being flattered that those opposite should believe that I have so much power and sway. I was always warned about sweet-talkers so I do not really believe them. I was truly humbled also that those opposite believe my faith informs so many of my decisions and so much of my behaviour. Sometimes I wish it were so but, unfortunately, the reality is something less than what I think honourable senators opposite sought to portray.

Senator Bolkus made a contribution. The simple question is: whilst he was minister, why didn't he seek to change the definition of the 1976 interpretation by the Remuneration Tribunal when he introduced the Parlia-

mentary Entitlements Act? It will be interesting to hear what he says. Senator Bolkus accused me of 'blind morality', 'prejudice' and finger pointing. He made attacks on my religion and said I had a 'distorted mind' and was a 'lunatic'. Then there was this fanciful notion that I talked about menage a trois. No, I did not. What I did point out was that under the Labor Party definition you could potentially have both the married spouse and the de facto spouse gaining an entitlement. I thought that was a flaw in their amendment. It was a Labor amendment. They need to prosecute it. They have failed in its definition. The interesting thing is that not one of them attacked the legal point that I made that it would allow for this possibility.

I said during the second reading debate that it would take a braver man than I to try to pull such a stunt. That is what I indicated at the time, but I pointed out the legal flaw. It has not been addressed and the Australian Labor Party instead seek to avoid that fundamental issue of the legal drafting by pouring scorn on what they believe my religious beliefs may be. We were told that we were pressing the rewind button on social engineering. Well, excuse me, but this definition has been in place since 1976. The bill incorporates the definition as it has stood—no winding back of the clock, just a faithful transportation of the definition into the legislation, because this bill is not about increasing entitlements, it is about reducing them.

Senator Cook behaved in a similar manner to Senator Bolkus. I think they both got their lead from Senator Faulkner. I have in fact asked Hansard for a copy of that tape. I will review it and chances are I will be circulating it around many communities within Australia so that people can see the behaviour of the Leader of the Opposition in this place towards people who he believes or suspects have certain religious views. I will then allow him to go out on his soapbox, put his hand on his heart and say, 'I am against racial and religious vilification. I am against discrimination of any sort whatsoever.' His behaviour in this chamber earlier tonight portrayed his true character and I will be interested to see what the Australian commu-

nity's reaction is to such outrageous behaviour. We have Senator Cook in a great dilemma. He said, 'The government thinks it is on a winner,' and then in the next breath he told us that this is some right wing reactionary approach, all the time attacking me personally and then saying, 'We need a sensitive approach to our fellow citizens.' Senator Cook, your actions speak a lot louder than your words; in this case, your actions were in fact your words in this place.

A lot of other senators made contributions. In relation to Senator Ludwig, I had real ambitions for him as one day possibly being a judge, but his legal capacities unfortunately let him down this evening. There was no winding back of definitions, just a straight importing of the definition from the Remuneration Tribunal. As for the section 53 situation, I say to him that greater legal minds than mine were at work on that. There was solid and very strong advice from the Australian Government Solicitor; I had not even thought of the flaw and, of course, Senator Faulkner changed his amendment to a request, which is the way that it ought to go. The fact that the Labor Party picked it up would suggest that I was right in the first place.

In the few moments remaining, I invite the leadership group of the Labor Party in the Senate to have a look at how Senator Webber and Senator Ray approached this debate. They clearly disagreed with the government but they did it with integrity, without the need for personal attack. They played the issue, not the personality. (*Time expired*)

The TEMPORARY CHAIRMAN (Senator Watson)—The question is that the Senate does not press its request for an amendment.

Question put.

The committee divided. [9.21 p.m.]

(The Chairman—Senator J.J. Hogg)

Ayes.....	31
Noes.....	<u>33</u>
Majority.....	2

AYES

Abetz, E.	Alston, R.K.R.
Barnett, G.	Boswell, R.L.D.

Brandis, G.H.	Calvert, P.H.
Chapman, H.G.P.	Colbeck, R.
Coonan, H.L.	Eggleston, A.
Ferguson, A.B.	Ferris, J.M. *
Harradine, B.	Harris, L.
Heffernan, W.	Hill, R.M.
Johnston, D.	Kemp, C.R.
Knowles, S.C.	Lightfoot, P.R.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J.	Minchin, N.H.
Payne, M.A.	Reid, M.E.
Scullion, N.G.	Tchen, T.
Tierney, J.W.	Troeth, J.M.
Watson, J.O.W.	

NOES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Brown, B.J.
Campbell, G.	Cherry, J.C.
Collins, J.M.A.	Conroy, S.M.
Cook, P.F.S.	Crossin, P.M. *
Evans, C.V.	Faulkner, J.P.
Forshaw, M.G.	Greig, B.
Hogg, J.J.	Hutchins, S.P.
Kirk, L.	Lees, M.H.
Ludwig, J.W.	Lundy, K.A.
Mackay, S.M.	Marshall, G.
McLucas, J.E.	Moore, C.
Murray, A.J.M.	Nettle, K.
O'Brien, K.W.K.	Ridgeway, A.D.
Sherry, N.J.	Stephens, U.
Stott Despoja, N.	Webber, R.
Wong, P.	

PAIRS

Campbell, I.G.	Bolkus, N.
Ellison, C.M.	Buckland, G.
Patterson, K.C.	Ray, R.F.
Vanstone, A.E.	Carr, K.J.

* denotes teller

Question negatived.

Senator Denman did not vote, to compensate for the vacancy caused by the resignation of Senator Herron.

Resolution reported; report adopted.

BUSINESS

Rearrangement

Senator ABETZ (Tasmania—Special Minister of State) (9.24 p.m.)—I move:

That intervening business be postponed till after consideration of government business orders of the day No. 5, Plant Breeder's Rights Amendment Bill 2002, and No. 6, Bankruptcy Legislation Amendment Bill 2002.

Question agreed to.

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

Second Reading

Debate resumed from 29 August, on motion by **Senator Patterson**:

That this bill be now read a second time.

Senator CHERRY (Queensland) (9.25 p.m.)—I rise to speak to the **Plant Breeder's Rights Amendment Bill 2002**, as it is an important bill before the Senate. The purpose of the bill is to clarify the property rights of plant breeders when restrictions on the sale or propagation of new plant varieties are imposed. The bill is underpinned by the International Convention for the Protection of New Varieties of Plants 1991.

The bill amends the existing Plant Breeder's Rights Act 1994, which established intellectual property rights for plant breeders, giving them the opportunity to commercialise new varieties through the right to disallow specific activities—production, reproduction, conditioning, sale, import, export and stocking—in relation to those plant varieties. The bill amends current section 18, which provides that authorisation from the breeder is not needed for activities that enable propagation of the material for use as food or fuel. The government claims that section 18 is being misused for commercial purposes and that this is contrary to the original intention of the act, which was to provide plant breeders with an opportunity to gain reward for their innovation. The new provision will allow a breeder to exercise their right of authorisation except where the right is restricted by legislation. When such legislation restricts the rights of a breeder, equitable remuneration must be paid to the breeder.

One of the underlying assumptions of the original bill and the amendment bill is that 'innovation in plant breeding serves the public interest'. The history of the bill and the subsequent evidence of biopiracy in Australia make it clear that there is a contrary story: innovation in plant breeding should serve the public interest, should provide benefits to the broader Australian community and should not form the basis for corporate control over

plants and plant varieties that belong in public hands, that are the product of traditional uses. But it does not always happen.

The Australian Democrats have a long history of concern regarding the original Plant Variety Rights Act. The proposed amendments that follow reflect some of those concerns and some more contemporary issues as well. On behalf of the Democrats, my colleague Senator Ridgeway will be moving to entrench the rights of Indigenous Australians to benefits flowing from native plants under the plant breeders rights scheme. The plant breeders rights scheme has failed to address and prevent one of the biggest issues relating to plants and plant rights in Australia: biopiracy. This scheme allows tests of new varieties to be conducted by employees of the applicant, limits objection to new plant varieties and makes objection difficult and expensive, and fails to provide any rights for Aboriginal communities—even if the plant is originally discovered on their land.

Evidence suggests that many plants are being granted an exclusive right under the act although they are not significantly different from plants discovered in the wild. Four years ago, Australia was cited as having the worst record of any industrialised country for biopiracy, responsible for 80 per cent of the documented cases of dubious plant variety claims by the Canadian based Rural Advancement Foundation. Yet little has changed, and biopiracy, including the patenting of plant learning acquired through generations of Indigenous people, continues. Sometimes the legislation is not properly followed, the tests are not sufficiently stringent or the applicants simply disguise the source of the plant variety.

While Indigenous communities are not the only group affected by this act, their rights and their traditional relationship with the land are being widely ignored in this legislation. The Democrats are proposing amendments that will reduce the chances of biopiracy from Indigenous land and increase the capacity of the Indigenous community to object when biopiracy is occurring. We will also be moving to add Indigenous representation to the advisory committee that pro-

vides expert advice to the minister. Currently, Indigenous and conservation interests are not represented on the committee at all. While encouraging innovation and new commercial varieties is fully supported by the Democrats, legislation that gives rights to one group by denying others is not acceptable.

The Democrats will also be moving to insist on full cost-benefit analyses of genetically modified crops before their promoters can obtain a plant breeder's right benefit from them. A major report on genetically modified crops, released last month by Britain's respected Soil Association, has found that the economic benefits are lower and the costs much higher than earlier expected. This report shows that GM crops have cost American producers around \$12 billion since 1999 in lower crop prices, loss of major export markets and product recalls. Australian governments need to consider this report's conclusion that GM crops have delivered 'few, if any, economic benefits promised to farmers' and would reduce the competitiveness of British agriculture.

Australia, like the US, has been one of the countries most devoted to the introduction of genetically modified crops. This report is only the latest in a series of recent damning and damaging studies into the effects, impacts and dangers of GM crops. Others have included the Australian Grain Harvesters Association expressing deep public concern at the potential costs to their industry of introducing genetically modified crops against the wishes of many farmers who will not want machinery shifting between GM and GM-free farms; and a British medical report on possible health implications of GM crops, including the potential reduction in the effectiveness of antibiotics to fight diseases such as meningococcal.

We already know the dangers of GM plants contaminating organic crops and wild species, a danger the Soil Association confirms. We already know that major multinationals are willing to take farmers to court, even if their use of GM plants is accidental—and I will be moving an amendment on that issue later on. The Democrats will be moving to make sure that the full economic

costs of genetically modified crops are considered before approvals are given under the plant breeders rights scheme. This is essential because the Office of the Gene Technology Regulator, currently considering two applications for genetically modified canola, will only consider scientific issues. The economic aspects of an approval have simply not been considered in the process.

Our approval system also needs to ensure that economic issues are fully considered to ensure that Australia can avoid the mistakes that have been made in North America to the economic cost of US and Canadian farmers. This task appears to have been left to industry bodies. However, the Democrats do not believe this is good enough. The Democrats argue that the key body that will be advising the ministers on the economic aspects of, for example, genetically modified canola, the Gene Technology Grains Committee, is fundamentally flawed and needs restructuring, and indeed is asking the wrong question.

The committee, in seeking to establish the lowest cost, lowest risk segregated industry framework to deal with GM and GM-free grains, has failed to ask the key question of whether separate systems are viable or could ever be cost effective in comparison with the alternative of no system at all. This is not surprising, given that six of the committee's members represent multinational agribusiness proponents of GM crops, including Monsanto and Aventis, who currently have applications for commercial release of GM canola lodged with the Office of the Gene Technology Regulator. It would be a serious public policy failure if state governments acted on the advice of an 'expert' committee that was so clearly stacked in favour of a pro-GM point of view.

Key export markets like the European Union reject GM-free produce with contamination rates as low as one per cent. It will be impossible, or prohibitively expensive, to maintain fully separate cultivation, harvesting and grain-handling facilities to eliminate the risk of contamination. The Gene Technology Grains Committee draft framework concedes this, committing only to 'work to prevent' unintended mixing of GM grains

rather than the elimination of such risk. The framework also makes it clear that:

... participants in one supply chain are responsible for implementing measures that prevent their activities from unduly interfering in the operation of another supply chain.

This appears to imply that GM-free farmers will be expected to bear much of the cost of keeping their farms GM free rather than the proponents of GM crops bearing that burden. The costs of separate farming systems for GM and GM-free crops has been estimated by European Union researchers as the equivalent of one to 10 per cent of the harvest returns. It is for these reasons that the Democrats believe Australia needs to conduct a full cost-benefit analysis before approving any GM crops for commercial release.

In conclusion, this debate will be an important debate for the Senate. With the Gene Technology Regulator's approval of genetically modified canola only months away, these amendments are essential to ensure that the approval process deals with economic as well as environmental and scientific concerns. Similarly, the amendments to do with the rights of Indigenous people are essential to avoid major problems in the current plant breeders rights scheme getting considerably worse in the area of biopiracy.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (9.34 p.m.)—The fundamental policy intent of the Plant Breeder's Rights Act 1994 is to promote investment in plant innovation, and as such it has bipartisan support. The debate on the [Plant Breeder's Rights Amendment Bill 2002](#) has canvassed a number of matters that are not related, or are only distantly related, to plant breeders rights.

The International Treaty on Plant and Genetic Resources for Food and Agriculture is an important issue for Australia. The process of consultation in relation to whether Australia becomes a party to the treaty is in progress, and the matter will be debated in the parliament in due course. Similarly, the approach of this government to gene technology issues is to implement coordinated regulatory and policy responses that address

the broad range of issues and interests affected by gene technology; for example, to provide progressive and timely information to farmers to facilitate choice against the background of the time frame that applies to the consideration by the Office of the Gene Technology Regulator of applications for the commercial release of GM canola and the seasonal and cropping cycles followed by farmers.

The amendments proposed by the Democrats are not the subject matter of the bill. In addition, they are not particularly well considered. They fail to recognise that the Plant Breeder's Rights Act represents world's best practice through its basic principles, that the scope of the act is limited, that it coexists with other legislation and that the exercise of PBR rights is regulated by such legislation. In a similar vein, issues of economic loss relating to contamination of non-GM crops are not PBR matters and are appropriately handled within the established principles of common law and the courts.

Appointment to the Plant Breeders Rights Advisory Committee is non-discriminatory and is based on merit. Appropriately qualified and experienced persons from any category are currently eligible to apply for appointment. The government is not willing, at this time, to accept proposals to amend the bill to ensure that membership provides specifically for conservation and Indigenous representation, as this is unnecessary.

To return to the focus of our considerations, continued plant innovation is the key to Australia's international competitiveness in agricultural industries and to higher standards of living. The legislation provides the right environment for promoting technology transfer critical to Australia's access to new plant varieties. Increasing registrations of plant intellectual property confirm that the PBR scheme is performing well and doing the job it was intended to do. The government's amendments do not change the underlying intent of the act and they maintain the balance between public interest considerations and the exclusive rights granted to breeders. They are also consistent with Australia's obligations under the multilateral treaty on which the PBR Act is based—that

is, the International Convention for the Protection of New Varieties of Plants, UPOV 1991.

Overwhelmingly, the amendments are routine administrative improvements promoting access to, and efficient operation of, the PBR scheme. Plant breeders rights is essentially a registration system of the ownership of intellectual property in plant varieties and coexists with other laws of the land; to that extent, it is subject to those laws. For example, if coexisting legislation prevents the export of a particular plant variety, noxious or otherwise, or prohibits the release or use of a GMO plant variety, the PBR grantee is subject to that legislation. The amendments do not change these fundamentals.

The government has explained the uncertainty that exists in relation to the current section 18 of the legislation. Importantly, there is broad support for eliminating the potential for disagreement about the operation of the current section 18. By deleting section 18 of the act, we remove uncertainty, promote investment in plant innovation and better align the act with UPOV 1991. Public interest concerns related to preventing limitations on how propagating material may be used are picked up under section 49, which empowers the minister to set conditions related to existing and proposed PBR grants. There is also general support for a new section 18 clarifying that, in limited public interest circumstances, an innovator's exclusive rights may be restricted, subject to the payment of equitable remuneration. The amendment provides that when other laws of the land restrict the normal exercise of plant breeders rights, and when such legislation authorises a person to do an act that would normally be subject to the plant breeders rights owner's right of disallowance, equitable remuneration must be paid. For example, the amendment will ensure that statutory marketing authorities are able to exercise their legally enforceable rights regarding exports and that plant breeders rights owners will receive remuneration if their rights are restricted as a consequence. This restriction is entirely consistent with public interest considerations and with international best practice, as exemplified in UPOV 1991.

Explanatory material and statements made upon the introduction of bills into parliament relate to the government's policy regarding the future operation of legislation and are intended to promote understanding regarding the policy intent of proposed new legislation and the rationale for proposals. In explaining its policy to resolve any uncertainty in respect of the act's operation, the government's concern is to ensure that the future operation of the act accords with the policy that underpins it. Needless to say, the government does not expect to effect the course of any litigation pending or in progress.

The proposed amendments have been through a long gestation period, reflecting the extensive consultation that has taken place. I am pleased to confirm that there is very broad support for the amendments. That support underpins the intent of the legislation, which I repeat is to promote investment in plant innovation. All Australians will share in the benefits of such innovation. I commend this bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator RIDGEWAY (New South Wales) (9.42 p.m.)—I want to make a few comments in relation to the [Plant Breeder's Rights Amendment Bill 2002](#) prior to the amendments being moved. I apologise to the chamber and to Senator Troeth for my lateness. I had not realised that the debate was to occur in the way it has. I want to speak to the amendments, and I note the comments made by my colleagues Senator Cherry and Senator Troeth. In particular, I want to focus on amendments that relate to the cultural and intellectual property rights of Aboriginal people and Torres Strait Islanders and to acknowledge for the record the expert input we have had from people working in the field, particularly at the national and international levels. I want to make special mention of Henrietta Fourmile-Marrie, an Aboriginal woman who works with the Conference of Parties to the Convention on Biological Diversity and who has written extensively on

Indigenous property rights, and Ms Terri Janke and Mr Michael Davis.

In particular, I am concerned about some of the key things that I think are absent in relation to Indigenous issues and intellectual and cultural property rights and I will raise them in the committee stage. Essentially we will put forward a series of amendments that seek to try to extend the legislation to recognise and protect the rights of Indigenous people, as we did in the Copyright Amendment (Moral Rights) Bill in 2000. At that time, the government gave us some guarantees that they were going to respond with legislative protection. They did in writing but, in terms of practical action, that is yet to be seen.

The amendments that we would want to put forward are in relation to Indigenous intellectual property in plants and seed varieties. Both parties have on many occasions translated in their Indigenous affairs policies a commitment to that, but it does come down to looking at the appropriate amendments being put forward to back that up—in particular, the protection of Indigenous knowledge that relates to location and characteristics of native plants and seeds, the medicinal and nutritional value of a wide range of native plants, the processes to extract and apply active ingredients, and sustainable land management practices that ensure ongoing access to native plants. Given the government's and the opposition's previous commitments, I fail to see how the Democrat amendments will not assist a lot of Indigenous communities to become key players and stakeholders as they should be in this issue.

I want to bring to the Senate's attention the issue of biopiracy in Australia. Recent research by the Rural Advancement Foundation International singles out Australia as the only state whose abuses are so pervasive as to render it a predator for commercialisation of plant varieties over which other countries claim ownership. RAFI's report on plant piracy examined 147 claims, and a staggering 115 of those originated in Australia. The report details some 35 instances where intellectual property claims in relation to Australian native species have been granted or are pending. The key thing there is that a direct

relationship with the knowledge and intellectual property rights held by Indigenous people concerning their cultures and the increasing pressure from biopiracy is well founded, particularly when we consider how that has played out in a global context. More than half of the world's pharmaceutical drugs are based on indigenous knowledge. It has been estimated that the annual world market for medicines derives from medicinal plants discovered by indigenous peoples. In the US it is valued at \$43 billion. So, in many respects, this debate is short-sighted because very few Indigenous communities are seeing any of the real financial benefits that flow from the commercialisation of their knowledge. It is something that the representative of the government may wish to take up and give some form of response.

There is also growing pressure to access and exploit indigenous knowledge and resources for commercial purposes, and that has serious implications for the future integrity of indigenous cultures—particularly the ability of those cultures to survive the onslaught of global commercial pressures. We now find ourselves in a totally unacceptable situation where Indigenous traditional knowledge claims in this country remain unprotected and, to a significant extent, unenforceable. There is not any legal recognition of the collective and individual nature of Indigenous intellectual property, the ongoing permanent nature of the laws and customs, the often secret nature of how that information is held and the right of Indigenous people, through their custodians, to share in some of the benefits, despite the findings of the High Court in native title where it talks about recognition of the interwoven relationship between Indigenous property rights and cultural law and practice.

The final thing that I want to say is that, whilst my colleague Senator Cherry will be dealing with most of the amendments, the amendments being put forward very much reflect the biodiversity draft regulations—the principles that we put forward during the debate on the Environment Protection and Biodiversity Conservation Act—which were to give effect to Australia's obligations under the CBD. The draft regulations deal with the

rights of Indigenous people in relation to access to and use of genetic resources and also with being able to respect, preserve and maintain knowledge, innovation and practices of Indigenous communities and to encourage the equitable sharing of benefits arising from the utilisation of that knowledge. So there is an opportunity to take this further, but I think the legislation has been drafted in a very narrow form, and unfortunately the debate does not go far enough.

In closing, I want to emphasise that, whilst it is a first and meaningful step to include Indigenous representation on the advisory committee, it has to go much further than that. I note that the ALP are putting forward some amendments. We will certainly look at them. But it is difficult to say how we would support them, given that they do not go far enough in looking at Indigenous issues being properly represented on this occasion.

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator McLucas)—Order! It being 9.50 p.m., I propose the question:

That the Senate do now adjourn.

Serong, Francis Philip

Senator LIGHTFOOT (Western Australia) (9.50 p.m.)—I want to speak tonight during the adjournment debate on one of Australia's greatest men. His name is Francis Philip Serong, but he is better known as Brigadier 'Ted' Serong. Brigadier Serong was the last senior officer to leave Saigon after its fall in 1975. After the Second World War, he played a pivotal role in reorienting the active service preparedness of the regular Australian Army. He did not want to see the sacrifices in jungle expertise so hard won in Papua New Guinea in 1942-45 lost to Australia.

As a director of military training, he reopened the Canungra jungle warfare school in Queensland. He designed courses that are still used almost half a century later. In 1957, he pioneered a course in counterinsurgency in Burma and was the officer of choice from the UK, US, Yugoslavia and Israel applicants, until 1957. From 1960 to 1962, he returned to Burma and the Burma armed

forces. He established military schools in Rangoon, the capital, and at Mount Popa. He made dangerous reconnaissances along the China, Thailand and Vietnam borders.

As the involvement of the United States and Australia increased in South Vietnam, Serong became the logical soldier-expert to lead the Australian military advisers to the South Vietnamese government. Brigadier Serong was appointed senior adviser in counterinsurgency to the US military assistant command in South Vietnam, under General Harkins and the better-known General Westmoreland. Ted Serong also advised the South Vietnamese President, Ngo Dinh Diem, on counterinsurgency before his assassination in 1963. The brigadier shared an interest in Catholic theology and anticommunism with the former President of South Vietnam.

Shortly after May 1963, Ted Serong warned President John F. Kennedy's Special Group on Counterinsurgency that the war could not be won under the current stratagem: he was interviewed by the US National Security Council and Robert Kennedy—the brother of the US President, who was later assassinated, and closest adviser to the President—but the President did not follow Brigadier Serong's advice. Ted Serong was seconded to the US State Department in early 1965 for another tour of South Vietnam, where he was pre-eminent in counterinsurgency until 1967. His responsibilities included being a very senior adviser to the South Vietnamese Police Field Forces. The brigadier established a permanent training centre for the field police at Dalat, in the mountains north of Saigon, at the behest of the South Vietnamese government. Ted Serong retired from the Australian Regular Army in 1968 but stayed on in Vietnam composing stratagems for the South Vietnamese government and private defence force think tanks. He stayed on until 1973, until funds from the United States started to dry up.

Brigadier Ted Serong was the last Australian officer to leave South Vietnam on 29 April 1975—less than 24 hours before the bloody surrender of the South Vietnamese forces. If his advice to the US Army had

been followed, there may very well have been a different outcome in South Vietnam. Ted Serong believed that communism needed to be resisted at all costs. He formed and shared that opinion with one of Australia's great religious personalities, none other than B.A., or Bob, Santamaria. They met at their common college St Kevins in Victoria and remained friends for life. Brigadier Francis Philip Serong believed in a strong Australian Defence Force. Books written on Ted Serong include *There to the Bitter End* and the definitive biography by Ms Anne Blair titled *Ted Serong: The Life of an Australian Counterinsurgency Expert* as well as others.

Brigadier Ted Serong was truly a great Australian, an extraordinary soldier, a very brave man. If he had a single purpose in life, it was to rid the world of evil before it was uncontrollable. Ted Serong received awards which included the OBE, DSO, Officer of the Legion of Merit (US), the Vietnam Medal of Honour, the Cross of Gallantry and Chevalier of the National Order. He is survived by his wife, Kathleen; his three daughters, Julia, Elise and Rosemary; and his three sons, Michael, Richard and Anthony. We need a Ted Serong today.

Drought

Senator O'BRIEN (Tasmania) (9.55 p.m.)—I rise to criticise the Howard government for its inaction in relation to the current drought. There is no doubt that the drought is having a devastating impact on both the cropping and the livestock sectors. I had the opportunity to travel to Brewarrina, Bourke and Condobolin two weeks ago to meet drought affected farmers. The farmers of Brewarrina, Bourke and Condobolin are certainly a tough lot, but they are doing it very tough at present.

The National Rural Advisory Committee of the Minister for Agriculture, Fisheries and Forestry was there at around the same time. I am confident that Dr Wendy Craik, the chairperson of that committee, understands the need to report the committee's recommendations on the Bourke and Brewarrina exceptional circumstances application to the minister as soon as possible, but I am not all that confident that the minister will consider

and respond to the committee's report—and, more importantly, the EC application—in a timely fashion. This is not a time for the minister to procrastinate over the fine details of the current EC applications, particularly an application that he has now had on his desk for 41 days.

Earlier today, I raised in the Senate the issue of the growing impact of the drought on some of Australia's key intensive industries, including the chicken industry, the pork industry and the beef feedlot industry. Because of their short production cycles, these industries do not fit easily into the exceptional circumstances guidelines, but they are suffering just the same. When pork prices collapsed in 1998, the impact on the industry was quick and devastating. Many pork producers were driven out of business. Grain shortages and exploding feed costs—the main input costs of pig production—will have the same impact now, and this will spread beyond pork producers to encompass stockfeed agents and other local suppliers. The experience of the pork industry will be matched in other intensive industries, and the impact on agents and suppliers for those industries will be equally severe. Without appropriate and overdue support, whole rural communities may be dragged down.

The Minister for Agriculture, Fisheries and Forestry, Mr Warren Truss, has in my view shown wanton disregard for the needs of rural Australians affected by drought. In response to my criticism of his negligence, the best he has done is to rehash old announcements about ongoing, non-drought specific programs. The latest such announcement, released 48 hours after I compared current Commonwealth drought assistance with that provided by the states, rolled off the fax on Friday. Now, having thought about it over the weekend, the minister has a new strategy to combat the impact of drought. The minister's devastating new strategy is nothing more than a taxpayer funded advertising campaign. I understand that these advertisements will run in News Ltd newspapers. I am not sure where else they will run, but one thing is for sure: instead of running these advertisements in News Ltd papers, the minister should be do-

nating his advertising funds to the Farmhand appeal. Instead of promoting his own thin record, the minister should be actually helping people who live on the land by supporting the Farmhand emergency relief appeal.

Farmers know that advertising is advertising and drought support is drought support. Sadly, it is unlikely that the government is going to support Farmhand—at least if we can rely on the answer given by Senator Ian Macdonald to the question asked today by my colleague Senator Stephens. Senator Macdonald made it pretty clear that the government is not going to provide money to the Farmhand Foundation, let alone match those funds donated by the community to support farmers in need. Tonight I call on the government to rethink that decision not to support the Farmhand appeal and I ask it to do what Labor did in 1994: match Farmhand emergency funding on a dollar for dollar basis. Despite the embarrassing performance of Senator McGauran today, I can assure him that that is just what the Keating government did in 1994.

I expect the minister will release a statement saying that these advertisements will cost very little, but the actual cost of the advertisements is not the point. The advertisement that I referred to this afternoon claims credit for the Commonwealth for the provision of help that is in large part provided by the states. Mr Truss is now unfairly blaming the states for failing to provide any help to drought affected farmers and at the same time claiming credit for substantial amounts of state money that fund counselling, training and exceptional circumstances programs. These programs do not represent Commonwealth drought assistance as Mr Truss's proposed advertisement claims. They represent Commonwealth-state drought assistance programs.

The Agriculture Advancing Australia—AAA—program to which the advertisement refers has previously been used by this minister to run a political advertising campaign in an attempt to shore up his standing in rural Australia. Senators would recall the advertisements that ran night after night on regional commercial television and in the cities. The advertisements were more about

promoting the Howard government than about promoting the actual program. The AAA program has been running since 1997. From that time until the 2001 election there was little promotion. Over the two financial years 1997-98 and 1998-99, some \$1.2 million was spent on promoting the program. For the financial year 1999-2000, the promotion budget was only \$264,000. Then in 2000-01, as we moved to the election, expenditure jumped to \$3.7 million, and for the first half of 2001-02, leading right up to the election, another \$1.2 million went into advertisers' pockets.

That campaign cost taxpayers an extravagant \$6 million but it had little impact on the take-up of the AAA program. Somewhat embarrassed departmental officers told an estimates hearing in February this year that there had been little response to the advertising campaign because 'seasonal conditions have generally improved'. If it is such a great program, why has the government continued to bleed it of funds over successive budgets with the aim of winding it up altogether, subject to a review? Now we find Mr Truss, through his representative in the Senate, ruling out providing financial support to the Farmhand appeal but at the same time paying one of the members of the Farmhand trust to run a series of political advertisements linked to the drought. I also understand that Mr Truss's office is claiming that the advertisements were requested by News Ltd. The last time I checked, that was called selling advertisements or advertising space. Again I have to say with regard to this minister: rural Australia deserves better.

Ship for World Youth

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (10.04 p.m.)—I rise to speak in the Senate this evening about the Ship for World Youth, a significant international cultural exchange program coordinated by the cabinet office of the government of Japan. The government of Japan hosts this program, one of many, in the interests of increasing international mutual cooperation and understanding. Each year since 1989, the Ship for World Youth has brought together around 250 young people from around the world. Over a two-month

period these young people are involved in a wide range of activities aimed at fostering cultural sensitivity, understanding and friendship. The formal discussion program has included such topics as the United Nations, globalisation, the environment, women and gender issues, education and volunteering.

Most of the program is conducted on board a ship, the *Nippon Maru*, with some activities in Japan and others in a number of ports of call around the world that are visited in the course of the voyage. Each year a different mix of nations is invited to participate and the ports of call are in different countries. Nearly 4,000 young people from 62 countries have participated in this program. The latest program—Ship for World Youth No. 15—will bring the number of young Australians who have participated since 1989 to over 100. Twelve young Australians will arrive in Japan tomorrow to participate in this year's program, together with young people from countries as diverse as Cameroon, Canada, Chile, Fiji, Japan, Mexico, New Zealand, Sri Lanka, Spain, Tonga, the USA and Venezuela.

The 15th Ship for World Youth will leave port at the end of the month. The ship will visit Cairns in Far North Queensland on 8 and 9 November as one of its ports of call. It will be welcomed in Cairns by a number of members of Ship for World Youth Australia—the alumni association for past participants, with many distinguished members—as well as young people from Cairns; the Minister for Children and Youth Affairs, Larry Anthony; and representatives of the Department of Family and Community Services Youth Bureau, who have helped support the Australian participants.

Geoscience Australia have contributed posters of the Great Barrier Reef region for ship participants, and I acknowledge and thank them for their assistance. Members may be familiar with some of the posters, particularly the nifty ones with the 3-D glasses that give a real multidimensional perspective on the nature of the Barrier Reef and the ocean region off Northern Queensland. Those posters will be handed over to participants whilst they are in Cairns. Over

the years a number of Australian companies have also contributed gifts to the ship—from wattle seed biscuits to Indigenous artworks and local wines—out of generosity as well as for the wonderful opportunity to introduce top-value Australian products to an international audience.

I am sure that this year's participants from around the world will greatly enjoy the wonders of Cairns and particularly the Great Barrier Reef and the marine park surrounding it—Queensland's great ecological wonder. It is, of course, under threat from climate change. It is worth noting in passing the Japanese government's much more progressive approach on the issue of supporting the Kyoto protocol than, unfortunately, that of our own Australian government. That neglect is actually putting this great natural wonder—and great economic wonder—at greater risk.

With participants from a diverse range of countries eating, sleeping, working and living side by side for weeks on end in the enclosed space of the ship, there are many opportunities for improving cultural understanding, for learning the principles of international cooperation and, indeed, for individual personal growth. The opportunities and benefits of having contact with people from different backgrounds, different cultures, different ways of thinking and different understandings is immeasurable. It is particularly valuable for young people who are looking for different ideas and who are about to set out on making a great contribution to their own nation. It is common for participants to say that their participation has been a life-changing experience. They gain not only a better understanding of other nations' cultures but also a greater understanding and a better pride in their own culture. I am sure that senators and others listening would appreciate that contact with other cultures often helps us to develop a greater appreciation of some of the positives in our own nation.

The problems of the world, of course, are not going to be solved by a two-month program such as this. Programs like this, however, encourage participants to have a better understanding of this world and an experi-

ence of how people from different nations, perspectives and backgrounds can live together peacefully, learn from each other and work together to overcome differences and misunderstandings. The aims and objectives of the Ship for World Youth are to foster the spirit of international cooperation and the competence to actually put it into practice; to promote friendship and mutual understanding between the youth of Japan and the youth of other parts of the world, such as Australia; to broaden the international awareness of participants; and to develop young people who are capable of playing leading roles in various sectors of their societies and who, in turn, can contribute to the development of young people in their own countries.

This program is only one of a number of international youth programs that the International Youth Exchange Organisation of Japan supports, including the Ship for South-East Asia Youth Program and the Renaissance Youth Leaders Invitation Program. It is my view that the Japanese government should be congratulated for their recognition and support for the real new world order, which is that countries are not just isolated, independent nations but components of an interwoven world, one that we cannot back away from but that we must actively and positively seek to embrace in a constructive and human way.

Nations that once fought with each other are now learning a complex but fascinating cultural dance. The challenges we face in the future will be overcome not through competition but through cooperation with each other across national boundaries. That is how we will be successful in getting nations to successfully negotiate treaties and adopt shared approaches that protect our common human interests on big issues such as people-smuggling, drug- and arms-smuggling, environmental protection, global warming, arms control and terrorism, which is obviously a much more prominent threat in Australians' minds in our own region after recent events.

I thank the Australian government for the support that it provides for Australian participants in this valuable program and I congratulate the Japanese government for its ongoing role for many years now in contrib-

uting through this program to a positive sense of global community, to an increased understanding of our commonalities and differences and, most of all, to how we can better work together for peace and wellbeing across many nations.

Indonesia: Terrorist Attacks

Senator LUNDY (Australian Capital Territory) (10.12 p.m.)—In the wake of the truly horrific events in Bali last week, I would like to take this opportunity to reflect on the human spirit that has emerged from this tragedy. Watching and reading the news over the past week has been an emotional and confronting experience for all of us, but especially for those who have lost family and friends in the terrorist bombings. There is, however, something that has shone forth as I read and watched the media reports from Bali. It is the efforts made by Australian sporting teams and individual sportswomen and sportsmen to find, support and assist their team mates and their families. I have often referred to sport as the social glue that binds communities together. That is why so many sports teams go to Bali at the end of the season. They go there because, over the course of a season or seasons, lifelong friendships are formed and team harmony is cemented when you train, play and relax together.

In Australia, sport is not just an activity or an entertainment. It is embedded in our psyche as well as in our society, economy, politics, sense of identity, culture and history. Australia is known as a nation that takes its sport very seriously; but, as we have seen over the past week, sport imparts many other qualities than just competitiveness. There are many things sport teaches. First of all, sport makes you fit and capable of quite extraordinary physical activities and feats. Sport is also about the confidence to take decisive action. Football in particular is all about reacting quickly, both physically and mentally, to changing situations in adversarial environments. Many football teams utilise all types of training methods, such as army type drills and survival exercises, to build and sharpen athletes' reactions and to teach them how to cope under different types of stress and pressure.

These physically demanding team activities teach athletes about working with others to achieve results. They teach them about trust and relying on their mates to help when they are in trouble. Never have the lessons learnt through sport or the strong ties generated through team activities become so apparent than in Bali in the days following the bombings. The sad reality is that many of those who died or were injured were sports-women and sportsmen or were people associated with sporting teams or players.

I take this opportunity to pay particular tribute to the members of the following sports teams: the Coogee Beach Dolphins junior rugby league club, the Kingsley Football Club, the Sturt Football Club, the Forbes Platypii rugby union club, the Southport Sharks football club, South Sydney Juniors Rugby League Club, the Melbourne Football Club and the Kangaroos Football Club. These teams have lost friends and team-mates. They lost mates whom they played, worked and partied with. Many of these young athletes were from smaller towns such as Forbes, where the local footy team is part of the lifeblood of the community. I do not think it is a cliché to talk about mateship and standing by your mates in times of adversity. When I talk about mateship, it is not in a masculine sense. In sporting teams, mateship is about camaraderie and sticking together through hardship. It applies equally to both genders. Australian sport is built on these principles. We have used sporting icons and imagery to depict human qualities we admire, and we have achieved so many extraordinary things for a country with such a small population. We have seen the toughness and compassion of the collective Australian character when disasters have occurred. We saw it after the Newcastle earthquake, for example, and now, almost every year it seems, Australians stand shoulder to shoulder as they face the never-ending threat of bushfires.

Throughout our history, Australians in general, but our sporting teams and sport-people in particular, have defied the odds and emerged triumphant when logic, form or experience would suggest otherwise. This is how legends are created, be it our Olympic

performances or the unparalleled success of our netball, women's hockey, swimming, cricket and football teams. Up until now, we have mostly used sporting images and sporting parlance to measure and gauge our identity and foster a sense of national pride and achievement. I think it appropriate that we also honour and acknowledge the sports-women and their families and friends who died or were injured as a result of what happened in Bali.

But I believe that the lessons learnt through sport also helped many Australians in Bali and saved the lives of many more. The fact is that being fit, well trained and physically capable no doubt helped save lives. There are many stories about heroes emerging from Bali. There are many stories of people risking their own lives to save others. We have all seen on TV the extraordinary tales of people, who would probably regard themselves as ordinary Australians, going back into the inferno to rescue their friends or loved ones. For me, one of the most moving images of the Bali tragedy was the way those sporting teams that had lost fellow members came together in Perth and lit candles as one to give hope to the grieving and to try and comfort the families of those who lost loved ones.

If there is something we can take away from the horrors of Bali, it is that the families and friends of those still unaccounted for can take some comfort in knowing that the friends and team-mates have done everything humanly possible to save lives and help the injured and suffering. These words are but tokens in the midst of a nightmare that is too much to bear. I extend my deepest sympathies to all who are suffering, including the Balinese affected directly by this tragedy. I am pleased that this parliament will be conducting a memorial service this coming Thursday and I acknowledge the response of Canberra's citizens who have shown their compassion at a time of great need. For our part, as parliamentarians our responsibility is to work towards peace.

Senate adjourned at 10.18 p.m.

DOCUMENTS**Tabling**

The following documents were tabled by the Clerk:

Acts Interpretation Act—Statements [2] pursuant to section 34C(6) relating to the extension of specified period for presentation of reports—Anindilyakwa Land Council Report for 2001-02, Central Land Council Report for 2001-02 and Tiwi Land Council Report for 2001-02.

Civil Aviation Act—Civil Aviation Regulations—

Exemptions Nos CASA EX26/2002 and CASA EX31/2002.

Instruments Nos CASA 612/02-CASA 614/02.

Ozone Protection Act—Notice of Grant of Exemption under section 40—Exemption No. OZO9842X.

Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensation No. 10/02 [2 dispensations].

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Transport and Regional Services: Superannuation (Question No. 604 Amended answer)

Senator Sherry asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 30 August 2002:

- (1) For each department within the Minister's portfolio, how is superannuation calculated (ie. is the superannuation entitlement calculated on base salary and other income payments, such as overtime allowance or performance bonuses, or on base salary alone).
- (2) If the department calculates superannuation on a broader basis, by incorporating all income payments in the calculation of superannuation entitlements, but allows employees to opt out of this arrangement so as to reduce the base upon which superannuation is calculated, what proportion of employees do this.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

This answer supersedes the answer printed in *Hansard* on 23 September 2002.

- (1) For employees of the Department of Transport and Regional Services (DOTARS) covered by the DOTARS Certified Agreement 2002-2004 superannuation is calculated and contributions paid according to the rules and regulations governing the appropriate member's scheme. Base salary and approved allowances form the basis of these calculations.

Further, the Department's Certified Agreement specifies the following:

- Additional Responsibility Allowance (formerly Higher Duties Allowance) will count as salary for superannuation purposes subject to the relevant superannuation legislation;
- Fire Warden/First Aid Attendant Allowance counts as salary for superannuation purposes; and
- Transport Safety Investigator Restriction Allowance counts as service for superannuation purposes.

Employees who have entered into an Australian Workplace Agreement (AWA) have an agreed dollar amount specified as salary for superannuation purposes. This dollar amount is generally the negotiated base salary amount and does not include any allowances. The salary for superannuation purposes remains static for the life of the AWA.

- (2) DOTARS does not allow employees to manipulate their base superannuation salary through such means as salary sacrifice, nor is such a practice endorsed by Comsuper.

Health: Pharmaceutical Benefits Scheme Review (Question No. 632)

Senator Greig asked the Minister for Health and Ageing, upon notice, on 17 September 2002:

With reference to the Inter-departmental Committee review of the Pharmaceutical Benefits Scheme (PBS):

- (1) What are the terms of reference for the committee's review of the PBS.
- (2) Which stakeholders were invited to participate in the review.
- (3) How did the committee decide which stakeholders to invite to participate.
- (4) If stakeholders have prepared submissions, how will these be used by the committee.
- (5) How can other stakeholders (ie. those not specifically invited by the committee) participate in the review.
- (6) When will the report of the review be given to the Minister.

Senator Patterson—The answer to the honourable senator's question is as follows:

- (1) The precise Terms of Reference of the Interdepartmental Committee (IDC) are Cabinet-in-confidence. However, broadly the Terms of Reference required the committee to examine the overall effectiveness of the PBS. In doing so, the Committee reviewed how the PBS can continue to

achieve its objectives of providing timely, reliable and affordable access for the community to necessary medicines.

- (2) My Department invited the following sixteen organisations to provide submissions to the IDC:

Medical

Australian Medical Association
 Royal Australian College of General Practitioners
 Australian Divisions of General Practice
 Rural Doctors Association of Australia

Pharmaceutical

The Pharmacy Guild of Australia
 Pharmaceutical Society of Australia
 The Society of Hospital Pharmacists of Australia

Consumers

Australian Consumers' Association
 Consumers Health Forum
 Council on the Ageing

Industry

Medicines Australia
 Generic Medicines Industry Association

Expert Advisory Committees

Pharmaceutical Benefits Advisory Committee
 Pharmaceutical Health and Rational Use of Medicines Committee
 Australian Pharmaceutical Advisory Council

Other

National Prescribing Service Limited

- (3) The organisations invited to submit their views were chosen on the basis that they represented a major stakeholder group or because of their expertise in relation to PBS issues.
- (4) All submissions received were provided to Committee members and were considered in the work performed by the IDC.
- (5) Any additional organisations, which expressed an interest in the work of the IDC, were also invited to submit their views in writing. In total, 35 submissions were received and considered by the IDC.
- (6) The Government is currently working towards finalising the outcome of the IDC.

Agriculture, Fisheries and Forestry: Boards, Councils, Committees and Advisory Bodies

(Question No. 656)

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 19 September 2002:

- (1) What boards, councils, committees and advisory bodies fall within the ministerial responsibilities of the Minister.
- (2) For each body referred to in (1): (a) who are the members; (b) when were they appointed; (c) when does their term expire; (d) what fees, allowances and other benefits are enjoyed by the members; and (e) have these fees, allowances and other benefits varied since 2000; if so (i) what was the reason for each variation, and (ii) what was the quantum of each variation.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

- (1) In preparing this response, the Minister has provided the information requested in relation to statutory agencies and other bodies created by statute, as well as non-statutory bodies of a signifi-

cant nature within the agriculture, fisheries and forestry portfolio where there is formal appointment of membership.

The response does not include: joint authorities, where membership consists of the Commonwealth and respective Territory and State Ministers; inoperative statutory bodies; joint/inter-governmental bodies; or the numerous advisory, consultative or stakeholder groups within the portfolio where membership is ad hoc or representative.

Statutory Agencies and Other Statutory Bodies

Statutory Marketing Authorities:

Australian Dairy Corporation

Australian Wine and Brandy Corporation

Research and Development Corporations:

Cotton Research and Development Corporation

Dairy Research and Development Corporation

Fisheries Research and Development Corporation

Forest and Wood Products Research and Development Corporation

Grains Research and Development Corporation

Grape and Wine Research and Development Corporation

Land & Water Australia

Rural Industries Research and Development Corporation

Sugar Research and Development Corporation

Tobacco Research and Development Corporation

Regulatory Authorities:

Australian Fisheries Management Authority

National Registration Authority for Agricultural and Veterinary Chemicals

Wheat Export Authority

Advisory Bodies:

Australian Landcare Council

National Rural Advisory Council

Plant Breeders Rights Advisory Committee

Other:

Dairy Adjustment Authority

Statutory Fishing Rights Allocation Review Panel

Selection Committees:

Australian Dairy Corporation Selection Committee

Australian Wine and Brandy Corporation Selection Committee

Cotton RDC Selection Committee

Dairy RDC Selection Committee

Fisheries RDC Selection Committee

Forest and Wood Products RDC Selection Committee

Grains RDC Selection Committee

Grape and Wine RDC Selection Committee

Land & Water Australia Selection Committee

Rural Industries RDC Selection Committee

Sugar RDC Selection Committee

Tobacco RDC Selection Committee

Australian Fisheries Management Authority Selection Committee

Statutory Fishing Rights Allocation Review Panel Selection Committee**Non-statutory Bodies:**

Lamb Industry Development Advisory Committee
 National Consultative Committee on Animal Welfare
 Quarantine and Export Advisory Council
 National Food Industry Council

- (2) The Minister has interpreted 'members' to refer to non-executive part time holders of public office. The terms and conditions of employment of full time chief executive officers employed by portfolio agencies are not included.

Agency/Body	2(a) Members	2(b) Term Start Date	2(c) Term End Date	2(d) Current Remuneration \$ per annum and travel
Statutory Agencies and Other Statutory Bodies				
Aust Dairy Corporation	Des Nicholl (Chair)	01/07/2002	31/12/2003	55,200
	Reg Smith (Deputy Chair)	01/07/2002	31/12/2003	35,000
	Paul Sutton (Govt Member)	13/02/2002	N/A	N/A
	Anne Adams	01/07/2002	31/12/2003	25,600
	John Doyle	01/07/2002	31/12/2003	25,600
	Perry Gunner	01/07/2002	31/12/2003	25,600
	Neil Lowe	01/07/2002	31/12/2003	25,600
	John Massey	01/07/2002	31/12/2003	25,600
	Stephen O'Rourke	01/07/2002	31/12/2003	25,600
	Anthony Phillips	01/07/2002	31/12/2003	25,600
				Tier 1 travel*
Aust Wine & Brandy Corporation	David Brownhill (Chair)	01/07/2000	30/06/2003	35,000
	Chris Hancock (Deputy Chair)	02/05/2002	30/04/2005	20,000
	Geoff Gorrie (Govt Member)	02/05/2002	N/A	N/A
	Michael de Palma	02/05/2002	30/04/2005	20,000
	Leon Deans	02/05/2002	30/04/2005	20,000
	Angus Kennedy	02/05/2002	30/04/2005	20,000
	Jane Mitchell	02/05/2002	30/04/2005	20,000
	Paul van der Lee	02/05/2002	30/04/2005	20,000
				Tier 2 travel*
Cotton R&D Corporation	Bridget Jackson (Chair)	01/10/2001	30/09/2004	27,600
	Graeme Hamilton (Govt Member)	21/05/2001	N/A	N/A
	Jeffrey Bidstrup	01/10/2002	30/09/2005	14,100
	Adam Kay	01/10/2002	30/09/2005	14,100
	Richard Browne	01/10/2002	30/09/2005	14,100
	Neil Forrester	01/10/2002	30/09/2005	14,100
	Kathryn Adams	01/10/2002	30/09/2005	14,100
	Thomas Higgins	01/10/2002	30/09/2005	14,100
				Tier 2 travel*
Dairy R&D Corporation	Anthony Bates (Chair)	01/04/2000	31/03/2003	35,000
	Paul Sutton (Govt Member)	19/01/2000	N/A	N/A
	Michele Allan	02/04/2002	31/03/2005	20,000
	Larry Brennen	02/04/2002	31/03/2005	20,000
	Sarah Crooke	02/04/2002	31/03/2005	20,000
	Christopher Hudson	02/04/2002	31/03/2005	20,000
	Sandy Murdoch	02/04/2002	31/03/2005	20,000
	Alessandra Pucci	02/04/2002	31/03/2005	20,000
				Tier 1 travel*
Fisheries R&D Corporation	Denis Byrne (Chair)	01/01/2002	31/08/2004	35,000
	Alexander Wood-Meredith (Deputy Chair)	13/07/2001	31/08/2003	20,000
		10/09/2002	N/A	N/A

Agency/Body	2(a) Members	2(b) Term Start Date	2(c) Term End Date	2(d) Current Remuneration \$ per annum and travel
	Glenn Hurry (Govt Member) Simon Bennison Ian Cartwright Diana Day David Newton Bill Saynok	01/01/2001 01/01/2001 01/01/2001 01/01/2001 01/01/2001	31/08/2003 31/08/2003 31/08/2003 31/08/2003 31/08/2003	20,000 20,000 20,000 20,000 Tier 1 travel*
Forest and Wood Products R&D Corporation	Thorry Gunnerson (Chair) Ian Ferguson (Deputy Chair) Daryl Quinlivan (Govt Member) Geoff Bankes Bob Frost Dianna Gibbs Peter Law Christopher Robertson	07/12/2000 05/05/2000 18/02/2001 05/05/2000 05/05/2000 05/05/2000 05/05/2000 17/04/2002	06/12/2003 04/05/2003 N/A 04/05/2003 04/05/2003 04/05/2003 04/05/2003 16/04/2005	27,600 14,100 N/A 14,100 14,100 14,100 14,100 Tier 2 travel*
Grains R&D Corporation	Terry Enright (Chair) Cliff Samson (Govt Member) Christine Hawkins Tony Fischer Donald Plowman Helen Cameron Ross Johns Rachel Lucas	01/10/2002 22/12/1999 01/10/2002 01/10/2002 01/10/2002 01/10/2002 01/10/2002 01/10/2002	30/09/2004 N/A 30/09/2005 30/09/2005 30/09/2005 30/09/2005 30/09/2005 30/09/2005	35,000 N/A 20,000 20,000 20,000 20,000 20,000 Tier 1 travel*
Grape and Wine R&D Corporation	John Stocker (Chair) Michael Alder (Govt Member) Kym Anderson Brian Englefield Richard Gibson Kathy Grigg Roger Hoare Timothy James	02/01/2000 17/06/1998 01/09/2002 01/09/2002 01/09/2002 01/09/2002 01/09/2002 01/09/2002	01/01/2003 N/A 31/08/2005 31/08/2005 31/08/2005 31/08/2005 31/08/2005 31/08/2005	27,600 N/A 14,100 14,100 14,100 14,100 14,100 Tier 2 travel*
Land & Water Australia	Roberta Brazil (Chair) Charles Willcocks (Govt Member) Warwick Watkins Michael Logan David Pannell Tim Fisher John Childs Peter Cullen	01/07/2001 21/04/1998 01/07/2002 01/07/2002 01/07/2002 01/07/2002 01/07/2002 01/07/2002	30/06/2004 N/A 30/06/2005 30/06/2005 30/06/2005 30/06/2005 30/06/2005 30/06/2005	35,000 N/A 20,000 20,000 20,000 20,000 20,000 Tier 1 travel*
Rural Industries R&D Corporation	Elizabeth Woods (Chair) David Mortimer (Govt Member) Robert Clark (Deputy Chair) Robert Boshammer Barry Buffier Helen Cameron Steve Marshall Mike Taverner	19/01/2001 19/06/2002 01/07/2002 01/07/2002 01/07/2002 01/07/2002 01/07/2002 01/07/2002	18/01/2004 N/A 30/06/2005 30/06/2005 30/06/2005 30/06/2005 30/06/2005 30/06/2005	35,000 N/A 20,000 20,000 20,000 20,000 20,000 Tier 1 travel*

Agency/Body	2(a) Members	2(b) Term Start Date	2(c) Term End Date	2(d) Current Remuneration \$ per annum and travel
Sugar R&D Corporation	Robert Granger (Chair)	01/10/2002	30/09/2005	27,600
	Andrew Barfield (Deputy Chair)	01/05/2002	30/04/2005	14,100
		01/10/1999	N/A	N/A
	Ian Cottingham (Govt Member)	01/05/2002	30/04/2005	14,100
		01/05/2002	30/04/2005	14,100
	David Braddock	01/05/2002	30/04/2005	14,100
	Patrice Brown	01/05/2002	30/04/2005	14,100
	Mary Corbett Diana Day Douglas Hogarth	01/05/2002	30/04/2005	14,100 Tier 2 travel*
Tobacco R&D Corporation	Barry Dare (Chair)	20/07/2001	31/12/2002	24,400
	Des Naughton (Govt Member)	29/10/1996	N/A	N/A
		20/07/2001	31/12/2002	460 per diem
	Edward Gilbert	20/07/2001	31/12/2002	460 per diem
	David Goldsworthy	20/07/2001	31/12/2002	460 per diem
	Barry Pulsford			Tier 2 travel*
Aust Fisheries Management Authority	Wendy Craik (Chair)	01/11/2000	31/10/2003	55,200
	Brian Jeffriess (Deputy Chair)	08/02/2001	07/02/2004	35,000
		07/02/1998	N/A	N/A
	Peter O'Brien (Govt Member)	08/02/2001	07/02/2004	25,600
		08/02/2001	07/02/2004	25,600
	Christopher Fenner	08/02/2001	07/02/2004	25,600
	Robert Kearney	08/02/2001	07/02/2004	25,600
	Rob Lewis Jeffrey White			Tier 1 travel*
National Registration Authority	Kevin Sheridan (Chair)	16/10/2002	15/10/2005	35,000
	Gardner Murray (Govt Member)	16/10/2002	15/10/2005	N/A
		16/10/2002	15/10/2005	18,400
	Catherine Hollywell	16/10/2002	15/10/2005	18,400
	Jock McLean	16/10/2002	15/10/2005	18,400
	Anthony Bates	16/10/2002	15/10/2005	18,400
	Hutch Ranck	16/10/2002	15/10/2005	18,400
	Chris Parker	16/10/2002	15/10/2005	18,400
	Mara Bun	16/10/2002	15/10/2005	18,400
	Lyn Fragar			Tier 1 travel*
Wheat Export Authority	John McI Walter (Chair)	01/08/2002	30/06/2004	64,100
	Cliff Samson (Govt Member)	24/09/2001	31/08/2004	N/A
		01/08/2002	30/06/2004	28,900
	James Flockart	01/08/2002	30/06/2005	28,900
	Malcolm Heath	01/08/2002	30/06/2005	28,900
	Tim Besley			Tier 1 travel*
Australian Land-care Council	Bruce Lloyd (Chair)	01/07/1997	N/A	380 per diem
	Carl Binning	01/01/2001	31/12/2004	280 per diem
	Roberta Brazil	09/08/2000	31/07/2003	280 per diem
	John Chester	06/02/2001	30/12/2004	280 per diem
	Anna Cronin	01/01/2001	31/12/2004	280 per diem
	Allan Piggott	09/08/2000	31/07/2003	280 per diem
	Ian Sauer	09/08/2000	31/07/2003	280 per diem
	Peter Watts	06/02/2001	30/01/2004	280 per diem
	Ian McPhail	06/02/2001	30/01/2004	280 per diem
	Barbara Morrell	01/07/2002	30/06/2005	280 per diem
	Alison Teese	01/07/2002	30/06/2005	280 per diem
	Valerie Wiseman	01/07/2002	30/06/2005	280 per diem
	John Kelm	01/07/2002	30/06/2005	280 per diem

Agency/Body	2(a) Members	2(b) Term Start Date	2(c) Term End Date	2(d) Current Remuneration \$ per annum and travel
	Jim Forwood Charlie Sherwin Drew English Darren Aisthorpe	01/07/2002 01/07/2002 01/07/2002 01/07/2002	30/06/2005 30/06/2005 30/06/2005 30/06/2005	280 per diem 280 per diem 280 per diem 280 per diem Tier 2 travel*
National Rural Advisory Council	Wendy Craik (Chair) Don Banfield (Govt Member) Bruce Brown Barry Buffier Wayne Cornish Christopher McRae Sue Middleton John Woods	20/05/2002 20/05/2002 20/05/2002 20/05/2002 20/05/2002 20/05/2002 20/05/2002	19/05/2005 19/05/2005 19/05/2005 19/05/2005 19/05/2005 19/05/2005 19/05/2005	35,000 N/A 18/400 18/400 18/400 18/400 18/400 18/400 Tier 1 travel*
Plant Breeders Rights Advisory Committee	Doug Waterhouse (Chair) Paul Brennan Cheryl McCaffery David Moore Peter Nielsen Hugh Roberts Anna Sharpe	01/01/1996 01/07/2002 01/07/2002 01/07/2002 01/07/2002 01/07/2002 01/07/2002	N/A 30/06/2003 30/06/2003 30/06/2003 30/06/2003 30/06/2003 30/06/2003	N/A 280 per diem 280 per diem 280 per diem 280 per diem 280 per diem 280 per diem Tier 2 travel*
Dairy Adjustment Authority	Patrick Musgrave (Chair) Merrilyn McPherson (Govt Member) John Drinan James Forsyth Terrence O'Callaghan	07/06/2000 03/04/2000 07/06/2000 03/04/2000 03/04/2000	02/04/2003 02/04/2003 02/04/2003 02/04/2003 02/04/2003	560 per diem N/A 410 per diem 410 per diem 410 per diem Tier 1 travel*
Statutory Fishing Rights Allocation Review Panel	Robert Todd (Chair) John Bennett Robin Claxton Alice McCleary William Mitchell Harry Rogers	16/02/1999 03/09/2001 03/09/2001 03/09/2001 03/09/2001 03/09/2001	15/02/2003 02/09/2005 02/09/2005 02/09/2005 02/09/2005 02/09/2005	460 per diem 410 per diem 410 per diem 410 per diem 410 per diem 410 per diem Tier 2 travel*
Selection Committees				
Australian Dairy Corporation	Malcolm Irving, Presiding Member	11/08/2001	10/08/2004	560 per diem Tier 1 travel*
Australian Wine & Brandy Corporation	Murray Rogers, Presiding Member	20/07/2001	30/06/2004	560 per diem Tier 1 travel*
Cotton R&D Corporation	Margaret Thomson, Presiding Member	23/07/2001	30/06/2004	560 per diem Tier 1 travel*
Dairy R&D Corporation	Malcolm Irving, Presiding Member	01/12/2001	30/11/2004	560 per diem Tier 1 travel*
Fisheries R&D Corporation	Jenny Varcoe-Cocks, Presiding Member	19/06/2000	18/06/2003	560 per diem Tier 1 travel*
Forest and Wood Products R&D Corp	Jenny Varcoe-Cocks, Presiding Member	27/07/2001	30/06/2004	560 per diem Tier 1 travel*
Grains R&D Corporation	Dennis Mutton, Presiding Member	10/05/2002	30/04/2005	560 per diem Tier 1 travel*

Agency/Body	2(a) Members	2(b) Term Start Date	2(c) Term End Date	2(d) Current Remuneration \$ per annum and travel
Grape and Wine R&D Corporation	Murray Rogers, Presiding Member	23/07/2001	30/06/2004	560 per diem Tier 1 travel*
Land & Water Australia	Carolyn Tanner, Presiding Member	27/09/2001	26/09/2004	560 per diem Tier 1 travel*
Rural Industries R&D Corporation	Jenny Varcoc-Cocks, Presiding Member	01/01/2002	31/12/2004	560 per diem Tier 1 travel*
Sugar R&D Corporation	George Rance, Presiding Member	23/07/2001	30/06/2004	560 per diem Tier 1 travel*
Tobacco R&D Corporation	George Rance, Presiding Member	02/04/2001	31/12/2003	560 per diem Tier 1 travel*
Australian Fisheries Management Authority	Murray Rogers, Presiding Member	18/07/2000	17/07/2003	560 per diem Tier 1 travel*
Statutory Fishing Rights Allocation Review Panel	Murray Rogers, Presiding Member	18/07/2000	17/07/2003	560 per diem Tier 1 travel*
Non-Statutory Bodies				
Lamb Industry Development Advisory Committee	Gregory Read (Chair)	15/09/1999	14/09/2002	N/A
	Garry Cullen (Govt Member)	15/09/1999	14/09/2002	N/A
	Gary Castricum	15/09/1999	14/09/2002	280 per diem
	Errol Chant	29/11/1999	14/09/2002	280 per diem
	Tim Clarke	15/09/1999	14/09/2002	280 per diem
	Donald Fraser	15/09/1999	14/09/2002	280 per diem
	Ralph Hood	15/09/1999	14/09/2002	280 per diem
	Eckard Huebl	15/09/1999	14/09/2002	280 per diem
	Tom Maguire	15/09/1999	14/09/2002	280 per diem
	Stephen Martyn	15/09/1999	14/09/2002	280 per diem
Bill Whitehead			Tier 2 travel*	
National Consultative Committee on Animal Welfare	Ivan Caple (Chair)	19/05/2000	30/06/2003	380 per diem
	Dean Merrilees	All members are appointed by their respective nominating representative organisations	All members are appointed by their respective nominating representative organisations	All members undertake a representative role on the Committee and are not paid a sitting fee. Tier 2 travel*
	Gerry Maynes			
	Elizabeth Grant			
	Warren Starick			
	Kevin Doyle			
	Geoff Neumann			
	Hugh Wirth			
	Glenys Oogjes			
	Rick Symons			
	Ross Burton			
	Lee-Anne Wahren			
	Stephen Tate			
Mike Manuel				
Deborah Kelly				
Ian Cowie				
Kevin de Witte				
Mike Rickard				
Quarantine and Exports Advisory Council	Murray Rogers (Chair)	28/09/2001	27/09/2004	55,200
	Andrew Inglis (Deputy Chair)	08/02/2000	07/02/2003	460 per diem
	Michael Taylor	08/02/2000	07/02/2003	N/A
		19/10/2000	18/10/2003	N/A
	Meryl Stanton	08/02/2000	07/02/2003	460 per diem

Agency/Body	2(a) Members	2(b) Term Start Date	2(c) Term End Date	2(d) Current Remuneration \$ per annum and travel
	John Crosby Jim Cullen Brian Jeffriess Harmut Krtschil Lee-Ann Monks Anne Story Lyndy Scott Carolyn Tanner	08/02/2000 06/11/2000 08/02/2000 08/02/2000 08/05/2001 08/02/2000 06/11/2000	07/02/2003 05/11/2003 07/02/2003 07/02/2003 07/05/2004 07/02/2003 05/11/2003	460 per diem 460 per diem 460 per diem 460 per diem 460 per diem 460 per diem 460 per diem Tier 1 travel*
National Food Industry Council	Warren Truss (Chair) Marke Vaile Ian Macfarlane Peter McGauran Enzo Allara Peter Barnes Jane Bennett Peter Corish Roger Fletcher Nigel Garrard Graham Laitt Cindy Luken Max Ould Tom Park Rob Robson Anrew Reeves Alan Williams Michael Taylor Peter O'Byrne Michael Eyles	01/07/2002 01/07/2002	30/06/2005 30/06/2005	No sitting fee applies. Airmiles and travel expenses only.

*(2) (d) Remuneration and allowances for part time office holders in the agriculture, fisheries and forestry portfolio are determined by the Commonwealth Remuneration Tribunal. Class of travel and rates of travelling allowance have been determined in three tiers. The Honourable Senator is referred to the following Determinations for the current rates:

- Determination 2000/06 Travelling Allowance Rates (effective from 26 July 2000 and consolidated at 22 April 2002); and
- Determination 2002/10 Part 1, Part 2, Part 3 and Part 7 (effective from 5 April 2002 and consolidated at 13 August 2002).

The Determinations can be found at website <http://www.remtribunal.gov.au>

(e) Yes.

- The Commonwealth Remuneration Tribunal reviewed and updated rates throughout 2000, 2001 and 2002. Explanatory Memorandum are included with amending Determinations and are set out at the website noted above.
- The honourable senator is referred to the Remuneration Tribunal's archived Determinations which are set out at the website noted above. See 'Archival Determinations'.

Budget: Pharmaceutical Benefits Scheme

(Question No. 657)

Senator Chris Evans asked the Minister for Health and Ageing, upon notice, on 19 September 2002:

- (1) What is the cost to the budget over the forward estimates period for the additional Pharmaceutical Benefits Scheme listing of Glivec for early stage chronic myeloid leukaemia announced on 10 September 2002.

- (2) Was the listing of Glivec for early stage chronic myeloid leukaemia approved by Cabinet; if so, when.

Senator Patterson—The answer to the honourable senator's question is as follows:

- (1) The estimated cost to the Budget is as follows:

2002-03 \$m	2003-04 \$m	2004-05 \$m	2005-06 \$m
7.8	21.8	24.3	26.1

- (2) The listing was approved by the Government in line with recommendations made by the Pharmaceutical Benefits Advisory Committee and the Pharmaceutical Benefits Pricing Authority.

Economy: Debt Management

(Question No. 684)

Senator Brown asked the Minister representing the Minister for Trade, upon notice, on 24 September 2002:

With reference to part (5) of the answer to question on notice no. 414 (Senate *Hansard*, 19 August 2002, p. 3218): Can the following details be provided in relation to the facilities in Indonesia and the Philippines involving the defence industry: (a) company name; (b) date of facility; (c) type of facility; (d) name of project; and (e) host country.

Senator Hill—The Minister for Trade has provided the following answer to the honourable senator's question:

The details in relation to EFIC-generated debts involving the defence industry in Indonesia and the Philippines referred to in part (5) of the question on notice no. 414 (Senate *Hansard*, 19 August 2002, p. 3218) are as follows (For each entry, the purpose of the facility has been provided, rather than the name of the project):

Response:

Buyer's Country:	Indonesia
Exporting Company	ADI Limited
Date of facility:	13 February 1997
Type of facility:	Export Finance Guarantee
Purpose of facility:	Communications defence software system

Buyer's Country:	Indonesia
Exporting Company	ADI Limited
Date of facility:	30 June 1997
Type of facility:	Export Finance Guarantee
Purpose of facility:	Design, supply, construction and commissioning of a minesweeping system

Buyer's country:	Indonesia
Exporting Company	Honeywell Australia Ltd
Date of facility:	13 May 1999
Type of facility:	Direct loan
Purpose of facility:	Supply and installation of electronic equipment and instruments for aeronautical navigation for military transport planes

These details were published in EFIC's 1996-1997 and 1998-1999 Annual Reports.

Details of the most recent Philippine facility will be published in EFIC's 2001-2002 Annual Report, which will be tabled in Parliament and released to the public in October.

Economy: Debt Management

(Question No. 685)

Senator Brown asked the Minister representing the Minister for Trade, upon notice, on 24 September 2002:

- (1) Of the countries that are currently indebted to Australia, what countries have debts generated by the Export Finance and Insurance Corporation (EFIC) (i.e. including debt generated since the in-

ception of the EFIC and all developing countries, not just those in the Highly Indebted Poor Country Scheme).

- (2) For each country, what are the dollar amounts of those debts.
- (3) For each country, what is the percentage of EFIC-generated debt as a percentage of its total debt.
- (4) (a) What is the percentage of EFIC-generated debt of the total debt owed to Australia; and (b) what specific facilities does this debt correspond to, including: (i) company name, (ii) date of facility, (iii) type of facility, (iv) name of project, and (v) host country.
- (5) (a) What is the: (i) sum total, and (ii) percentage, of Australia's bilateral debt generated from the EFIC related to the use of sovereign guarantees; and (b) what specific facilities does this debt correspond to, including: (i) company name, (ii) date of facility, (iii) type of facility, (iv) name of project, and (v) host country.

Senator Hill—The Minister for Trade has provided the following answer to the honourable senator's question:

- (1) The following countries have EFIC-related debts to Australia:

Bangladesh
 Bhutan
 China
 Cook Is
 Cuba
 Egypt
 Ethiopia
 India
 Indonesia
 Iraq
 Nepal
 Nicaragua
 Papua New Guinea
 Philippines
 Russia
 Solomon Is
 Sri Lanka
 Thailand
 Tonga
 United Arab Emirates
 Vietnam

- (2) The Australian dollar amounts of the debts owing to (or guaranteed by) EFIC by the countries listed above as at 30 August 2002 are as follows:

Country	Total
Bangladesh	11,749,583
Bhutan	429,174
China	410,082,814
Cook Is	291,434
Cuba	9,652,140
Egypt	186,847,839
Ethiopia	8,527,635
India	64,654,107
Indonesia	1,611,511,474
Iraq	717,131,474*
Nepal	8,332,669

Country	Total
Nicaragua	6,279,627
Papua New Guinea	28,506,592
Philippines	274,118,585
Russia	636,051,956
Solomon Is	13,454,659
Sri Lanka	64,696,378
Thailand	10,080,098
Tonga	1,354,870
Vietnam	8,309,308
United Arab Emirates	1,182,180

* plus accrued interest

- (3) Reliable information on the percentage of EFIC-related debt for each country as a percentage of each country's total debt is not available. In terms of the percentage of EFIC-related debt as percentage of each country's total debt to the Commonwealth of Australia, the following information is provided.

Country	%
Bangladesh	100
Bhutan	100
China	100
Cook Is	100
Cuba	100
Egypt	100
Ethiopia	100
India	100
Indonesia	100
Malaysia	100
Nepal	100
Nicaragua	100
Papua New Guinea	12.6
Philippines	100
Russia	100
Solomon Is	100
Sri Lanka	100
Thailand	100
Tonga	100
Vietnam	100

- (4) (a) The percentage of EFIC-related debt of the total debt to the Commonwealth of Australia is approximately 95.4%.
- (b) Details of each of the relevant facilities have been published annually by EFIC in its Annual Reports.
- (5) EFIC has on occasion made loans directly to sovereign borrowers. It has also guaranteed loans by commercial financiers to sovereign borrowers (Export Finance Guarantees). Each year EFIC publishes details of loans and guarantees provided, including facilities provided to governments, in its Annual Report.

In addition to loan facilities or guarantees provided by EFIC at the request of foreign governments, on several occasions EFIC has paid insurance claims to exporters that have not been paid for insured exports to foreign governments and government bodies. In those situations the foreign governments have become indebted to EFIC.