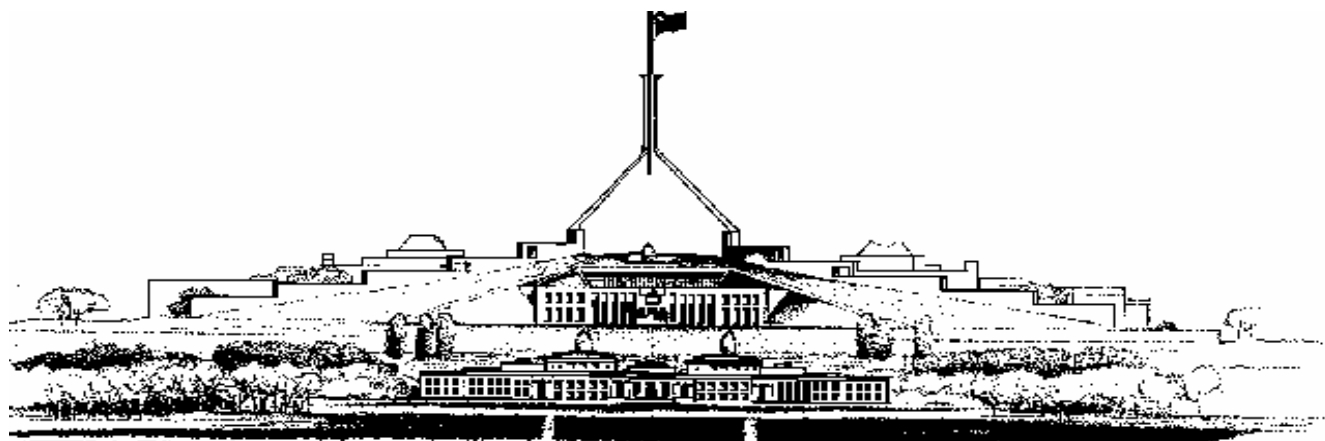




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



SENATE

Official Hansard

No. 5, 2004

MONDAY, 29 MARCH 2004

FORTIETH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

BY AUTHORITY OF THE SENATE

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SITTING DAYS—2004

Month	Date
February	10, 11, 12
March	1, 2, 3, 4, 8, 9, 10, 11, 22, 23, 24, 25, 29, 30, 31
April	1
May	11, 12, 13
June	15, 16, 17, 21, 22, 23, 24
August	3, 4, 5, 9, 10, 11, 12, 30, 31
September	1, 2, 6, 7, 8, 9, 27, 28, 29, 30
October	5, 6, 7, 25, 26, 27, 28
November	22, 23, 24, 25, 29, 30
December	1, 2

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**FORTIETH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD**

Governor-General

His Excellency Major-General Michael Jeffery, Companion in the Order of Australia,
Commander of the Royal Victorian Order, Military Cross

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert

Deputy President and Chairman of Committees—Senator John Joseph Hogg

Temporary Chairmen of Committees—Senators the Hon. Nick Bolkus, George Henry Brandis, Hedley Grant Pearson Chapman, John Clifford Cherry, the Hon. Peter Francis Salmon Cook, Alan Baird Ferguson, Stephen Patrick Hutchins, Linda Jean Kirk, Susan Christine Knowles, Philip Ross Lightfoot, John Alexander Lindsay (Sandy) Macdonald, Gavin Mark Marshall, Jan Elizabeth McLucas and John Odin Wentworth Watson

Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill

Deputy Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin

Leader of the Opposition in the Senate—Senator the Hon. John Philip Faulkner

Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy

Manager of Government Business in the Senate—Senator the Hon. Ian Gordon Campbell

Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill

Deputy Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin

Leader of the National Party of Australia—Senator the Hon. Ronald Leslie Doyle Boswell

Leader of the Australian Labor Party—Senator the Hon. John Philip Faulkner

Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy

Leader of the Australian Democrats—Senator Andrew John Julian Bartlett

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Members of the Senate

Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	Tas	30.6.2005	LP
Allison, Lynette Fay	Vic	30.6.2008	AD
Barnett, Guy ⁽⁵⁾	Tas	30.6.2005	LP
Bartlett, Andrew John Julian	Qld	30.6.2008	AD
Bishop, Thomas Mark	WA	30.6.2008	ALP
Bolkus, Hon. Nick	SA	30.6.2005	ALP
Boswell, Hon. Ronald Leslie Doyle	Qld	30.6.2008	NATS
Brandis, George Henry ⁽²⁾	Qld	30.6.2005	LP
Brown, Robert James	Tas	30.6.2008	AG
Buckland, Geoffrey Frederick ⁽⁴⁾	SA	30.6.2005	ALP
Calvert, Hon. Paul Henry	Tas	30.6.2008	LP
Campbell, George	NSW	30.6.2008	ALP
Campbell, Hon. Ian Gordon	WA	30.6.2005	LP
Carr, Kim John	Vic	30.6.2005	ALP
Chapman, Hedley Grant Pearson	SA	30.6.2008	LP
Cherry, John Clifford ⁽³⁾	Qld	30.6.2005	AD
Colbeck, Richard Mansell	Tas	30.6.2008	LP
Collins, Jacinta Mary Ann	Vic	30.6.2005	ALP
Conroy, Stephen Michael	Vic	30.6.2005	ALP
Cook, Hon. Peter Francis Salmon	WA	30.6.2005	ALP
Coonan, Hon. Helen Lloyd	NSW	30.6.2008	LP
Crossin, Patricia Margaret ⁽¹⁾	NT		ALP
Denman, Kay Janet	Tas	30.6.2005	ALP
Eggleston, Alan	WA	30.6.2008	LP
Ellison, Hon. Christopher Martin	WA	30.6.2005	LP
Evans, Christopher Vaughan	WA	30.6.2005	ALP
Faulkner, Hon. John Philip	NSW	30.6.2005	ALP
Ferguson, Alan Baird	SA	30.6.2005	LP
Ferris, Jeannie Margaret	SA	30.6.2008	LP
Forshaw, Michael George	NSW	30.6.2005	ALP
Greig, Brian Andrew	WA	30.6.2005	AD
Harradine, Brian	Tas	30.6.2005	Ind
Harris, Leonard William	Qld	30.6.2005	PHON
Heffernan, Hon. William Daniel	NSW	30.6.2005	LP
Hill, Hon. Robert Murray	SA	30.6.2008	LP
Hogg, John Joseph	Qld	30.6.2008	ALP
Humphries, Gary John Joseph ⁽¹⁾⁽⁷⁾	ACT		LP
Hutchins, Stephen Patrick	NSW	30.6.2005	ALP
Johnston, David Albert Lloyd	WA	30.6.2008	LP
Kemp, Hon. Charles Roderick	Vic	30.6.2008	LP
Kirk, Linda Jean	SA	30.6.2008	ALP
Knowles, Susan Christine	WA	30.6.2005	LP
Lees, Meg Heather	SA	30.6.2005	APA
Lightfoot, Philip Ross	WA	30.6.2008	LP
Ludwig, Joseph William	Qld	30.6.2005	ALP
Lundy, Kate Alexandra ⁽¹⁾	ACT		ALP
Macdonald, Hon. Ian Douglas	Qld	30.6.2008	LP
Macdonald, John Alexander Lindsay (Sandy)	NSW	30.6.2008	NATS

Senator	State or Territory	Term expires	Party
McGauran, Julian John James	Vic	30.6.2005	NATS
Mackay, Susan Mary	Tas	30.6.2008	ALP
McLucas, Jan Elizabeth	Qld	30.6.2005	ALP
Marshall, Gavin Mark	Vic	30.6.2008	ALP
Mason, Brett John	Qld	30.6.2005	LP
Minchin, Hon. Nicholas Hugh	SA	30.6.2005	LP
Moore, Claire Mary	Qld	30.6.2008	ALP
Murphy, Shayne Michael	Tas	30.6.2005	Ind
Murray, Andrew James Marshall	WA	30.6.2008	AD
Nettle, Kerry Michelle	NSW	30.6.2008	AG
O'Brien, Kerry Williams Kelso	Tas	30.6.2005	ALP
Patterson, Hon. Kay Christine Lesley	Vic	30.6.2008	LP
Payne, Marise Ann	NSW	30.6.2008	LP
Ray, Hon. Robert Francis	Vic	30.6.2008	ALP
Ridgeway, Aden Derek	NSW	30.6.2005	AD
Santoro, Santo ⁽⁶⁾	Qld	30.6.2008	LP
Scullion, Nigel Gregory ⁽¹⁾	NT		CLP
Sherry, Hon. Nicholas John	Tas	30.6.2008	ALP
Stephens, Ursula Mary	NSW	30.6.2008	ALP
Stott Despoja, Natasha Jessica	SA	30.6.2008	AD
Tchen, Tsebin	Vic	30.6.2005	LP
Tierney, John William	NSW	30.6.2005	LP
Troeth, Hon. Judith Mary	Vic	30.6.2005	LP
Vanstone, Hon. Amanda Eloise	SA	30.6.2005	LP
Watson, John Odin Wentworth	Tas	30.6.2008	LP
Webber, Ruth Stephanie	WA	30.6.2008	ALP
Wong, Penelope Ying Yen	SA	30.6.2008	ALP

(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

(2) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Warwick Raymond Parer, resigned.

(3) Chosen by the Parliament of South Australia to fill a casual vacancy vice John Woodley, resigned.

(4) Chosen by the Parliament of Queensland to fill a casual vacancy vice John Andrew Quirke, resigned.

(5) Appointed by the Governor of Tasmania to fill a casual vacancy vice Hon. Brian Francis Gibson AM, resigned.

(6) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.

(7) Chosen by the Legislative Assembly of the Australian Capital Territory to fill a casual vacancy vice Hon. Margaret Reid, resigned.

PARTY ABBREVIATIONS

AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; APA—Australian Progressive Alliance; CLP—Country Labor Party; Ind—Independent; LP—Liberal Party of Australia;

NATS—The Nationals; PHON—Pauline Hanson's One Nation

Heads of Parliamentary Departments

Clerk of the Senate—H. Evans

Clerk of the House of Representatives—I.C. Harris

Departmental Secretary, Department of Parliamentary Services—H.R. Penfold QC

HOWARD MINISTRY

Prime Minister	The Hon. John Winston Howard MP
Minister for Transport and Regional Services and Deputy Prime Minister	The Hon. John Duncan Anderson MP
Treasurer	The Hon. Peter Howard Costello MP
Minister for Trade	The Hon. Mark Anthony James Vaile MP
Minister for Foreign Affairs	The Hon. Alexander John Gosse Downer MP
Minister for Defence and Leader of the Government in the Senate	Senator the Hon. Robert Murray Hill
Minister for Finance and Administration and Deputy Leader of the Government in the Senate	Senator the Hon. Nicholas Hugh Minchin
Minister for Health and Ageing and Leader of the House	The Hon. Anthony John Abbott MP
Attorney-General	The Hon. Philip Maxwell Ruddock MP
Minister for the Environment and Heritage and Vice-President of the Executive Council	The Hon. Dr David Alistair Kemp MP
Minister for Communications, Information Technology and the Arts	The Hon. Daryl Robert Williams AM, QC, MP
Minister for Agriculture, Fisheries and Forestry	The Hon. Warren Errol Truss MP
Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation	Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training	The Hon. Dr Brendan John Nelson MP
Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women	Senator the Hon. Kay Christine Lesley Patterson
Minister for Industry, Tourism and Resources	The Hon. Ian Elgin Macfarlane MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service	The Hon. Kevin James Andrews MP

(The above ministers constitute the cabinet)

HOWARD MINISTRY—*continued*

Minister for Justice and Customs	Senator the Hon. Christopher Martin Ellison
Minister for Fisheries, Forestry and Conservation	Senator the Hon. Ian Douglas Macdonald
Minister for the Arts and Sport	Senator the Hon. Charles Roderick Kemp
Minister for Small Business and Tourism	The Hon. Joseph Benedict Hockey MP
Minister for Science and Deputy Leader of the House	The Hon. Peter John McGauran MP
Minister for Local Government, Territories and Roads and Manager of Government Business in the Senate	Senator the Hon. Ian Campbell
Minister for Children and Youth Affairs	The Hon. Lawrence James Anthony MP
Minister for Employment Services and Minister Assisting the Minister for Defence	The Hon. Malcolm Thomas Brough MP
Special Minister of State	Senator the Hon. Eric Abetz
Minister for Veterans' Affairs	The Hon. Danna Sue Vale MP
Minister for Revenue and Assistant Treasurer	Senator the Hon. Helen Lloyd Coonan
Minister for Ageing	The Hon. Julie Isabel Bishop MP
Minister for Citizenship and Multicultural Affairs and Minister Assisting the Prime Minister	The Hon. Gary Douglas Hardgrave MP
Parliamentary Secretary to the Prime Minister	The Hon. Jacqueline Marie Kelly MP
Parliamentary Secretary to the Minister for Transport and Regional Services and Parliamentary Secretary to the Minister for Trade	The Hon. De-Anne Margaret Kelly
Parliamentary Secretary to the Treasurer	The Hon. Ross Alexander Cameron MP
Parliamentary Secretary to the Minister for Foreign Affairs	The Hon. Christine Ann Gallus MP
Parliamentary Secretary to the Minister for Defence	The Hon. Frances Esther Bailey MP
Parliamentary Secretary to the Minister for the Environment and Heritage	The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Finance and Administration	The Hon. Peter Neil Slipper MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry	Senator the Hon. Judith Mary Troeth
Parliamentary Secretary to the Minister for Family and Community Services	The Hon. Christopher Maurice Pyne
Parliamentary Secretary to the Minister for Health and Ageing	The Hon. Patricia Mary Worth MP
Parliamentary Secretary to the Minister for Industry, Tourism and Resources	The Hon. Warren George Entsch MP

SHADOW MINISTRY

Leader of the Opposition	Mark Latham MP
Deputy Leader of the Opposition and Shadow Minister for Employment, Education and Training	Jennifer Louise Macklin MP
Leader of the Opposition in the Senate, Shadow Special Minister of State and Shadow Minister for Public Administration and Accountability	Senator the Hon. John Philip Faulkner
Deputy Leader of the Opposition in the Senate and Shadow Minister for Trade, Corporate Governance and Financial Services	Senator Stephen Michael Conroy
Shadow Minister for Employment Services and Training	Anthony Norman Albanese MP
Shadow Minister for Veterans' Affairs and Shadow Minister for Customs	Senator Thomas Mark Bishop
Shadow Minister for Industry and Innovation and Shadow Minister for Science and Research	Senator Kim John Carr
Shadow Minister for Children and Youth	Senator Jacinta Mary Ann Collins
Shadow Minister for Revenue and Shadow Assistant Treasurer	David Alexander Cox MP
Shadow Treasurer and Deputy Manager of Opposition Business in the House	The Hon Simon Findlay Crean MP
Shadow Minister for Ageing and Seniors and Shadow Minister for Disabilities	Annette Louise Ellis MP
Shadow Minister for Workplace Relations and Shadow Minister for the Public Service	Craig Anthony Emerson MP
Shadow Minister for Defence	Senator Christopher Vaughan Evans
Shadow Minister for Population, Citizenship and Multicultural Affairs	Laurence Donald Thomas Ferguson MP
Shadow Minister for Urban and Regional Development and Shadow Minister for Transport and Infrastructure	Martin John Ferguson MP
Shadow Minister for Mining, Energy and Forestry	Joel Andrew Fitzgibbon MP
Shadow Minister for Health and Manager of Opposition Business in the House	Julia Eileen Gillard MP
Shadow Minister for Consumer Affairs and Assisting the Shadow Minister for Health	Alan Peter Griffin MP
Shadow Minister for Information Technology, Shadow Minister for Sport and Recreation and Shadow Minister for the Arts	Senator Kate Alexandra Lundy
Shadow Minister for Homeland Security	Robert Bruce McClelland MP

SHADOW MINISTRY—*continued*

Shadow Minister for Finance and Shadow Minister for Small Business	Robert Francis McMullan MP
Shadow Minister for Housing, Urban Development and Local Government	Daryl Melham MP
Shadow Minister for Reconciliation and Indigenous Affairs and Shadow Minister for Tourism, Regional Services and Territories	Senator Kerry William Kelso O'Brien
Shadow Minister for Agriculture and Fisheries	Gavan Michael O'Connor MP
Shadow Attorney-General and Assisting the Leader on the Status of Women	Nicola Louise Roxon MP
Shadow Minister for Foreign Affairs and International Security	Kevin Michael Rudd MP
Shadow Minister for Retirement Incomes and Savings	Senator the Hon. Nicholas John Sherry
Shadow Minister for Immigration	Stephen Francis Smith
Shadow Minister for Family and Community Services	Wayne Maxwell Swan MP
Shadow Minister for Communications and Shadow Minister for Community Relationships	Lindsay James Tanner MP
Shadow Minister for Sustainability, the Environment and Heritage	Kelvin John Thomson MP
Parliamentary Secretary for Industry, Innovation, Science and Research	Senator George Campbell
Parliamentary Secretary to the Leader of the Opposition	Senator the Hon. Peter Francis Salmon Cook
Parliamentary Secretary for Defence	The Hon. Graham John Edwards MP
Parliamentary Secretary for Family and Community Services	Senator Michael George Forshaw
Parliamentary Secretary for Sustainability, the Environment and Heritage	Kirsten Fiona Livermore MP
Parliamentary Secretary to the Attorney-General and for Homeland Security; Manager of Business in the Senate	Senator Joseph William Ludwig
Parliamentary Secretary to the Leader of the Opposition	John Paul Murphy MP
Parliamentary Secretary for Communications	Michelle Anne O'Byrne MP
Parliamentary Secretary for Agriculture and Resources	Peter Sid Sidebottom MP
Parliamentary Secretary for Northern Australia and Reconciliation	The Hon. Warren Edward Snowdon MP
Parliamentary Secretary for Urban and Regional Development, Transport, Infrastructure and Tourism	Christian John Zahra MP

CONTENTS

MONDAY, 29 MARCH

Business—	
Days and Hours of Meeting.....	22057
Greater Sunrise Unitisation Agreement Implementation Bill 2004 and Customs Tariff Amendment (Greater Sunrise) Bill 2004—	
In Committee.....	22059
Third Reading.....	22065
Military Rehabilitation and Compensation Bill 2003 and Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003—	
Second Reading.....	22067
Questions Without Notice—	
Budget: Family and Community Services.....	22073
National Security: Terrorism.....	22074
Social Welfare: Pensions and Benefits.....	22075
Australian Defence Force: Deployment.....	22077
Budget: Family and Community Services.....	22079
Health: Parkinson's Disease.....	22081
Budget: Family and Community Services.....	22082
Trade: Imports.....	22083
Social Welfare: Disability Support Pension.....	22085
Small Business: Redundancies.....	22087
Answers to Questions on Notice—	
Question No. 2453.....	22089
Question Nos 2117 and 2360.....	22089
Questions Without Notice: Take Note of Answers—	
Budget: Family and Community Services.....	22090
Health: Parkinson's Disease.....	22095
Petitions—	
Education: Educational Textbook Subsidy Scheme.....	22096
Notices—	
Presentation.....	22096
Leave of Absence.....	22099
Heiner Affair and Lindeberg Grievance.....	22099
Notices—	
Postponement.....	22100
Rural and Regional Australia: Health Services.....	22100
Committees—	
Legal and Constitutional References Committee—Extension of Time.....	22101
Documents—	
Ninth National Schools Constitutional Convention.....	22101
Committees—	
Procedure Committee—Report.....	22101
Migration Committee—Report.....	22101
Sex Discrimination Amendment (Teaching Profession) Bill 2004, Trade Practices Amendment (Personal Injuries and Death) Bill (No. 2) 2004 and Veterans' Entitlements Amendment (Electronic Delivery) Bill 2004—	
First Reading.....	22105
Second Reading.....	22106

CONTENTS—*continued*

Taxation Laws (Clearing and Settlement Facility Support) Bill 2003—	
Report of Economics Legislation Committee	22109
Military Rehabilitation and Compensation Bill 2003 and	
Military Rehabilitation and Compensation (Consequential and Transitional Provisions)	
Bill 2003—	
Second Reading	22110
Distinguished Visitors	22113
Military Rehabilitation and Compensation Bill 2003 and	
Military Rehabilitation and Compensation (Consequential and Transitional Provisions)	
Bill 2003—	
In Committee	22113
Age Discrimination Bill 200 and	
Age Discrimination (Consequential Provisions) Bill 2003—	
In Committee	22141
Third Reading	22150
Business—	
Rearrangement	22150
Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]—	
Second Reading	22150
Adjournment—	
Brisbane City Council Elections	22197
Wet Tropics World Heritage Area	22200
Mining: Iron Ore	22202
Documents—	
Tabling	22204
Questions on Notice—	
Attorney-General's: Institute of Public Affairs—(Question Nos 2044 and 2051)	22205
Industry: Southern Pacific Petroleum—(Question No. 2446)	22205
Health: Rural and Aboriginal and Torres Strait Islander Students—(Question	
No. 2521)	22206
Aviation: Airspace Review—(Question No. 2536)	22207
Aboriginal and Torres Strait Islander Commission: Mr Brian Johnstone—(Question	
No. 2587)	22208
Fuel: Diesel Oil—(Question No. 2629)	22211
Fuel: Ethanol—(Question No. 2630)	22211
Fuel: Liquefied Petroleum Gas—(Question No. 2631)	22211
Customs: SmartGate System—(Question No. 2648)	22212
Trade: Free Trade Agreement—(Question No. 2683)	22213

Monday, 29 March 2004

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

BUSINESS

Days and Hours of Meeting

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (12.31 p.m.)—At the request of Senator Coonan, I move:

That, on Monday, 29 March 2004:

- (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.30 pm; and
- (b) the question for the adjournment of the Senate shall be proposed at 10.50 pm.

Senator LUDWIG (Queensland) (12.31 p.m.)—We could use the hour during the dinner break if no-one disagrees. We could seek to vary the motion if there were unanimity of thought in relation to that. We could then still finish at the usual time and achieve an additional hour. That is an issue Senator Ian Campbell might want to take on board rather than insist on sitting an additional hour tonight. In relation to hours of sitting motions more generally—and I think I have already indicated this to Senator Ian Campbell, but for the record it never hurts—the opposition are not minded to look at any further hours until we can have a reasonable discussion with the government and the minor parties as to what bills are likely to be required by the government this week so that everyone can examine what the week may bring rather than deal with this on an ad hoc or day-by-day basis between now and the end of the year. So I would ask Senator Ian Campbell to vary the hours, if he is minded to do so, to ensure that we sit till 9.50 p.m. or the usual sitting time tonight and vacate the dinnertime suspension.

Senator BROWN (Tasmania) (12.33 p.m.)—The Greens oppose the extended hour in either case but certainly would consider the dinner hour, although we recognise the strain that puts on staff. The problem here is that we do not have an explanation for this from the government. I know what the explanation is—they are fixing for a midwinter election. I do not see why the Senate should have its schedule set according to that at all. There is plenty of time coming up in May and June extra to the sitting calendar that we have—

Senator Ferguson—Three weeks total.

Senator BROWN—Sorry, three weeks?

The PRESIDENT—Order! Let us get back to the subject, Senator Brown.

Senator BROWN—I thank the senator opposite who points out that there are three clear sitting weeks in May and June which can be taken up if the schedule gets big. The usual thing for legislation is to add time at the end of the year. There does not have to be an election until March next year. The government manipulating the Senate to get legislation through because it wants to keep the winter open for an election is not on as far as I am concerned. We should be considering this legislation with the sort of diligence and in the hours that we normally have at this time of the year. What is different about this year compared to other years? We oppose the extension tonight. I want to hear good reason as to why there should be an extension through the dinner break as well. It does put a lot of unnecessary strain on people unless there is a very necessary argument brought forward—and that we have not had.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (12.35 p.m.)—by leave—I seek leave to amend the motion.

Leave granted.

Senator IAN CAMPBELL—I move the motion as amended:

That, on Monday, 29 March 2004:

- (a) the hours of meeting shall be 12.30 pm to 10.30 pm; and
- (b) the question for the adjournment of the Senate shall be proposed at 9.50 pm.

To respond to Senator Ludwig and Senator Brown, I was cognisant of the fact that there is sometimes pressed upon us a need to have a dinner break when we do extend hours. I guess the point is: at the beginning of what could be a long week do you toss up having an extra hour's sleep or an hour for dinner? I am happy to accommodate the extra hour's sleep.

In relation to the hours for the remainder of the week, my intention is to convene a meeting of the Senate leaders and whips probably after question time tomorrow when we have a clearer understanding of where we are at on the program. As I understand it we were dealing with effectively one bill for the final three sitting days of last week and made very little progress. The Senate is significantly behind where I would have expected it to be at the beginning of the week. The government distributed a list of bills it would like to complete before the end of these sittings, and that has been available widely. It includes 15-odd bills that the government would seek to have the Senate vote on before we conclude this week's sittings.

Senator Brown says that there is nothing on it that could not be dealt with later in the year. The reality is that the government will be distributing fairly shortly what is called the public list of bills to be considered during the spring sittings and the budget sittings. In the budget sittings, all the budget legislation will be coming in as well. We will be seeking parliamentary consideration of a further 70 bills in the next sittings. Every bill you do

not do in these sittings puts more pressure on the end of the year.

There should be a logic associated with getting on with a reasonable amount of work. We decided, because Senator Brown does not like the Greater Sunrise bills, to spend most of last week debating that legislation even though 90 per cent of the senators in this place support the bills. Ultimately, the Senate determines the pace with which it deals with legislation. Ultimately, the Senate will determine whether we sit deep into the night on a number of nights this week or whether we come back next week. It is in the hands of the Senate. It takes all senators to agree on a sensible program to deal with these things. The way that it has been done in the past is to have discussions as we lead up to the end of the sitting sessions, which is what will occur this week, and to seek agreement on a rational and sensible way of ensuring the Senate's available hours are used in an efficient manner. I appreciate the support of the opposition in facilitating an extra hour today.

Senator BROWN (Tasmania) (12.39 p.m.)—by leave—I will take one moment. There are 20 vacant sitting weeks coming up in the rest of the year, and I urge the government to look at its calendar and work out a rescheduling. I am not in favour of putting the staff of this place, our staff and the community through rushed and torrid consideration of legislation like this at this time of this year.

Senator Ian Campbell interjecting—

The PRESIDENT—Order! Senator Campbell, Senator Brown did seek the call for one minute, and that minute is getting pretty close.

Senator BROWN—That is right. I would urge—

Senator Ian Campbell—It is hypocrisy.

Senator BROWN—It is not hypocrisy, as the minister says. I am putting a point of view and I will be putting it very strongly for the rest of this week.

Question agreed to.

**GREATER SUNRISE UNITISATION
AGREEMENT IMPLEMENTATION
BILL 2004**

**CUSTOMS TARIFF AMENDMENT
(GREATER SUNRISE) BILL 2004**

In Committee

Consideration resumed from 25 March.

**GREATER SUNRISE UNITISATION
AGREEMENT IMPLEMENTATION BILL
2004**

The CHAIRMAN—The question is that Senator Brown's amendment (2) on sheet 4200 revised be agreed to.

Senator BROWN (Tasmania) (12.41 p.m.)—We are currently considering the Greens amendment for a sunset clause which would terminate the act on 31 December 2006 if a permanent maritime boundary between Australia and Timor Leste has not been agreed to by that date. The argument on that proceeded during last week and it has not been adequately responded to by the government. At this juncture I want to put on the record a press release from Prime Minister Alkatiri of Timor Leste from last Friday, which reads:

Prime Minister Alkatiri is concerned by comments made in the Australian Senate on Wednesday 24 March claiming he has no concerns about ALP support for the international unitisation agreement (IUA) bill, which is currently before the Australian parliament. Prime Minister Alkatiri said today: 'I clearly voice my concerns regarding the IUA bill and consider that the Australian actions and statements in regard to the IUA undermine the prospects for its approval by the Timor Leste national parliament. These actions are the unilateral issuances of licences by Australia in an area of the Greater Sunrise field described as a

disputed area in the text of the IUA. There are Australian statements that claim that this area is an area of 'sole Australian jurisdiction'. This is categorically incorrect. The Timor Leste government is committed to adhere to its obligations in regard to agreements entered into. However, the process of the ratification of the IUA to the Timor Leste national parliament would be made easier if Australia was acting in accordance with international law.

Prime Minister Alkatiri further said: 'There is widespread lack of support for the IUA and Timor Leste. The fact that Australia is issuing licences in disputed areas, has not committed to a time frame to determine our maritime boundaries, claims to have insufficient resources to enter into more than biannual meetings to negotiate our boundaries, has withdrawn from the International Court of Justice on maritime boundaries and continues to exploit the Laminaria, Coralina and Buffalo oil fields, which lie in an area of sea claimed by Timor Leste and which are nearing the end of their lives, despite our official objections does not help Timor Leste's trust in Australia to abide by any legally binding agreement entered into. If permanent maritime boundaries were agreed expeditiously and in accordance with international law, many of these issues would dissolve.

Will the minister comment on the obviously deeply held feeling in Timor Leste—by the community right up to the Prime Minister—that Australia is acting illegally? The statement says that Australia is not 'acting in accordance with international law' in distributing licences, which Australia is able to do unilaterally in an area of the Greater Sunrise field that is described as 'disputed' in the text of the agreement that we are dealing with under this legislation. Would the minister like to again put forward the government's point of view on this so that the Senate can have the concerns expressed by the Prime Minister of Timor Leste resolved?

The TEMPORARY CHAIRMAN (Senator Ferguson)—Senator Brown, you wish to speak again?

Senator BROWN (Tasmania) (12.45 p.m.)—The minister has refused to get to his feet to respond to a very important question for Timor Leste. It is a question that should be answered. It is coming from the office of Prime Minister Alkatiri, and the Senate should hear a response to the deeply held feeling in Timor Leste that Australia is not acting in accordance with international laws and should do so, and that Australia is pre-empting the setting of boundaries between Australia and Timor Leste which both sides agree have yet to be settled. The feeling in Timor Leste is that Australia is arbitrarily intruding on Timor Leste's territory and issuing licences for exploration in a way which is a great affront to the nation of Timor Leste, which is our neighbour, and not least to the Prime Minister.

Surely, in a debate in this chamber on a matter as important as this, we can expect the government to respond to what the Prime Minister of our neighbouring country is saying. Surely that is in order. Surely the minister cannot refuse to respond to that. That would be an abrogation of the government's responsibility to the Senate, if not to the people of Australia and Timor Leste. I ask the minister to respond to that question. It is a very serious matter of the relationship between our country and Timor Leste, our parliament and the parliament of Timor Leste, our Prime Minister and the Prime Minister of Timor Leste.

Senator Abetz—How many more times can I say it?

Senator BROWN—The off-the-cuff 'How many more times is he going to say that?' is insulting both to the Senate and to the people of Timor Leste. I wanted that put on record because that is apparently all we are going to get out of this incapable minister who is refusing to answer such an important question.

Senator Abetz interjecting—

Senator BROWN—No, it is not out of order, Minister; it is quite in order. He is refusing to answer a question like that in committee.

Senator STOTT DESPOJA (South Australia) (12.47 p.m.)—I rise on the same issue that Senator Brown has mentioned. I am not entirely sure whether Senator Brown has put all of Prime Minister Alkatiri's comments on the record, but I thank him for doing that because they are not irrelevant nor out of the purview of the discussion on these bills. It is worth noting for both the minister and the Labor Party that this statement raises the issue to which we referred in the last couple of sitting days when we debated this legislation—that is, the international jurisdiction and the fact that many people, including people with legal opinions, suggest that Australia is undermining international obligations. That is of great concern. I was very saddened to see the comments by Prime Minister Alkatiri on 26 March. I also ask the government: what will the Australian government's response be to the statement that has come from no less than the office of the Prime Minister of Timor Leste? I would like to know: in what form was the statement received by the government and what kind of response will the Australian government make and when?

Senator HARRIS (Queensland) (12.49 p.m.)—I want to place very briefly on the record—mainly because these bills were debated last week—One Nation's concerns in relation to the bills before the Senate. They arise from an unease about how the resources from the Greater Sunrise field and the other areas will be divided between Australia and East Timor. One Nation is concerned about where the sea boundaries should be. Again, I place on record a verbal commitment from Senator Abetz to look at ways of ensuring

that a greater proportion of the revenue from the area that is presently determined as Australia's jurisdiction goes to East Timor. On the figures that I have, over the life of the field that would equate to something like \$8.9 billion.

As I said last week, if 90 per cent of that were to go to East Timor, it would underpin East Timor's economy. It would allow them to improve their standards of living and increase the services that they provide to the East Timor people without having to encumber themselves to entities like the International Monetary Fund or through government bonds that the East Timor government may be required to enter into to provide what we would agree are basic services. The minister made that commitment, and I thank the minister for that. One Nation will most certainly take that into consideration in relation to its support for the legislation.

We are addressing the second amendment to the bill moved by Senator Brown, which seeks to insert the words:

This Act ceases to have effect on 31 December 2006 if a permanent maritime boundary between Australia and Timor-Leste is not agreed to by that date.

I believe the amendment has merit. It requires the Australian government to negotiate with the East Timor government and to resolve those issues. The boundary it refers to is the northern boundary. Agreeing on a permanent northern boundary will not alter to any great degree the division of the resources, but I still believe it is in the best interests of Australia and East Timor. One Nation will support that Greens amendment.

Senator ABETZ (Tasmania—Special Minister of State) (12.53 p.m.)—Can I deal with a number of the issues that have been raised and remind the Senate that the vast majority of this debate has been a repeat of what was dealt with last week. Last week we

had about a three-hour filibuster on one Greens amendment. I will not be responding to every taunt made by the Australian Greens, such as reflections on my capacity, or to other cheap shots that do not further the debate. Most honourable senators in this chamber will know that by nature I am a very patient person and am willing to deal with genuine issues as they are raised, but not when they are repeated ad nauseam. Sure, some issues are raised with passion. I recall that last week I was asked most passionately whether I knew the name of the East Timorese minister for the environment. Whether the minister's name is Max or Maxine bears no relevance whatsoever to the validity of this legislation, its robustness or its integrity. With exactly the same sort of passion and hyperbole, we have been presented with some new matters this morning.

Can I suggest with the greatest of respect that people's feelings, and the reporting of those feelings—and that is basically as strongly as it was put this morning—are not the issue here. The alleged feeling in East Timor is that we are not doing the right thing. Feelings are important, and we all have them. But at the end of the day when you are discussing matters of international law, believe it or not, you need a bit more robustness than the feelings of certain people. It is the government's view that what we are doing is quite appropriate. To assert that Australia is obligated to cease petroleum activities in what East Timor considers to be disputed areas is a misstatement of the applicable law. It just is not the law. Australia will act in accordance with its view of the law. If East Timor is of the view and feels—and I think 'feels' was about as strongly as it was put—that that is the international law then that is a matter for it to articulate and argue. We accept that and we respect that. Similarly, I would have thought that a senator in this chamber might give some consideration

to the way we feel and to the way the Australian government believes the international law applies in this situation.

This is a general discussion about the issues before us. We have a very specific Greens amendment that suggests that, if we have not arranged a permanent maritime boundary between Australia and Timor Leste by 31 December 2006, the legislation is to lapse. This bill deals with an area between the two countries that, as I understand it, is not in dispute. The area we are dealing with in this bill is not in dispute. The two countries have come to a joint arrangement to harness the resource that has been created in that area. We need some certainty. That is the purpose of this legislation. Inserting this clause into the bill would take away all the certainty the bill was designed to give. If this amendment were carried, it would gut it. It would not provide the certainty, so the resource would remain in the ground and neither Timor Leste—or East Timor—nor Australia would receive any benefit.

This is a classic case of cutting off your nose to spite your face. You may not like something with respect to another area which is still in dispute, and which we are having discussions about, but this agreement is no slight on the people of East Timor. As I understand it, the dispute over that area arose when the Portuguese were the colonial governors of the area known as East Timor and it has been ongoing for some considerable period. The dispute is a legacy of the agreement between Portugal and Australia, then Indonesia and Australia and now East Timor and Australia. We will have to try to come to some resolution of it. Sure, it is a debate we can have, but it bears no relationship to the bill before us, which deals as I understand it with an area that is not in dispute because there is an agreement signed by the two governments. This legislation is designed to provide certainty. Inserting the suggested clause

would ensure that there is no certainty and that the product which is available would not be harnessed. As a result, neither the people of East Timor nor the people of Australia would benefit from the potential of that resource.

Senator Stott Despoja asked whether we had been advised of the East Timorese Prime Minister's statement. We have been, only by the media as I understand it. That does not mean it has not necessarily gone from prime minister to prime minister, and has not at this stage filtered its way through to me, but my advice at this stage is that it is simply via a media statement that the Australian government are aware of his comments. You cannot blame the East Timorese for wanting to get the best possible deal for their people. Similarly, the Australian government is also charged, albeit within the bounds of international law, to get the best deal for the Australian people. That is where we need agreement. That is the agreement that was signed some time ago, and we now have legislation to seek to implement it. If the Senate decides to gut this bill by supporting this amendment it will mean there will be no more certainty, there will be no development and the East Timorese and the Australian people will be the losers. Clearly, that is not within the interests of anybody.

Senator STOTT DESPOJA (South Australia) (1.02 p.m.)—I thank the minister for his response to my question. Notwithstanding my concerns about the process involved in this bill and the effect of this legislation, I indicate on behalf of the Democrats that we will not be supporting the amendment before us. While sympathetic to the motivation behind the amendment that has been put forward, I do not believe it is a workable incentive for the government to expedite its maritime boundary negotiations.

We believe there are a number of difficulties associated with a sunset clause in this context. Firstly, I do recognise that it is problematic for our parliament to end an agreement between Australia and another sovereign state, in this case Timor Leste. Clearly, Timor Leste has rights and obligations under the Greater Sunrise Agreement and it is questionable whether it is appropriate for this parliament to unilaterally interfere with those rights and obligations. For example, commercial considerations may apply if the agreement ceases to have effect while the Greater Sunrise resources are being exploited and revenue is flowing to Timor Leste. In such circumstances Timor Leste may lose vital revenue if the agreement were to cease, and that may be contrary to the interests of the people of Timor Leste.

Another practical difficulty is the date that has been put forward in this amendment. If both Green amendments were to be passed—on behalf of the Democrats I supported the first amendment—the maritime boundary dispute could be referred to the ICJ in 2005, yet the Greater Sunrise Agreement would cease to have effect just one year later. I imagine that anyone here who is familiar with the processes of the ICJ would appreciate the extreme unlikelihood of the matter before the ICJ being determined within a 12-month period. I suggest to Senator Brown that while the motivation behind this amendment may be a good one, it is not a workable solution to the problems. In fact, it is a flawed solution, and under those circumstances the Democrats will not be supporting the amendment.

The minister made some comments relating to the feelings of certain people. I think that when you are talking about ‘certain people’ within the context of this debate, the Prime Minister of Timor Leste is quite an important figure. We are not just talking about individuals in this debate having

strong, indeed passionate feelings, as many people in this place have. It is quite a significant statement that has been put out by the government of Timor Leste. I thank the minister for his response to my questions, but maybe I should have been asking the Labor spokesperson, given that this statement refers to allusions made by the Australian Labor Party in this debate. It is pretty hard to underestimate the significance of this statement. I can see the numbers in this place, and I suggest that a lot of other questions are not necessarily going to be answered. That is not to say there are not many outstanding questions in the context of this debate, or many other reflections that I and many other people would like to make on the way this process has been handled and on what we are doing to Timor Leste in the context of these debates and negotiations.

I am terribly embarrassed today. I am not proud at all. The minister talks about what is in people’s best interests. I think what is in the best interests of our region and our nation is peace, security and goodwill with neighbours—and not ripping off neighbours. Both Timor Leste and Australia have commercial interests in this, but I do not think we have gone about this the right way in terms of organising and determining how we distribute those resources. I feel like this country and this government have been bush-rangers for oil, but I recognise that this debate is not going to go much further. I indicate to Senator Brown that this amendment will not have the support of the Democrats, while I understand the intent behind it.

Senator O’BRIEN (Tasmania) (1.06 p.m.)—The opposition does not intend to support this amendment. It would effectively reflect a change to the unitisation agreement which is not apparently supported in any specific way by any statement that we are aware of from East Timor. Certainly the media release that Senator Brown referred to

this morning does not suggest a call to this place to do anything in relation to the matter; it talks about the degree of support in Timor Leste for the unitisation agreement and refers to matters which are substantially to do with the negotiation process. It suggests that, if the permanent boundaries were agreed, the issues would dissolve. I think that certainly is true. It highlights the issue that we must understand: if Timor Leste does not ratify, the international unitisation agreement does not go any further. This process is about giving the authority to the Australian government to take action, and I think, just as importantly, it gives certainty to the company or companies that are seeking to develop the resource to go ahead and develop it.

It seems to me that the failure to give effect to the unitisation agreement will delay, perhaps indefinitely, the development of this field. Whatever the outcome of negotiations between Australia and Timor Leste about the boundaries and other matters which relate to the distribution of government revenue from this project, the consequence is that, if there is no development, there is no financial resource which would ultimately find its way to Timor Leste. That is a matter which we are greatly concerned about. We do not think we should be unilaterally proposing to vary the IUA. Again, a number of press releases have been referred to by Senator Brown. None of them have specifically supported any proposal to do with this chamber. We will not be supporting an approach which we regard as somewhat paternalistic to put our spin on what the IUA is. The Timor Leste government, through its processes, will determine whether it ratifies the international unitisation agreement or not. That is the process which will be followed. So we will not be supporting this amendment.

I have had the benefit of looking at the press release, and I have reviewed matters which we commented on in the debate last

week. Had there been a need for us to withdraw any matter that was on the record, I would have done so. There is no need to do so. The matters that we put on the record were factual at the time that we made the statement. In terms of the way the press release is phrased, it seems to me that Prime Minister Alkatiri's media office is talking about the issues that were raised in the previous press release—the difficulties that the government of Timor Leste has with the Australian government's actions in relation to the issuing of licences and the process of negotiation. We have made our comments in relation to the process of negotiation and given a commitment to, in government, do the appropriate things to expedite those processes as far as is practicable. I rely on the statements we have already made. Having studied the media release, and in the context of the statements we have made, I have nothing further to add.

Senator HARRIS (Queensland) (1.11 p.m.)—I am seeking some clarification from the minister. Page 4 of the bill, item 1, subsection 5(1) refers to the 'Eastern Greater Sunrise area'. Does that refer to the section identified as the 'Northern Territory side' on the document that I tabled last week? Does item 2, subsection 5(1) in referring to the 'Greater Sunrise unit area' refer to the JPDA? I need to clarify whether they are the two areas that the legislation is referring to.

Senator ABETZ (Tasmania—Special Minister of State) (1.12 p.m.)—Senator Harris, your explanation in relation to the first item was correct; your explanation in relation to the second item was not correct. The second item refers to both the east and west in relation to the map you tabled on Thursday.

Senator HARRIS (Queensland) (1.13 p.m.)—I wish to record my thanks to the minister for that answer.

Question negatived.

Bill agreed to.

**CUSTOMS TARIFF AMENDMENT
(GREATER SUNRISE) BILL 2004**

Bill—by leave—taken as a whole.

Bill agreed to.

Bills reported without amendment; report adopted.

Third Reading

Senator ABETZ (Tasmania—Special Minister of State) (1.15 p.m.)—I move:

That these bills be now read a third time.

Senator BROWN (Tasmania) (1.15 p.m.)—What a terrible moment this is for Australia, Timor Leste and this parliament. Here we have the third reading of the **Customs Tariff Amendment (Greater Sunrise) Bill 2004**, which will rob the poorest country in South-East Asia to line the pockets of the government and the oil corporations of the richest country in the region, Australia. In the Committee of the Whole we heard comments coming from the East Timorese, including community organisations in East Timor—Australia moved the boundary, under the Suharto occupation years, to put the oil and gas fields back in Australian territory—saying that they feel as though East Timor remains occupied not by Indonesia but by Australia. Of course, you do not need gunboats for this; you need to put the fledgling East Timorese government of Prime Minister Alkatiri on the rack. Both the Labor Party and the government are doing just that here by saying, on East Timor's Independence Day, 'If you don't do this, you won't get revenue from other oilfields.' They have been forced to sign an agreement which will lead to the development of the Greater Sunrise field, not an agreement which would give East Timor the total revenue, because it is East Timorese territory, but an agreement which gives East Timor 20 per cent and Aus-

tralia 80 per cent. Over the next 30 years, through that process, it will rob our poor neighbour of \$8 billion.

East Timor is a country which has government spending of \$100 per head per annum. It cannot afford schools for its kids, it cannot afford electric lighting for its houses, it cannot afford street paving and it cannot afford hospitals. It has an infant death rate scores of times higher than the rate in Australia. There are people living in grinding poverty, there is huge unemployment and there is growing youth disillusionment. East Timor has one nest egg with which to get itself out of this grinding poverty—gas and oilfields—and along comes the Australian government, in the wake of Gareth Evans's signature with Ali Alatas AO from the Suharto regime, saying, 'That's ours. There's lots of money there; we'll take it.'

Following 25 years under Suharto—who was named last week as the worst in a great series of evil dictators of recent times in robbing his people, including of course the East Timorese, not only of their money but their lives, their nation and their rights—the two great parties of our country, post East Timorese independence, now say: 'We'll take the oil and gas fields. We know it's illegal that they are in Australia's bailiwick under this duress. We'll close down on the International Court of Justice and will not allow the dispute that has arisen to be settled there.' This is robbery by the Australian government and Latham opposition of the Timor Leste people. The sore that has opened up is not going to heal for decades to come, nor should it. The money that East Timor is going to be deprived of will always be wanted by this poor neighbour of ours.

In the press release that we talked about today, Prime Minister Alkatiri said that there was a widespread lack of support in his country for this agreement that we are driv-

ing through in this parliament. The best the Special Minister of State can do is get up and insult him and say, 'Believe it or not, you need a bit more robustness than the feelings of certain people.' Where I come from, where the Greens come from, feelings count. The feelings of the prime minister of the poorest country in our region matter. When he said that there was not widespread support for this agreement, in a typically diplomatic and understated way—

Senator Abetz interjecting—

Senator BROWN—The Special Minister of State opposite said, 'But he signed the agreement.' I have already explained that I was there when Prime Minister Howard, Senator Hill and Mr Downer were coercing this country next door, at the behest of Woodside, to sign this agreement; otherwise they would not get royalties from the development of other, earlier oil and gas fields also taken from the territory of the East Timorese people. It is a despicable day in Australian politics. This is a despicable act by the Howard government and the Latham opposition.

Senator Abetz interjecting—

Senator BROWN—The minister opposite calls that description 'hyperbole', but there is no defence of it. It is a shameful day in Australian politics. This is the power of resource colonialism manifest writ large in the Australian parliament. I do not expect there will be much of a write-up in the media about this. In fact, there will probably be none because when the two big parties get together and even commit international robbery, not much notice tends to be taken of it. But I and Senator Nettle and the others on the crossbenches feel differently about this. We feel mighty strongly about it. The minister might describe the time spent on this debate as filibustering, as he does in putting

down one of the most important debates in this parliament in my time here.

Senator Abetz—So was the jackets debate, Bob.

Senator BROWN—This is hugely important to our region and the minister likens it to a debate at the behest of one of his members years ago about whether or not we should wear jackets in this place. That is the level of silliness in the face of seriousness that we are getting from the government about this. No wonder there is silence from the opposition.

Senator O'Brien—Are you asking me to interject, Bob?

Senator BROWN—It would be better for you to interject than to say nothing, Sir. This is a terrible moment in our history in this country; it is a shameful moment. I will not have a part of it, and I know that Senator Nettle and colleagues in this quarter will not either, but that does not give us the power to correct it. A wrong is being committed here today in the name of this nation. If only the Australian people knew about the theft from East Timor that is being committed here today, how would they feel about those of you who are voting for that theft?

Senator HARRIS (Queensland) (1.23 p.m.)—I rise to place on the record at the conclusion of this debate on the **Customs Tariff Amendment (Greater Sunrise) Bill 2004** some consideration of Australia's relationship with both East Timor and Indonesia. It is interesting to note that through its aid program Australia provides to Indonesia well in excess of \$100 million, of that amount something like \$28 million specifically is for their defence forces. Yet to East Timor we provide less than we give to Indonesia for armaments. That really encapsulates the situation we have at this time. One Nation puts on record very clearly that we will be watching the government. We will see whether Senator Abetz's commitment to

looking at additional ways to increase our assistance to East Timor is successful. If those ways can be found, I put on the record very clearly that One Nation will support them 100 per cent. We will be looking for that commitment and we will be watching to ensure that it does occur.

Question put:

That these bills be now read a third time.

The Senate divided. [1.30 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	49
Noes.....	11
Majority.....	38

AYES

Abetz, E.	Barnett, G.
Bishop, T.M.	Boswell, R.L.D.
Buckland, G.	Calvert, P.H.
Campbell, G.	Chapman, H.G.P.
Colbeck, R.	Collins, J.M.A.
Cook, P.F.S.	Crossin, P.M.
Denman, K.J.	Eggleston, A. *
Evans, C.V.	Ferguson, A.B.
Ferris, J.M.	Forshaw, M.G.
Harradine, B.	Hogg, J.J.
Humphries, G.	Hutchins, S.P.
Johnston, D.	Kirk, L.
Knowles, S.C.	Lightfoot, P.R.
Ludwig, J.W.	Lundy, K.A.
Macdonald, J.A.L.	Mackay, S.M.
Mason, B.J.	McGauran, J.J.J.
McLucas, J.E.	Moore, C.
Murphy, S.M.	O'Brien, K.W.K.
Payne, M.A.	Ray, R.F.
Santoro, S.	Scullion, N.G.
Sherry, N.J.	Stephens, U.
Tchen, T.	Tierney, J.W.
Troeth, J.M.	Vanstone, A.E.
Watson, J.O.W.	Webber, R.
Wong, P.	

NOES

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

Nettle, K.

Ridgeway, A.D.

Stott Despoja, N.

* denotes teller

Question agreed to.

Bills read a third time.

MILITARY REHABILITATION AND COMPENSATION BILL 2003

MILITARY REHABILITATION AND COMPENSATION (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2003

Second Reading

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

That these bills be now read a second time.

Senator MARK BISHOP (Western Australia) (1.35 p.m.)—The purpose of the **Military Rehabilitation and Compensation Bill 2003** and the **Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003** is to introduce a new single compensation scheme for all military service. In the most general terms, we have had three schemes operating side by side at any one time. The Repatriation Act was the first. It was specifically tailored for those who went abroad to and returned from World War I. It covered all of those who served overseas during World War II. It covered all of those who enlisted during World War II as part of the general war effort. Its successor, the Veterans' Entitlements Act, covers all deployments overseas since then.

For peacetime service in Australia the defence forces have mainly been covered by Commonwealth compensation law. The most recent of these is the Military Compensation Act, in large part based on the Safety, Rehabilitation and Compensation Act. However, for the period 1972-94 the VEA covered both operational service overseas and peacetime service at home. This led to the complexity of dual eligibility. This was the cause of an

internal review and, later, a more formal review by Mr Noel Tanzer AC. His recommendations are reflected in these bills. Nowhere were the implications of this dual eligibility more evident than in the Black Hawk disaster of July 1996. This was a terrible peacetime accident, yet there were vastly different compensation outcomes depending on the type of service rendered.

However, the motivation for a new single act did not stop there. Despite the familiarity and attachment to the Veterans' Entitlements Act, it remains steeped in history. It is not an act which sits well with modern service conditions. It will, however, continue to remain in effect while ever there are people so entitled and, of course, it can always be reactivated should circumstances require. It is perhaps inevitable that we will continue to see improvements to it. Equally, the Military Compensation Act has its limitations too, particularly in respect of more traditional values encompassed by the VEA. This approach to meld them, therefore, is a useful one. We need an act which will bring together the best features of both schemes for the future.

The Senate Foreign Affairs, Defence and Trade Legislation Committee reported on these bills to the Senate last Monday. In my tabling remarks, I provided some perspective on the differing positions held on military compensation. These are value based, and emanate from the traditional distinction between peacetime service and wartime service. I emphasise that this distinction remains very important. It is slowly being diluted, but it does go towards explaining much about these bills. That is not to say that benefits are being removed, but that the gap is narrowing. This is a very salutary exercise for those who tend to deal with theoretical models at the expense of political reality. This legislation must, therefore, be considered in a very special way. It is a long way

from being a theoretically perfect workers compensation model. It very much reflects the traditions of returned service and of the risks of warfare. Yet, at the same time, it recognises that serving people live in the 21st century. It recognises a different society and economy from that prevailing in 1916 when legislation first became necessary.

There are many manifestations of this. To begin with, the future entitlements of veterans barely change. In fact, it is difficult to find changes except of a beneficial kind. One example is the provision of a lump sum in lieu of a pension for accepted disabilities. There are others that have translated from the current Military Compensation Scheme. One of note is the increased funeral benefit. The most significant is the standardisation of war widows benefits. The gains, however, are for serving ADF personnel. They are summarised as follows: the removal of any onus of proof for compensation claims; the standardisation of widows pensions; increases in benefits to the seriously injured; application of the veterans guide to the assessment of rates of payment, or the GARP; application of the Repatriation Medical Authority and the statements of principle; access to white and gold cards; access to the veterans health scheme after discharge; access to pensions in lieu of lump sums; a new minimum for incapacity payments; inclusion of allowances and housing subsidy in final rates of pay; and new compensation for immediate dependants. These are significant increases in the benefits attached to peacetime service. Indeed, they far exceed the benefits available under general Commonwealth compensation law. The gap between peacetime service and operational service is effectively reduced.

It can be said that industrially the unique characteristics of military service have been recognised formally for the ADF. These bills make other important changes as well. Clearly, there will be one scheme. All the

problems, complexities and unfairness arising from dual eligibility will be removed for the future. A renewed emphasis is placed on rehabilitation, though many are rightly sceptical. People are sceptical because it depends on the world service chiefs to make it work. Unfortunately, the culture of the ADF, as we are seeing presently, is not one of caring for people. There have been allegations, for example, of using medical discharge to shed unwanted people. These allegations have not been answered. Too many abusive practices end up as compensation claims. People who fall foul of the system have little redress, and turn to compensation for support. The point is made that real rehabilitation is not just about restoring physical and mental health; it is about properly equipping people for life outside service. There are no signs that this is now being done; there are no indications that it will happen in the future, so to legislate for rehabilitation is no guarantee of improvement. The theories and motives are right, but it appears to be falling on quite stony ground.

The Senate Foreign Affairs, Defence and Trade Legislation Committee considered fully a wide range of issues raised by the ex-service community. It recommended two amendments, which were canvassed by the Labor Party. These recommended amendments have been accepted by the government. The first concerns the benefits for dependants, and widows benefits in particular. In short, the committee accepted the majority view of ex-service submissions that there should not be a differential between the lump sums paid. The legislation, as currently drafted, contains a \$60,000 difference for those whose partners die from injuries resulting from operational service overseas. The point made by many was that grief should not be distinguished where dependants are concerned. We accept that view, and so we are pleased to see the government's acceptance of it.

The second recommendation of the committee was for the streamlining of administrative review. This has also been accepted by the government. It follows the recommendation by the Senate Finance and Public Administration Legislation Committee in November last year. Administrative review is a key feature of military compensation. In the veterans jurisdiction alone, there are more than 50,000 appeals each year to the Veterans Review Board. The bills, as drafted, provide for the retention of two separate streams of review as if there were still two acts in operation. Again, service people were to be treated according to their service rendered.

One thing is needed more than anything else in this jurisdiction and that is more simplification. Appeals should be handled in the same way regardless of service. Henceforth, we will see all appeals go to the VRB after internal review. Beyond that, appeals can be made to the AAT. It is to be hoped though that the government or the AAT, by administrative means, will consider combining all military compensation matters in one division. That would be an acceptable result.

The Labor Party also expressed concern over a number of other matters in these bills. The first of these is the proposal to continue a differential for impairment payments for injury, dependent on service rendered. In the committee inquiry into these bills, there were divided merits on the utility of this particular differential. On balance, the committee concluded that there remains a strong attachment to the traditional values of wartime service in this area. This is despite the argument for equity, hence the differential for injury remains. We accept that conclusion.

Labor's next concerns were about the safety net proposal. This proposal provides a choice equivalent to the TPI special rate in lieu of incapacity pay. This new safety net is

titled the special rate disability pension. This provision is extraordinarily complex, and it is made so because of the government's undertaking that the benefits of this new scheme would be as generous as its antecedents; however, it is not. That is simply due to the inclusion of superannuation offsetting provisions. In contrast to current circumstances in the Veterans' Entitlements Act, superannuation paid by the Commonwealth will be deducted at 60c in the dollar against this new safety net. This is after impairment payments are deducted at a dollar for dollar rate.

The provision is consistent with other Commonwealth policy, including the Military Compensation Scheme. This, indeed, is a difficult matter. It goes to the heart of the question as to what is reasonable compensation for those unable to work because of their service caused injury. This is exactly the same debate that is currently afoot within the TPI community; it is bedevilled with the same history and complexity. Overall, it must be said that it is a very messy compromise, which is necessary for this piece of legislation to gain acceptance. There are many practical problems—particularly as the choice is once only and will require a crystal ball of one's future financial circumstances. It is therefore with some reluctance that we must accept this proposal.

Finally, I refer to an administrative issue concerning the governance of this new scheme. This is not a matter which concerns the veterans community. As we know, the veterans community has a long and close working relationship with the Department of Veterans' Affairs. We also know that the department gives excellent service, even though within the bureaucracy it is sometimes regarded as being captive of the client. We also note that DVA has a strategic goal of specialising as an ex-service delivery agency.

The ALP will continue to monitor that development.

The bringing together of compensation claims management is one big step. The growing cooperation on health care, service delivery and research is another. Therefore, within these bills, it is more than symbolic that the responsibility for compensation policy rests with a new commission that has been modelled on the Repatriation Commission. As it is, it is an unsatisfactory model: first, it separates responsibility for the formulation of occupational health and safety policy and its administration by the employer from the formulation of compensation and the settling of claims; and, second, it removes from the employer any responsibility for compensation. It needs to be pointed out that, unlike any other workers compensation jurisdiction, there is no managed liability for this new scheme. It is the same as the Veterans' Entitlements Act.

The evidence of the Department of Defence is that management of a liability is not possible due to the operational nature of the work. This of course is bunkum. There is a duty of care regardless, but Defence seem to be happy to opt out of it. Now there is no financial incentive to manage it either. It must be remembered that the great bulk of defence activity does not involve any industrial risk; it is normal employer-employee business. This is simply shifting responsibility onto the taxpayer. Our current experience of lives ruined, as emerged from the current Senate inquiry into military justice, is cause enough for concern. I do not believe that the traditional care of a commander for his troops has been diminished at all, but there is enough evidence to suggest at present that it needs more support than it is getting. It certainly should not be for the taxpayer to pick up the pieces. The discipline of financial responsibility in any budgetary environment is always effective.

The administrative model for this new scheme is only a halfway house. It was to be hoped that in this legislation we might have achieved some organisational rationalisation, but we have not. It is possibly an area of activity that is overdue for the brush of reform; it is a matter to be kept under review. These bills were the subject of thorough examination. The consultation with the serving community was deficient, but overall there is no strong opposition to the passage of the bills. Importantly, the legislation is more beneficial, especially to ADF peacetime service. Overall, the rationalisation of the legislation is a worthwhile development. To the serving and ex-service community, we simply say that we will be keeping a close watching brief over the operation of this legislation. Already we have seen the government agree to some key amendments—no doubt more will be necessary in the future. The opposition support the bills.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (1.50 p.m.)—The Australian Democrats support the thrust of the *Military Rehabilitation and Compensation Bill 2003* and the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003*. Of course there is not universal support amongst ex-service organisations for every single aspect of the bills. There are a diversity of views, as there always are, amongst the various groups in the ex-service community; but I think it is widely acknowledged that overall this legislation is a step forward, and a fairly significant step forward. The test now will be to see how the changes are implemented. Here is another example, amongst many, of the benefit of the Senate inquiry process and of the Senate itself making further improvements to legislation beyond what was originally proposed. It provides further opportunity for the concerns of interested parties—in this case veterans

organisations—to be put before senators and on the public record, not just in terms of improving the legislation but in highlighting the broader issues that still need further examination.

I think that point needs to be made each time the Senate makes such enhancement to legislation, because there is still an underlying rhetoric that the government uses from time to time about the Senate being obstructive or somehow or other getting in the way of good governance. The fact is that the vast majority of times the Senate actually enhances what the government is doing. When the Senate opposes what the government wants to do there is usually an extremely good reason for it. This is another example of the Senate doing its job effectively—at least by the Labor, Liberal and Democrat members who participated in the Senate inquiry process.

The bills establish an inclusive legislative scheme that governs compensation for injuries or medical conditions arising from service in the Australian Defence Force after the commencement date of the legislation. The bills recognise the different nature of military service as opposed to civilian employment. Currently, four pieces of legislation provide a complex structure of compensation and rehabilitation to members of the ADF. It is in keeping with the Democrats policy to streamline legislation for veterans, so it is pleasing to note that these bills do move towards integrating the management of safety, rehabilitation, resettlement and compensation.

The importance of this legislation is underscored by the fact that ADF personnel are now deployed in various operational environments overseas where they are clearly put in harm's way. We have been debating the appropriate length of time for the deployment of some of our defence personnel in

Iraq over the last week or two. This legislation will apply only to people who have ceased to be members of the Defence Force after the commencement date—that is, to future veterans and serving members—and will not apply to injuries, deaths or diseases occurring before that date. The Democrats are on the record as not supporting the recent war in Iraq, but we made it clear, as did the Senate, that that opposition did not extend to our troops. The Democrats and the Senate expressed support for our troops.

It should be noted that many people believe that the long established criteria of a just war were not fulfilled. There is also another set of rules for the just conduct of war or rules of engagement. Whilst the Democrats view is that the Howard government clearly failed to establish a just criteria for going to war, the criteria for conducting that war—the rules of engagement for Australian Defence Force personnel—were clearly of a higher standard than those used by others in that engagement. There were higher standards of proof that targets were military rather than civilian and the use of cluster bombs or depleted uranium armaments was not supported. That is a credit to our defence personnel. It is a shame that our government does not use its influence with our allies to ensure that their troops do the same.

The Democrats continue to oppose the justification given by the government for going to war against Iraq but, once that commitment was made, we have consistently been of the view that we have a legal and moral obligation to keep our troops there and to help rebuild the nation. You cannot pick and choose which bits of international law you like. Whilst our view, quite clearly, is that Australia's involvement in the invasion of Iraq was against international law, now that it has occurred it is appropriate under international law that we participate in rebuilding that nation and help with a transi-

tion to a locally based or UN based administration. That has been a consistent view of the Democrats.

Regardless of the divergence of opinion amongst the Australian community and amongst political parties, support for our troops must remain and we must acknowledge the extra burden that the families and friends of our troops are carrying. More than anyone else, they would like to see their families and friends home, not by Christmas but by tomorrow if possible. But they know that that is part of the extra service and the extra sacrifice that people in the Defence Force make. They do not get to choose whether they go. Once they enlist, they go where they are sent and they do the job they are required to do on behalf of the country. While we are having appropriate, important debates about whether troops should be deployed, we have to make sure that that is not in any way seen to spill over into opposition to the job the troops are doing. The Democrats certainly remain firm in that view. We are pleased to see further debate about when we can withdraw troops from Iraq and aspire for that to occur as soon as possible. We welcome what appears to be a shift from others who have opposed the war, who in the past have just run with a 'withdraw the troops now' approach, to recognising that there is an obligation for our troops to stay there until some of the rebuilding has been done.

One of the few positives to come out of the tragedy of the attack on Iraq is that to date—and I am sure we all hope that it will remain the case—there have been no fatalities or serious injuries amongst our troops who have gone there. Those who have returned have done so safely. It is important, though, to emphasise that that does not mean that, down the track, those people will not have war related physical or mental injuries as a consequence of their service. I have been veterans' affairs spokesperson for the

Democrats since I came into this place in 1997. In that time I have seen a steady rise in the amount of attention and publicity this government seeks through giving out medals and attending memorials and welcome-home parades—in short, any activities that allow the government or coalition members to get kudos from standing next to the men and women of our Defence Force who take the risks.

Whilst there has been a lot of willingness to make political capital on the part of the government from welcome-home parades, departure parades and flag waving, it is far more important to ensure that, when the troops return home, they are properly supported and assisted as returned service men and women. That is an area where this government has clearly failed over a long period of time. The tangible benefits of repatriation assistance have fallen behind. It is all very easy and quick to send young Australians to war, but we have a consistent pattern of being slow to recognise the debt that the nation incurs on behalf of those men and women when they return. There is a longstanding list of veterans concerns which, on the whole, have been ignored for a long period of time, with the exception of some limited measures taken for war widows a couple of years ago.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Budget: Family and Community Services

Senator JACINTA COLLINS (2.00 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that she provided the Prime Minister with a 62-page cabinet-in-confidence budget submission which outlines \$436 million of further cuts to her portfolio and just \$167 million of new spending, most of which is devoted to recycled proposals? Can the minister also con-

firm that her plan is to see cuts to her portfolio of more than \$1 billion over two years?

Senator PATTERSON—I can confirm that somebody has leaked a cabinet-in-confidence document, which I see as very serious and which breaks the Commonwealth law. I will not confirm the misinformation that Senator Jacinta Collins has just continued with. She carries on with the same old scaremongering that Mr Swan started. Mr Swan has no policies. All Mr Swan can do is scaremonger, misinform the Australian public and pass around half-truths. The Prime Minister has said on a number of occasions in the discussion about working age reform that pensions and allowances will not be cut.

We will not resile from doing everything to encourage people to participate in the work force. The Labor Party do not seem to understand that it is much better for people to have a job than for them to be on welfare. They had a million people unemployed and a million more people on welfare. We have created 1.3 million jobs. We now have more people in work than they could ever have dreamt of. When people are in work it gives them financial security, the opportunity of increasing their earnings, access to superannuation and now, because of Senator Coonan's measures, more access to contributing to superannuation. It does have an impact on the overall budget. Senator Jacinta Collins would not appreciate that increasing the number of people of working age in the work force by two per cent has a nine per cent impact on the budget, a \$68 billion a year impact on the budget.

Senator Collins is not even listening. She is too busy getting excited about her supplementary question. She does not want to know that a two per cent increase in participation in the work force has a \$68 billion impact on the whole of the social security budget—each year, twice what it is for health

and four times the Commonwealth education budget. That is just by increasing participation by two per cent. So not only does it have a huge effect on the individuals; it has a huge effect on the budget. Rather than running around scurrilously peddling misinformation—

Senator Jacinta Collins—Scurrilously?

Senator PATTERSON—If you do not know what it means, look it up. Mr Swan always gets it wrong. He always peddles half-truths. Mr Swan needs to focus on developing a policy rather than, as I said today, salivating every time he sees some document. He has never seen a policy document because he has never produced one himself.

Senator JACINTA COLLINS—Mr President, I ask a supplementary question that focuses on one area rather than on the insults. Can the minister confirm she has sought the Prime Minister's agreement to fund the differences between Centrelink's forward estimates and the projections arising from its new funding model? Given that the minister warned on page 11 of her leaked letter that a failure to meet the funding gap would require significant cutbacks in services and given that Centrelink was found to have made 1.1 million mistakes over four months with its current resources, has the Prime Minister agreed to her request?

Senator PATTERSON—I am not going to discuss what might have been or what might not have been in the document and what I might have said or what I might not have said to the Prime Minister in a preliminary document that went to him. I am not prepared to discuss that. I am prepared to discuss that we have made huge improvements in Centrelink's customer service since we have been in government. Senator Jacinta Collins talks about errors. When you have 4.2 billion transactions a year you expect that there would be some errors. We want to en-

sure that those errors are minimised so that we have as few errors as possible.

Since we have been in government, in terms of Centrelink we have replaced standing in line for your number for service with letting people have appointments, we have extended the opening hours and we have changed the day—

Government senator—She is not even listening to your answer.

Senator PATTERSON—Senator Collins just read out the question and now she is not listening to the answer, but it does not matter. What we have done is improve the service—and it is about service to customers—to customers of Centrelink enormously. Now it is personalised—there are personal assistants to assist people. (*Time expired*)

National Security: Terrorism

Senator CHAPMAN (2.05 p.m.)—My question is directed to the Minister for Justice and Customs. Will the minister update the Senate on how our national security laws are being further strengthened to bolster Australia's war on terror? Is the minister aware of any alternative policies which the government has considered and, if they have been considered and rejected, why have they been rejected?

Senator ELLISON—I thank Senator Chapman for what is a very important question dealing with Australia's national interest. As the Prime Minister said today, the war on terrorism is a work in progress. It is important that we not only resource our law enforcement intelligence agencies but also keep our laws abreast with developments in the fight against terrorism. In relation to resources, I point out to the Senate that in the last four years we have increased resources by around 145 per cent for the Australian Federal Police and by 73 per cent for ASIO since 2000-01. ASIO now has around 750 staff, the highest level in a decade.

The Prime Minister has announced the antiterrorism bill, which will update Australia's laws to meet the terrorist environment that we find ourselves in today. This touches on a number of areas: time for questioning, foreign incursion offences, membership of terrorist organisations and proceeds of crime. Perhaps the most important issue is the time for questioning. We had work under way looking at this issue when the Prime Minister met with police commissioners from around Australia last week. They requested that the length of time that the Australian Federal Police can question someone in relation to a terrorist offence be looked at. At the moment we have a four-hour limit which can then be extended by a further eight hours to a maximum of 12 hours. What we are looking at is extending this to eight hours plus a further two separate eight-hour periods to a maximum of 24 hours. This would only relate to terrorism offences and is something which our Australian Federal Police need in their counter-terrorism role. It will carry with it the usual safeguards. It is a sensible proposal in relation to the fight against terrorism.

I mentioned foreign incursions. That will be extended to cover terrorists, particularly in situations where terrorist organisations are operating as part of the armed forces of a state. This is particularly important in relation to examples we have seen in recent times where terrorist organisations have been involved with the militia of a state. Currently, a person does not commit an offence under the act if that person commits hostile activities in or with the armed forces of a foreign state. Certain offences in the proposed legislation will be strengthened to better target membership in terrorist organisations.

I mentioned proceeds of crime. Proceeds of crime currently applies to a range of indictable offences but, importantly, we will be extending that to apply to literary proceeds,

where those proceeds have been derived in Australia from someone who is engaged in terrorist activities. We will be taking this to our party room tomorrow and we will be consulting with our members. This is a very important issue. The government call upon the opposition to support this legislation in its entirety, which is in the national interest.

Senator Carr interjecting—

Senator ELLISON—I can hear Senator Carr interjecting. He might remind his leader, Mr Latham, that consultation is not such a bad idea, particularly when he makes outrageous statements in relation to the Iraq war without even consulting his backbench. This is a sensible proposal, and we look forward to the opposition supporting it. It is in the national interest of this country. It is sensible and timely.

Social Welfare: Pensions and Benefits

Senator CROSSIN (2.09 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that indexation—in particular, aligning pensions to the male total average weekly earnings—is the largest driver of growth in spending in the Family and Community Services portfolio? Does the minister stand by the Prime Minister's promise yesterday that the government will not cut any pensions or benefits? Can the minister give a guarantee that, if the government is re-elected for a fourth term, it will maintain payments to disabled carers and single parents at 25 per cent of the male total average weekly earnings?

Senator PATTERSON—I thank Senator Crossin for the opportunity to answer the question. I reiterate not just what Mr Howard said yesterday but what he said in August and October—I cannot remember the exact dates—and what I have said today: pensions will not be cut and allowances will not be cut. Let me say it very clearly so the Labor

Party and Senator Crossin can go back and tell Mr Swan because he seems not to be able to understand. Whatever document he gets, whatever press release he gets and whatever information he gets from Senate estimates he twists and turns, comparing apples with oranges, never telling the whole truth but telling half-truths, scaremongering and giving misinformation to people.

Opposition senators interjecting—

The PRESIDENT—Order!

Senator PATTERSON—When you have not got any policies, what you do is resort to scaremongering people. All I can say is what Mr Howard said last week—

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left, you will recall last week that I reiterated that senators, when asked a question, are entitled to be heard giving that answer in some semblance of peace. I ask you to please come to order and allow Senator Patterson to answer the question.

Senator PATTERSON—What we have done is increase pensions by male total average weekly earnings. For Senator Sherry's benefit, it is male total average weekly earnings not a blooper in superannuation that he presided over because he did not know the difference between various indexation rates. Had it been extended to all pensioners, as we have extended it to male total average weekly earnings for all pensioners, it would have been a \$17 billion blooper of Mr Latham's. What we ought to be asking is: what would happen if Labor were ever to get their hands on the wheel and the levers again? Mr Latham said in July 1999:

Something also needs to be done about the outrageous growth in the Disability Support Pension, which is now paid to more than 550,000 Australians ...

Many experts say the disability support pension should only be made available to

150,000 people, said Mr Latham. And further:

The DSP needs to be overhauled and mutual responsibility policies applied to all those with a genuine capacity for work.

That is what Mr Latham said but, no, we have airbrushed that out. What he said before he became leader has no relevance to what he is saying as leader. That is where Mr Latham stands. He stands there saying, 'We should only have 150,000 people on DSP'. Does that mean he is going to cut about a half a million people off DSP? That is the question that people should be asking the Labor Party. Where is their policy? What are they going to do about increasing participation in the work force? Absolutely nothing except going around scaremongering and frightening pensioners when we have said over and over again that we will not cut pensions or allowances.

We have increased pensions by male total average weekly earnings, which means a person on a pension gets about \$43 a fortnight more than they would have got using the indexation that occurred under Labor, under CPI, for pensions. For people with allowances—for example, for people on Newstart—when they go into work, we have a working credit program whereby they are able to keep more of what they earn in a short-term job or if they get a job for a short period to enable them to get back into the work force. We are about giving people the opportunity and the choice to have a job because we believe, as I think most Australians would believe, that a person who has a job is much better off than a person who is on welfare.

Senator CROSSIN—Mr President, I ask a supplementary question. Given that the minister failed on today's the *World Today* program to guarantee that there would be no cuts to 'future payments', will the minister

guarantee that the new modular payment system, which the government has under consideration, will not reduce income to carers, the disabled and single parents? Under this modular system, would the total benefits received by carers, the disabled and single parents be equal to their current pensions and would their payments remain indexed to male total average weekly earnings?

Senator PATTERSON—What I said today was Mr Howard has stated very clearly—and I will restate—that we will not be cutting pensions or benefits. Anybody who thinks they can make that out of the document is scaremongering. Very clearly: we will not be making cuts. We have indicated that we are committed to working age reform—and there is no secret about this. We have had the McClure report which talks about ways in which we can encourage people to participate in the work force. Unlike Labor, who did not care about whether people had jobs or not—because there were a million unemployed—we believe that people have more opportunity and more choice when they are in the work force than when they are on welfare. We are about creative solutions like the Working Credits Scheme, like the age pension bonus scheme and like other measures such as personal assistance at Centrelink to assist women to think about returning to work, giving them every opportunity, giving them choice, giving them incentives to be back in the work force. We believe that people who choose to be in the work force— *(Time expired)*

Australian Defence Force: Deployment

Senator WATSON (2.16 p.m.)—My question is directed to Senator Hill, the Leader of the Government in the Senate and Minister for Defence. Will the minister update the Senate on the work being undertaken by Australian Defence Force personnel to assist in Iraq? How long will the ADF

contribute to the international effort there? Is the minister aware of any alternative policies?

Senator HILL—I thank Senator Watson for his important question. Australia is one of about 35 countries of goodwill putting their shoulders to the wheel in Iraq to help restore security and rebuild the country for the Iraqi people. Our diplomats and military personnel are working as part of the international effort because we believe it is the right thing to do. The next 12 months will be critically important for the development of a modern, free society with a representative government. This effort represents the best hope for the Iraqi people to enjoy the sorts of benefits which nations such as ours enjoy.

There is no question that the people of Iraq are embracing freedom after more than three decades of Saddam Hussein's brutality and that they are doing it with great courage and, at times, at great cost. Iraqis are training for roles in the new defence force, and Australia is helping with that process. Iraqis are taking over security roles, such as traditional policing and protection of oil infrastructure. There are now in excess of 200,000 Iraqis on duty. Iraqi farmers are back on the land producing crops to feed their nation and renew their export trade. Of course, they are assisted by Australians—government and non-government—in setting up the new agricultural ministry. Iraqi doctors are back at their hospitals, and health clinics are providing care for their people. Iraqi teachers are back in their schools giving education and hope for a better future to Iraqi children.

We need to understand that, if we walk away from Iraq now, we will be walking away from the Iraqi people at the very moment they need us most. Australia has maintained its commitment to Iraq since the end of the combat phase, something that up until last week the Labor Party said was Austra-

lia's responsibility. Within that commitment we have adjusted the elements of our forces as tasks have been completed and other more pressing needs have arisen.

I have been asked whether I am aware of any alternative policies on the issue. Of course, I am now aware of some four or five different policies on this issue, each one coming from the mouth of the Leader of the Opposition over the last week or so. You need to buy the *Age* on a daily basis to learn of Mr Latham's latest policy on Iraq. But he has achieved something remarkable: he has actually got Mr Rudd turning down media requests. Mr Rudd does not support him. Senator Evans does not support him. Senator Evans failed to return media calls this weekend. I bet Mr Latham is happy that Mr Beazley is on sick leave because we know Mr Beazley would not support him either.

At a time when the Iraqi people are looking for strength and support from the international community, Labor is both divided and indecisive. If the Labor Party cannot figure out where Mr Latham stands on defence issues, how can the public? If the Labor Party cannot support Mr Latham on this issue, why should the public? It is a debacle, and our troops deserve better.

To withdraw our assistance to Iraq would be to ignore the calls of the international community to support the efforts in Iraq. The United Nations Security Council has urged nations to contribute assistance to Iraq, including the provision of military forces. Mr Latham must reconsider the folly of his policy on the run approach to this issue and support the Australian troops and diplomats who are doing such great work in Iraq.

Senator WATSON—Mr President, I ask a supplementary question. Has the approach by the government in retaining troops in Iraq previously been confirmed? What was the

nature of that earlier confirmation by the spokesman on foreign affairs?

Opposition senators interjecting—

Senator HILL—Mr Rudd, the foreign affairs spokesman for the Labor Party, actually said—

Senator Faulkner—Mr President, I raise a point of order. If that unintelligible supplementary question when referring to the 'spokesman on foreign affairs' was actually referring to the shadow minister for foreign affairs then clearly it is out of order. If the 'spokesman on foreign affairs' meant Mr Downer then it is perhaps competent for the minister to answer it, but he needs to confine any comments he makes to Mr Downer's comments. It was totally unintelligible. I suspect it was out of order and I hope you rule it out of order.

Senator Abetz—Mr President, I rise to speak on the point of order. Senator Watson clearly asked about the government's approach and then related that to the foreign affairs spokesperson. We on this side of the chamber happen to have a foreign affairs minister, unlike those on the other side. Therefore, it is absolutely clear to whom he was referring, and the question is in order. Given your very detailed and considered ruling the other day that you cannot simply ask about opposition policy—

Senator Faulkner—It's gone. Goodnight. Thank you. It's out.

Senator Abetz—Mr President, can I speak on the point of order without the puerile interjections of the Leader of the Opposition in the Senate?

The PRESIDENT—Thank you to both sides of politics for putting your points. If Senator Watson's question was only about opposition policy and opposition spokesmen, it was out of order. If it sought to confirm

questions about the government's Minister for Foreign Affairs, it was in order.

Senator Abetz—Mr President, I rise on a point of order. I would invite you to have a close look at the *Hansard*. Senator Watson prefaced his question with 'the approach of the government' and asked whether the government's approach had been confirmed. If there is a bipartisan position on an issue of note in this nation, then surely it is worthy of consideration at question time.

The PRESIDENT—If Senator Watson was asking a question about government policy, it was in order—I have ruled on this. I would ask the minister to keep that in mind when answering the question.

Senator Faulkner—Mr President, I rise on a point of order. We have just had an extraordinary explanation—not a point of order—from a member of the executive, Senator Abetz, explaining that the government does not have a spokesman on foreign affairs. Therefore, surely—even in the words of the government minister—the question is not in order. I think you know, Mr President, it was not in order. It ought to be ruled out of order.

The PRESIDENT—I have already ruled. I call Senator Hill.

Senator Hill—Shall I answer the question?

The PRESIDENT—Yes.

Senator Forshaw—Are you answering the question, Robert?

Senator Hill—I am answering the supplementary question. What I would say in answer is that it is not possible for the government to adopt the opposition's policy because the opposition has a whole range of policies.

Senator Faulkner—How is this in order?

Senator Hill—It is perfectly within order. If we went with Mr Rudd, we would be

contributing more troops. If we went with what Mr Latham said over the weekend, we would be withdrawing some, but not others. Mr Latham, in a doorstep interview today, said that 12 months ago the Labor Party said they would bring the troops home immediately. What a confusion. What do they stand for? I can tell you that what the government stands for is taking its fair share of responsibility and helping support the Iraqi people in their time of need. (*Time expired*)

Budget: Family and Community Services

Senator McLUCAS (2.25 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that her leaked letter includes a proposal to force Australians with a disability onto Newstart instead of the disability support pension, resulting in a cut of \$75 a fortnight for those individuals? Can the minister confirm that the \$28.5 million in savings she expects to make from the latest disability support pension savings proposal would come from paying 22,600 disabled Australians \$75 less a fortnight—and not from getting them off welfare and into work?

Honourable senators interjecting—

The PRESIDENT—Order!

Senator PATTERSON—I did not hear the whole question, but I got the gist of it. I am not going to discuss what may or may not have been in a very early document relating to the budget from when I first came into this portfolio. What I will comment on is this. What we are about is encouraging people to get a job because we believe that it is absolutely important for people to have choice and to be given as much assistance as possible to get into the work force. I remind Senator McLucas, through you, Mr President, that we do not know what the policy of Latham's Labor is because they do not have a policy yet. Mr Swan has not bothered to do anything about policy; he spends his time look-

ing at documents and misleading the Australian public about information he gets from estimates committee hearings. Mr Latham said in August 1999:

... I think blind Freddy out there in Australia can see that we don't have one out of eight Australian men in their fifties disabled, totally incapable of work ... Everyone knows that the system is being abused.

Those opposite do not like to hear what their leader said before. They want to airbrush it out, as Peter Costello said. They want to make sure we have the new Mr Latham—no history, nothing he said in the past counts and everything is new! But you have to stand by what you said, and Mr Latham said in the same interview:

Everyone knows that the system is being abused ... for those who've got a capacity to work, we should support that and give them the assistance to find work.

That is exactly what we did with the disability support reforms that came before this chamber and were rejected by Labor over and over. Mr Swan and Mr Latham were at odds on this, on tax and on a number of other issues. The Labor Party are at odds on Iraq and on whether or not we should bring home the troops. They cannot even agree on a simple thing like this. Mr Latham said that we should have more people off the disability support pension and in the work force. He said further:

The whole emphasis of welfare policy should be much more on capacity than incapacity.

I have to agree with Mr Latham on that last statement—the emphasis should be more on capacity than incapacity. But when we had legislation in here—affecting not people currently on the DSP but people who may in the future go onto the DSP—it was opposed by Labor. The legislation looked at assessing the capacity of those people to work and at giving those who are able to work—that is, those people without severe disabilities—

assistance to participate in the work force. The program had over \$250 million allocated to it. The money could be used by people currently on DSP, but the program affected those people going onto the DSP. They would be tested for their ability to work and their eligibility to receive assistance to get into the work force. That is exactly what Mr Latham was talking about.

Labor would pretend that they do not agree with Mr Latham. Either Mr Latham holds to what he said—that is, that we need to increase the number of people participating in the work force, particularly those who do not have a severe disability—or he is opposed to it. Labor opposed the legislation. If Mr Latham really believes that we should reform the system, he can ring me up when I get back from question time and ask to have that legislation put back in the chamber. I am not going to talk about what may or may not be in that document, but I will talk about the opportunities we are giving people to participate in the work force, which is vital for them and for our economy.

Senator McLUCAS—Mr President, I ask a supplementary question. Can the minister also confirm what legal advice she has to back the assertion in her submission that the proposal to reconfigure the DSP would not require legislative changes? Does the legal advice canvass whether non-legislative changes would be vulnerable to legal challenge?

Senator PATTERSON—What Senator McLucas ought to be worried about is how Labor is going to implement Mr Latham's policy of increasing the number of people—

Senator McLucas—Mr President, I rise on a point of order. We listened to four minutes of the first response and the minister did not answer the question at all. I request that the minister use the last minute to actually do something about answering these questions.

The PRESIDENT—Order! I cannot direct the minister how to answer the question. She still has 51 seconds to go.

Senator PATTERSON—I answered the question by saying I was not going to discuss what was in or out of the document—it was a budget statement. Labor does not have a policy. Mr Latham is the only one who has spoken about this. On numerous occasions Mr Latham has said that there are too many people on the disability support pension. What he does not say is what he is going to do about it. He has the opportunity to pick up the telephone, ring me and say, ‘I would like to be the new cooperative leader that I said I was going to be and work with you to increase the number of people with mild disabilities participating in the work force and benefiting from being in a job.’ But Labor would not understand that, because you had a million people unemployed.

Senator Faulkner—Mr President, I rise on a point of order. Are you satisfied that the minister was addressing her remarks through the chair? If you are not, why did you allow her to continue?

The PRESIDENT—Thank you for your advice, Senator.

Health: Parkinson’s Disease

Senator ALLISON (2.32 p.m.)—My question is to the Minister representing the Minister for Health and Ageing. Is the minister aware that Parkinson’s is the second-most common degenerative neurological condition after Alzheimer’s, with 40,000 people suffering from it? Given the emphasis that this government has placed on challenges facing Australia as our population ages, what resources have been made available to people suffering from this disease? Can the minister explain why the state based support groups for Parkinson’s sufferers and their carers receive no federal funding while, for instance, the multiple sclerosis societies, also very

worthwhile organisations, do? Can the minister confirm that, while MS sufferers receive on average \$1,200 in annual funding, sufferers of Parkinson’s disease get just \$2?

Senator IAN CAMPBELL—I thank Senator Allison for asking a question about Parkinson’s disease, which over the weekend all Australians learned is afflicting the esteemed former senator Don Chipp. I am sure all senators will—

Senator Chris Evans—Was he the reason why you joined the Democrats?

Senator IAN CAMPBELL—Yes, he was. He was not only a very good Australian Democrat, he was also a very great Liberal minister—

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

Senator IAN CAMPBELL—in a number of very successful Liberal governments. I think all Australians will wish Mr Chipp well in dealing with the disease and will also give him great credit for going public and talking about what the disease does, how it has affected him and how he is dealing with it. How an individual develops Parkinson’s disease, or other progressive neurodegenerative diseases, is unknown but the causes likely include both genetic and environmental factors. It is therefore important to maximise research effort into such diseases. The government will form a time limited neuroscience consultative task force with a view to helping integrate neuroscience and psychiatric research with social science, frontier technologies and industry to help position Australia’s scientific capacity to reduce the burden of brain and mind disorders.

This follows the consideration by the Prime Minister’s Science, Engineering and Innovation Council—or PMSEIC, as it is known—of its report last year: *Brain and mind disorders: impact of the neurosciences*.

This initiative is in addition to existing government expenditure on the treatment and management of Parkinson's disease, such as the \$32 million to subsidise PBS medicines used to treat Parkinson's disease. There are also 11 different medicines in approximately 28 different dosage forms listed on the PBS for use in Parkinson's disease. People with Parkinson's disease can access formal medical care with medical benefits. This includes more specialised services provided through the enhanced primary care Medicare items, which include multidisciplinary care planning and case conferencing services for people with chronic conditions and complex needs.

Care planning and case conferencing services are particularly relevant for people with Parkinson's disease. These items provide a mechanism for GPs to work with other health care providers in the team based management of the complex care needs often associated with the disease. Medicare benefits are also payable for consultations with GPs and specialists and for surgical procedures on the brain for the treatment of tremor and rigidity associated with Parkinson's disease and associated anaesthesia. This is a disease that, as Mr Chipp has brought our attention to, affects many Australians. The government is committed to ensuring that people who suffer Parkinson's disease and their families get appropriate support. There is also money invested in Parkinson's disease research.

Senator ALLISON—Mr President, I ask a supplementary question. The minister has answered almost every question about this subject other than the one that I asked. I asked the minister to explain why the state based support groups for Parkinson's sufferers and their carers receive no federal funding while, for instance, the multiple sclerosis societies, also very worthwhile organisations, do. Can the minister go back to the question

that I asked and explain why there is this difference?

Senator IAN CAMPBELL—As Senator Allison would know better than most senators, the Commonwealth has extended significant resources across Australia for medical research and the provision of primary health care, and significant extra resources, through Australian health care agreements, for the provision of services in hospitals. The question she raises is one of particular detail that I will refer to the Minister for Health and Ageing—

Senator Carr—Why didn't you do that five minutes ago?

Senator IAN CAMPBELL—Senator Carr laughs about these issues—

Senator Carr—I'm laughing at you; I'm laughing at your pathetic performance.

Senator IAN CAMPBELL—He, unlike Senator Allison, will not treat Parkinson's disease seriously. He has interjected continually through the question. I have been trying to put important information on the record. Senator Allison has raised the issue of the equity of the government's approach to diseases—a serious question which she will get a serious answer to, on notice, from the minister.

Budget: Family and Community Services

Senator JACINTA COLLINS (2.38 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Can the minister confirm that her leaked submission includes a backflip on current carer allowance residency requirements which have prevented around 4,000 carers each year from receiving a payment? Can the minister confirm, though, that this proposal is to be funded by cutting the benefits of another 42,750 carers who claim benefits from July 2005?

Senator PATTERSON—I do not know how many times I have to say that I am not going to comment—

Senator Ian Campbell—Say it very slowly.

Senator PATTERSON—Let me say, very slowly and very clearly to Senator Collins and everybody else who thinks they are going to get up and ask me another question, that I am not going to comment on a document that is purported to have been leaked. Senator Vanstone and I were just sitting here talking a moment ago. She reminded me that, when we were sitting on the other side, we would ask questions about what might or might not be in the budget. Guess what answer we got from the then ministers about what would be in or what would be out of the budget? ‘No comment.’ Let me just say, very clearly and very slowly so Mr Swan can understand it—because Mr Swan seems not to understand very much; Mr Swan gets so many things wrong—that the Labor Party can go back and tell Mr Swan again that pensions will not be cut and that benefits will not be cut, but that what we intend to do is ensure that we give people incentives and encouragement to participate in the work force because we believe it is much better for people to have a job than to be on welfare. But, as I said, Labor do not understand that because they had a million people unemployed. We have created 1.3 million jobs. We now have more people employed. We have more opportunity to give incentives and more opportunity to give encouragement.

If Labor really believed what they said and what Mr Latham said about assisting people with a disability to focus on their ability not on their disability, they would tell Mr Latham to pick up the telephone, ring me and ask me to bring on that legislation that would give \$258 million to people who

would otherwise go on DSP and give people the opportunity to participate in the work force and to be given assistance.

Senator JACINTA COLLINS—Mr President, I have a supplementary question. I remind the minister that the question was about carers, not DSP recipients. Can the minister also confirm that she has no plan to reverse the \$70 million cut to carer allowance which saw 30,000 carers of children with disabilities lose their fortnightly payment of \$90 late last year?

Senator PATTERSON—What I can confirm is that we will continue to assist carers as we have. We have provided carers with direct payments totalling almost \$1.5 billion—an 85 per cent increase since 1999. We have had the National Respite Carers Program, and we have increased that by fivefold since 1996-97. We have a record of assisting carers; we will continue to assist carers. I am not going to speculate on what was or what was not in that document and what will or will not be in the budget.

Trade: Imports

Senator HARRIS (2.42 p.m.)—My question is to the minister representing the Minister for Agriculture, Fisheries and Forestry. The application for the importation of bananas from the Philippines, apples from New Zealand and pork from several countries has been lodged. This application is being reviewed by the IRA team, referred to as the risk analysis panel, as set out in the draft IRA report issued in February 2004. Minister, what scientific process is used to base the decision on for the revised draft IRA?

Senator IAN MACDONALD—I thank Senator Harris for the question on the banana import risk analysis. He, like me, comes from a part of Queensland where the banana industry is particularly important. I can understand the concern Senator Harris has and, indeed, the concern of banana growers up

there. We do have a very scientific process in place. It is a process that is based—and you have asked me the source of the standards we apply—upon two criteria. They are the probability of entry into Australia of a disease of the country involved—in this case, the Philippines—and the consequences to Australia if that disease were established in our country. On those two criteria there is overlaid a risk matrix on which the appropriate level of protection—ALOP, it is referred to—is defined. All of the available scientific evidence is used by the panel to which you referred. The panel also uses experts in the field.

Senator Harris's question allows me to explain a little further what has happened in this case. Stringent mandatory risk measures are recommended for the introduction of Filipino bananas. The report of the panel recommends that the fruit be sourced from plantations in the Philippines that can demonstrate a low prevalence of moko and freckle diseases—below a level acceptable to Australia. That will be based on weekly surveys of export plantations over a minimum period of two years for moko and four weeks for freckle.

All banana fruit for export to Australia will have to be sourced from plants that have been inspected and found to be free from symptoms of moko and freckle disease. All bananas will also be treated with chlorine. Additional packing station measures are recommended to reduce the risk of mealy bugs to an acceptable level—that is, targeted washing of the spaces between the banana fingers and inspection of these spaces by Philippines quality assurance staff. A suite of further measures relating to packing materials and packing and transport procedures is also recommended to reduce the potential risk of any contaminants or what are called 'hitchhikers', such as weeds, seeds and frogs. The draft IRA does, in fact, give stakeholders

the opportunity to comment on the import risk analysis for bananas and indeed provides for further technical comment on the science of the risk assessment and on the proposed risk management.

Senator Sherry—Are these bananas edible after all this happens?

Senator IAN MACDONALD—Of course they are. Why would you, Senator Sherry, even though you come from Tasmania and do not know much about this—

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

Senator IAN MACDONALD—Thank you, Mr President. Even a Tasmanian, if he were buying fruit in a market, would look for quality Australian produce. He would probably hesitate at a quite legal and healthy imported alternative. I would urge all consumers of bananas to look at these particular areas. I am sure that most Australian consumers will, on any day of the season, pick an Australian banana over any others. That is not to say there is anything wrong with Filipino bananas, and we will let them in under our World Trade Organisation obligations. *(Time expired)*

Senator HARRIS—Mr President, I ask a supplementary question. I thank the minister for his answer. I note that in his answer the minister indicated that in some cases there will be weekly inspections of these products. Will that be carried out by the plantation owners themselves or by an independent body? Minister, if the panel is provided with peer reviewed scientific data and the panel recommends contrary to the scientific data, what process will the government then follow to redress that decision or will the government accept it? If the risk analysis panel ruled contrary to the scientific evidence, would it lose its statutory immunity?

Senator IAN MACDONALD—I am not quite sure about the statutory immunity part of the question. The process, with all of these import risk assessments, is that the draft review is released. It is done over a period of 60 days so that people can have a very close look at it. I know that banana growers have looked at the analysis very carefully. They have had some very good scientific evidence available to them and they have certainly put a case to the panel on why the panel's recommendations are not appropriate. In the end result, someone has to make a decision and the government will have to accept a decision which is based upon science and based upon the expert advice and evidence given to us. I can assure you, Senator Harris, that the government are as concerned as you are about these things. I know that Senator Boswell has an interest. We will do everything that is necessary to make sure that the process is full, appropriate and based on science. *(Time expired)*

Social Welfare: Disability Support Pension

Senator GEORGE CAMPBELL (2.49 p.m.)—My question is directed to Senator Patterson, Minister for Family and Community Services. Is the minister aware of a press statement of 27 June 2002 in which the then Minister for Family and Community Services, Senator Vanstone, stated that \$109 million of new funding for disability employment programs would not be tied to the passage of the DSP reform legislation? Is this still the case, Minister, or does this funding remain linked to the successful passage of the government's DSP legislation?

Senator PATTERSON—I would not necessarily presume that Senator George Campbell's interpretation of Senator Vanstone's press release is correct. I have had experience now over many months of Mr Swan getting my press releases wrong, so I would not presume that Senator Campbell

has Senator Vanstone's press release right. I will say to Senator Campbell, through you Mr President, that as I have said—and I will keep saying it over again; I thought they might have given up by now but they haven't—we believe it is absolutely vital that we do everything to assist people in increasing their opportunity to be in the work force, first of all, by creating jobs. But Senator Campbell would not know about that, because his former colleagues in the union movement work against that by resisting a lot of the changes that the government want to bring in by way of industrial relations reform to create jobs. Senator Campbell would not worry about it, but it is important to give businesses flexibility so that they can employ people. We have created almost 1.3 million jobs, which increase the opportunities for people to work and to get the benefits of working, thereby benefiting the economy. Mr Latham has said over and over again—and I will quote another of Mr Latham's theories and positions, because it seems like he might have changed his position. He said:

... McClure has got it right. He is saying that we should treat mildly disabled Australians seriously. We should back up 30 years of rhetoric that says, 'Don't write these people off ... Actually give them a chance to exercise their capacities to gain work, to be useful participants in our society. So don't emphasise disability; emphasise the capacity that mildly disabled people have to work.'

That is exactly what the government are saying. We want to give people assistance. We have a bill, which has been before this House twice, not affecting people who are currently on the disability support pension, but which is aimed at giving people who otherwise might go on the disability support pension assistance to participate in the work force and have all the benefits of being in the work force.

I do not know whether Mr Latham has changed his mind on this issue. We have

three quotes: one from a speech on the second reading debate in August 2000, one from a speech he made 'Rebuilding the community' on 26 July 1999 and the other made on *Sunrise* on 1 August 1999. In all of those speeches Mr Latham indicated his belief that we should assist people to get into the work force rather than being on DSP. Mr Latham needs to come out and tell the Australian public whether he has changed his mind. I presume he has because he has not overturned the decision of the shadow minister.

Senator George Campbell—Mr President, I raise a point of order. I asked a specific question related to new funding of \$109 million for the disability support program, which the previous minister said was not linked to the passage of the DSP legislation. I asked this minister specifically whether, in her view, that is now linked. She has been on her feet for three minutes attempting to answer the question but has not even come close to dealing with the substance of the question. I ask you to direct her to answer the question and, more particularly, to go to the relevance of the question.

The PRESIDENT—Senator Campbell, I can call the minister but I cannot say how the minister would or should answer the question. I ask the minister to return to the question, and she has one minute remaining.

Senator PATTERSON—I did answer the question: I said I would not take for granted Senator George Campbell's interpretation of Senator Vanstone's press release. I am very interested in what Senator Vanstone has to say but, with all due respect, I do not sit and memorise all her press releases from 2002.

Senator Vanstone interjecting—

Senator PATTERSON—She is saying that I should, but I do not, and I will not take your interpretation, Senator Campbell, as gospel until I go back and have a look at it. So I have answered the question. But what

the Labor Party does not like to hear is what Mr Latham has said over and over again about the need to focus on people's abilities rather than on their disabilities and the need to assist them in getting into the work force rather than being on the disability support pension. Labor wants to put people on a scrap heap, not give them assistance and not help them get into the work force—not create jobs to give them that opportunity. Labor has no leg to stand on with regard to this issue; it has no record. Under Labor, a million people were out of work and the number of people on DSP was increasing. You have a leader who has spoken on this three times, so go back and ask your leader whether he still adheres to what he said on those three occasions. *(Time expired)*

Senator GEORGE CAMPBELL—Mr President, I ask a supplementary question. Can the minister confirm that it is her intention to bring forward a cabinet submission on contestability for government funded vocational rehabilitation services. Can the minister give an assurance that her plans for the disability sector do not include plans to sell or privatise the operations of the Commonwealth Rehabilitation Service.

Senator PATTERSON—All afternoon the opposition have been asking me hypothetical questions, and they are not really allowed here. That is exactly a hypothetical question: will I or will I not be doing something. I have said before that I am not going to speak about what I will or will not be doing or what will or will not be in the budget, but what I can say—

Senator Faulkner interjecting—

Senator PATTERSON—Senator Faulkner says, 'We'll take that as the affirmative'. What absolute nonsense. I am not going to discuss what might or might not be in the budget. When Labor was in government no minister ever discussed what would or would

not be in the budget. I am not going to fall into that trap. I am saying that we have done an enormous amount for people on disability support pensions. In fact, that was not even a supplementary question, Mr President; it was a totally new topic and should have been disallowed.

Small Business: Redundancies

Senator TIERNEY (2.56 p.m.)—My question is to the Special Minister of State, Senator Abetz, representing both the Minister for Employment and Workplace Relations and the Minister for Small Business and Tourism. Is the minister aware of recent industrial action by the ACTU which would force half a million small businesses to pay increased redundancies to sacked workers? Will the minister indicate the disastrous effects this will have on small and medium sized businesses?

Senator ABETZ—I acknowledge Senator Tierney's longstanding interest in small business and his support for small business, especially in the Newcastle and Hunter region of the state of New South Wales. If Senator Tierney had any doubt about the absolute disaster that a Labor government would be for this country, he need look no further than what happened last week at the instigation of the ACTU. Let me start by reminding the Senate that jobs growth under this government has been greater than under any other government in Australia's history, at a time when real wages are growing and of the least industrial disputation ever. This is due to the hard decisions we took when we came into government. We cut Labor's \$90 billion debt, we reformed the tax system and, most importantly, we introduced real industrial relations reform. Let me make the point clear: workplace reform benefits workers with more jobs and higher real wages. It may not benefit union leaders, but it does benefit workers.

A system that frees up employment conditions means more jobs, better pay and better jobs for more people. But at the instigation of the ACTU, small businesses are now required to pay compulsory redundancy payments. This means that on top of the present termination payments, on top of the 'unfair' unfair dismissal laws—

Senator Cook—Mr President, I raise a point of order. The minister is misleading the chamber. The decision was made by the Australian Industrial Relations Commission. The umpire made the decision and the minister has not said that yet.

The PRESIDENT—Senator Cook, I do not think that was a point of order. Senator Abetz, I would ask you to return to the question.

Senator ABETZ—Thank you, Mr President, I was very much on the question. But this means that, on top of the present termination payments and on top of the 'unfair' unfair dismissal laws, small businesses—

Senator Forshaw—Mr President, I raise a point of order. As I understand it, it is out of order for a member of this parliament to reflect upon another member of parliament or a judicial or similar body. This was a decision of the commission, and I would ask you either to make a determination now or to go and check as to whether the minister's answer is a reflection on the decision of the Industrial Relations Commission and its members.

Senator ABETZ—I will respond to the point of order if I may, Mr President.

The PRESIDENT—What is your point of order, Senator Forshaw?

Senator ABETZ—We have this amazing spectre of the Labor Party not being able to get its lines right. Senator Cook accuses me of not mentioning the Industrial Relations Commission, and yet Senator Forshaw ac-

cuses me of reflecting on the Industrial Relations Commission. I cannot be doing both!

The PRESIDENT—There is no point of order. Senator Forshaw, my understanding is that you cannot reflect on a person in another place. I do not know whether that covers the commission, but I will check.

Senator ABETZ—They are very sensitive over there today. Everyone with a serious interest in maintaining and building jobs was against this proposal—including, might I add, the Labor governments of New South Wales, Senator Forshaw's home state; Western Australia, Senator Cook's home state; and Queensland. They opposed this ridiculous proposal. But the unions do not care. They would rather see Australia's small businesses go to the wall than modify their blind ideological obsessions. What does Labor do about this? Absolutely nothing. Australians should know this: a Latham Labor government means a return to union domination, which would mean more debt, higher taxes, higher interest rates, fewer jobs and lower wages. Labor does not care one iota about the needs of small business, which has been the engine room of jobs growth in our economy. It will not surprise Senator Tierney to learn that Mr Beazley said about Labor—

Senator Cook—You are a fraud!

Senator ABETZ—on radio 6PR, 'We have never pretended to be a small business party.' The Labor Party has never pretended that!

The PRESIDENT—Order! Senator Cook, I did not hear what you said the first time but I certainly heard it the second time. I ask you to withdraw.

Senator Cook—If I used an unparliamentary word in calling the minister a fraud—

The PRESIDENT—You did, and I am asking you to withdraw.

Senator Cook—I withdraw the word, if it is unparliamentary. I raise a point of order, Mr President.

The PRESIDENT—Senator Cook, take your seat.

Senator Cook—I am now taking a point of order, if I may.

The PRESIDENT—What is the point of order, Senator?

Senator Cook—The point of order is that the minister is misleading the chamber. The decision was made by the commission—the umpire—and to attack one of the parties or the Labor Party is to lie to the chamber.

The PRESIDENT—There is no point of order.

Senator ABETZ—I think it is high time Senator Cook went to his yacht full time. The Labor Party may have changed their leaders but they definitely have not changed their policies. Indeed, just this morning I did a search on ParlInfo. I put in this query. I asked: from the date of 1 December 2003, had the words 'small business' ever been uttered by either Senator Conroy or Senator O'Brien? Guess what the result was. Nil. Zero. That shows the Labor Party's contempt for small business, which is the engine room of growing jobs and giving a sense of security and wellbeing to our fellow Australians. If Labor were ever to win, we would see the mass destruction of jobs in this country—jobs that we have fought very hard to grow. Putting people into jobs is one of the great hallmarks of the Howard government's achievements. (*Time expired*)

Senator TIERNEY—Mr President, I rise to ask a supplementary question. Minister, in your answer you mentioned jobs growth created by our government. Could you please indicate how this measure that you have just been answering the question on would fur-

ther harm jobs growth in the small business sector?

Senator ABETZ—If there is one thing that spooks small business about putting on more employees it is all these sorts of add-ons like the ‘unfair’ unfair dismissal laws. Labor has now voted against the unfair dismissal legislation on 40 separate occasions. They are also now concerned that they might have to pay redundancy payments. What small business deliberately seeks to put off employees? Every small business person wants their business to grow and to grow the jobs in it. So the situation that arises when you have to put staff off is that there is a downturn, which no small business wants. But now the Labor Party are seeking to impose a greater penalty on small business for employing our fellow Australians. We make no apology on this side of the chamber: we are pro jobs and for that reason we are pro small business.

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

ANSWERS TO QUESTIONS ON NOTICE

Question No. 2453

Senator FORSHAW (New South Wales) (3.04 p.m.)—Pursuant to standing order 74(5) I ask the Minister representing the Minister for Science for an explanation as to why an answer has not been provided to question on notice No. 2453, which I asked on 8 December 2003.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (3.05 p.m.)—I am sorry that Senator Forshaw does not yet have an answer to this question. I have raised the matter with the Minister for Science and I understand that he is making every effort to get an answer to the

senator very shortly. Further information I simply do not have.

Question Nos 2117 and 2360

Senator ALLISON (Victoria) (3.05 p.m.)—Pursuant to standing order 74(5) I ask Minister Vanstone for an explanation as to why answers have not been provided to question on notice No. 2117, asked on 17 September 2003, and question on notice No. 2360, asked on 5 November 2003.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (3.05 p.m.)—Senator Allison, again, I regret that you do not have answers to these questions. Question on notice No. 2360 will be with you shortly. Certainly, I will guarantee that it will be there by the end of the week, but I hope that it will be there much sooner than that because I think that it is the one that you have inquired about in the past, informally.

As to question on notice No. 2117, which was addressed to the Minister for Science, I am advised that there was a problem in the redirection from one portfolio to another. I am also told that, when it was received, the relevant officer wrote to you advising of the delay—not that that is any help; officers are not entitled to say that there has been a delay, so you can wait forever, although that is not what the officer was intending to do. CSIRO has been asked to give the question prompt attention and will be advising your office shortly of when you can get the answer. It is, as I say, partly attributable to this original misdirection, which was just an administrative mess-up, but the answer should be with you shortly. My advice is that that will probably be tomorrow.

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

Budget: Family and Community Services

Senator JACINTA COLLINS (Victoria)
(3.07 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Patterson) to questions without notice asked today relating to family and community services.

The discussion in question time today, answers provided by Senator Patterson and the leaked cabinet-in-confidence budget document signed by Senator Patterson all demonstrate the point that this government's mean and narrow approach in trying to deal with issues associated with the disability support pension has not worked. The government does not seem to have learnt that it is incentives and better support that these families need, and which Labor would support. It has continued down a path of looking at short-term and narrow cuts and penalties to try and force people into circumstances that the government might desire.

Where is the proof for this assertion? We need to go no further than page 4 of this cabinet-in-confidence document. In this section of the document, Senator Patterson indicates that there is a need to urgently reform the disability support program, but then she goes on and says 'and reform community attitudes to it'. It is usually the Labor Party that is accused of social engineering. It is somewhat amusing to see, in a document such as this, Senator Patterson putting to the Prime Minister that we need to reform community attitudes about disability support pensions. How has it learnt this? It learnt this because, when the government sought to cut the support for disability support pensioners, their carers and carers of children with disabilities, the community's reaction was to not support it. Whilst the government may have

been able to get away with its classic scare-mongering approach, which is a term that Senator Patterson likes to use—but a scare-mongering approach which highlights compliance issues and prosecutions rather than the general policy issues of the day—it has learnt that the community would not tolerate it when looking at the concerns of genuinely disabled people and people caring for disabled children.

But let me look at another area where this government's, rather than the opposition's, misrepresentation is quite apparent. Today Senator Patterson continually referred—in fact, based on the nature of her responses I would accuse her of sledging—to me and Mr Swan as scurrilous and of scaremongering. She has got something, it appears, with 's' words at the moment. But let us look at her scurrilous behaviour in this matter. This cabinet-in-confidence document talks about one program, for instance, that I am quite familiar with. It is the greater flexibility and choice in child-care initiative as a lapsing measure. The proposal is to convert the initiative into an ongoing child-care program and separate it from the Stronger Families and Communities program in line with the finding of a recent review. It then goes on to talk about a summary of the review. What it does not say is that Senator Newman, when she was the minister at the time the program was introduced, promised Australians 7,700 in-home child-care places and this government has not delivered even half of them.

Elsewhere in this report it suggests the government might want to consider acting on the level of unmet need for child-care places that exists at the moment. Again, it does not acknowledge that this government has overseen the growth in shortages in child-care places to such an extent that there are enormous backlogs in some places, but it does go on to say that this is something the government might want to consider. The work and

family barbecue has never happened—or, if it has, I would not want to touch the meat—because this government has not delivered any of the work and family initiatives, and what is very disappointing about this budget proposal is that there is nothing in it either. It is a completely vacuous document. There are allusions to the Minister for Children and Youth Affairs developing an early childhood agenda, but it is now five years since calls for this agenda commenced. For five years we have waited. There is no sign of it in this document, and yet the government continues to accuse us of scaremongering. This government has presided over an enormous backlog in delivery of services.

The document also suggests some measures that Labor has proposed recently. I was criticised by the present minister, and by Senator Patterson, for some of Labor's suggestions in relation to incentives for new child-care centres. Yet, in this document, exactly that is proposed. It proposes that we rename and broaden the incentive scheme eligibility criteria to encompass not-for-profit service providers and to target a broader range of areas of high unmet need for private provider incentives. These are the incentives that the sector needs in this—(*Time expired*)

Senator KNOWLES (Western Australia) (3.12 p.m.)—Yet again we see the Labor Party working with stolen information that is not even accurate, that has been rejigged, reworded and an interpretation of it provided by the Labor Party that is not correct. But the Labor Party does not care about that. It does not care about going out and frightening people. It does not care about going out and saying something that is blatantly untrue—that pensions and disability payments are going to be cut. It does not worry the Labor Party to go and do that because, as former Senator Graham Richardson said in his book, 'Do whatever it takes'. Doing whatever it takes is what the Labor Party is all about. It

could not care less about the individual; it is all about its quest to win government. It could not care less about the disadvantaged people in our community; it could not care less about those most in need, because if it did it would not be embarking on this fear campaign that is so untrue and so ill-founded that it is unbelievable.

Senator Ferris—Putting the frights into old people.

Senator KNOWLES—Exactly, Senator Ferris—putting the frights into older people, disadvantaged people and disabled people. But let us remember the attitude of the Labor Party: do whatever it takes to win government. It does not matter what you do afterwards, just do whatever it takes to win government. There is not one instance I can recall in the years that we have now been government that the Labor Party has ever said, in any of these areas, 'Now that was a good idea.' It did not say, 'Now that was a good idea,' when we increased the real value of family and support pensions back in March 1996; it criticised it. It did not say, 'Now that was a good idea,' when we had the average increase in disposable incomes for low-income households go up by eight per cent after inflation. It did not say, 'Now that is commendable; that is fantastic.'

What they have gone about doing is simply terrorising this country—and that is what they are continuing to do in this debate. Under this government, single and partner pensions have increased by 32 per cent. Have the opposition ever said, 'Congratulations, that's fantastic'? No. They come in here and say that the government, which has increased pensions by 32 per cent above what the Labor Party used to pay, are now somehow going to cut them. How absurd! Low-income working families are in fact the ones who are mainly better off. But have the opposition ever recognised that fact? No. Because, as an

opposition, they are here to oppose. They will simply not work in any bipartisan form at all.

Apart from wage increases, which were made possible by the strong economy created by this government, there has been more cash assistance given to families. For example, since this government has been in office a couple with two small children on the federal minimum wage have had a 36 per cent increase in their payments after inflation. The opposition's record in 13 years—13 years of long, hard Labor—was to leave these people at risk. We have simplified the family payment system by replacing 12 programs with three. For 13 years the Labor government operated on the principle that if you made it complex then people would not be able to claim, they would not know what to claim and they would not know where to go—and they were right: they did not.

But what they did was create an environment for fraud to flourish. They did not bother about overpayments and, more importantly, they did not bother about making sure that those who had missed out on a payment actually got reimbursed. They just said that was too bad; it was simply too bad. That is their record. And here they are today talking about a so-called leaked document. But they are not talking about anything that is accurate. They are just simply going out there and continuing to fearmonger in the whatever-it-takes mode that they have decided to adopt between now and the next election. (*Time expired*)

Senator CROSSIN (Northern Territory) (3.17 p.m.)—I rise to take note of the answers given by Senator Patterson today but, before I do, I want to comment on the contribution of the previous speaker. Senator Knowles rabbits on about doing whatever it takes to win government. Let me just pose this question to the members of the govern-

ment opposite: exactly what part of the 'children overboard' affair did they not understand? Was it the part where they manipulated the human misery of the asylum seekers and misled the Australian public in order to get government at the last election? Was it the part where they ruined the careers of public servants and senior members of the Australian Defence Force in order to win government? So, if anyone is good at misleading the public or doing whatever it takes to win government, the people on the other side of the chamber would have to be absolute experts in that at this point in time. Books that have been written since 2001 have shown and have proved that.

Let us have a look at what is on the cards for the coming election and probably for the coming budget. I have often said in this chamber that I did not agree too much with what the previous Chief Minister of the Northern Territory and the now President of the Liberal Party, Shane Stone, had to say. But I thought he was right on the mark when he wrote a document saying that this government was 'mean and tricky' and 'out of touch'. It is one of the very true statements that person has ever made in his life.

What we have here is a cabinet in-confidence document which has been leaked to the Labor Party. We know that is the case, because in her answers today the minister actually confessed that a document had been leaked. Not only did she say that, but also she went on to tell us that it was a preliminary document. *Hansard* will show that that is a fact. What does that mean? Is it a draft document? Is it stage 1 of a work in progress? We know from what the minister said today—and no doubt little by little each day this week we will have to, painstakingly and slowly, as if pulling teeth, extract the truth from the government—that there is a document and that it is a preliminary document. We know that it is a secret plan to cut the

welfare to thousands of families and people who are on disability pensions. We know it is a letter, which this minister wrote to the Prime Minister, outlining a budget strategy in a bid for 23 key budget measures. We know that, in the lead-up to the next election, there are no proposals in the document to ease the pressure on average families or to lay before the Australian people any long-term solutions to the problems that those families face, particularly financial pressure. We know that what the government say before the election is a totally different thing to what they will do after the election. The government are planning cuts to the benefits of sole parent families, carers and disability pensioners after the election. They do not want to come clean on it. They just do not want to tell the truth. They are not very good at telling the truth. They are very good at misleading the public.

In the last 12 months, we have seen carers threatened with the removal of \$70 a week from their benefit. I know that is a fact. I did a lot of work with the Down Syndrome Association in the Northern Territory. They embarked on a campaign of trying to save the carers allowance, which was under threat of being cut by \$70 a week. The government are very good at changing the fences and changing the boundaries. We have a minister or a Prime Minister who may well say that there will be no cuts to pensions or allowances. But what about eligibility? Is that what they are planning to change? Is the eligibility to access these payments where we will see changes made by the government? Is it under a new modular system where the government are planning to have a common working age pension payment? What does that mean? The minister could not tell us and, more particularly, did not want to tell us today. Does it mean that, if you are on a disability pension, you will be moved to Newstart and your eligibility criteria will there-

fore change? Technically, that would lead to a cut to your pension and to the payments made.

So, as always with this government, you really have to look at the fine print; you really have to look at the meaning behind their words. On the one hand, they say that there will be no cut to the allowances. The question you have to ask is: what is really meant by the new system planned in this leaked cabinet document? What is really meant by the eligibility criteria that people can access— (*Time expired*)

Senator BARNETT (Tasmania) (3.22 p.m.)—I also rise to take note of the answers given by Senator Kay Patterson and to respond to Labor senators opposite. I want to say up front that this is a most difficult and sensitive area. One of the tactics of the Labor Party is to scaremonger. Yes, it is a federal election year but I would have hoped that they would not lower themselves to the depth of disgracing their honour and their standards. The scaremongering campaign that they have instigated in the last day or so is one of the worst over the last few years. Labor have accused the government of cutting benefits to those on welfare. The Prime Minister and the minister have made it clear, and all senators on this side want to make it clear, that we do not support Labor's accusation that there will be any cuts to those on welfare. Their benefits will not be cut. On the contrary: the Howard government values people, places importance on families and cares for pensioners and those that need support and welfare.

I am proud to be a member of the Howard government, and I will summarise some of the key initiatives that we have undertaken. The government has a very good track record of supporting families and individuals and those who are disadvantaged in the community. I am consistently involved with people

with disabilities in Tasmania. I am an advocate for them, for the charities and community groups and for the many volunteers and volunteer organisations in Tasmania. Many senators on this side of the chamber are very involved in supporting, upholding and helping in every way possible those who are less advantaged in our community. It should be acknowledged that, since the Howard government came to power in March 1996, it has increased the real value of family support and pensions. We have not seen that from Labor or the opposition parties. There has been an average increase of eight per cent in disposable incomes for low-income households. That is over and above inflation. That means that their real welfare payments, their real support benefits, have increased. This is what this government has delivered in addition to the real increase in wages for the workers in our community. What a wonderful legacy bestowed by Mr Howard on the people of Australia. Under this government, single and partner pensions have increased by 32 per cent.

I want to step back a moment and tell you what we have done for families and the community in general. We have provided the lowest interest rates and the lowest inflation rates in a generation. In the third quarter of 1973, inflation was running at 17.1 per cent. It was a sad era for the Australian nation. We now have the lowest interest rates and the lowest inflation in a generation. That is a great legacy to bestow upon the Australian people. We are leaders in economic management, which means we have provided growth in real wages, employment and productivity. This helps families, individuals and those on welfare.

We have a growing economy where we can afford to look after the less advantaged. If we did not have that, it would be all that much harder. We on this side of the chamber and many in the community fear that we are

facing the potential for higher taxes and higher debt like that which Labor put this country into in the past decades. This is what we fear. We have the lowest unemployment rate, under six per cent, in a long time. Families are benefiting. On the latest advice I have received, we have one of the lowest unemployment rates in more than 22 years. When will we get an acknowledgment or a congratulatory note from Labor on the other side, or from the opposition parties, saying: 'Congratulations. Well done on the work that you have done to benefit families and individuals'? (*Time expired*)

Senator DENMAN (Tasmania) (3.27 p.m.)—I rise to take note of the answers given by Senator Patterson, the Minister for Family and Community Services, and to support the motion moved by Senator Collins. The Howard government seems to be of the view that, whenever there is a need to cut budget expenditure, the first place to look at is benefit recipients. This is the highest taxing government in Australia's history, yet it still seeks to make life harder for the disabled pensioners, carers and sole parents. I too want to put it on record that I do a lot of work in disability areas. Prior to coming into this place I was on the board of a local disability group, and I still have a lot of contact with them and with other national bodies in disability. I am also a member of the Tasmanian Association of Disabled Persons Inc. Because of my own disabilities, I understand what it is like for people with disabilities to have to try to manage.

One of the big problems, particularly for the intellectually disabled, is that the benefits do not cover some of the costs that people have to meet. Rents have gone up recently. Therefore it is costing them more, but their benefits have not increased. Another thing that is a problem for them is dental health and, where I live, it is a real issue. There is a 2½-year waiting list for people on benefits to

access the public dental system. A case in Devonport, where I live, was cited to me recently of someone with an intellectual disability who had a gum ulcer. It is much easier to have an ulcer on the arm attended to than a gum ulcer. Money had to be found to take this intellectually disabled person to a private dentist. Had it not been attended to then, it could have led to an infection in the blood system, causing all sorts of other problems which you do not have with ulcers in the arm.

People are now delivering food parcels to the homes of some intellectually disabled people. Because of increases in rent and so on they cannot any longer afford to eat properly and are being given food parcels. Last winter, again in the area where I live, I spent some time giving out coats to those very marginalised people who just could not afford them. One group in the community collected coats and some of us voluntarily distributed them. Those living with intellectual disabilities also do not tend to be socialising as much as they did, because the cost of taxi fares has gone up. To get a taxi, even between them, to a function is beyond their means.

Senator Crossin mentioned that carers were afraid of losing up to \$70 a week off their benefit. A lass who rings our office has a daughter with Tourette syndrome. She is in need of constant care but has now reached the age when the mother is no longer able to access a carers pension. The daughter has a very severe disability and cannot really be left alone at home while the mother tries to supplement the income.

I know of someone whose wife died under tragic circumstances a few years ago. For the last nine years he has reared his two children—a son and a daughter. The son has now reached the age when the sole supporting pension is no longer applicable to him and

the father has to supplement the income. He has always worked one day a week, but they live in the country and there is no-one to care for the children after school. (*Time expired*)

Question agreed to.

Health: Parkinson's Disease

Senator ALLISON (Victoria) (3.32 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Local Government, Territories and Roads (Senator Ian Campbell) to a question without notice asked by Senator Allison today relating to Parkinson's disease.

I also wish to note the statement made in the last couple of days by Don Chipp, former Leader of the Australian Democrats, who has been diagnosed with Parkinson's disease. It was useful to have the minister's answer about the research which is being conducted into Parkinson's disease and also to be reminded that the Medicare Benefits Schedule and the PBS support people who have this tragic disease.

Alzheimer's disease affects one in 25 Australians over the age of 60. Some 125,000 Australians presently suffer from Parkinson's disease, and over the next decade that number is projected to increase to 175,000 people. So we are talking here about a quite pervasive and serious illness. The cost of specialised services for people with this disease is more than \$150 million every year. It is not, of course, alone as an ageing disease. Parkinson's affects 40,000 people, roughly one-third of the number of people with dementia. One in 100 people over the age of 60 have Parkinson's, although one in seven people with Parkinson's are diagnosed before the age of 50.

There is really not very much said publicly about this disease and to some extent it has become invisible. As a result there is, as I understand it, very little by way of direct funding for specialised services and for sup-

port groups, and that was the point of my question today. I did ask why it was that the state based groups that support people with Parkinson's and advocate on their behalf are not federally funded when groups that do the same kind of thing for people with multiple sclerosis are supported. That is not to say we would like to see money taken away from that group—that would be absurd of course—but I think there is a case to answer for better services for these people.

Multiple sclerosis affects 10,000 to 15,000 people. That is far fewer than those who suffer Parkinson's disease. I understand that in some respects multiple sclerosis is quite different in that it affects younger people, so there is a good case for much more to be done for people with multiple sclerosis, including obtaining more appropriate accommodation than what can be gotten through the present arrangements.

Parkinson's disease needs to have a higher profile. I thank Don Chipp for making his contraction of this disease an issue so that we can direct attention to it and ask for appropriate levels of funding to be provided. It is my understanding that the disease is assisted by programs, that rehabilitation is possible, that exercises are a way of improving the condition of people with this disease and that, most importantly, support is critical for not just the individuals who have Parkinson's but their families and carers as well.

This is an ageing problem that needs to have a national approach rather than just an ad hoc approach. I implore the minister and the government to look carefully at this question and see if a little more can be done to provide support for people who have been diagnosed with the disease. As I said, this disease mostly affects older people but it will cut short the lifespan of many people. Unless these people get that support, their quality of life will not be as good as it might be—and

that also goes for the people who care for them.

Question agreed to.

PETITIONS

The Clerk—A petition has been lodged for presentation as follows:

Education: Educational Textbook Subsidy Scheme

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

The Petition of the undersigned draws to the attention of the Senate, concerns that the expiration of the Educational Textbook Subsidy Scheme on June 30 will lead to an eight percent increase in the price of textbooks, which will further burden students and make education less accessible.

Your petitioners believe:

- (a) a tax on books is a tax on knowledge;
- (b) textbooks—as an essential component of education—should remain GST free;
- (c) an increase in the price of textbooks will price many students out of education, particularly those students from disadvantaged backgrounds; and,
- (d) the Educational Textbook Subsidy Scheme should be extended past June 30.

Your petitioners therefore request the Senate act to extend the Educational Textbook Subsidy Scheme indefinitely.

by **Senator Stott Despoja** (from 1,529 citizens).

Petition received.

NOTICES

Presentation

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

That the time for the presentation of the report of the Employment, Workplace Relations and Education References Committee on the exposure draft of the Building and Construction Industry Improvement Bill 2003 and the provisions of the Building and Construction Industry Improvement

Bill 2003 and a related bill be extended to 15 June 2004.

Senator Hutchins to move on the next day of sitting:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the performance of government agencies in the assessment and dissemination of security threats in South East Asia in the period 11 September 2001 to 12 October 2002 be extended to 24 June 2004.

Senator Cherry to move on the next day of sitting:

That the Senate calls on the Government to give consideration to adjusting the superannuation preservation age of 60 for workers born after 1964 if those workers have spent significant periods of their working lives in occupations such as policing which involve significant physical exertion, mental stress and necessitate earlier retirement.

Senator Cherry to move on the next day of sitting:

That there be laid on the table, no later than the conclusion of question time on Thursday, 1 April 2004:

- (a) the documents described in paragraphs (b) and (c), relating to information produced as part of the 2000-2003 Commonwealth Scientific and Industrial Research Organisation (CSIRO) Biodiversity Division project, 'Ecological Implications of GMOs [genetically-modified organisms]';
- (b) all documents identified by CSIRO as outputs of the following projects:
 - (i) robust risk/benefit decision tools adapted for Australian conditions (2003), probabilistic/quantitative estimates of risk for GMOs (2003) and recommendations for policy makers on best practice in risk assessment (2001),
 - (ii) risk assessments, up to landscape scale, of direct and indirect ecological impacts of Bt cotton, legumes with high sulphur protein and herbicide tolerant canola (2003),

- (iii) risk assessments, up to landscape scale, of ecological impacts of potential GMOs in eucalypts, rumen biota, oysters and mouse cytomegalovirus (2003), and
- (iv) reports on predicted risk and benefit scenarios resulting from different GMOs (2002), and recommendations on how to mitigate undesirable impacts if they occur (200 Methods for large scale monitoring of GMO benefits and impacts) (2001); and
- (c) all documents produced further to the 'Paths of adoption' commitments published on the CSIRO website at http://www.biodiversity.csiro.au/2ndlevel/3rdlevel/plan_gmos.htm.

Senator Ridgeway to move on the next day of sitting:

That the Senate—

- (a) notes the vibrant and varied Parliament House art collection, which is valued at \$85.6 million and is spread throughout 4 000 rooms in 25 kilometres of corridors;
- (b) notes also that:
 - (i) the collection contains works from a range of Australian artists including Fred Williams, Arthur Boyd, Sidney Nolan, Tracey Moffatt, Howard Arkley and Fiona Foley,
 - (ii) the current policy of purchasing the work of emerging and living artists means the value of the collection has increased almost fivefold over the initial investment,
 - (iii) the review of the Parliament House art collection recommends that it should not, as a rule, collect the works of emerging artists, and
 - (iv) if this recommendation is accepted, the work of artists such as Patricia Piccinini, one of our most successful international artists, whose work *Psychogeography* was initially purchased for \$1 500 and is now worth \$160 000, would not have been purchased for the collection; and

- (c) calls on the Government to reject this recommendation and to retain this important aspect of the collection.

Senator Cherry and Senator Stott Despoja to move on the next day of sitting:

That the Senate—

- (a) notes escalating tensions between the Arab and Kurdish populations within Syria;
- (b) expresses concern at reports that recent spates of violence between the Syrian authorities and the Kurdish minority have resulted in multiple deaths and injuries; and
- (c) calls on the Minister for Foreign Affairs (Mr Downer) to make representations to the Syrian Government regarding the fundamental importance of adhering to the Universal Declaration for Human Rights in all its dealings with the Kurdish minority.

Senator Cherry to move on the next day of sitting:

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

- (a) Australian telecommunications network—to 16 June 2004;
- (b) competition in broadband services—to 24 June 2004;
- (c) regulation, control and management of invasive species—to 25 November 2004; and
- (d) Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002—to 25 November 2004.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.38 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Commonwealth Electoral Amendment (Representation

in House of Representatives) Bill 2004, allowing it to be considered during this period of sittings.

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

Leave granted.

The statement read as follows—

COMMONWEALTH ELECTORAL AMENDMENT (REPRESENTATION IN THE HOUSE OF REPRESENTATIVES) BILL 2004

Purpose of the Bill

The Bill amends the Commonwealth Electoral Act 1918 to give effect to the Government response to the Report of the Joint Standing Committee on Electoral Matters (JSCEM) Territory Representation: Report of the Inquiry into Increasing the Minimum Representation for the Australian Capital Territory and the Northern Territory in the House of Representatives. The Committee's recommendations relate to the transparency and clarity of the process used by the Electoral Commissioner when making determinations on the number of members to be chosen by the States and Territories for representation in the House of Representatives.

The Bill provides for the Electoral Commissioner to use the most recent population statistics that form part of a regular series and which have been compiled and published by the Australian Statistician under the Census and Statistics Act 1905 when ascertaining the population of the Commonwealth, the States and Territories when making the determination. The Electoral Commissioner will be required to ascertain the population on the first day after 12 months of the first sitting of the House of Representatives and make the determination within one month after the 12 month period. Details of the calculations used to determine the number of seats to be chosen and any adjustments to the statistics required under the Electoral Act will be published in the Gazette.

The legislation also provides that when the Australian Capital Territory or the Northern Territory falls short of quota for an additional seat, and that shortfall is within an error margin, the Electoral Commissioner is to re-calculate the entitlement.

The error margin is represented by two standard errors of the net undercount from the previous Census advised by the Australian Statistician. The upper limit of the 95% confidence level, that is, two standard errors, is to be added to the Territory's population and the entitlement recalculated.

The Bill also sets aside the determination made by the Electoral Commissioner on 19 February 2003 as it relates to the Northern Territory. The Electoral Commissioner determined that one member would be chosen for the Northern Territory at the next election. This would halve the Northern Territory's current representation of two members. The Bill will retain the Northern Territory's representation at the next election.

Reasons for Urgency

The proposed Bill requires introduction and passage in the 2004 Autumn sitting period to allow implementation in advance of the next federal election. Implementation of the legislation will provide reassurance to the citizens of the Northern Territory that there will be no diminution of its federal representation at the next election.

(Circulated by authority of the Special Minister of State, Senator the Hon Eric Abetz)

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.38 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5), (6) and (8) of standing order 111 not apply to the Intelligence Services Amendment Bill 2003, allowing it to be considered during this period of sittings.

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

Leave granted.

The statement read as follows—

INTELLIGENCE SERVICES AMENDMENT BILL 2003

Purpose of the Amendment

The principal purposes of the Amendment are to permit ASIS to:

- provide for the protection of its staff members and agents, including through the issue of weapons under strict conditions; and
- work closely with Australian and foreign organisations or agencies that may employ violence in the performance of their functions, while retaining the restraints on ASIS itself being able to engage in the use of violence in the performance of its functions.

Reasons for Urgency

ASIS is constrained in its ability to provide adequately for the safety of its officers and agents in some situations. It is also constrained in its ability to cooperate with other organisations in carrying out its functions, and amendments are needed urgently to address these issues.

(Circulated by authority of the Honourable Alexander Downer MP, Minister for Foreign Affairs)

LEAVE OF ABSENCE

Senator ALLISON (Victoria) (3.39 p.m.)—by leave—I move:

That leave of absence to Senator Stott Despoja be granted for the period 30 March to the end of the 2004 autumn sittings, on account of parliamentary business overseas.

Question agreed to.

HEINER AFFAIR AND LINDBERG GRIEVANCE

Senator HARRIS (Queensland) (3.39 p.m.)—by leave—I wish to make a statement in relation to general business notice of motion 827 relating to the establishment of a select committee on the Lindeberg grievance and to place before the Senate some known facts in relation to what has become known as the Heiner affair. Queensland had a child detention centre known as the John Oxley Youth Detention Centre. Children were held at that centre. Children in that centre were entitled to protection. That protection has failed manifestly. An outing was held from that centre to a remote south-east Queensland area. Both male and female teenagers were involved in that outing. The supervisors

on that outing clearly lost control of that outing. Those are the known facts.

I will move on to what the Senate was not told. As a result of and during that outing, a 14-year old Aboriginal girl was raped, possibly on two separate occasions on the same outing. That rape was disclosed to the supervisors of the centre. Under the instructions from a medical doctor, the supervisors at the centre administered to that 14-year old girl what is commonly called the morning-after pill. I want to place on the record very carefully what that was: the administration of a double dose of a contraceptive pill followed up within 12 hours of another double dose of a contraceptive pill. They were administered to a 14-year-old girl.

The Senate was not told that the detention centre manager informed his superiors. The Senate was not told that money was paid to suppress the situation. The Senate was not told that the departmental file for that girl recording the entire event was and is still available but was not provided to the Senate inquiry. That is what the Senate did not know when it made its finding. It was a decision of poor judgment to shred all other documents from the Heiner incident. The Queensland CJC told the Senate that section 129 of the Queensland Criminal Code did not apply to the shredding of the Heiner documents. The Senate was told that that was because no writ or legal proceedings were afoot.

What has changed? In Queensland a conviction is recorded against a Baptist pastor because he shredded four pages of a girl's diary that could have, if they were still in evidence, proved the child molestation of that girl. The Queensland department of public prosecutions went ahead with the case and were successful in charging the pastor with the criminal offence of destroying documents. He was convicted and awarded a jail term of six months. The jail term was set

aside providing the pastor did not enter into or carry out any other criminal activity during that period. We have a total opposite here. A pastor has been found guilty of something he did five years ago, yet this Senate allows to remain on its record that the shredding of the documents pertaining to the rape of a 14-year-old girl should not be revisited. I believe it should be. I believe this chamber must revisit the issue on these grounds: if the decision in relation to section 129 of the Criminal Code in Queensland stands as the Senate's answer to the destruction of documents, it is a very sad day. There is one set of rules for a pastor of a church and another set of rules for a government department. That in itself cannot stand.

NOTICES

Postponement

Senator HARRIS (Queensland) (3.48 p.m.)—by leave—I move:

That general business notice of motion no. 827 be postponed till 1 April 2004.

Question agreed to.

RURAL AND REGIONAL AUSTRALIA: HEALTH SERVICES

Senator ALLISON (Victoria) (3.49 p.m.)—by leave—I move the motion as amended:

That the Senate—

- (a) supports better health provision for rural communities;
- (b) notes that rural communities have articulated in a report 'Good health to rural communities', the following 10-point plan:
 - (i) small rural hospitals be utilised as centres for quality healthcare and training,
 - (ii) procedural rural medicine be sustained through the development of a national strategic approach,
 - (iii) the Medical Specialists Outreach Assistance Program and other

initiatives be expanded to ensure integration with local healthcare services and support to sustain local healthcare capacity,

- (iv) higher medical rebates be available to all Australians,
 - (v) the role of practice nurses be extended to allow them to provide other Medicare-funded services,
 - (vi) advanced nursing practice be supported in areas where access to healthcare is difficult,
 - (vii) a local government medical recruitment infrastructure fund be established for councils that have to acquire facilities,
 - (viii) high quality broadband services be provided for rural communities to give doctors and their patients access to on-line information,
 - (ix) bonded medical school places be made more attractive and effective by scholarships and other incentives, including higher education contribution scheme exemption, and
 - (x) overseas trained doctors be given access to suitable supervision, support mechanisms and mentoring, in order to remove unnecessary barriers to their contribution to rural health; and
- (c) encourages the Government to adopt these recommendations, particularly those relating to grants for walk-in, walk-out clinics, noting that this was recommended by the Australian Democrats in 2003 as one way of overcoming the barriers to doctors practising in country areas.

Question agreed to.

COMMITTEES

Legal and Constitutional References Committee

Extension of Time

Senator MACKAY (Tasmania) (3.49 p.m.)—At the request of Senator Bolkus, I move:

That the time for the presentation of the report of the Legal and Constitutional References Committee on the capacity of current legal aid and access to justice arrangements to meet the community need for legal assistance be extended to 11 May 2004.

Question agreed to.

DOCUMENTS

Ninth National Schools Constitutional Convention

The DEPUTY PRESIDENT—I table a communique from the Ninth National Schools Constitutional Convention held at Old Parliament House from 24 to 26 March 2004.

COMMITTEES

Procedure Committee

Report

The DEPUTY PRESIDENT (3.51 p.m.)—I present the first report of 2004 of the Procedure Committee relating to divisions on Thursdays, the consideration of government documents and formal motions.

Ordered that the report be printed.

The DEPUTY PRESIDENT—I seek leave to move a motion in relation to consideration of the report.

Leave granted.

The DEPUTY PRESIDENT—I move:

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

Question agreed to.

Migration Committee

Report

Senator TCHEN (Victoria) (3.51 p.m.)—On behalf of the Chair of the Joint Standing Committee on Migration, I present the report of the committee entitled *To make a contribution: review of skilled labour migration programs 2004*, together with the *Hansard* record of proceedings, minutes of proceed-

ings and submissions received by the committee.

Ordered that the report be printed.

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

Leave granted.

Senator TCHEN—I move:

That the Senate take note of the report.

I seek leave to have my tabling statement incorporated in *Hansard*.

Leave granted.

The statement read as follows—

Last year, Australia attracted some 100,000 permanent and temporary skilled migrants.

In the same year, the United States of America accepted in excess of 500,000 permanent and temporary skilled migrants. Across the Tasman, in New Zealand, the skilled migrant intake totalled 108,000.

Obviously, Australia faces strong competition for skilled migrants in the international market.

The Joint Standing Committee on Migration was asked to examine the competitiveness of our temporary and permanent skilled migration programs in this market. In particular the Committee were asked to consider the skilled migration arrangements in Canada, Ireland, Germany, Japan, New Zealand, the United Kingdom, and the United States of America.

The Committee was also asked to examine the role of State and local authorities in the settlement patterns of new arrivals.

The Committee noted that Australia's existing skilled migration arrangements have drawn positive comments from overseas. The International Labour Organisation described Australia as "a leader in ... using competency-based assessments of migrant skills." The Committee's Canadian counterpart recommended that its government model its skill recognition arrangements on Australia's centralised system.

Compliments are fine, but they will not keep us competitive internationally. The skilled worker market place is continually changing.

During the course of the review there were changes to our skilled migration schemes, but most of the other countries which the Committee examined have also made changes to their schemes. The competition for the contributions by skilled people continues.

To remain competitive we have, first of all, to make sure that potential migrants consider Australia as a possible destination.

Promotion of Australia as a place to live is not a task that fits the responsibilities of the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA). Moreover, the States, Territories and regional Australia all have an interest in promoting their jurisdictions. The Committee recommends a more integrated exploitation of Internet technology to inform potential migrants of settlement opportunities.

This is important for encouraging skilled migrants to settle outside the major urban areas. Evidence from Australia and elsewhere indicates that migrants decide where they will live in a country well before they migrate.

Australia offers skilled migrants the opportunity to become permanent settlers. Only three of the seven countries considered by the Committee, Canada, the United States of America, and New Zealand made a similar offer of permanent settlement.

Canada and New Zealand aim to make skilled migration the main component of their permanent migration stream, as does Australia. Like Australia, both use a points testing system to select eligible skilled permanent migrants.

Under points testing, applicants are allocated scores for attributes such as level of skill, age, fluency in English, work experience, and local qualifications.

If the applicant's score meets the pass mark, they are eligible to migrate—subject to health and character requirements.

The Committee recommends some changes to the points system to improve Australia's competitiveness. The Committee recommends that people aged 45 or more now be permitted to be considered in the skilled migration programs. It also recommends applicants' spouses be given points

for their individual skills, because the spouses play a significant part in the decision to migrate and the family's subsequent settlement into Australian society.

Since local work experience is an important factor in gaining employment on arrival, the Committee has recommended increasing the points allocated for that factor.

The Committee found that there is evidence of a degree of disconnect between the importance given to certain skills or qualifications by the point system, and the reality of recognition of these skills in Australia. Some skilled migrants who are welcomed to Australia because of their skills discover that they cannot pursue their careers until they have met relevant professional or trade association standards.

The Committee therefore recommends that more and better information about Australian registration requirements be made available early in the migration process. It also recommends that the assessing bodies continue to seek harmonisation of registration requirements across States and territories.

Australia, like all the countries the Committee reviewed, also welcomes temporary migration by skilled workers to meet emerging labour force shortages. The Committee recommends that the DIMIA focus its assessment on the training commitment of establishments which seem disproportionately dependent on temporary migrant labour.

The Committee also recommends that sponsors benefiting from the skills of those workers contribute \$1,000 per migrant to fund scholarships for Australians in those areas of existing long term skill shortages which are expected to continue.

The Committee called its report, which I am pleased to note is unanimous, "To Make a Contribution", to highlight the reason skilled migrants choose to come to Australia. The report makes a number of recommendations which will assist skilled migrants to realise that ambition.

In closing I would like to acknowledge on behalf of the Committee the generous assistance the Committee received from the British, Canadian, and New Zealand High Commissions, and the

Embassies of Ireland, Japan, and the Federal Republic of Germany.

Also on behalf of the Committee, I would like to record our thanks to the committee secretariat, the small team of Richard Selth, Steve Dyer, and Peter Ratas, for their work for the review.

I commend this report to the Senate.

Senator TCHEN—The Joint Standing Committee on Migration received a brief to examine Australia's skilled migration program, the details of which are covered in the tabling statement. I would like to add a few words. One issue the committee looked at was post-settlement support in Australia for skilled migrants. From the committee's study of other countries' immigration programs, we found that Australia is in an almost unique position in the support we give to people who come to Australia as migrants, particularly as skilled migrants. We not only give them direct and immediate access to our health, social welfare and employment support but also provide services which assist them in accessing those services. We have a very enlightened approach to people who come to Australia intending to settle here.

However, there was one area in which the committee found some disconnection—that is, between what we ask people to provide to prove themselves, particularly in terms of their skills and qualifications, before they are accepted in Australia as permanent migrants and their experience after they arrive in Australia in accessing the jobs market and making use of their qualifications and skills. The committee makes certain recommendations with respect to bridging this disconnection. Our program provides a pool of people who are highly motivated and more qualified to fit into Australian society than their formal qualifications and experience alone provide. This has served Australia very well in providing greater depth of skill in our community, and this can be seen as having been par-

ticularly the case when we look back on Australia's migration program since the end of the Second World War. Since 1949 Australia has been taking people with high-level skills and bringing them to Australia without necessarily matching them to particular jobs.

It is an indication of the quality of the people we have received from various countries since 1949 that Australia has had a pool of people who are highly motivated, well qualified and very enterprising. This has enabled the Australian society to successfully develop into what it is today. For many migrants who have come to Australia our lifestyle, our society and the potential future for their families were the most important factors in them choosing Australia. We owe the people who have come to Australia over all of this time and provided us with this skilled population a vote of thanks. Over the years they have made sacrifices in many cases because they have not been able to practise the skills they have previously trained for, but they have been able to transfer their personal qualities to other areas of need in the Australian labour market ultimately to the great benefit of the nation. I would like to take this opportunity to record a vote of appreciation to the many people who have come to Australia since the Second World War through our migration program.

Senator KIRK (South Australia) (3.58 p.m.)—I rise to speak to the report just tabled in the Senate, namely the report of the Joint Standing Committee on Migration entitled *To make a contribution: Review of skilled labour migration programs 2004*. It is always a pleasure to be part of a committee that is able to put together a unanimous report, as we did in this instance. Last year Australia attracted some 100,000 permanent and temporary skilled migrants. In the same year, the United States of America accepted in excess of 500,000 permanent and temporary skilled migrants and across the Tasman,

in New Zealand, the skilled migrant intake totalled 108,000—that is, 8,000 more than Australia did. So it is quite clear that Australia faces strong competition in the international market for skilled migrants. The Joint Standing Committee on Migration was asked to examine the competitiveness of our temporary and permanent skilled migration programs in this market and, in particular, to compare our performance with that of Canada, New Zealand, the United States, Ireland, the United Kingdom, Germany and Japan.

Migration is a vital issue in Australia, in particular for small states like my home state of South Australia. In South Australia, we continue to lose workers interstate and we receive a small share of immigrants. Our population is ageing faster than that of the rest of the nation, meaning that we will face the onset of population decline sooner than other states. Attracting skilled migrants is essential to maintain the vitality of our regional areas in South Australia. South Australia is working to double its intake of skilled migrants. Recommendations made by the Joint Standing Committee on Migration can help us to ensure that Australia is effectively filling its skills shortages where necessary by migration from overseas without reducing opportunities for Australians at the same time.

In the short time that I have available today I want to point to a few of the recommendations that were made by the committee. There were 14 recommendations in total, but the ones that I want to draw attention to are those that relate in particular to the role of states in attracting skilled migration and how there might be better cooperation between the states and the Commonwealth in relation to this issue. Recommendation 1 of the committee's report is:

... that DIMIA improve the visibility of the existing hyperlinks from its website to those of State and Territory governments.

At present, DIMIA's web site has links to relevant state and territory sites. Of course this is a very useful resource for intending migrants, because they are able to look to the web site to find information that they require in order to make a decision about whether or not they wish to migrate to Australia. The committee recommended that the links that I have referred to be more easily found by intending migrants, and it recommended that the implementation of this be undertaken by DIMIA.

Recommendation 2 states:

The Committee recommends that the Minister present to the next meeting of the Commonwealth/State Working Party on Skilled Migration a proposal that States and Territories identify on their websites their preferred settlement areas to assist potential skilled migrants.

Integrated linkages such as this provide information to migrants and also enable governments to highlight their target areas for settlement within their respective state or territory. It has been seen that migrants generally make up their minds where they are going to settle prior to migrating to the country, so promotion of state and regional settlement in order to draw these matters to the attention of potential migrants is the responsibility of those jurisdictions. We are all aware that regional Australia does want to promote itself to prospective migrants. In submissions to the committee, the governments of New South Wales and Queensland mention a need for better coordination of activities. The committee recommended that the minister, through existing Commonwealth-state working parties, seek to implement this recommendation. It also found that there is general satisfaction with the consultative process.

The final matter that I would like to refer to is recommendation 14, which essentially requires harmonisation of registration requirements. The committee recommended

that assessing bodies continue to seek harmonisation of registration requirements across the states in relation to professionals. It has been recognised as a perennial problem that migrants arrive here to discover that some states and territories accept their qualifications whereas others do not. As you can imagine, it would be extremely disappointing arriving in this country hoping to be able to rely on your qualifications and then discovering that some states and territories do not recognise them. This issue was also raised in earlier recommendations—in our 2003 review of settlement services for migrants—which the committee endorsed.

Mr Acting Deputy President Ferguson, I wanted to draw to the Senate's attention those few matters that relate in particular to the states. Finally, I would like to thank the committee secretariat for its support in the gathering of the information and the organisation of the hearings for this inquiry, which was quite lengthy in duration. I also thank those who made submissions to the inquiry.

Question agreed to.

**SEX DISCRIMINATION AMENDMENT
(TEACHING PROFESSION) BILL 2004**

**TRADE PRACTICES AMENDMENT
(PERSONAL INJURIES AND DEATH)
BILL (No. 2) 2004**

**VETERANS' ENTITLEMENTS
AMENDMENT (ELECTRONIC
DELIVERY) BILL 2004**

First Reading

Bills received from the House of Representatives.

Senator ABETZ (Tasmania—Special Minister of State) (4.06 p.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills

listed separately on the *Notice Paper*. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator ABETZ (Tasmania—Special Minister of State) (4.07 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—

SEX DISCRIMINATION AMENDMENT (TEACHING PROFESSION) BILL 2004

The Government is committed to achieving the best education outcomes for male and female schools students throughout Australia.

The Sex Discrimination Amendment (Teaching Profession) Bill is directed at that end.

The fact is that education outcomes for boys are falling behind education outcomes for girls in Australia.

In fact boys on average are achieving at significantly lower levels than girls in all areas of the assessed cognitive curriculum from early primary to late secondary school in Australia.

A House of Representatives Inquiry into the education of boys in June 2003 Boys: Getting it Right examined the problems particular to the education of boys.

It identified as a significant problem the imbalance in the number of male and female teachers in schools, in particular in primary schools, in Australia.

The figures speak for themselves.

Only 20.9 percent of primary school teachers in Australia are men.

This problem is only getting worse.

In 2003, male teachers constituted 24% of the 55,577 domestic students enrolled in initial teaching courses in Australia.

Males were only 18.8 percent of students training to become primary school teachers.

A mere 3.6 percent of the 7,115 students training to become early childhood teachers in Australia were men.

Research shows that teaching is not an attractive career option for men for reasons including concerns about salary and the perception of a risk of allegations of abusing children in schools.

This bill amends the Sex Discrimination Act 1984 to provide that a person may offer scholarships for persons of a particular gender in respect of participation in a teaching course.

The section would apply only if the purpose of doing so is to redress a gender imbalance in teaching, that is, an imbalance in the ratio of male to female teachers in schools in Australia, or in a category of schools or in a particular school.

This bill means that educational authorities and others can offer scholarships to encourage male teachers into the profession in a manner consistent with the Sex Discrimination Act 1984.

The bill is drafted in gender neutral language which means that the amendments would allow discrimination in favour of females if a gender imbalance in favour of males were to emerge generally or in a region or sector.

The Government's acknowledgement of the importance of both men and women in teaching in our society, and the Government's commitment to encouraging men into the profession, will help to change people's perceptions about the role of men in the profession for the future.

The Government believes that addressing the imbalance in the number of male and female teachers in the profession is important in providing students with both male and female role models in schools.

The imbalance in the number of male and female teachers in schools, in particular in pre-schools and primary schools, means that boys and girls are without enough male role models in schools.

This has a detrimental impact on education outcomes for boys.

This bill is a vital measure for addressing the existing gender imbalance in the profession.

Students throughout Australia will benefit from having both male and female role models in the teaching profession.

This bill complements the Government's other major strategies for addressing the particular challenge of increasing education outcomes for boys, including:

- Boys' education is a priority area for the \$159.2 million Australian Government Quality Teacher Programme
- This includes \$6 million committed to the Boys' Education Lighthouse Schools Programme to identify best practice in boys' education, with a further \$500,000 committed to research.

**TRADE PRACTICES AMENDMENT
(PERSONAL INJURIES AND DEATH) BILL
(No. 2) 2004**

This bill will support State and Territory reforms to the law of negligence with the objective of making liability insurance more affordable and available.

In the past two years the Minister for Revenue and Assistant Treasurer has chaired six meetings with her State and Territory counterparts to provide leadership and develop a national approach to resolving the issues of rising premiums and a reduction in the availability of insurance cover.

At the May 2002 Ministerial meeting on Public Liability Insurance, the Commonwealth, State and Territory Ministers agreed to a range of measures to address these concerns and restore a degree of balance to the laws which compensate Australians for death and personal injuries. These measures included the establishment of a panel of experts to conduct a principled review of the law of negligence (the Panel).

This Review Panel was established to assist the Australian Government and State and Territory Governments to formulate a consistent and principled approach to reforming liability laws.

The members of the Panel were the Honourable Justice David Ipp, Professor Peter Cane, Associ-

ate Professor Donald Sheldon and Mr Ian Macintosh.

The Terms of Reference were broad and addressed, amongst other things, the application, effectiveness and operation of common law principles applied in negligence to limit liability arising from personal injuries or death. The Panel was also asked to develop and evaluate principled options to limit liability and the amount of damages awarded in a given case and to limit claims for negligence to within three years of the date of the event were also to be developed and evaluated.

In addition, the Panel was asked to consider the interaction of the Trade Practices Act 1974 (the Act) with the common law principles applied in negligence and recommended a number of changes to the Act.

The Review concluded that, for many cases, a cause of action under the Act is a real alternative to a cause of action in negligence. Thus, any reform by the States and Territories of common law negligence could be undermined unless the Commonwealth made complementary changes to the Act.

The Australian Government has taken action to implement key recommendations of the Review and supporting State and Territory reforms with the introduction of the Trade Practices Amendment (Personal Injuries and Death Bill) 2003. This bill was introduced into this House on 27 March 2003.

The measures contained in the present bill will continue this reform agenda. Specifically, this bill will implement recommendations 17 and 21 of the Review. The Review recommended that the Act be amended to apply rules relating to limitation of actions and quantum of damages to personal injury and death claims brought pursuant to a unconscionable conduct claim (Part IVA), a contravention of the product safety and information provisions (Division 1A of Part V); a supply by a manufacturer or importer of unsatisfactory consumer goods (Division 2A of Part V); or a supply by a manufacturer or importer of defective goods (Part VA).

In addition to these recommendations in relation to the Act, the Review made specific recommen-

dations on the rules on limitation of actions and quantum of damages that should apply across all jurisdictions. There has been some variation between States and Territories in the implementation of the Review recommendations.

The Australian Government has taken action to amend relevant Parts of the Act to apply limitation periods and constraints on damages arising from personal injuries and death actions consistently across the country. As a result, this bill will ensure that the Act will not be used to undermine State and Territory laws in relation to actions for damages for personal injuries or death.

With this bill, the Government is introducing limitations periods and constraints on damages.

This approach can be distinguished from that taken in Trade Practices Amendment (Personal Injuries and Death) Bill 2003, which prevents claims for damages for personal injuries or death under Part V Division 1 of the Trade Practices Act 1974.

The rationale for these two different approaches is that Parliament intended that the provisions relating to product safety and information, claims against manufacturers and importers of goods and product liability provide causes of action to individuals who suffer personal injury and death.

In contradistinction it is open to serious question whether Parliament intended the provisions that relate to unconscionable and misleading or deceptive conduct (ie the relevant provisions in Part IVA and Part V Division 1) to provide causes of action to individuals who suffer personal injury and death in the absence of any element of fault required to establish misleading and deceptive conduct.

The Panel noted that the element of fault in Part IVA would limit the potential for personal injuries and death claims. For this reason, the Government does not consider it is necessary to remove personal injury and death claims under Part IVA but that limitations on actions and quantum of damages should apply.

The bill I am introducing today is the second tranche of amendments to the Trade Practices Act to support State and Territory reforms to the law of negligence. This bill, will introduce a new Part VIB into the Act. Part VIB will establish limita-

tions and caps on the maximum amounts that can be awarded for different heads of damage in relation to personal injury and death claims.

Part VIB will apply to personal injury and death claims brought pursuant to an unconscionable conduct claim (Part IVA), a contravention of the product safety and information provisions (Division 1A of Part V); a supply by a manufacturer or importer of unsatisfactory consumer goods (Division 2A of Part V); or a supply by a manufacturer or importer of defective goods (Part VA).

Part VIB will also provide a framework for phasing in damage for non-economic loss depending on the severity of an injury. The bill will also introduce new arrangements for limitation periods and mechanisms for establishing damages for loss of earning capacity and damages for gratuitous attendant care services. The bill will also introduce a number of other limits on personal injury damages and will clarify the powers of courts in relevant proceedings to approve structured settlements.

These reforms are aimed at providing a national benchmark for the limitation of actions and quantum of damages in personal injury and death claims as well as giving effect to the program of reforms agreed to by Ministers from all jurisdictions in November 2002.

I commend this bill.

VETERANS' ENTITLEMENTS AMENDMENT (ELECTRONIC DELIVERY) BILL 2004

This bill is a package of amendments to the Veterans' Entitlements Act 1986 (the VEA) to enable the electronic lodgement of documents relating to benefits paid by the Department of Veterans' Affairs. It will further improve the delivery of repatriation services to the Australian veteran community and is in line with the Government's commitment to putting all appropriate Government services online.

The need for amendments to the Veterans' Entitlements Act flows from the passage of the Electronics Transactions Act 1999 (the ETA). The stated purpose of that Act was to facilitate the "development of electronic commerce in Australia by broadly removing (the) existing legal impediments that may prevent a person using elec-

tronic communications to satisfy obligations under Commonwealth law”.

The ETA had a two-step implementation process. Prior to 1 July 2001 the ETA only applied to those laws of the Commonwealth that were specified in the Regulations. After that date the ETA was to apply to all laws of the Commonwealth unless they had been specifically excluded from the application of the ETA.

In February 2001 the Repatriation Commission advised that certain provisions of the Veterans' Entitlements Act would require exemption. These exemptions entitle the Department of Veterans' Affairs not to accept claims delivered to the Department electronically.

It was intended that these exemptions would be reviewed and repealed as the procedures for the delivery of electronic claims and documents were developed. It was also intended that the appropriate amendments to the VEA would be made to provide for the electronic communication of claims, applications and other documents.

This bill is designed to achieve two purposes: the unification of all existing lodgment provisions in the VEA; and to allow for both the electronic and physical delivery of documents into the Department of Veterans' Affairs.

The existing provisions require that for a claim, application or other document to be lodged, it must have been sent to the Department at an approved address or delivered to a designated person. The amendments will include provisions for such documents to be lodged at an approved electronic address.

The need for the amendments to deal specifically with electronic delivery is due to the importance placed by the VEA on the date of lodgment of a document, as this date forms the basis for the calculation of benefits once a claim is accepted.

Because of this, the amendments will require that an electronic document must not only be sent to an approved electronic address, but must be received to be regarded as having been lodged on the date that it was sent.

The bill provides the Repatriation Commission with broad powers to determine the methods by which documents can be lodged with the Depart-

ment of Veterans' Affairs, including approved electronic addresses.

These amendments are only applicable to the lodgment of claims, applications, requests and other documents under the VEA and will not apply to any other information that is received into the Department.

Information provided to the Department by telephone will not be subject to the amendments. The VEA contains a number of provisions that refer to the oral communication of information in response to a notice issued by the Department. Other provisions allow for the oral withdrawal of various written applications. These are unchanged.

This bill marks the next step in the Government's ongoing program of improvements to the delivery of services to the veteran community. It builds on the commitment to the use of new technologies in veteran service delivery and a successful trial in Tasmania to allow veterans to lodge information electronically.

The passage of this legislation will ensure that the repatriation system keeps pace with the online age and assist veterans who, like many Australians, are moving to e-business as the way to do business into the future.

Ordered that further consideration of the second reading 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.

TAXATION LAWS (CLEARING AND SETTLEMENT FACILITY SUPPORT) BILL 2003

Report of Economics Legislation Committee

Senator EGGLESTON (Western Australia) (4.08 p.m.)—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee on the Taxation Laws (Clearing and Settlement Facility Support) Bill 2003, together with the *Hansard* record of proceed-

ings and documents presented to the committee.

Ordered that the report be printed.

**MILITARY REHABILITATION AND
COMPENSATION BILL 2003**

**MILITARY REHABILITATION AND
COMPENSATION (CONSEQUENTIAL
AND TRANSITIONAL PROVISIONS)
BILL 2003**

Second Reading

Debate resumed.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.08 p.m.)—I was speaking to the Military Rehabilitation and Compensation Bill 2003 and the Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003 prior to question time. I reiterate the Democrats' general support for the legislation as a significant improvement whilst noting that there are still areas where we believe more work could be done. We do welcome the government's recent announcement of several veterans initiatives, many of which the Democrats have long supported and called for, including indexing the TPI to male total average weekly earnings, providing rent assistance for war widows, improving care for some atomic veterans, increasing funeral benefits and exempting war disability pensions from social security income tests in recognition that these payments are compensation.

I trust the government's word that these recently announced increases in benefits to veterans, together with the bills before us, will rectify some parts of the situation that veterans have tried to have addressed for some time. It should be noted, however, that many of these anomalies are ones the government promised to examine and address prior to being elected the first time around,

back in 1996. So it has been a long time coming for many of these areas.

No doubt all of us would like all wars to cease so that we no longer have veterans and people do not have to pay the price that they do for conflicts. But whilst we have troops who put themselves on the line to fight for our country, we do have a special obligation to ensure that we do not just pat them on the back when they come home, give them a nice medal and put them in the paper with a photo of them next the Prime Minister or the local member but also continue to support them and their families in the many years ahead, when oftentimes they will have direct consequences to deal with as a result of that service.

The collision and destruction of two Black Hawk helicopters back in 1996 resulted in the deaths of 18 members of the Australian Army and injuries ranging from minor to very serious for a further 12 members. There was a subsequent review—the Tanzer review—of the military compensation scheme, which recommended a single, self-contained scheme for peacetime service and the adoption of a new, integrated, military specific scheme for military compensation such as we see in this bill.

Notwithstanding that the Democrats for the most part support these bills, there are issues of some concern which we do acknowledge in terms of their impact on veterans. One of these is the distinction or the differential between warlike service and non-warlike service—peacetime service—and the effect of this on the amount of compensation payable to veterans and their surviving families. Other issues of concern include the obligation to undergo a rehabilitation program in specified instances; the linking of an ADF member's pay for compensation purposes to the rank at which he or she left the service, to the exclusion of probable subsequent promo-

tions; and the fact that once again there is no provision in these bills for recognition of same-sex couples, a matter that the Democrats will seek to address at the committee stage of the debate.

The issue of differential service type was certainly the most contentious of all aspects discussed during the recent inquiry into these bills. It was raised in all submissions at public hearings, and a wide range of views were expressed. The divergence of opinion on the differential was most marked, however, with respect to the differential lump sum death benefit for widowed partners. It remains the fact, however, that when a serviceperson is killed their family pays a huge emotional price. Accordingly, the Democrats welcome the government amendments to this bill that will be put forward at the committee stage whereby the differential in war widows' benefits will be abolished. I note that the government has assured us that the scheme will pass the 'Kylie Russell' test. If this scheme had been in place at the time Sergeant Andrew Russell—Australia's only casualty in Afghanistan—was killed in Afghanistan in 2002, his widow, Kylie Russell, would clearly have been financially better off.

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

often more hazardous than some of the situations that relate to qualifying service.

The legislation is a significant step forward. As I have outlined, there are still some areas that the Democrats believe could do with attention. We will examine how the scheme operates in practice. We do have ongoing concerns that same-sex couples are still not recognised, particularly given that gay and lesbian people have been accepted into the Defence Force legally since 1992 and, unlike the Australian Federal Police or the Department of Foreign Affairs and Trade, the Defence Force provides no entitlements for, or recognition of, their partners.

Our position is simple. All Defence Force personnel have the right to have their partner of choice recognised if they wish. These are people whom our government is quite willing to send overseas to engage in combat duties and yet their partners are in a situation where they are not entitled to any assistance if injury or death occurs to those service personnel. We have a group of service personnel who, purely because their partner is of the same sex, have lesser entitlements than other members of the Defence Force. That is not a satisfactory situation in this area, as it is not in many other aspects of Commonwealth law.

We accept, for the most part, the changes for the better that these bills bring and ultimately we support the overall improvement. We welcome the government's amendments to the differential lump sum benefit for widowed partners and we will seek to further improve this with our amendments. We also welcome the change to the review system overall so that one system of review will apply to all persons making claims under these bills. That should clearly lead to an improvement in clarity and efficiency. The end purpose of all this, of course, is to get better assistance for our veterans. They are a group

to which—and this is something that cannot be said often enough—our community owes a special debt. Regardless of all the debates that we have about the commitment of our troops in particular circumstances, we, as a community, have an ongoing debt to those people who go where they are sent when their government instructs them. It is not possible to have a Defence Force operate in such a way that personnel can pick and choose when they go and serve; they have to be required to go whenever the government of the day sends them.

Whilst the Democrats have openly and strongly opposed the recent commitment of troops to Iraq and, indeed, we believe that we need to change the way that troops are committed so that the decision to commit troops is one that is made by the parliament rather than just the Prime Minister and cabinet, that in no way diminishes our support for the troops that fulfil their duty to our country. As I said in my contribution before question time, it is important now that our troops are committed in Iraq to recognise that they must follow through on the legal and moral obligation to assist in rebuilding Iraq after the conflict—not just in rebuilding the infrastructure but in putting an administration in place. That is something that all of us hope can be done as quickly as possible, but, unlike others, the Democrats have always recognised that we could not simply withdraw our troops straightaway and that they have an ongoing role to play.

Perhaps more importantly than that debate—which is much broader than this legislation and a very important debate—the key fact remains that, whenever those troops come home, they deserve more than just a welcome home parade and a medal. They deserve to know that any health consequences of their service will be properly dealt with through veterans' compensation and that they will get recognition of the spe-

cial debt that we owe them as service personnel who have served their country. These bills, I am pleased to say, take a positive step in that direction.

Senator ABETZ (Tasmania—Special Minister of State) (4.19 p.m.)—I thank Senators Bishop and Bartlett for their contributions to the debate on the **Military Rehabilitation and Compensation Bill 2003** and the **Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003**. This debate is another example of how this parliament does work for the benefit of the Australian community. Constructive comments and contributions have been made by all sides of the chamber. The reason that we, in fact, can be debating these bills in a democratically elected parliament is that past generations and a current generation of Australian men and women have been willing to make the ultimate sacrifice for our freedoms. It is therefore highly appropriate that we, as a community, seek to look after the protectors of our freedoms as we do. I say at the outset that Australia has a highly regarded repatriation system in comparison to the rest of the world, but it is important that we continually update the repatriation system to make sure that it reflects the needs of the 21st century. That is what this legislation seeks to do.

This legislation will ensure that Australian repatriation, one of the oldest and most highly regarded systems in the world, continues to meet the needs of a new generation of veterans for many decades to come. This process that the government has been through has been marked by close consultation between the government, Australian Defence Force service members and the ex-service community. The detail of the legislation went through the Senate Foreign Affairs, Defence and Trade Legislation Committee. I thank the chair of that committee, Senator Sandy Macdonald, a National Party senator from New South Wales, for his excellent

work and the number of suggestions and recommendations that his committee made, which we as a government have now incorporated in the 28 amendments to the legislation.

It shows that this is a consultative government willing to listen to the sensible suggestions and proposals of the Senate committee system. As I said earlier, this is a good example of the Australian parliament working at its best—the Australian government putting forward a proposal that it thought was pretty good; a Senate committee going through it in some detail; and, as a result of that, the government then making a number of amendments to the legislation for the benefit of that sector of our community to whom we are most indebted.

As I have indicated, there are 28 amendments. I do not seek to use the time now to go through those. Undoubtedly we will be going through the amendments in the committee stages. Suffice to say that I understand the 28 amendments are supported by the opposition. I note that Senator Bishop has come into the chamber and I would like to confirm to Senator Bishop that I thank both Senator Bishop and Senator Bartlett for their contributions to this debate. I commend the bill to the Senate, keeping in mind that the government has 28 amendments to it.

Question agreed to.

Bills read a second time.

DISTINGUISHED VISITORS

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—I recognise in the gallery a delegation of visiting Chinese vice-ministers. Welcome to the Senate. We hope that your visit to Australia is both enjoyable and fruitful.

MILITARY REHABILITATION AND COMPENSATION BILL 2003

MILITARY REHABILITATION AND COMPENSATION (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2003

In Committee

Senator ABETZ (Tasmania—Special Minister of State) (4.25 p.m.)—I seek leave to table two supplementary explanatory memoranda relating to the government amendments and requests to be moved to the *Military Rehabilitation and Compensation Bill 2003* and the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003*. The memoranda were circulated in the chamber on 24 March 2004.

Leave granted.

MILITARY REHABILITATION AND COMPENSATION BILL 2003

Bill—by leave—taken as a whole.

Senator ABETZ (Tasmania—Special Minister of State) (4.26 p.m.)—I seek leave to move the government requests and amendments on sheet QR234:

Requests—

- (1) Clause 12, page 17 (lines 13 to 25), omit subclause (2), substitute:

Deceased members eligible for Special Rate Disability Pension

- (2) This section applies in respect of a deceased member if the member satisfied the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension) during some period of his or her life.
- (5) Page 103 (after line 26), at the end of Subdivision D, add:

114A Example periods for those injured as continuous full-time Reservists

 - (1) For the purposes of the definition of *example period* in sections 113 and 114

- for an incapacitated Reservist who was a continuous full-time Reservist when the service injury was sustained, or the service disease was contracted, the Commission may determine, as the end of the example period, a time before the onset date for the Reservist's incapacity for service or work (instead of a time before the Reservist began his or her last period of continuous full-time service).
- (2) If the Commission does so, a reference in sections 112, 113 and 114 to a time before the Reservist began his or her last period of continuous full-time service is taken instead to be a reference to a time before the onset date for the Reservist's incapacity.
- (9) Page 154 (after line 23), at the end of Subdivision D, add:
- 173A Example periods for those injured as continuous full-time Reservists**
- (1) For the purposes of the definition of *example period* in sections 172 and 173 for an incapacitated person who was a continuous full-time Reservist when the service injury was sustained, or the service disease was contracted, the Commission may determine, as the end of the example period, a time before the person last ceased to be a member of the Defence Force (instead of a time before the person began his or her last period of continuous full-time service).
- (2) If the Commission does so, a reference in sections 171, 172 and 173 to a time before the person began his or her last period of continuous full-time service is taken instead to be a reference to a time before the person last ceased to be a member of the Defence Force.
- (14) Clause 210, page 177 (line 31) to page 178 (line 6), omit subclause (2), substitute:
- (2) The compensation is a weekly payment of an amount:
- (a) worked out under the Return to Work Scheme; and
- (b) worked out, at least in part, by reference to the number of hours per week of remunerative work that the person is able to undertake.
- (15) Clause 221, page 185 (lines 7 to 15), omit paragraph (1)(a), substitute:
- (a) the person satisfies the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension), or has satisfied those criteria during some period of his or her life; and
- (18) Clause 234, page 194 (lines 14 to 23), omit paragraph (1)(a) and the note, substitute:
- (a) if the Commission has accepted liability for the member's death—the amount of the lump sum mentioned in subsection (2); and
- (26) Clause 282, page 226 (line 33) to page 227 (line 6), omit paragraph (a), substitute:
- (a) the person satisfies the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension), or has satisfied those criteria during some period of his or her life; and
- Statement of reasons: why certain amendments should be moved as requests**
- Section 53 of the Constitution is as follows:
- Powers of the Houses in respect of legislation**
53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.
- The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

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 or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Amendment (1)

The effect of this amendment is to provide compensation to a greater number of dependants of deceased members. Compensation for the dependants is paid out of the Consolidated Revenue Fund under the standing appropriation in clause 423 of the Bill. The amendment is covered by section 53 of the Constitution because increasing the number of dependants who are eligible for compensation increases the amount paid out under clause 423 of the Bill which increases a proposed charge or burden on the people.

Amendment (5)

The effect of this amendment is to allow compensation to be determined by looking at a member's earnings at a later point in time. This potentially increases the amount of compensation payable to the member. Compensation for members is paid out of the Consolidated Revenue Fund under the standing appropriation in clause 423 of the Bill. The amendment is covered by section 53 of the Constitution because increasing the amount of compensation paid out under clause 423 of the Bill increases a proposed charge or burden on the people.

Amendment (9)

The effect of this amendment is to allow compensation to be determined by looking at a former member's earnings at a later point in time. This potentially increases the amount of compensation payable to the former member. Compensation for former members is paid out of the Consolidated Revenue Fund under the standing appropriation in

clause 423 of the Bill. The amendment is covered by section 53 of the Constitution because increasing the amount of compensation paid out under clause 423 of the Bill increases a proposed charge or burden on the people.

Amendment (14)

The effect of this amendment is to remove the requirement that a person's compensation under the Return to Work Scheme be less than the amount of Special Rate Disability Pension that the person was being paid. This potentially increases the amount of compensation that is payable under the Return to Work Scheme. Compensation under the Return to Work Scheme is paid out of the Consolidated Revenue Fund under the standing appropriation in clause 423 of the Bill. The amendment is covered by section 53 of the Constitution because increasing the amount of compensation paid out under clause 423 of the Bill increases a proposed charge or burden on the people.

Amendment (15)

The effect of this amendment is to provide telephone allowance to a greater number of members and former members. Compensation for the members and former members is paid out of the Consolidated Revenue Fund under the standing appropriation in clause 423 of the Bill. The amendment is covered by section 53 of the Constitution because increasing the number of members and former members who are eligible for telephone allowance increases the amount paid out under clause 423 of the Bill which increases a proposed charge or burden on the people.

Amendment (18)

The effect of this amendment is to increase the number of wholly dependent partners who are eligible for the higher amount mentioned in subclause 234(2) of the Bill, rather than the lower amount mentioned in subclause 234(3). Compensation for the wholly dependent partners is paid out of the Consolidated Revenue Fund under the standing appropriation in clause 423 of the Bill. The amendment is covered by section 53 of the Constitution because increasing the number of wholly dependent partners who are eligible for the amount mentioned in subclause 234(2) increases the amount paid out under clause 423 of

the Bill which increases a proposed charge or burden on the people.

Amendment (26)

The effect of this amendment is to provide treatment for any injury or disease to a greater number of members and former members. The cost of treatment for members and former

members is paid out of the Consolidated Revenue Fund under the standing appropriation in clause 423 of the Bill. The amendment is covered by section 53 of the Constitution because increasing the number of members and former members who are eligible for treatment for any injury or disease increases the amount paid out under clause 423 of the Bill which increases a proposed charge or burden on the people.

Consequential amendments

Amendment (3) is consequential on amendment (5) above.

Amendment (8) is consequential on amendment (9) above.

Amendments (19), (20), (21), (22) and (50) are consequential on amendment (18) above.

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

Amendments (1), (5), (9), (14), (15), (18) and (26)

The Senate has long treated amendments which would result in increased expenditure from a standing appropriation as requests.

If it is correct that amendments (1), (5), (9), (14), (15), (18) and (26) will result in increased expenditure out of the standing appropriation contained in proposed section 423 of the bill, it is in accordance with the precedents of the Senate that these amendments be moved as requests.

Amendments—

- (2) Clause 93, page 86 (lines 12 to 17), omit all the words from and including “The ADF component” to and including “the onset of the incapacity.”, substitute:

For a Reservist who is incapacitated for both service and work:

- (a) the ADF component is based on how much the Reservist would have earned as a part-time Reservist if the Reservist were not incapacitated for service; and
- (b) the civilian component is based on how much the Reservist earned from civilian work during an example period taken from before the onset of the incapacity for work.

- (3) Clause 110, page 99 (after line 17), at the end of the clause, add:

However, for a Reservist whose service injury or disease occurred while a continuous full-time Reservist, the Commission may determine pre-CFTS earnings by looking back at the period before the onset date for the Reservist’s incapacity instead of the period before the Reservist began his or her last period of continuous full-time service.

- (4) Clause 111, page 99 (line 21), omit the formula, substitute:

Reservist’s pre-CFTS pay for the week + Reservist’s reserve pay for the week

- (6) Clause 117, page 106 (after line 24), insert:

Division 9 applies to a person who was a cadet or declared member.

- (7) Clause 165, page 147 (line 20), omit “ADF earnings”, substitute “full-time ADF earnings”.

- (8) Clause 169, page 150 (after line 15), at the end of the clause, add:

However, for a person whose service injury or disease occurred while a continuous full-time Reservist, the Commission may determine pre-CFTS earnings by looking back at the period before the person last ceased to be a member of the Defence Force instead of the period before the person began his or her last period of continuous full-time service.

- (10) Heading to Subdivision E, page 154 (lines 24 to 25), omit the heading, substitute:
- Subdivision E—Working out normal weekly hours for persons who have chosen pre-CFTS earnings**
- (11) Clause 197, page 172 (lines 15 to 18), omit all the words from and including “A person who stops” to and including “determined by the Commission.”, substitute:
- A person who works more than 10 hours per week stops receiving the Special Rate Disability Pension. However, the person might still be eligible for assistance under the Return to Work Scheme determined by the Commission under section 210, or compensation worked out under Division 2 of Part 4.
- (12) Clause 198, page 172 (line 20), after “payment”, insert “(other than a payment under the Return to Work Scheme in section 210)”.
- (13) Clause 200, page 173 (after line 25), at the end of the clause, add:
- (3) However, a person to whom the Commonwealth is no longer liable to pay a Special Rate Disability Pension under section 209 is taken not to have chosen to receive the Pension.
- Note: This means that the person might still be entitled to compensation worked out under Division 2 of Part 4 or under the Return to Work Scheme in section 210.
- (16) Clause 221, page 185 (lines 18 to 20), omit paragraph (1)(c), substitute:
- (c) the person’s telephone service is connected in Australia in the person’s name or jointly in the person’s name and someone else’s name.
- (17) Clause 221, page 185 (lines 31 to 33), omit paragraph (2)(c), substitute:
- (c) the person’s telephone service is connected in Australia in the person’s name or jointly in the person’s name and someone else’s name.
- (19) Clause 234, page 194 (line 24), before “whichever”, insert “in any case—”.
- (20) Clause 234, page 195 (line 1), omit “subparagraph (1)(a)(i)”, substitute “paragraph (1)(a)”.
- (21) Clause 234, page 195 (lines 6 to 10), omit subclause (3) and the notes.
- (22) Clause 234, page 195 (line 24), omit “subparagraphs (1)(a)(i) and (ii)”, substitute “paragraph (1)(a)”.
- (23) Clause 258, page 211 (lines 10 to 16), omit subparagraphs (1)(a)(i) and (ii), substitute:
- (i) a member or former member who satisfies the eligibility criteria in section 199 (persons who are eligible for Special Rate Disability Pension), or who has satisfied those criteria during some period of his or her life;
- (24) Clause 278, page 224 (line 21), omit “either”.
- (25) Heading to clause 282, page 226 (line 30), omit “etc.”.
- (27) Clause 286, page 229 (lines 26 to 27), omit “other than under arrangements made under section 285”.
- (28) Clause 286, page 229 (lines 30 to 31), omit “other than under arrangements made under section 285”.
- (29) Clause 286, page 230 (lines 3 to 4), omit “other than under arrangements made under section 285”.
- (30) Clause 287, page 231 (line 22), at the end of subclause (1), add:
- ; or (c) in accordance with the arrangements and the determination.
- (31) Clause 344, page 276 (line 15), omit “depending on the nature of the original determination”, substitute “depending on the type of reconsideration sought by the claimant”.
- (32) Clause 344, page 276 (lines 16 to 18), omit all words from and including “If an original determination” to and including “to review it.”, substitute “A claimant who has received notice of an original determination can ask

- the Commission to reconsider it or ask the Veterans' Review Board to review it."
- (33) Clause 344, page 276 (lines 22 to 25), omit all words from and including "For other original determinations" to and including "the reviewable determination".
- (34) Clause 345, page 277 (lines 16 to 17), omit "a warlike or non-warlike service determination", substitute "an original determination".
- (35) Clause 345, page 277 (lines 19 to 21), omit the definition of *warlike or non-warlike service determination*.
- (36) Clause 346, page 279 (lines 24 to 32), omit subclause (5), substitute:
- (5) A notice under subsection (1) or (3) must include a statement to the effect that the claimant may, if dissatisfied with the original determination, request a reconsideration of the determination under section 349 or make an application to the Board under Part 4 for review of the determination.
- (37) Clause 348, page 282 (line 1), omit "a warlike or non-warlike service determination", substitute "an original determination".
- (38) Clause 348, page 282 (lines 5 to 6), omit "a warlike or non-warlike service determination", substitute "an original determination".
- (39) Clause 349, page 282 (lines 21 to 22), omit "a warlike or non-warlike service determination", substitute "an original determination".
- (40) Heading to Part 4, page 285 (lines 2 to 3), omit the heading, substitute:
- Part 4—Review by the Board of original determinations**
- (41) Clause 352, page 285 (lines 6 to 7), omit "a warlike or non-warlike service determination", substitute "an original determination".
- (42) Clause 352, page 285 (line 9), omit "a warlike or non-warlike service determination", substitute "an original determination".
- (43) Clause 352, page 285 (line 11), omit "Part 3", substitute "section 349".
- (44) Clause 353, page 286 (table item 6), omit "a warlike or non-warlike service determination", substitute "an original determination".
- (45) Clause 354, page 288 (after line 8), after subclause (1), insert:
- (1A) The *Administrative Appeals Tribunal Act 1975* applies to an application for review of a reviewable determination by the Board under Part 4 as if references in section 37 of that Act to the person who made the decision the subject of the application were instead references to whichever of the Commission or the service chief made the original determination.
- Note: Section 37 of the *Administrative Appeals Tribunal Act 1975* applies normally in respect of other kinds of reviewable determinations.
- (46) Clause 355, page 288 (table item 2), omit all words from and including "The Commission may only" to and including "non-warlike service determination".
- (47) Clause 355, page 289 (table item 3), omit "on review of a warlike or non-warlike service determination".
- (48) Clause 355, page 289 (table item 4), omit "a warlike or non-warlike service determination", substitute "an original determination".
- (49) Clause 355, page 289 (table item 5), omit "on the review of a warlike or non-warlike service determination".
- (50) Clause 404, page 322 (line 15), omit "subsections 234(2) and (3)", substitute "subsection 234(2)".

Senator MARK BISHOP (Western Australia) (4.27 p.m.)—I will speak in the order in which the amendments have been presented and circulated by the government. By way of preface I might say that there are a number of substantial amendments with re-

spect to policy changes. Other changes are of less consequence, and some are only technical drafting corrections. The latter—that is, the technical drafting corrections—are to be expected in a bill of this size which makes such wide ranging changes. The main issues I wish to speak to are those identified by the opposition at the time the draft was issued. The validity of those concerns is confirmed by the recommendations of the Senate Foreign Affairs, Defence and Trade Legislation Committee which reported last Monday.

Request (1) is a straightforward matter of preserving eligibility for the dependants of those deceased people eligible for the special rate disability pension. In short, the amendment provides consistency with the Veterans Entitlement Act. In that act, TPIs who return to work retain their ancillary benefits regardless, and in death—however caused—dependants' benefits are also protected. This both clarifies and brings consistency. Items (2) to (10) make provision for those reservists who undertake a period of continuous full-time service but who are currently disadvantaged in the calculation of their normal weekly earnings. As this amendment repairs an inequity and brings those reservists into line with others, it is also supported.

Items (11) to (17) refer to the graduated return to work scheme and the preservation of benefits for those affected. To that extent they bring some consistency with the Vietnam veterans' rehabilitation scheme and with the Military Compensation and Rehabilitation Scheme, which tapers income support in proportion to added earned income. These are practical provisions and are supported. We note however that this will receive further scrutiny as the scheme provided for is to be established under a disallowable instrument.

Items (18) to (23) refer to widows pensions; these amendments implement the first

of the Senate committee recommendations that the proposed differential between war widow benefits be removed. This week I have made specific reference to the policy underpinning this amendment, with respect to, first, the historical origins of qualifying warlike service and, second, the modern view which simply prefers equity and simplicity. Clearly, the evidence from the majority of the ex-service community was for the latter. The gap between widows has, for a long time, been in favour of widows whose deceased partners accrued superannuation entitlements. In simple cash terms, they received a better deal than those who were the more traditional war widows, who received only the war widows pension. The real discrepancy, however, occurred where a widow had dual eligibility, regardless of whether the deceased had qualifying service or not.

This was the circumstance highlighted by the Black Hawk crash, where widows received very different outcomes from a peacetime training accident. It all depended on the length of service of the deceased. Hence the government's immediate reaction to provide additional lump sums and other benefits at the time. Hence also the commissioning of the Tanzer review which recommended this legislative reform. In fact, it could be said that the reform to the widows pension is probably the most overdue and worthwhile feature of these bills.

Some problems do remain, however, and they concern death which occurs later in life. That is when service causation is less evident and the probability of a service link is much lower. Some recognition is given in the bill to the actuarial consequences of benefits and age, but the problem still remains that, inevitably, there will be many widows who will be unable to prove this service link. They will believe—as they do now—that they are being discriminated against. They will also believe they are of lesser status. To make that

worse, the benefits available to the accepted widows will be much greater as a result of this new package. So, while these changes are very good for resolving some of the unfairness for widows, they are not complete.

In concluding my comments on this particular set of amendments, I should also add that the level of compensation for young widows in particular could never be enough, but at least here is some recognition at last. We can only continue to hope that there are not too many widows created in the first place. We are therefore very pleased to support these amendments. They vindicate the Labor Party initiative in identifying the issue. They are also fair and just, and to that extent I appreciate the support of Senator Sandy Macdonald and Senator Payne in the committee process.

Request (23) flows from request (1), which I have already referred to. Items 24 to 30 are included here to provide in this bill consistency in the treatment provisions of the VEA. They are also supported. Amendments (31) to (49) refer to changes recommended by the Senate committee to admin review provisions. This is the second issue identified by the opposition as being worthy of further consideration, and it is gratifying to note that the ex-service community agrees. Here I refer to the system of admin review available to those whose compensation claims are rejected. I also refer to the one recommendation of the Senate Finance and Public Administration Legislation Committee, which reported on this subject last November. Admin review in this jurisdiction is very complex; it is also voluminous. In the veterans jurisdiction there are some 50,000 appeals each year to the VRB, and from the MCRS to the AAT there are about 8,000. These are large numbers and they indicate a less than perfect assessment process; hence, the importance of review where claims are difficult to support.

The first reason for this is that claims are often made a long time after injury. Secondly, records, especially health records, are in a very poor state and not getting any better. Thirdly, of course, the onus of proof is not on the applicant. Finally, many ex-service people naturally find the complexity of the system overwhelming. Compared with veterans, ex-service people with eligibility only under the MCRS find the system quite daunting. In fact, it is stacked against them unless they have the financial means to get legal advice. The crazy thing about the draft bill is that, despite proposing one single act for the future, there are two proposed avenues of review. That is nonsense, and it is pleasing that the Senate committee agreed.

It is important, however, to note one important element—and many have missed it. While access to the VRB is now to be available to all regardless of service, it is not mandatory. Anyone so inclined can leapfrog the VRB and go straight to the AAT. Those with legal counsel may well take this route if they believe they will win and so be awarded costs. It still remains easier, though, if the VRB is chosen, as its reputation for efficiency is sound. This is an important reform because, for the first time, it breaks down the complexity of a dual system. There will be many interesting consequences, no doubt, as the processes will need to be re-examined. Tribunal members will need to be even more skilled; advocates will have to learn a new body of law. May I express the hope that this opportunity is taken to closely examine processes; this includes any need to retain two separate divisions at the AAT. Amendment (50) is simply a drafting correction. All of these amendments are supported.

There are some amendments that deal with the Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003. These amendments are more technical and are therefore also sup-

ported. In brief, they are as follows. Item (1) simply identifies operative dates of commencement; items (2) and (3) make further provision for changes to the veterans return to work scheme under the VEA, providing a more consistent scheme of tapering income support as other income from work rises. The amendments are sensible but, again, will need to be re-examined when the necessary disallowable instruments are introduced. Items (4) to (23) are purely drafting corrections. Item (24) excludes the operation of the Age Discrimination Act, thus providing consistency with the VEA. For the sake of consistency, this amendment is also supported. Items (25) to (27) amend the Social Security Act to prevent double payments and to provide further consistency with the hardship rules. They are also supported. Item (28) continues a provision with respect to the preservation of superannuation and other matters requiring technical consistency; therefore, these amendments are also supported.

The TEMPORARY CHAIRMAN (Senator Ferguson)—Senator Bishop, I think those last amendments you are talking to were amendments to the second bill, and we split them up, but that is okay.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.35 p.m.)—I would like to briefly indicate that the Democrats also support all of these amendments. I repeat what I said in my comments in the second reading debate, that they are an indication of the effectiveness of the Senate committee process and of the Senate as a whole. Once again, this gives the lie to the occasional but repeated statements by the government of the day about the Senate being obstructionist, not being constructive and getting in the way of necessary reforms. Not only has the Senate not got in the way; it has also actually improved necessary reforms. These amendments are welcome for

that reason. There are still areas and concerns where some further changes could possibly be made, but I am sure that ongoing attention will be paid to those.

I should also mention and pay tribute to the contribution of the wide range of veteran organisations that contributed to the Senate inquiry process in writing or at committee hearings. What are basically voluntary organisations put a lot of resources into ensuring that the various veteran groups were properly represented, that their concerns were brought forward. It is an area that obviously touches people in a very direct and sometimes very deep way. It is very important that that perspective is portrayed to us as legislators. It is an area where Labor and Liberal, as well as Democrat senators—and Senator Sandy Macdonald is The Nationals chair of that committee—were able to work across party lines to get improvements. These amendments represent those improvements, and the Democrats support them.

Senator HARRADINE (Tasmania) (4.37 p.m.)—I too support these amendments. I congratulate Senator Bishop for the opposition and Minister Danna Vale for the government on their approach, building on the work that has been done by the committee system here in the parliament. I am very grateful to receive these committee reports. I cannot attend every one of the committee hearings, of course. It is very useful for me, as an Independent senator trying to get across a whole range of public policy issues, to have the benefit of the evidence given to the Senate committees and the reports of the Senate committees. I would like to reiterate my support for the amendments.

Question agreed to.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.38 p.m.)—I move:

- (1) Clause 5, page 10 (line 29), omit “the opposite sex to the member”, substitute “either sex”.

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

The effect of the amendment will be to allow an increase in the number of people eligible to be partners of members and entitled to compensation under the bill. Compensation payments would be met from the appropriation provided for in clause 423 of the bill.

This increase in the number of beneficiaries under the bill will have the effect of increasing expenditure from the standing appropriation, and the amendment is therefore presented as a request.

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

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

This is very straightforward request on an issue senators would be familiar with. This request seeks simply to ensure that the definition of ‘partner’ applies to people regardless of the gender of their partner. The Australian Democrats have long challenged the Minister for Defence to explain why same sex partners in the Australian defence forces are denied the entitlements granted to opposite sex couples in the Defence Force. There is no longer any reasonable basis for a difference between entitlements for de facto couples who are of opposite sex and entitlements for those who are in same sex relationships.

In our view it is not sufficient that the Australian defence forces recognise the same sex partner of a member of the services as their next of kin. Defence personnel can nominate a same sex person as their next of kin only for notification of casualty or death. Otherwise there is no recognition, nor are there the entitlements that apply to opposite sex couples, such as widow allowance, sub-

sidised housing, travel to family home, separation allowance and superannuation. A gay partner of a member of the military personnel can get the bad news about the casualty or death of their partner but none of the benefits afforded to opposite sex couples. The Democrat request seeks to redress this.

Frankly, the only reason same sex partners of ADF personnel are denied the entitlements granted to opposite sex de facto couples is institutional discrimination. It is worth reinforcing that gay and lesbian personnel have legally served in the Australian armed forces since 1992—but of course in reality they have served in every theatre of war, including World War II. Unlike in the Australian Federal Police or Department of Foreign Affairs and Trade, there are no entitlements for or even recognition of their partners. Members of the military serving overseas should not have to worry about whether or not their loved ones will be cared for if something happens to them. I believe that no other Australian community group remains as unprotected from this form of unfair discrimination.

I questioned the defence minister directly about this in question time and he said the discrimination in the ADF was a matter of departmental policy yet to evolve. The reality is that the legislation drives it. The ADF, not surprisingly, argues the reverse. This is an area that the United Nations Commission on Human Rights has clearly found is discriminatory—that it is a breach of human rights obligations to treat someone differently on the basis of their sexuality. It is a clear area of discrimination. Most states have removed, or plan to remove, discrimination of this type. It is clearly the federal area of law that has now fallen behind. This request simply removes the requirement that a partner must be of the opposite sex, and would give all couples the same rights—equal rights—and remove unnecessary discrimination.

I acknowledge that the view the Democrats are putting forward here is not one that is shared by all veterans groups. I asked this question of some of the witnesses who appeared before this inquiry and before a previous inquiry into related issues, and I have raised this issue from time to time. The Democrats do, as I have stated in my other contributions to this and other legislation, treat the issue of veterans legislation and veterans affairs seriously, and we seek to represent veterans groups. Obviously with such a wide range of organisations there is a divergence of views. Senators would be aware of veterans who have campaigned specifically to have this area redressed—veterans who, purely because of their sexuality, have already missed out on entitlements that heterosexual veterans have received. A range of views was expressed at the Senate committee hearings when I did raise the question. I think it is fair to say that some groups have not addressed it or have chosen to not consider it. Some ex-service organisations are opposed to this. Some recognise that—particularly now that gays and lesbians are allowed to serve in the military and are an equal and important part of our armed forces—it is completely appropriate to ensure that this sort of discrimination does not exist.

For the benefit of the important area of recruitment and retention of personnel in the Defence Force, this area should be addressed. It is an area of ongoing importance to ensure that we continue to recruit into the Defence Force capable people from across the community. We would all know of the various advertising campaigns that continue to encourage people to join the armed forces. Of course, equally important is the need to retain people in the armed forces once they have joined. Clearly, having an area of discrimination such as this is an impediment to the number of people who are likely to see

the defence forces as an attractive area, and also an impediment to retaining people in the forces. If they are aware of this area of discrimination, they are less likely to join and less likely to stay once they have joined. It is in the interests of all of us to remove barriers in the important area of recruitment and retention. It is important to ensure that all people who serve in the Defence Force have equal access to entitlements and are treated equally. For those reasons as well it is equally important, and an appropriate time, to address this area of discrimination and what is, quite frankly, an anomaly.

The other argument that is used from time to time is that if we are going to make changes like this we should make them across the board to all legislation, not to one-off bits and pieces. The opportunity has been there for about nine years now through a private senator's bill to give effect to across the board changes to legislation. That has not happened either. It is an area that is raised with me from time to time in my capacity as Democrat spokesperson for veterans' affairs and for defence. It is clearly appropriate for us to attempt to address pieces of legislation such as this to prevent this discrimination from continuing. We have a new, enhanced scheme being put in place here. Let us make it as good as possible from the start and not have another new scheme put in place with the same old discrimination entrenched in it.

Senator MARK BISHOP (Western Australia) (4.46 p.m.)—I will place a few remarks on the record in response to the request moved by the Leader of the Australian Democrats, Senator Bartlett. At best I think it is fair to say that this issue was raised obliquely and in passing during the discussions of the Senate committee. We did sit for some three days in Melbourne, Perth and Canberra and there were a large number of veterans, ex-service organisations and current serving personnel, represented through

the two major organisations, who took the trouble to give evidence. It is clear that the report of some 50 or 60 pages that was brought down by the chair did address a significant number of issues that were either raised by senators initiating discussions with representatives of the various groups on a couple of topical or contentious issues or pursued by the vets and their organisations and the ex-service organisations as matters of importance or consequence that they needed to bring to our attention. Nearly all of those issues have been addressed in some detail in the draft report. It is fair to comment that there was some discussion at committee level on the issue of same-sex partners but that most groups did not address the topic or initiate the discussion. Those groups that did address the issue did so in response to inquiries or initiatives from the various senators who were present. Indeed, the Senate committee report prepared by the secretariat reflects that and does not, from memory, address the issue in any great consequence. Having said that, it is a topical issue.

Senator Bartlett said this issue has been around the place for nine years. I defer to his experience there, but it has certainly been around the place for a long time. Whether it is pursued by way of an across the board approach to changing government policy on the issue of rights for same-sex partners or it is pursued on a case by case basis when legislation is pertinent and capable of being mended is a matter for the parties on the day. Nonetheless, the issue has been around. It is certainly a topical debate within my own party and one only has to read the daily press to note that there are varying perspectives that are publicly expressed by a range of individuals and organisations, not least of which are those within the ex-service community, the military community and the vets community.

The approach of the opposition is no secret and has been publicly stated by a range of spokespersons in different areas of legislation: to address the issue of the rights of same-sex partners for benefits or against discrimination—however it is so described—on a case by case basis, looking at the merit of the bill that is before the chamber for discussion. In this case the opposition has determined that there are significant benefits involved in the bill. The minister referred to the bill in the other place as a bill with generous provisions. In my own contribution to the second reading debate I listed some 12 or 13 provisions that can only be described as beneficial in extending benefits or rights or privileges, which are currently being enjoyed essentially by those with operational or qualifying service in the past, that are now going to be extended to current personnel within the ADF. Those extensions of rights or benefits are indeed significant. It is somewhat surprising to me that the government has not been able to obtain more credit or more kudos for the range of matters that has been addressed in this legislation. Be that as it may, that is the case. The opposition has taken the attitude that the provisions in the bill are beneficial and are worthy of support. Accordingly, when this request goes to the vote in a few moments time, the opposition will support the request.

Senator HARRADINE (Tasmania) (4.51 p.m.)—I presume this is a request pursuant to section 53 of the Constitution. The request will change the definition of ‘partner’ to provide the same benefits for rehabilitation, compensation and other veterans benefits to same-sex couples as to those who are in a marriage or a marriage-like arrangement. There is an incentive, generally speaking, for people to gain access to whatever government benefits are available, but, as we all know, funds are finite and difficult decisions have to be made as to who should or should

not be eligible. So there are requests, like Senator Bartlett's, to try and relax access to benefits, and in this particular case it can be achieved by redefining 'partner'. I think it is important in this situation to ask why those benefits are specified in the bill for particular groups of people in the first place. Why were they specified in the previous legislation for particular groups?

There are benefits provided in this legislation for partners—basically those people in marriage and marriage-like arrangements—because all governments, of every colour, have seen that there is a social benefit in promoting and supporting marriage and the family. I acknowledge that some people may argue that to not accept the Democrat request would be discrimination against partners who do not fit the definition in this bill—in fact, that was a suggestion made by the mover of the request. I do not believe that that is so. The government has a role in promoting and strengthening social institutions such as marriage. If it promoted and strengthened all relationships without reference to the value of those relationships to society, it would be a pointless exercise. There are a variety of benefits of marriage and marriage-like relationships to the Australian community.

Marriage is the basic building block in the structure of our society, and almost all societies—and certainly our society—have recognised a social interest in marriage between a man and a woman. That has been going on for centuries. Indeed, that is recognised by the Universal Declaration of Human Rights. It is recognised by legislation in this parliament that the family is the fundamental unit of society based on the marriage between a man and a woman, the union of a man and a woman voluntarily entered into for life. Perhaps the main public interest in promoting marriage is that we need children to keep society functioning, and marriage is far and

away the best environment for bringing up children. That is neither to say that all marriages involve children nor that all marriages are as good an environment as they should be, but it is to say that it is the best structure for producing a child-friendly environment.

Marriage is an ideal and not everyone manages to live up to that ideal, but it is important that we have this ideal to strive for because when we can make it work marriage is a very successful institution. There is a role for government in promoting marriage because of the benefits it offers the community. The difficulty with promoting arrangements competing with marriage is not that it would help the development of different types of relationships but that it would mean that society is throwing out important beliefs about promoting the value of marriage and family in order to accommodate the access of other groups to particular financial or other benefits. I oppose this request because it implies that all relationships between human beings are equal in the benefit that they offer to Australian society. I disagree with that. Marriage is the relationship that offers society the most benefits and it should therefore receive particular support from the government in legislation such as this. The special status of marriage is, in fact, under attack and should be preserved.

Senator GREIG (Western Australia) (4.58 p.m.)—Chair, you will not be surprised to hear that I support the request moved by my colleague Senator Bartlett. I would like to talk a little about why and, hopefully, expand a little further on what I think has been a very awkward, clumsy and ill-informed debate—to the extent that there has been any comprehensive debate on the notion of same-sex couples and relationships and families and marriage. This is not about marriage; it is about homophobia.

Senator Bishop said quite rightly that during the hearings into this issue there was some fleeting regard to the matter of same-sex couples. It was not something on which there were many submissions, if any—and I am happy to acknowledge that, and I would argue that there are a couple of key reasons for that. The fundamental reason, I think, is that there is a concern, a fear, even an antipathy, I suppose, for people working and advocating in this area looking towards reform that they will not get it from this parliament no matter how strongly they engage with it. I think there is a reticence particularly under the current coalition government to try to progress these issues. There is a sense of overwhelming disappointment and frustration.

Although contradicting that, I have heard today—and I have not been able to confirm this; I have only heard it through email contact thus far—that the United Nations has, regrettably, defeated a motion, which our government to its credit supported, which would have affirmed the human rights of gay and lesbian people and condemned harassment, discrimination and torture. It was a motion which first came to the fore approximately one year ago—I do not have a copy in front of me, but it had seven or eight dot points. Some countries still entertain the death penalty for gay and lesbian people. It would have condemned all that. Shockingly, fundamentalist Islamic countries joined with the Vatican to oppose that motion and their campaign, regrettably, was successful. But, to its credit, the Howard government had committed to supporting that particular motion and my understanding is that it did so. So we have this contradiction where in international fora even a very conservative government like the Howard government can stand in support of non-discrimination and yet not do so here on the floor of the chamber where legislation really matters in peo-

ple's lives. I note too that Senator Bishop has argued, as have many of his colleagues before him, that a future Labor government would be more interested in comprehensive and wholesale reform in this area. We are only dealing today with a discrete piece of legislation that deals with some aspects of welfare in relation to the Veterans' Affairs portfolio.

Discrimination against lesbian and gay people and same-sex couples cuts right across all Commonwealth legislation, not just here, as I have said in this place before. It is also found within taxation, immigration, social security, veterans' affairs—as we have before us—industrial relations, Federal Police and a raft of other areas which I have spoken on before. Yes, there is no question that it would be best placed to have a comprehensive reform approach to that. But in the absence of that you have no choice but to deal with these issues on a case by case basis if for no other reason than to help further the debate and help get all parties, irrespective of their political flavour, to commit to some kind of philosophical or policy approach to this. I say to Senator Bishop with respect, the messages coming from Mr Latham on this are ambiguous. That was brought home to me and many others recently when a fairly benign motion at Labor's recent national conference to endorse the rights of same-sex couples was withdrawn following pressure from conservative factions within Labor's camp. There are many people within the lesbian and gay community who are concerned about those ambiguous messages and where they look in terms of a possible Labor government for reform.

Senator Harradine in particular spoke strongly in defence of marriage. He has a right to do that. But there are some fundamental flaws in his argument. If, as Senator Harradine says, marriage is the bedrock foundation which does not change and if it is

a significant foundation to our community which should not be tampered with or altered, then it would not be the case that black people could marry white people. That was once the case but was reformed because people understood that was not acceptable. Equally, it would not be the case that Jewish people could marry Roman Catholics or Roman Catholics could marry Anglicans. There was a time when religious intolerance and religious prejudice prohibited people of different religious beliefs from marrying.

Marriage has changed and reformed to eradicate that prejudice and the racism that was once within it and it can and should reform too to remove the antigay prejudice that is inherent within it. Other nations have done this. Canada has done this. Canada—a very comparable jurisdiction with a Westminster style government, a Western democracy—now has full marriage rights for same-sex couples. The sky has not fallen in as a result nor is marriage being undermined nor is marriage being diminished. If anything, it has been enhanced because it now means that same-sex couples are being recognised for their innate humanity which previously was denied them.

Senator Harradine has also argued that marriage is an incredibly important institution for the raising of children, that it is the best environment in which to raise children. Clearly, he believes that very strongly. I ask Senator Harradine rhetorically: if that is the case, why then do you oppose marriage for same-sex couples raising children? The end result of your contradictory argument is that you are happy to entertain the prospect that the many thousands of children around Australia being raised by same-sex couples can be discriminated against socially, legally and financially by denying the partners marriage. If marriage is the best institution in which to raise children, you have to argue as a logical extension of that that same-sex couples rais-

ing children—and there are thousands—should have the option to marry. It would also be the case that elderly people under Senator Harradine's scenario should not be allowed the right to marry, not if they cannot have children. Neither should infertile couples be allowed to marry if they cannot have children.

We note too that there are many states in the US which have to some degree extended marriage rights to same-sex couples, although it seems to be mostly based around the notion of civil unions. I saw with interest a report on the television last night which showed that the introduction of civil unions into France has been overwhelmingly taken up, to the surprise of commentators and the government, largely by heterosexual people who, increasingly—at least in France but there is evidence of it here too—are seeing marriage as an outdated and archaic institution to which they do not fully subscribe. They like the option of civil unions which does not have the historical baggage that many people perceive the notion of marriage as having. I understand that not everybody agrees with that, but the point I am making is that Senator Harradine's sincere passion and commitment for the institution of marriage is not shared by many people.

I make the point again that my experience, from speaking with literally hundreds of gay and lesbian people and same-sex couples over the last 10 years, is that the vast majority of them are not remotely interested in marriage, for some of the reasons that I have outlined. I note that Senator Harradine made that point recently in an opinion piece published in the *Sydney Morning Herald*. He raised the point that many same-sex couples are not interested in marriage, using that as a part of his argument as to why it should not be extended to same-sex couples. The point I think you miss, Senator Harradine, is that gay and lesbian people are not insisting on

marriage as being the one and only option to which the partnership recognition can and should be included in Australia but that it should be an option and that those same-sex couples who want it should have a right to it.

I agree with Senator Harradine that marriage is a special and important institution, or at least I agree with him to the extent that I accept that there are many people who feel that way. They see it as an important way of validating the romantic bond between them, the very special love between them and the commitment, honour and trust in their relationship and as a way of legally framing their property and assets. As well, for many people it has of course a strong religious element. But it is wrong to imply that all of those factors do not exist within same-sex couples or that same-sex couples do not have the same romantic love or care for children or honour, trust, commitment and faith that heterosexuals place in a relationship. It is offensive to many people, me included, to imply that is the case, because it is simply not true. Just as it was once argued that black people should not be allowed to marry white people, it is no different in 2004 to argue that same-sex couples should not marry, and the arguments being presented against that are the very same arguments that we have heard against people marrying on the basis of race or religious belief.

Before us at this point in time we have a bill which deals with military rehabilitation and compensation schemes. When I have raised this issue in previous debates, I have asked this question to which I have not yet had an answer. Why is it that we can call on lesbian and gay Australians to serve their country, to fight in its army, air force and navy, to put their lives literally on the line to die for their country—as many of them committed to do in Iraq—and yet at the same time treat them with such contempt that if they were to be killed or injured their surviv-

ing partner here in Australia not only would be denied superannuation death benefits and military compensation but also would not even be entitled to automatic access to grief counselling. It is a disgraceful situation. If we truly believe that this is a country of fairness and equality, then this issue has to be addressed if not in its entirety with this one piece of legislation, which it cannot be, then in a comprehensive way.

It is no longer acceptable for the coalition to maintain its strong antigay position—which it denies. It is no longer acceptable for people like Senator Harradine to strongly defend marriage as being in the best interests of children and then abandon children being raised by same-sex couples by denying those couples access to marriage. It is no longer acceptable for the opposition, which is perhaps on the brink of being in government, to still be coy about this issue, to still not have a clear, strong, unambiguous message for lesbian and gay Australians, their friends, their families and those people who subscribe to a better human rights regime in Australia. The community—the electorate—needs to hear not from Senator Bishop or, for that matter, from the shadow Attorney-General, Mr McClelland, but from Mr Latham himself precisely what a Labor government would do to recognise relationships not just in this bill but in all the other Commonwealth areas that I have spoken of.

We also need to hear from Mr Latham specifically why he is opposed, as I believe he is, to same-sex marriage. We have heard briefly from some media reports that Mr Latham has argued or suggested that there is some constitutional hiccup to the notion of same-sex marriage. Every piece of legal advice that I have had in recent weeks and months from constitutional lawyers suggests to me that that is absolute rubbish. If it is the case that this ends up in the High Court, as I suspect it will because there are now same-

sex couples who have married in Canada and are returning to Australia to test the validity of their relationships under Australian law, and the High Court finds against those couples and determines that, yes, the Constitution is clear that marriage cannot be conducted by the Commonwealth, then the result will be that the High Court will have, in a de facto fashion, then given the power of same-sex marriage to the states. We are then going to see in the future states recognising marriage with the imprimatur of the High Court following this kind of intervention.

So in a broad sense what I am trying to say here this afternoon is that we need more intelligent, more sincere and more better informed debate about same-sex relationships, lesbian and gay people, their rights, their responsibilities and their role in families raising children and in communities as citizens, voters and taxpayers. We have not had that kind of intelligent debate in this place; it is high time we did. Today is just but another taste of it, but ultimately it comes down to how we feel about lesbian and gay people serving in the military, their partners and the humanity of their relationships. They should and must be treated equally.

Senator FERGUSON (South Australia) (5.13 p.m.)—One of the reasons that we have not had what Senator Greig might call a full and informed debate on the issue of same-sex couples is that every time we have a bill relating to some sorts of benefits come in there has been an attempt to tack on the issue as an amendment to the bill. If we want to have a fully informed debate on a matter such as this, it should be on a separate bill. It should come into this chamber in a different form rather than having the Democrats, every time some provisions come in as part of a bill which determines entitlements, choosing to tack it on at the end of or as a part of the bill. So I say to Senator Greig: if you want to have a fully informed debate,

then bring it in in a bill that deals specifically with that issue, not just simply as something that is tacked on.

Senator Greig, I take issue with your criticism that Senator Harradine's passion about marriage and the family is not shared by many. I can tell you that I am one person with a family who passionately supports the view that Senator Harradine puts to this chamber. It is simply not true to say that a passion about marriage and the family unit as we see it is not shared by many—because it is shared by many quite passionately. I am one of those who believe that the family is the unit that our foundation should be built on, the one unit that can give us children to bring into this world.

Senator Greig, you said that Senator Harradine has no right to defend the family and ignore those children that are being raised by same-sex couples. Senator Harradine has every right to defend the family unit with the passion that he does because each of us has our own belief as to the way Australian society should be structured. I find myself in total support of the remarks that Senator Harradine made, during most of which I was in the chair and listened very carefully to what he had to say. You also said, Senator Greig, that we are denying the rights of many of our forces who fought in Iraq and put their lives on the line. To the best of my knowledge, in the initial conflict there were 150-odd SAS troops fighting in warlike conditions in Iraq. I do not imagine that a great many of those 150-odd people that were there in Iraq were in same-sex partnerships. It would defy the percentage that we know applies in the Australian community to suggest that the majority of those people, or many of them—you did not say 'majority'; I do not want to put words in your mouth—would be denied the benefits in the event of something happening to them.

This military compensation bill is a very important bill because for a considerable time we have had the issue of whether people who serve in our armed forces are adequately compensated in the event of some misfortune befalling them. We had the review of the Clarke committee, then a Senate inquiry to make sure that all the issues raised in that inquiry and dealt with by the legislation that was brought into this place were properly covered and looked at. Because of the 28 amendments that the government have put in this place we are quite aware that they have listened to the concerns of the community, the armed forces and those that were formerly in the armed forces in relation to whether the compensation that was being put in place by the amendments to this bill would satisfy the demands and the requirements of our serving forces.

There has been a general agreement. The opposition, under Senator Bishop, worked so well in the committee to make sure that we came up in this place with an adequate compensation package for all those people who choose a career in the armed services, whether they put their lives on the line very often or not. So those who choose a career in the armed services know that in the event of something happening to them they will be adequately compensated. This is a marvellous bill because it is something we have been waiting for for a long time. I am very pleased that the opposition has agreed to all the amendments that were agreed to by the committee and which the government has taken on board in full.

The one request that we are dealing with today was not an issue, as I think Senator Bishop said in his contribution, that was drawn to the attention of the committee by those people giving evidence. In fact, it was drawn to the attention of the people giving evidence by members of the committee. When you listen to the community you are

there to listen to what their concerns are, not to put concerns into their minds about what we think they should be thinking or doing. We have 28 amendments agreed to by the opposition and the Democrats. Because of due committee process, something that everybody could agree on in this chamber was decided upon. Then, on top of all those 28 agreements, amendments and requests that were put in place, the Democrats come up with this one further request not dealt with by the committee. They want to tack this onto every piece of legislation that comes into this place that deals with entitlements which should go to some member of the community in the event of death, disability or something like that.

I listened very carefully. Senator Harradine made the comment that this is one of the occasions when the Senate does work at its best—when there is some discussion backwards and forwards from opposition and minor parties and there is an agreement reached amongst everybody that this is the bill that we will put forward and agree to. I am very disappointed that, once again, the Democrats have chosen to tack this extra request onto an already agreed bill because they want to make a public statement. Every time one of these bills comes up the public statement is made again. They want to raise the issue of same-sex couples and the benefits paid to them as an add-on to every bill that comes into this place that has some entitlements attached to it.

I find myself fully in support of Senator Harradine's position and the statements that he made. Senator Harradine was not taking an extreme position. Senator Harradine was taking the position of the vast majority of the Australian people. Whether they believe so strongly in the institution as they may have in the past is a matter for debate, and one I will concede we probably do not know the answer to. I think Senator Harradine speaks

for the majority of people when he states on the public record that he is passionate about the family and family life. He sees the future for Australia as the family unit, where children can grow up and be nurtured in an environment which in most cases is a loving environment. As he also said, in some cases it is a less than ideal marriage. That can happen and we all know that.

In relation to this request, I wish the Democrats would come into this chamber and bring on a bill. We could have a general discussion at any time about the major issues, with informed choices and opinion around the chamber. But, please, do not tack it onto the end of a bill every time something comes up related to entitlements. All that does is make people make decisions when they are perhaps not as well informed as they should be. This is not the place for this sort of request.

Senator GREIG (Western Australia) (5.21 p.m.)—I respond to some of the issues raised by Senator Ferguson. Firstly, I welcome the news that the government would be pleased for the Democrats to bring on a comprehensive bill to address this. It gives me the opportunity, again, to remind the chamber that we have a private senator's bill on this very issue—a comprehensive bill known affectionately as SAGI or the **Sexuality and Gender Identity Discrimination Bill 2003**—which in one form or another has been on the *Notice Paper* for nine years.

I would dearly love for that bill to come on for a conclusive debate to the point of a vote. In fact, I would dearly love that so much that I wrote to Mr Latham six weeks ago or possibly longer asking him for the consent of his Senate colleagues so we could debate that. I have not had the courtesy of a reply. The fact is that the consent that we heard of in terms of the cooperation of the chamber in moving towards legislation on

this issue is the consent of silence. It is the consent of not dealing with this issue. It is the consent of not wanting to talk about it. It is the consent of denying it and being shy of it.

We have no choice but to deal with this issue in piece by piece amendments because this chamber, through the major parties, works to deny and prohibit any real debate on this issue in a comprehensive way. I make this plea again to the chamber, to both the opposition and government members, that if you genuinely believe the content of the speech that we have just heard then let us bring on the Democrat bill, because it is there. It has been there for nine years. It deals with all the issues in a comprehensive way. I am getting sick and tired of being accused of frustrating the work of this chamber by dealing with these issues in an ad hoc way by amendments when we have absolutely no choice because of the conspiracy of consent in denying the topic being debated and voted on in a comprehensive way.

The other point I would make with regard to the earlier contribution was that I was not suggesting that the SAS was full of gay men and lesbians. Actually, I am not even sure if there are women in the SAS, if you will excuse my ignorance on that topic. I do know of gay men who have been in the SAS. The point I was making in terms of lesbian and gay people serving in Iraq is that there were a number of people aboard *Darwin* and *Kanimbla*, amongst others, serving in Iraq if not fighting on the shores who were in same-sex relationships. I know of eight. I was involved with a Canberra based email community network of gay and lesbian people within the military who are increasingly joining a subgroup to try to address these issues through the difficult and conservative establishment that the military is. During the peak of activity in Iraq there were some 80 same-sex couples registered with that body here in

Canberra. I am not suggesting they live here in Canberra but the coordination of that email group was through Canberra.

I do not care whether there are 80 same-sex couples, whether there are vastly more than that or whether there are greatly fewer than that in the military. This is about the tyranny of the majority. That is the other thing that irks me with the earlier contribution—that is, that sometimes it is stated or implied that gay and lesbian people are a minority and are therefore not deserving of human rights or that same-sex couples are so few that they are not something that you should trouble yourself with. Nobody would make that claim about blacks. Nobody would make that claim about Jews. Nobody would make that claim about people with disabilities. It does not matter if it is 0.1 per cent or 30 per cent. That claim is only ever made against gay and lesbian people. They are always relegated to the very end of issues and are always the first to be junked and discarded when it comes to reform. It is sometimes the case—and I felt it in the chamber today—that there is almost an accusatory notion that homosexual people are holding up a broader reform which will benefit the wider community, again coming back to the tyranny of the majority. It is not good enough that we treat any minority in that fashion. We would not do it with other minorities.

The key point that I want to repeat and conclude on is that if we genuinely do—and there seems to be some, albeit limited, sentiment for it in the chamber—want to debate this in a comprehensive way, tease out all the issues and look at all those areas of Commonwealth law that suffer under this—and I note that the duty minister has dealt with this issue particularly in terms of superannuation—then the key way of dealing with that is with the Sexuality and Gender Identity Discrimination Bill 2003, which, as I say, is in my name. It was originally introduced by

the now retired Victorian senator Sid Spindler in 1995. It has been there for nine years. If now is the time to comprehensively debate that, as I hear from the government benches, then for goodness sake let us bring that bill on, and not just in the way that it has been previously brought on where speakers are stacked onto the speaking list so it can be talked out and never get to the committee stage and never get to a vote—‘Oh, no, we can’t have that!’ Let us have a real debate, a real committee stage and a genuine vote so that those parties which claim to be sympathetic to the issue and claim to be sympathetic to dealing with the issue in a comprehensive way can vote in that fashion and prove once and for all that they are serious about dealing with the issue, understand the issue and want a thorough debate and vote on it.

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.27 p.m.)—The government will not be supporting the request moved by Senator Greig. Let me by way of background confirm that the legislation that we are debating today is very important. It is very important in meeting the nation’s commitments to those who have served in the defence of this country. My colleague Senator Coonan said that this legislation will put in place a framework for the 21st century repatriation system. It is a very important bill. It is a bill which should not be delayed. It is a bill which, I understand, all parties accept. It has been subject to very close scrutiny. It would be a great pity to have this bill delayed.

I listened to Senator Ferguson’s comments. He raised a very interesting issue for you, Senator Greig. You do have a habit—and you are entitled to do this; we are a democracy—to put onto any bill you possibly can this particular issue and seek to have it debated. You are entitled to do that; I do not dispute that. However, I thought it was a lit-

tle bit rich when you spoke about the tyranny of the majority. There can be, Senator Greig, as you know, a tyranny of the minority. This has to be very carefully weighed. Some years ago I had the agreement of the majority in this chamber to bring in choice of superannuation. The Labor Party were absolutely opposed to choice of superannuation. I had the majority in this chamber, after a year-plus of negotiation. But in the end you decided, for reasons not related to choice of superannuation but related to particular issues which you like to raise, that you would not let your party support that particular bill, despite the fact an agreement had been nutured out. As a result of your action, Australians do not have choice of superannuation today—

Senator Greig interjecting—

Senator KEMP—and you say that that is good. It is an interesting point, isn't it, that that issue was not related to the issue you have brought before the chamber today? That issue was related to an important issue in superannuation, and you scuttled that. So I am not sure that you can stand up here and speak of the tyranny of the majority, Senator Greig, in the light of your actions. I think what you did then was a pity. The bill before the chamber was not related to gay marriage at all. You decided to scuttle the bill in order to make a point, and that was significant.

The Senate sometimes succumbs in the end to this habit of yours of tacking this issue onto bills and decides that it will not press a request. On other occasions it does not. I have mentioned the choice of superannuation. There you effectively scuttled one of the great reforms, I thought, that we could have brought into superannuation legislation. I did not agree with your approach then, and it is unfortunate that many people will be affected as a result of it. You were unavailable to be spoken to on this matter and you

were obviously not prepared to listen to arguments in favour of this bill because you had another issue that you were determined to press. You were entitled to do that, but I am not sure you are entitled to speak about the tyranny of the majority. We will not be supporting the request that Senator Greig has moved. We think the legislation should now proceed in the way in which I understood it was going prior to this proposed request. To restate the government's position: we will not be supporting the request moved by Senator Greig.

Senator GREIG (Western Australia) (5.32 p.m.)—I must respond to some of the comments made by Minister Kemp. Firstly, I am not moving this request. Both Senator Ferguson and you, Minister Kemp, have said that this is my request and that I am moving it. My colleague Senator Bartlett drafted and moved the request. By all means point to the Democrats, but it was not me.

Senator Kemp—I am not sure it is a major point, I have to say.

Senator GREIG—It is, because it is often the case that people like to try to marginalise me as a one-issue senator pursuing one agenda, which is not true, and today's comments might be representative of that. I fully endorse Senator Bartlett's request. My understanding is that—and am quite sure I am right on this—prior to my being in the Senate, Senator Bartlett moved similar amendments to other pieces of defence legislation when he had the sexuality portfolio for the party and was pursuing this interest.

The other point I would make to the minister is that it is not true that we Democrats move same-sex couple amendments to every bill. There are many bills that come before this chamber that could readily accommodate same-sex couple amendments but we do not progress with them—and we are sometimes reprimanded for that. Every taxation bill

could have a same-sex couple amendment, because there is discrimination in tax; every immigration bill could have a same-sex couple amendment, because there is discrimination there; and likewise with a vast number of other pieces of legislation. We quite specifically choose to progress same-sex couple amendments in those areas which we feel are most acute. You are right to nominate superannuation as one of them, and defence is another. I guess there are a number of reasons for that, but the key reason is that it is in these areas in particular, and in immigration, that the discrimination is at its most vicious.

In superannuation, for example, we have the appalling situation where a same-sex partner cannot readily leave their death benefit to their surviving partner. Even if their surviving partner is able to access the death benefit, which I understand is overwhelmingly the case, they are then forced to pay a significant tax on that which heterosexual surviving partners are not required to pay. Equally, the reversionary pension that exists in some super schemes does not apply to surviving partners in same-sex relationships. The reason that is particularly vile is that superannuation, for the most part, is compulsory. So we have a situation in Australia where most people are forced to subscribe to a superannuation regime of some sort but are then specifically discriminated against within that scheme.

You are wrong, Senator Kemp, to say that it was the tyranny of the majority that sank the super choice bill. It was good old-fashioned homophobia that sank the super choice bill. Overwhelmingly, when we have Senate committee hearings into the issue of same-sex couples and super, every single representative from the industry supports equality and reform. Overwhelmingly, the submissions that flood in from the electorate support reform. Every single state and territory, at its local level jurisdiction, has eradicated

discrimination against same-sex couples within state and territory based superannuation. Only the Commonwealth is holding out, and that comes back quite plainly to the arch-conservatism found within cabinet and the quite specific homophobia found among some cabinet ministers—of whom I do not believe you are one, Senator Kemp. The fact is that the only thing that caused super choice to stumble and fall was the entrenched intolerance from coalition benches. If you had agreed that superannuation choice had to include the notion of choosing whom you leave your super to, the bill would have passed. But you dug in on an antigay premise, you dug in and held out on an area of reform, and the vast majority of Australians are scratching their heads and saying: ‘Why? What on earth are you thinking? What is your problem?’

I would make the same plea to you, Minister Kemp, and you have far more power than I on this issue. Let us have that comprehensive debate. It is in the hands of the coalition to allow the Democrat [Sexuality and Gender Identity Discrimination Bill 2003](#) to come on for a full debate and a vote. I cannot give you a promise but I will give you an undertaking once I have taken it to my party room—which I cannot do now—that, if we can have a full debate to the committee stage and vote on the Democrat bill, we will give very serious consideration to relinquishing all same-sex couple amendments thereafter, because we would have on the record a clear statement from all parties as to where they stood on the issue and how they voted on the issue.

You are right, Senator Kemp, to argue that this bill contains important reforms to which a lot of people are looking. My experience and observation, though, is that, with some exceptions, most people in the military, their supporters and their families are also sympathetic to the reforms that we Democrats seek

here today. It is not the case, as Senator Ferguson said, that we Democrats have not pursued this issue at committee hearings. I particularly recall only three years ago questioning, I think, Major General Willis, the Head of Defence Personnel Executive within the Defence Force. I asked him several questions about discrimination against same-sex couples on the issue of recruitment and retention. He made the argument to me that the defence forces were bound by the definition of 'spouse' as contained within the Marriage Act 1962 and which is heterosexist and also that he was bound by the definition of 'spouse' in terms of de facto relationships from the Sex Discrimination Act of 1984, which is also heterosexist.

However, since that time, we have had a ruling from the Human Rights and Equal Opportunity Commission which dismisses that. It was the case that roughly 18 months ago a gay couple, one of whom is in the military—they now have built a home and moved to Queanbeyan—applied for the Defence Force housing grant and were denied that grant on the basis of their relationship not being recognised; it was only made available to married and de facto heterosexual couples. HREOC upheld their claim and put it to the Defence Force that this discrimination should cease. The Defence Force tried to defend their position by relying on what we might now call the 'Willis defence' and argued that they were duty-bound to follow the definitions within the Marriage Act and the Sex Discrimination Act. But HREOC found against that and said, 'No, under Defence Force instruction 53G, the Defence Force did not need to refer to the minister or to parliament on this kind of internal reform.' But it still did not and will not happen because Defence, even though they can move on some of this reform internally, are looking for leadership from government and from the parliament. They want some kind of indica-

tion that this kind of reform will not result in reprimand or retribution. We need that leadership from our parliament and from our leaders, both Mr Howard and Mr Latham. There are many people in the community for whom this is not just a niche issue; it is core business. They are looking to the major parties for the seriousness and sense of this approach. A clear and precise proposal for reform in this area has only been indicated by Mr Latham and not stated clearly. I, too, look forward to that being a solid commitment coming from Mr Latham as we head into the next federal election.

Question agreed to.

Bill, as amended, agreed to, subject to requests.

**MILITARY REHABILITATION AND
COMPENSATION (CONSEQUENTIAL
AND TRANSITIONAL PROVISIONS)
BILL 2003**

Bill—by leave—taken as a whole.

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.41 p.m.)—by leave—I move government requests and amendments together:

Requests—

- (2) Schedule 1, page 27 (after line 35), after item 16, insert:

16A Subsection 23(5)

Repeal the subsection, substitute:

- (5) The rate at which pension is payable to a veteran to whom section 115D applies (veterans working under rehabilitation scheme) is the reduced amount worked out using the following formula:

$$\text{General rate} + \left(14 \times \frac{\text{Reduced daily pension amount worked out under section 115D}}{\text{}} \right)$$

16B Subsection 24(5)

Repeal the subsection, substitute:

- (5) The rate at which pension is payable to a veteran to whom section 115D applies (veterans working under rehabilitation scheme) is the reduced amount worked out using the following formula:

$$\text{General rate} + \left(14 \times \frac{\text{Reduced daily pension amount worked out under section 115D}}{\text{}} \right)$$

16C Application of items 16A and 16B

The amendments made by items 16A and 16B apply from the pension period that begins after those items commence.

- (3) Schedule 1, page 33 (after line 18), after item 39, insert:

39A Section 115D

Repeal the section, substitute:

115D Reduced daily pension amount—pensions under Parts II and IV

Application and overview of this section

- (1) This section applies to a veteran who is engaged in remunerative work of more than 8 hours per week as a result of undertaking a vocational rehabilitation program under the Veterans' Vocational Rehabilitation Program. The section sets out how to work out the veteran's reduced daily pension amount. This amount is used to work out the rate of pension payable under sections 23 and 24.

Note: This section does not apply to certain veterans (see subsections (5) and (6)).

Reduced daily pension amount during the initial period

- (2) A veteran's **reduced daily pension amount** for a pension period that occurs within the initial period is worked out using the following formula:

$$\frac{\text{Veteran's daily above general rate}}{2} \times \left(1 + \frac{\text{Veteran's taper amount}}{\text{}} \right)$$

Note 1: Expressions used in this subsection are defined in subsection (7).

Note 2: The Commission can increase a reduced daily pension amount under section 115F.

Reduced daily pension amount during the second period

- (3) A veteran's **reduced daily pension amount** for a pension period that occurs within the second period is worked out using the following formula:

$$\frac{\text{Veteran's daily above general rate}}{2} \times \left(1 + \frac{\text{Veteran's taper amount}}{\text{}} \right) \times \left(2 - \frac{\text{CPI amount}}{\text{}} \right)$$

Note 1: Expressions used in this subsection are defined in subsection (7).

Note 2: The Commission can increase a reduced daily pension amount under section 115F.

Reduced daily pension amount 5 years after the initial period

- (4) A veteran's **reduced daily pension amount** for a pension period that occurs more than 5 years after the end of the initial period is nil.

Note: The Commission can increase a reduced daily pension amount under section 115F.

Veteran who is unemployed for at least 2 weeks

- (5) This section does not apply to a veteran who is unemployed for a continuous period of at least 2 weeks in respect of the pension periods within that 2 week period.

Veteran who is blinded in both eyes

- (6) This section does not apply to a veteran for a pension period if the veteran is receiving a pension for the period at the special rate because of subsection 24(3).

Definitions

- (7) In this section:

CPI amount means the amount worked out using the following formula:

$$20 - \frac{20}{\text{Number of CPI indexation days that have occurred since the beginning of the second period}}$$

daily above general rate for a veteran means the rate worked out using the following formula:

$$\frac{\text{Veteran's pension rate on commencement} - \text{General rate}}{14}$$

initial period for a veteran means the period:

- (a) that begins on the day after the day the veteran first commenced remunerative work as a result of undertaking a vocational rehabilitation program; and
- (b) that ends immediately before the first CPI indexation day that occurs more than 2 years after that day.

pension rate on commencement for a veteran means the rate of pension under this Act that was payable to the veteran on the day on which the veteran commenced his or her vocational rehabilitation program.

second period means the period:

- (a) that begins immediately after the initial period; and
- (b) runs for 5 years.

taper amount for a veteran means:

- (a) if the veteran's average weekly hours are 40 hours or more—nil; and
- (b) otherwise—the amount worked out using the following formula:

$$\frac{40 - \text{Veteran's average weekly hours}}{32}$$

39B Subsection 115E(1)

Omit “the application of the pension reduction amount to the rate”, substitute “the application of section 115D in respect of the rate”.

Note: The heading to section 115E is replaced by the heading “**Application for increase in reduced daily pension amount**”.

39C Subsection 115E(2)

Omit “to have the pension reduction amount reduced”, substitute “to have the reduced daily pension amount under section 115D increased”.

39D Subsection 115F(2)

Repeal the subsection, substitute:

- (2) If this section applies, the Commission may increase in writing the veteran's reduced daily pension amount under section 115D, for a past, present or future pension period, to the amount that the Commission is satisfied results in the work and pension income rate being equal to the unaffected pension rate.

Statement of reasons why certain amendments should be moved as requests

Section 53 of the Constitution is as follows:

Powers of the Houses in respect of legislation

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the

imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government,

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

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 or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Amendments (2) and (3)

The effect of these amendments (as they operate together) is to increase the rate at which pensions are payable under sections 23 and 24 of the Veterans "Entitlements Act 1986. This will result in additional amounts being payable out of the Consolidated Revenue Fund through the standing appropriation in section 199 of that Act. This is covered by section 53 because it increases a proposed charge or burden on the people.

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

Amendments (2) and (3)

The Senate has long treated amendments which would result in increased expenditure from a standing appropriation as requests.

If it is correct that amendments (2) and (3) will result in increased expenditure out of a standing appropriation, it is in accordance with the precedents of the Senate that these amendments be moved as requests.

Amendments—

- (1) Clause 2, page 2 (table item 3), omit the table item, substitute:

3. Schedules 1 and 2	At the same time as section 3 of the MRCA commences.
4. Schedule 3, items 1 to 7	At the same time as section 3 of the MRCA commences.
5. Schedule 3, items 7A and 7B	The later of: (a) the time when section 3 of the MRCA commences; and (b) the time when the <i>Age Discrimination Act 2004</i> commences.
6. Schedule 3, items 8 to 105	At the same time as section 3 of the MRCA commences.
7. Schedule 4	At the same time as section 3 of the MRCA commences.

- (4) Schedule 2, item 5, page 50 (line 29), omit "An employee", substitute "For the purposes of this Act (other than this section), an employee".
- (5) Schedule 2, item 5, page 50 (line 29), after "injury", insert ", or an aggravation of an injury,".
- (6) Schedule 2, item 5, page 51 (line 3), after "injury", insert "or aggravation".
- (7) Schedule 2, item 5, page 51 (line 5), after "injury", insert "or aggravation".
- (8) Schedule 2, item 5, page 51 (line 12), after "injury", insert "or aggravation".
- (9) Schedule 2, item 5, page 51 (line 14), after "disease," insert "or an aggravation of a disease,".
- (10) Schedule 2, item 5, page 51 (line 17), after "disease", insert "or aggravation".
- (11) Schedule 2, item 5, page 51 (line 19), after "disease", insert "or aggravation".
- (12) Schedule 2, item 5, page 51 (line 26), after "disease", insert "or aggravation".
- (13) Schedule 2, item 5, page 51 (line 29), after "before and", insert "on or".

- (14) Schedule 2, item 5, page 51 (line 32), omit “, or aggravated or materially contributed to,”, substitute “or aggravated”.
- (15) Schedule 2, item 6, page 52 (line 2), after “6A(2A)”, insert “of this Act”.
- (16) Schedule 2, item 10, page 52 (line 12), omit “the commencement date for that Act”, substitute “the MRCA commencement date”.
- (17) Schedule 2, item 12, page 52 (line 25), after “injury”, insert “or aggravation”.
- (18) Schedule 2, item 12, page 52 (line 27), after “injury”, insert “or aggravation”.
- (19) Schedule 2, item 12, page 52 (line 33), after “before and”, insert “on or”.
- (20) Schedule 2, item 12, page 53 (line 3), after “injury”, insert “or aggravation”.
- (21) Schedule 2, item 14, page 53 (line 13), omit “Loss of or damage to”, substitute “Loss of, or damage to,”.
- (22) Schedule 2, item 14, page 53 (line 24), omit “such a loss”, substitute “such loss”.
- (23) Schedule 2, item 16, page 64 (lines 9 and 10), omit “a claim of a kind referred to in subsection (1) of this section”, substitute “a defence-related claim”.
- (24) Schedule 3, page 68 (after line 19), after item 7, insert:
- Age Discrimination Act 2004***
- 7A After paragraph 41(1)(f)**
- Insert:
- (fa) the *Military Rehabilitation and Compensation Act 2004*; or
 - (fb) the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*; or
 - (fc) Part XI of the *Safety, Rehabilitation and Compensation Act 1988*; or
- 7B After subsection 41(2A)**
- Insert:
- (2B) This Part does not make unlawful anything done by a person in direct compliance with a regulation, scheme or other instrument under the *Military Rehabilitation and Compensation Act 2004* or the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*.
- (25) Schedule 3, page 77 (after line 28), after item 46, insert:
- 46A At the end of section 552**
- Add:
- (3) Youth allowance is not payable to a person if:
- (a) the person is an armed services widow or an armed services widower; and
 - (b) the person has received a lump sum, or is receiving weekly amounts, mentioned in paragraph 234(1)(b) of the MRCA.
- Note 1: For ***armed services widow*** and ***armed services widower*** see subsection 4(1).
- Note 2: For ***MRCA*** see subsection 23(1).
- (26) Schedule 3, page 78 (before line 8), after item 51, insert:
- 51A At the end of section 578**
- Add:
- (4) An austudy payment is not payable to a person if:
- (a) the person is an armed services widow or an armed services widower; and
 - (b) the person has received a lump sum, or is receiving weekly amounts, mentioned in paragraph 234(1)(b) of the MRCA.
- Note 1: For ***armed services widow*** and ***armed services widower*** see subsection 4(1).
- Note 2: For ***MRCA*** see subsection 23(1).
- (27) Schedule 3, page 86 (after line 29), after item 101, insert:

101A At the end of subsection 1130(3)

Add:

- ; and (e) any amounts that are not income of the person because of paragraph 8(8)(zp).

101B At the end of subsection 1130C(3)

Add:

- ; and (e) any amounts that are not income of the person because of paragraph 8(8)(zp).

101C At the end of subsection 1132(3)

Add:

- ; and (e) any amounts that are not income of the person because of paragraph 8(8)(zp).

- (28) Schedule 3, page 87 (after line 19), after item 104, insert:

Superannuation Act 1976**104A After paragraph 51(2)(d)**

Insert:

- (da) a period of leave of absence because of a service injury or disease (within the meaning of the *Military Rehabilitation and Compensation Act 2004*) in respect of which the person is receiving compensation under section 86 (part-time Reservists) or 127 (former member maintained in hospital) of that Act;

104B Section 54A (after paragraph (a) of the definition of *compensation leave*)

Insert:

- (aa) if the *Military Rehabilitation and Compensation Act 2004* applies in relation to the eligible employee—compensation is payable under section 86 (part-time Reservists) or 127 (former member maintained in hospital) of that Act; or

104C At the end of section 54G

Add:

- (2) If the request to the Board was made in relation to a condition in respect of which the eligible employee is entitled to receive compensation under the

Military Rehabilitation and Compensation Act 2004, the Board may, subject to subsection 54H(1), also ascertain the views of the Military Rehabilitation and Compensation Commission as to whether or not the employee be retired because he or she is totally and permanently incapacitated.

104D Subsection 54H(1)

After “a licensed administering authority”, insert “or the views of the Military Rehabilitation and Compensation Commission”.

104E Paragraph 54H(2)(a)

After “section 54G”, insert “and any views given to the Board under that section”.

104F After subsection 54JA(6)

Insert:

- (6A) If the matter under consideration relates to a condition in respect of which the person is, or was, entitled to receive compensation under the *Military Rehabilitation and Compensation Act 2004*, the Board may ascertain, in relation to that matter, the views of the Military Rehabilitation and Compensation Commission.

104G Subsection 78A(1)

After “*Safety, Rehabilitation and Compensation Act 1988*”, insert “or the *Military Rehabilitation and Compensation Act 2004*”.

The amendments and requests to the **Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003** comprise a number of technical amendments to correct errors, some additional consequential amendments to other bills and some additional amendments to the veterans vocational rehabilitation provisions of the Veterans' Entitlements Act.

Senator MARK BISHOP (Western Australia) (5.42 p.m.)—I made some earlier remarks on the **Military Rehabilitation and Compensation Bill 2003** that should have

been made on the **Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003**. I seek to refer those remarks to this bill.

Question agreed to.

Bill, as amended, agreed to, subject to requests.

Military Rehabilitation and Compensation Bill 2003 and Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003 reported with amendments and requests; report adopted.

AGE DISCRIMINATION BILL 2003

AGE DISCRIMINATION (CONSEQUENTIAL PROVISIONS) BILL 2003

In Committee

Consideration resumed from 23 March.

AGE DISCRIMINATION BILL 2003

Senator LUDWIG (Queensland) (5.45 p.m.)—The committee is considering Democrat amendments (5) and (6) which deal with positive discrimination. They are supported by the opposition. They are, by and large, minor or technical amendments which go to ensuring that exemptions for acts of positive discrimination for particular groups are made on an objective test rather than on a subjective one. These amendments would bring the Age Discrimination Act into line with other Commonwealth antidiscrimination legislation, thereby limiting confusion for people seeking to interpret this act.

Although I have said the Democrat amendments are technical, that does not mean they are minor. This is an area that the government had the ability to agree on and it has, in my view, failed. It has not ensured that there is consistency between this act and other acts dealing with discrimination. These amendments respond directly to a proposal put by HREOC which, as administrator of this legislation and other antidiscrimination

legislation, has a reasonable idea of what is likely to be questioned. The government has not provided any explanation for why it has moved from the use of an objective test to a subjective test. Unless it is prepared to put forward some compelling argument this evening, at this late stage of the bill's development, then we will support Democrat amendments (5) and (6).

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.47 p.m.)—Before I make some comments on amendments (5) and (6) moved by the Democrats, I have a response from my colleague Senator Ellison to a question Senator Nettle asked earlier in this debate. I understand that this was a question asked on 23 March. The Minister for Justice and Customs was asked: 'Does the Sex Discrimination Act or the Workplace Relations Act prevent an employer from discriminating against a potential employee in deciding whether to offer them employment on the basis of the person's need to devote time to caring for an old or young person?'

The response from the minister is that, first of all, the government believes the issue of a person's family responsibilities should be considered in context—for example, through workplace arrangements—rather than in the R1764Age Discrimination Bill 2003. Family responsibilities sometimes have no relationship to a person's age. For example, a person may have significant family caring responsibilities towards a spouse, sibling or grown-up child aged in their 30s or 40s. Discrimination in this context could not be considered age discrimination. This highlights the point that issues concerning family responsibilities are best addressed in the distinctive context and not in the Age Discrimination Bill. The Sex Discrimination Act 1984 and the Workplace Relations Act 1996 do not specifically prohibit employers from considering a person's family responsibilities in deciding whether to employ a person. How-

ever, both acts contain other provisions that are relevant to the issue of family responsibilities. There is quite an extensive brief that we could provide to you, Senator Nettle. We will provide you with the backup material so that you will be better armed to discuss this issue with Senator Ellison.

Turning to Democrat amendments (5) and (6), the government does not support these amendments. The proposed amendments are to the current exemption covering acts of positive discrimination. The suggestion is that the exemption should cover acts only where they are intended and reasonably required to meet a need of, or reduce a disadvantage experienced by, people of a particular age. The proposed amendments to clause 33 are, in the government's view, unnecessary. The clause is designed to ensure that the exemption only covers those acts which are consistent with the purposes of the legislation. In other words, if positive discrimination lacks a reasonable basis it will not be authorised by the bill. The government prefers its existing wording because it wants to ensure clear scope for positive discrimination in appropriate cases.

Senator GREIG (Western Australia) (5.50 p.m.)—When we left this debate last week I was speaking to Democrat amendments (5) and (6) and I had not quite completed what I was saying before the debate was interrupted by question time. I want to recap briefly to address Democrat amendments (5) and (6). I was arguing that in part these amendments were responding directly to the recommendation made by HREOC. We believe that HREOC is best placed to identify potential problems associated with the practical implementation of exemptions and its concerns should be taken seriously. That covers the elements I want to address in amendments (5) and (6).

Senator LUDWIG (Queensland) (5.52 p.m.)—I think the government, in this instance, have failed to provide a reasonable explanation as to why they have proposed a different test in this **Age Discrimination Bill 2003** than the more sensible test proposed in the other discrimination bill. I note that the answer provided by the government in relation to this issue is the same, so at least I can say that they have been consistent in their approach to this but they have failed to address HREOC's position, the Democrats' position and Labor's position in relation to the better test that should be included in the bill. In this instance I think the issue should be given more consideration by the government than it has been given to date. As I have said, they have been at least consistent in their position and it is the position they seem to have reiterated this evening and on a number of other occasions in relation to why they have departed and why they say this is more appropriate. I do not accept that; I think they have missed the point. The government have certainly not taken on board the overall thrust of the Senate Legal and Constitutional Legislation Committee's recommendation, and the explanation that they have given, although consistent, is a poor explanation. It does not adequately address the issues that surround this matter. Without delaying the matter too long, given that I think we have the numbers in relation to this matter, I will defer.

Question agreed to.

Senator GREIG (Western Australia) (5.54 p.m.)—I move Democrat amendment (7) on sheet 3227:

(7) Clause 37, page 31 (line 30) to page 32 (line 10), omit subclauses (4) and (5).

Democrat amendment (7) would remove the exemption applying to the provision of credit. We Democrats acknowledge that the bill requires that any discrimination based on

age in relation to the provision of credit must be based on actuarial and statistical data. But despite that limitation some of the peak organisations engaging in prior debate on this bill have expressed concern regarding the exemption relating to credit. Both ACOSS and the Council on the Ageing, in their respective submissions to the committee, made this point:

Capacity to pay rather than chronological age should determine eligibility for credit. The current practice of the credit industry is that points based assessment is made of an applicant's ability meet the terms of credit. Exemption for age discrimination is unnecessary. Should credit providers wish to do so, they may apply to the Commissioner for an exemption in a particular case.

Concerns regarding this exemption were also expressed by Australian Lawyers for Human Rights.

The Democrats believe that credit assessment and the provision of credit according to that assessment must be made on a case by case basis when it comes to factors such as age. It is not difficult to think of examples where a person's age may be an entirely inaccurate indicator of credit risk. There are wealthy young people and there are poor young people. There are wealthy older people and there are poor older people. For these reasons we believe that the exemption should be removed from the bill.

Senator LUDWIG (Queensland) (5.55 p.m.)—In relation to removing the exemption on credit the opposition are not minded to support the Democrats' amendment on this point. We are informed by the committee's deliberations on this issue and although they are balanced they came to a view on this, although not a recommendation. They said:

The Committee considers the exemptions in clause 37 an appropriate practical balance between providing protection against age discrimination and exempting circumstances in which age-based distinctions are acceptable.

Without circumstances which might inform the chamber as to why we should abandon the exemption, the opposition are minded not to support the proposal as put forward by Senator Greig. The effect of subclauses 37(1) to (3) is to provide an exemption in relation to types of insurance and membership to superannuation or providence funds or schemes. Subclauses 37(4) and 37(5) provide an exemption in relation to provisions of credit.

Under these exemptions the discrimination must be reasonably reliant actuarially or statistically on the data and the discrimination must be reasonable having regard to the data and other relevant factors. As Senator Greig pointed out, a couple of submitters were for the removal of the exemption. However the ALHR in the end did not support the exemption of credit provisions and asserted that this exemption would be covered by the proposed bona fide justification defence, which was also highlighted in the Senate report at paragraph 3.84. It was worth at least covering those bases as to why we came to the conclusion that we did.

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.58 p.m.)—Thank you for the explanation. We will be opposing Democrat amendment (7) too. The proposal is to remove the current exemption covering the provision of credit. The bill prohibits discrimination on the basis of age in relation to the provision of goods and services and in relation to the terms, condition and manner in which those goods and services are provided. In striking a careful balance between the need to eliminate unlawful discrimination and the need to ensure sufficient flexibility to allow the situations where age requirements may be necessary, the bill provides an exemption in relation to the provision of credit. However, this exemption only applies in limited circumstances. It applies only where age differentiation is based on actuarial or statis-

tical data which is reasonable. Clearly, lenders need to be able to take this into account, for example, in determining the capacity to repay a loan.

A similar kind of exemption applies to the provision of superannuation and insurance. These exemptions allow appropriate risk assessments based on relevant data. The Human Rights and Equal Opportunity Commission will have similar powers to those in existing Commonwealth antidiscrimination legislation to require that the source of the actuarial or statistical data be disclosed. Failure to provide such data at the request of the commission will be an offence.

Question negatived.

Senator GREIG (Western Australia) (6.00 p.m.)—I move Democrat amendment (8) on sheet 3227:

(8) Clause 39, page 33 (lines 22 to 30), omit subclause (8), substitute:

(8) This Part does not make unlawful anything done by a person:

(a) in direct compliance with any of the following:

- (i) an order or award of a court or tribunal having power to fix minimum wages;
- (ii) a certified agreement (within the meaning of the *Workplace Relations Act 1996*);
- (iii) an Australian workplace agreement (within the meaning of the *Workplace Relations Act 1996*); and

(b) during the period:

- (i) beginning on the day on which this Act commences; and
- (ii) ending 2 years after that day.

This amendment places a sunset on the exemption relating to industrial awards and workplace agreements. The Democrats oppose this particular exemption. However, we acknowledge that for administrative reasons

it would be inadvisable to completely remove it from the bill at this stage. The exemption has the potential to quite fundamentally undermine one of the key objectives of the bill—namely, prohibiting age discrimination in the work force. The exemption will facilitate discrimination in the workplace provided it is in accordance with a workplace agreement. There will be nothing to stop employers from seeking to enter into inherently discriminatory agreements with their employees.

The Democrats are concerned that, given the power imbalance which often characterises the employer-employee relationship, particularly where the employee is a young person, there will be considerable scope for employers to circumvent the prohibition against age discrimination. We agree very much with COTA that existing awards and agreements should be subject to a two-year exemption from the legislation so that they can be reviewed and, if necessary, varied in order to ensure their compliance, after which time the exemption would be removed. That is what this exemption amendment seeks to achieve.

Senator LUDWIG (Queensland) (6.01 p.m.)—The opposition will not be supporting the amendment moved by Senator Greig in relation to placing a two-year sunset clause on the exemption. The YWCA supported the exemption being provided on a case by case basis, which is slightly different, rather than a general exemption, as COTA argued for. It is a very complex area with regard to how those things would interact over time. It is too early to say that a two-year sunset provision in relation to the exemption is the best way to go. Therefore, we will not be supporting it.

There are, as provided in the Legal and Constitutional Legislation Committee report, various arguments both for and against the

provision. In the scheme of the Age Discrimination Bill that is being proposed, it would serve to see how it operates over time. The provision is an issue that we can always come back to and investigate. There is also the matter of how these exemptions interact with the powers of the Australian Industrial Relations Commission and HREOC in terms of complaints and how these matters will work through over time. The AIRC and HREOC have demonstrated a cooperative approach in relation to other matters, and I suspect that they will continue to do so in relation to age discrimination. Until we have some experience with the operation of the Age Discrimination Bill it will be too early to provide general exemptions.

Question negatived.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—The question is that clause 43 stand as printed.

Senator GREIG (Western Australia) (6.03 p.m.)—I withdraw Democrat amendments (9) and (10). On a better view, it is now our opinion that they would probably be quite difficult to administer, so we withdraw them. With your consent, Mr Temporary Chairman, I now seek to move Democrat amendment (12).

The TEMPORARY CHAIRMAN—The others have not been moved so you may go straight to your amendment (12) if you wish.

Senator GREIG—I move Democrat amendment (12) on sheet 3227:

(12) Page 46 (after line 5), after Part 6, insert:

Part 6A—Age Discrimination Commissioner

53A Age Discrimination Commissioner

- (1) There shall be an Age Discrimination Commissioner, who shall be appointed by the Governor-General.
- (2) A person is not qualified to be appointed as the Age Discrimination

Commissioner unless the Governor-General is satisfied that the person has appropriate qualifications, knowledge or experience.

53B Terms and conditions of employment

- (1) Subject to this section, the Commissioner holds office for such period, not exceeding 7 years, as is specified in the instrument of the person's appointment, but is eligible for re-appointment.
- (2) The Commissioner holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

53C Remuneration of Commissioner

- (1) The Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Remuneration Tribunal is in operation, the Commissioner shall be paid such remuneration as is prescribed.
- (2) The Commissioner shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

53D Leave of absence

- (1) The Commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant the Commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

53E Outside employment

The Commissioner shall not, except with the approval of the Minister, engage in paid employment outside the duties of the office of Commissioner.

53F Resignation

The Commissioner may resign from the office of Commissioner by writing delivered to the Governor-General.

53G Termination of employment

- (1) The Governor-General may terminate the appointment of the Commissioner by reason of misbehaviour or of physical or mental incapacity.
- (2) The Governor-General shall terminate the appointment of the Commissioner if the Commissioner:
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
 - (b) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any period of 12 months; or
 - (c) engages in paid employment outside the duties of the office of Commissioner otherwise than with the consent of the Minister.

53H Acting Commissioner

- (1) The Minister may appoint a person to act as Commissioner:
 - (a) during a vacancy in the office of Commissioner, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Commissioner is absent from duty or from Australia, or is, for any other reason, unable to perform the functions of the office of Commissioner.
- (2) The validity of anything done by a person purporting to act pursuant to an appointment made under subsection (1) shall not be called in question on the ground that the occasion for the person's appointment had not arisen,

that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

53I Delegation

- (1) The Commission may, by writing under its seal, delegate to a member of its staff, or to another person, all or any of the powers conferred on the Commission under this Act.
- (2) The Commissioner may, by writing signed by the Commissioner, delegate to a member of the staff of the Commission approved by the Commission, or to another person approved by the Commission, all or any of the powers exercisable by the Commissioner under this Act.

This final amendment from the Australian Democrats seeks to fulfil our announcement, which I referred to during my speech in the second reading debate on this bill, that we would be moving to establish Australia's first age discrimination commissioner. The bill before us confers functions on HREOC; however, it fails to create the office of age discrimination commissioner. The government's stated reason for that omission is that it is in accordance with the proposed changes to the structure of HREOC contained in the Australian Human Rights Commission Legislation Bill.

Both Labor and the Democrats have made it very clear that we do not support those proposed changes. In fact, Labor moved to deny the human rights commission bill in the House of Representatives, and the Democrats have circulated an amendment to do the same in this chamber. Therefore, given the unlikelihood of the government's proposed changes ever coming into effect, the only stated reason for not creating an age discrimination commissioner no longer applies. The Democrats again call upon the govern-

ment to clarify whether it has any additional concerns in relation to an age discrimination commissioner because none have been provided at this stage.

If we accept that the current specialist commissioners are to be retained within HREOC then it would be symbolically problematic not to create an age discrimination commissioner, because the absence of such a commissioner could give rise to the implication that preventing discrimination on the basis of age is less important than preventing discrimination on other grounds. Already the resources of HREOC are significantly limited as a consequence of the government's failure to appoint replacement race and disability discrimination commissioners when the previous commissioners retired. Two of the current commissioners are already performing dual functions. This is not acceptable to the Democrats, and we believe strongly that the failure to appoint an age discrimination commissioner at this time will simply perpetuate that unacceptable situation.

In the course of the inquiries into both this bill and the Australian Human Rights Commission Legislation Bill, the Senate Legal and Constitutional Legislation Committee was presented with a great deal of evidence regarding the value of specialisation within HREOC. For example, in its submission regarding the human rights commission bill, ACOSS argued:

Specialist Commissioners provide a public point of identification not only for individuals and for communities of interest such as population-specific community organizations, academics and researchers, specialist lawyers etc. Over time specific laws have been enacted relating to these areas of Discrimination.

Similarly, the Catholic Commission for Justice, Development and Peace, based in Melbourne, made the point:

Thematic Commissioners have been outstanding in their role in community education. Individuals strongly identified with particular areas of fighting discrimination are required with specific portfolios to allow them to speak with authority.

Clearly, specialist commissioners play an important educative role within our community. One of the government's express objectives of this bill is:

... to promote recognition and acceptance within the community of the principle that people of all ages have the same fundamental rights.

That is the government's express ethos and sentiment. Given that, the Democrats believe that an age discrimination commissioner must, as a consequence, be established. Such a commissioner will complement the team of other specialist commissioners who currently hold office within HREOC, and could play a fundamental role in education, advocacy and leadership in preventing discrimination on the basis of age. It gives me some considerable pleasure to move this amendment. The time has come—in fact, it is long overdue—for Australia to have an age discrimination commissioner. Given the public statements made by Labor in recent months, and their ongoing support for specialist commissioners within HREOC, I hope that they too can bring themselves to support this initiative. I commend the amendment to the chamber.

Senator LUDWIG (Queensland) (6.09 p.m.)—Before I give Labor's position in relation to this amendment, I would like to hear the government's justification for why an age discrimination commissioner is not required.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (6.09 p.m.)—I would have actually stood up if Senator Ludwig had not done so first. As Senator Greig has said, the amendment proposes to appoint an age discrimination commissioner. The bill does not provide for one, which is why Senator

Greig wants to put one in there. The government's election commitment was to reform the existing structure of HREOC. The proposed reform will actually enhance the commission's current approach, which is to undertake its functions through a collegiate approach. This is, in fact, at odds with the approach described by Senator Greig. This is one of a number of reforms contained in the Australian Human Rights Commission Legislation Bill 2003, and these reforms will ensure that the commission's age discrimination responsibilities are carried out effectively and efficiently in the view of the government. For these reasons, the government also will oppose the amendments to the Age Discrimination (Consequential Provisions) Bill 2003.

Senator LUDWIG (Queensland) (6.10 p.m.)—The opposition are not particularly convinced by the government's view on this, but nor are we convinced by the Democrats' argument about the need for an age discrimination commissioner at this time. This is similar to the arguments I put in relation to whether or not a sunset provision in relation to exemptions would be required. Labor's view is that the bill itself is quite complex, and we would certainly like to see how the legislation operates in the short to medium term. Obviously there may be improvements or changes proposed to the legislation at any time in future if cases, either for exemptions or for other matters, become quite clear. There is a need for all parties to commit to passing the Age Discrimination Bill. The government needs to accept the quite sensible amendments that have been moved and agreed to thus far and to enact the legislation as soon as possible to ensure that the considerable benefits for many older persons in our community can flow on to them.

Labor are committed, where possible, to improving the legislation. That has been our driving force in relation to this bill and oth-

ers. I think the Democrats are similarly moved by the same hope. We believe though that the amendments that have been moved and passed by this chamber should be accepted by the government as they will bring about a better Age Discrimination Bill. We hope the government is prepared to accept improvements that have been suggested by both the Democrats and the opposition thus far.

Although it is not a complete answer as to why we will not accept this Democrat amendment, Labor acknowledge the arguments that the Democrats have put forward about their position in relation to the government's proposal to reform HREOC. We do not know where that bill has gone to: perhaps it is where some bad bills should remain. Nevertheless, HREOC is challenged by this government to perform well. It still does its job admirably, but the overarching imperative is for the government to accept the amendments we have sensibly moved. The government needs to accept the bill as amended and bring about a change to the way Australians view older people in the community as well as give these people the ability to access age discrimination legislation.

Senator NETTLE (New South Wales) (6.13 p.m.)—I want to pick up on Senator Ludwig's comment about wanting us to have age discrimination legislation so that older people in the community are not discriminated against. We have commented on older people in this place before; we have discussed the fact that this legislation deals predominantly with the discrimination that older people face rather than that faced by young people. We have talked about that before in relation to the exemption for youth wages. It is a dominant message behind the legislation. Whilst all of us have indicated that we want to support age discrimination legislation, part of what we have been doing in this debate

and in the committee stage is to point out those areas in which the legislation is deficient.

The current Democrat amendment that we are debating, which calls for the appointment of an age discrimination commissioner, addresses one of the areas in which the legislation is deficient. The bill confers extra responsibilities on the Human Rights and Equal Opportunity Commission to make inquiries into, and to conciliate, complaints of age discrimination. Yet the government is proposing and indeed expecting the Human Rights and Equal Opportunity Commission to carry out these additional responsibilities without any additional funding and without any additional support. This is not acceptable to the Greens. The reason it is not acceptable is that, apart from the government's position of not wanting to provide any additional funding or support to HREOC to take on the new area of age discrimination, over the last five years we have seen the funding of HREOC cut to the tune of 40 per cent.

The question has to be asked: how seriously does the government take the issue of age discrimination? It is commendable—and we have all said this in the chamber—that the government believes age discrimination is serious enough to require legislation. But the consequential question is: if it is serious enough to require legislation, then in order to ensure people comply with the legislation the Greens argue that HREOC should be provided with the resources to effectively address age discrimination complaints, which include the entitlement of having a properly resourced age discrimination commissioner. The president of HREOC has indicated that age discrimination complaints in the states represent about 10 per cent of all discrimination complaints. If HREOC were to receive roughly the same amount of complaints under this legislation, that would represent a significant increase in HREOC's workload.

As I indicated last time we debated this legislation, the Greens see a lack of support by the government not just for age discrimination but also for the role and the work that HREOC does. Others have mentioned the [Australian Human Rights Commission Legislation Bill 2003](#) that seeks to curtail the power of HREOC to intervene in court cases. The government is also proposing in that legislation to abolish the specialist commissioners in favour of general human rights commissioners.

These moves by the government to weaken HREOC have been rejected before. In fact, the latest HREOC bill is the third attempt in five years by the government to mute Australia's human rights watchdog. The broad opposition to the bill, even by some members of the coalition, shows the extreme nature of the government's proposals in terms of curtailing the power of HREOC.

The Greens believe that the government should focus on measures to strengthen HREOC rather than take away its funding and power with one hand and impose additional responsibilities with the other hand. We support an increase of funding to HREOC, particularly in light of the additional responsibilities that are imposed on HREOC through this bill. We support the Democrat amendment to establish an age discrimination commissioner within HREOC.

Question negatived.

Bill, as amended, agreed to.

**AGE DISCRIMINATION
(CONSEQUENTIAL PROVISIONS) BILL
2003**

Bill—by leave—taken as a whole.

Bill agreed to.

[Age Discrimination Bill 2003](#) reported with amendments; the [Age Discrimination](#)

(Consequential Provisions) Bill 2003 reported without amendment; report adopted.

Third Reading

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (6.19 p.m.)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

BUSINESS

Rearrangement

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (6.20 p.m.)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 5 (Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]).

Question agreed to.

TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003

[No. 2]

Second Reading

Debate resumed from 22 March, on motion by **Senator Kemp**:

That this bill be now read a second time.

Senator IAN CAMPBELL (Western Australia—Minister for Local Government, Territories and Roads) (6.20 p.m.)—I wish to make a contribution to the debate on the Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2] in a private capacity to save the Opposition Whip from having to call a quorum. A list of speakers on the bill has been provided by our diligent Government Whip and, indeed, our diligent Opposition Whip. Since we are sitting through dinner, many senators would be perturbed if the quorum bells were rung. So I thought it would be better to use my voice as a bell to summon to the chamber honourable senators from Western Australia such as Senator Mark

Bishop, who has always taken a strong interest in Telstra's ownership structure. When he gets to the chamber, he will no doubt let us know what he thinks about the sale of Telstra. Although he and I would disagree on the outcome of this legislation, I am sure he will make a great contribution to the debate.

Mr Acting Deputy President, you will not be surprised to know that I fully support this legislation. It is an important piece of legislation for the Commonwealth. We believe that the ownership structure of Telstra at the moment, to use a colloquialism, is like being a little bit pregnant. It is partially owned by the Commonwealth; it is almost 50 per cent owned by private shareholders. It is regulated by the Commonwealth, so there is a clear conflict of interest between the ownership structure and the regulator. We believe strongly that it will be in the Commonwealth's and Australia's best interest to have Telstra moved to full privatisation. I am sure that Senator Bishop in his eloquent style will seek to convince us otherwise. We will see how he goes.

Senator MARK BISHOP (Western Australia) (6.22 p.m.)—I thank Senator Ian Campbell for that indulgence while I made my way to the chamber. We are dealing with a most important bill, the Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]. It must be the umpteenth-dozen time that we have dealt with this bill in my eight years in the Senate. I advise the government at the outset that the position of the opposition has not changed one iota since the first time we had this discussion many years ago, after 1996. The Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2] repeals the provisions of the Telstra Corporation Act 1991, which requires the Commonwealth to retain 50.1 per cent equity in Telstra. This same bill was rejected by the Senate on 30 October last year.

The issues remain much the same now as they were then. Labor remains absolutely opposed to any further sale of Telstra. The reason is simple: Labor believes in a majority publicly owned Telstra. We believe it is the only way to deliver adequate and affordable telecommunications services to all Australians. A privately owned Telstra would simply be too powerful for any government to control or to effectively regulate. Telecommunications services are essential services, but this bill is not about services; it is about government access to lots and lots of cash. That is why the bill allows the detail and the timing of the sale to remain open, at the discretion of the Minister for Finance and Administration. Naturally the government wants to maximise its return but, more likely, if it proceeds down the path of privatisation, it will lose billions. Once Telstra is sold, the Commonwealth only gets one lump sum. Telstra dividends will be lost forever. The Telstra sale will have negative long-term consequences for Commonwealth finances. The reduction in public debt interest will not offset the loss of dividends from Telstra in the medium term. Indeed, after 10 years we will go into the red—into the negative.

The government's mantra in the bill that it will not sell Telstra until it is 'fully satisfied that arrangements are in place to deliver adequate services' does not wash. That was the evidence in the Estens inquiry whitewash on telecommunications services. Service levels are no longer a condition of sale. Market conditions are now the only caveat. The government will sell Telstra regardless of service levels. The leaked internal Telstra documents show that Telstra services are anything but up to scratch. Fault levels are soaring as a result of declining network investment. The 'blame the weather' excuse is phoney. Telstra's country network is dilapidated from starvation of investment and staff cutbacks. Country people know it and will not be

fooled. They also know that the National Party is totally compromised and locked into the position of the Howard government. The problems are simple: poor mobile phone coverage, faulty telephone lines, poor broadband coverage, inadequate dial-up Internet data speeds and constant Internet line drop-out. Access to high-speed Internet or broadband services has emerged as a huge problem for regional Australians. ADSL and cable technology is nonexistent in much of regional Australia. Regional Australians pay significantly more for satellite broadband access, but it is also arguably an inferior broadband technology. If Telstra were privatised, this situation would only get worse.

The bill also provides for the Minister for Communications, Information Technology and the Arts or the Australian Communications Authority to make licence conditions. These could require Telstra to maintain a local presence in regional Australia. It also requires regular reviews every five years by an expert committee appointed by the minister. These provisions cannot be taken seriously. As established by the Senate inquiry, there are no standards for the bill's regional licence conditions. They could consist of a mobile caravan booth at Kalbar. Country people should not find any comfort in these provisions. As for the 'independent expert committee' appointed by the minister, the last one was the Estens committee. Moreover, there will be no accountability for this privately owned public service.

Coverage of freedom of information, AAT, occupational health and safety and other legislation will apply only to applications current at time of sale. These important safeguards to ensure Telstra is accountable to the public effectively will be gone once Telstra is sold. Ministerial power of direction over Telstra will cease once the Commonwealth's equity falls below 50 per cent. The Commonwealth could no longer ensure that Tel-

stra acts in the national interest. This power of direction has never been used, but the threat of its use, along with the board appointment power, provides a strong degree of government control. Telstra's reporting obligations, including the giving of financial statements, will also cease when the Commonwealth's equity falls below 15 per cent. Telstra will then be able to do what it likes.

In contrast to the two previous Telstra privatisation bills, this bill empowers the government to create and sell 'sale scheme hybrid securities'. These can be redeemed in exchange for Telstra shares. This empowers the government to create options or derivatives connected to its Telstra shareholding and to sell these rather than the actual shares. It opens up a wide range of possibilities, including a chance that the government may use this device to 'play the market' to maximise its returns. The government could effectively gamble away one of our most important and valuable assets.

Opinion polls consistently show that around two-thirds of Australians oppose the further sale of Telstra. They know that services will decline and prices will rise if Telstra is privatised. Discount concessions for pensioners will be lost. Timed local calls are inevitable. Telstra would be a giant private monopoly too powerful for any government to effectively regulate. It will only be interested in the lucrative markets in the bigger cities. It will neglect the interests of lower-income and regional Australians, just as the banks have done for the last eight or 10 years. There would be an inevitable decline in regional service levels.

Telstra would squash competition. It would spread its monopoly power into other sectors, such as media and information. Telstra would exert enormous monopoly influence over Australia's economic, social and political landscapes. We have just seen Tel-

stra's ambitions to take over Fairfax. Thankfully, some wiser heads on Telstra's board prevailed. Telstra then went ahead and, through its subsidiary, Sensis, bought the *Trading Post*, paying \$636 million. This was a price that many in the market thought was far too high. This is just an indication of what is to come if Telstra is let off the leash.

A majority publicly owned Telstra is the only effective means of guaranteeing universal telecommunications access for all Australians. The so-called 'future proofing' arrangements for regional telecommunications services offer no guarantees at all. As the telecommunications world moves on from voice to a data framework, it is absolutely imperative that Telstra remains in public hands. Only in this way can Australians have reasonable access to services such as broadband. Telstra is betraying its majority shareholders, the Australian people. It is being allowed to act as if it were already privatised, yet it is doing so as a public monopoly. Telstra is failing to fulfil its broader obligations of national development and social inclusion.

Telstra's overall report card under the Howard government's privatisation drive is rather bleak. It is highlighted by a deteriorating network crippled by major investment reductions and staff cut-backs, enormous losses on investments in Asia, rapidly escalating line rental fees, inadequate competition because of Telstra's market dominance and control of the fixed line network, poor roll-out and take-up of broadband compared with equivalent countries and a focus on moving into other sectors, such as media and IT, at the expense of core business. These deficiencies have been compounded by inappropriate corporate behaviour, such as providing free plasma TVs to the Prime Minister and the previous communications minister and offering the CEO, Mr Switkowski, a \$1 million-plus golden handshake if he is sacked.

Telstra's capital expenditure has fallen from \$4.478 billion in 1999-2000 to \$3.437 billion in the 2002-03 financial year. Over that period, full-time staff numbers have fallen from 50,761 to 37,169—a reduction of around 13,000 full-time positions. Most of these staff cuts have come from employees involved in direct customer service and network maintenance services. Telstra's overseas losses are in the vicinity of \$2 billion. We have heard that Telstra's Reach investment may need a further multimillion dollar bailout.

Labor has chosen to pursue a reform strategy designed to bring Telstra back to its core business. The key features of Labor's strategy for Telstra are to intensify its focus on its core responsibilities, reduce its emphasis on foreign ventures and media investments, intensify its focus on the provision of affordable and accessible broadband services, require much stricter internal separation of Telstra's wholesale and retail activities, remove the minister from the process of ACCC scrutiny and regulation, give consumers stronger protection from sharp practices by telecommunications companies and make the price control regime fairer. We want Telstra to be a builder, not a speculator. We want Telstra to be a carrier, not a broadcaster. Under a Labor government, a majority publicly owned Telstra will deliver high-quality telecommunications services. It will provide decent returns for its shareholders. Labor is determined to stop the Howard government from privatising Telstra. When this bill comes on for a vote, Labor will oppose it at every step of the way.

Senator EGGLESTON (Western Australia) (6.34 p.m.)—I chaired the most recent inquiry into the sale of Telstra and, therefore, I suppose I have some authority in reporting to the Senate the views of the people who presented to the inquiry. The *Telstra (Transition to Full Private Ownership) Bill 2003*

[No. 2] amends the Telstra Corporation Act 1991 to repeal provisions that require the Commonwealth to retain 50.1 per cent of equity in Telstra.

Senator Ian Campbell—Was 1991 the Telstra Corporation Act?

Senator EGGLESTON—It was, the original one.

Senator Ian Campbell—That was an interesting year.

Senator EGGLESTON—It was a very good year in many ways. The purpose of this bill is to fully privatise Telstra. On this side of the parliament we believe that the full privatisation of Telstra is very much in the interests of the people of Australia. The central position of the Labor Party is to equate ownership of Telstra with control. The Labor Party argues that it is only by continuing to have majority public ownership of Telstra that the government will have the ability to exercise control over it.

What came out of the inquiry loud and clear is that this is simply not the case. There is no way that a link between ownership and control can be demonstrated to be something that should occur. The existing regulatory safeguards that apply to Telstra, and the government's ability to continue to regulate Telstra in the public interest, are not affected in any way by Telstra remaining in government hands. There was almost universal acknowledgment by those telecommunication industry players who made a submission to the committee's inquiry that ownership has nothing to do with the government's ability to regulate. Indeed, some pointed out that the government would be a more effective and impartial regulator when it was no longer the majority owner and beneficiary of the profits of Australia's largest telecommunications carrier. Just for the record, there are now over 90 telecommunications carriers in Australia but, of course, Telstra is the only one in

which the Australian government has a controlling share.

I would like to say something about the regulatory regime that surrounds telecommunications companies in Australia. As the Senate would know, there is a range of consumer and regulatory safeguards which will remain in place under a fully privatised Telstra. These include the universal service obligation, the customer service guarantee, the National Relay Service, price controls, untimed local calls, priority assistance for people with life-threatening medical conditions, the low-income customer package, the network reliability framework, the digital data service obligation and the Telecommunications Industry Ombudsman. The government of course can also impose special licence conditions on Telstra.

I think the Senate will agree that these safeguards ensure that all customers, no matter where they happen to live, receive a good standard of telecommunications services. For instance, as a universal service provider, under the universal service obligation Telstra is required to ensure that all Australians have access to basic telephone services. Telstra has a legal obligation to provide a standard telephone service on request to all residential and small business customers, no matter where they happen to live in Australia. The USO is provided for by the Telecommunications (Consumer Protection and Service Standards) Act 1999. It will remain in place no matter what the ownership status of Telstra is. The customer service guarantee applies to all telephone companies and ensures that fixed line telephone services are connected and faults repaired within certain time frames. Where those time frames are not complied with, the affected customers are compensated. The Senate should remember that Telstra is just one, as I said, of over 90 telecommunications companies in this coun-

try, and all of them are subject to the same regulatory regime.

Let us turn our minds back to when Telstra was a fully publicly owned monopoly. Telecom, as it was known, did not have the same customer focus as Telstra does today. Telecom connected telephones and repaired faults in its own time. People could wait for years just to have a telephone connected. My colleague Senator Bill Heffernan told the inquiry that in fact he waited 17 years to have a telephone line put in to his farm. That would not be possible under the regulations that occur today. If he waited any longer than a very short period of time, Telstra would have to provide reasons for the delay in the service.

Senator Ian Campbell—It used to take six to eight weeks even in West Perth from a central office.

Senator Mark Bishop—Why don't you speak for it, then?

Senator Ian Campbell—I've already spoken.

Senator EGGLESTON—Senator Campbell is just adding a little bit of interesting information, adding to the point that Telstra under the government's regulatory regime is providing a much better service to the people of Australia than it used to when the Labor Party was in government in this country, and making the point that that regulatory regime will remain in place regardless of the ownership of Telstra.

There is no doubt that the Labor Party is engaging in an irresponsible scare campaign trying to frighten the Australian people, arguing that it will be impossible to fully regulate Telstra if it is privatised. The shadow minister, Mr Lindsay Tanner, said in the other place:

If Telstra is privatised—if the Howard government succeeds in privatising Telstra—it will

be a giant private monopoly too powerful for any government to effectively regulate ...

That of course is absolute nonsense. It is the government's role to establish an appropriate and effective regulatory framework to promote a competitive telecommunications market and ensure that appropriate consumer safeguards are in place. It is not the government's role to run a telecommunications company. That is why Telstra has a board of directors and that is why Telstra has been subject to the Corporations Law since 1991, meaning that it is required to operate on a commercial basis. However, Mr Tanner's public utterances indicate that if he were the minister for communications he would attempt to run Telstra from his own office. He has indicated that he would be an interventionist minister, interfering in Telstra's day-to-day operations. Mr Tanner has reportedly said, 'We would be a more hands-on shareholder.' That means there would be just a little bit of political influence over the way Telstra conducts its operation.

Senator Ian Campbell—It's a breach of the Corporations Law, more than likely.

Senator EGGLESTON—Absolutely. He has said that a Labor government would pressure Telstra into selling its stake in Foxtel, force further structural separation onto Telstra, dictate to Telstra which companies it can and cannot acquire, force Telstra to divest itself of any major media acquisitions, and stop Telstra increasing its line rentals. So much for commercial independence. It is estimated that this last measure alone could cost Telstra half a billion dollars over two years. This is a recipe for commercial disaster for the company, for the 1.8 million private shareholders of Telstra, for institutional investors and for taxpayers—which would be reflected in Telstra's share price and dividend payments, I am sure, were the Labor Party to implement their policy. The privatisation of Telstra will resolve the inherent conflict of

interest that the government has in being both the major shareholder of Australia's largest telecommunications company and the regulator of the more than 90 telecommunications companies which operate in Australia.

I now would like to say a little bit about competition. It was the Howard government, let us not forget, that introduced full and open competition to the telecommunications market in 1997. It is competition that has driven innovation, enhanced services and lowered prices. Competition has brought a range of benefits—including a greater choice of provider, significantly lower prices and an increased range of products and services—to the Australian people. As I have said several times, there are now more than 90 telecommunications companies operating in Australia. In 1996 there were just three. Forty per cent of these companies operate in regional Australia.

According to the Australian Competition and Consumer Commission, between 1996 and 2001 all call prices fell by 24.8 per cent and the price of fixed telephone calls for people living outside capital cities fell by 22.4 per cent. The Australian Communications Authority found recently that, as a result of telecommunications reforms, households are an average of \$759 a year better off, Australia's economy is some \$12.3 billion larger than it would otherwise have been, an extra 54,000 jobs have been created, households have received real consumption benefits of \$5.7 billion, small businesses have benefited to the tune of \$1.8 billion and the output of the telecommunications industry has increased by 97 per cent—all due to the real competition the Howard government introduced to this industry sector. I do not think that the Labor Party can criticise that with any skerrick of credibility.

Then we come to anticompetitive behaviour. Concerns have been expressed, including by Telstra's competitors, that Telstra's continued domination of the market might cause problems. However, parts 11B and 11C of the Trade Practices Act address the issue of anticompetitive conduct and access to telecommunications facilities and services. They are unaltered by this bill. The government has displayed a consistent willingness to improve the competitive regime where necessary and there is no reason why this will not continue to be the case into the future. In any case, the question of competition regulation is separate to the ownership of Telstra. As the government has consistently stated, ownership is not linked to control. The government does not need to own something in order to be able to regulate it. It is a matter of having appropriate regulations in place to ensure a competitive market. The proceeds of Telstra, it is government policy, will be used to retire government debt—which, the Senate will recall, was largely left by the Labor Party.

Senator Hutchins—You said you'd fixed it up.

Senator EGGLESTON—No, this is Commonwealth government debt—it is Keating's debt. Whilst the Commonwealth will forgo future dividends from Telstra, by retiring debt it will reduce debt servicing costs and thereby free up funds to deliver needed services and programs. Moreover, it will secure certain debt servicing savings in place of uncertain dividend streams. It is estimated that by retiring debt the Commonwealth will save around \$3.6 billion per annum in interest payments. The Commonwealth will also continue to benefit from taxation payments, both from the company and from a broader base of shareholders.

One of the issues that has been frequently raised with respect to the full sale of Telstra

is the question of the maintenance of regional services. The Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2], with its future-proofing elements, is a testament to the government's commitment to protecting the interests of regional Australians. The Estens inquiry recommended that the government impose a licence condition on Telstra to maintain a local presence in regional, rural and remote Australia. This bill gives the Minister for Communications, Information Technology and the Arts the power to impose a licence condition requiring Telstra to prepare and implement local presence plans, outlining its proposed activities in regional Australia. The minister will also be given the power to establish administrative arrangements for the implementation and monitoring of these plans.

Additionally, in accordance with a recommendation of the Estens inquiry, the bill provides for the establishment of a regional telecommunications independent review committee, RTIRC, which will review services in regional Australia at least every five years and report its findings to the committee. The reviews will include public consultation. The RTIRC will assess the extent to which people in regional, rural and remote Australia have equitable access to telecommunications services in comparison to their counterparts in urban areas and will make recommendations to the minister as to the actions required to improve equitable access, if that is necessary.

During the inquiry by the ECITA legislation committee, which reported in October 2003, it became obvious that even amongst those opposed to the sale there was a general satisfaction with the standard of basic telephone services but that technical advances have created an expectation of more sophisticated services, especially in relation to mobile telephone coverage and fast Internet and broadband services. In other words, people

in the bush, in regional Australia, are happy with their basic phone service but they want more sophisticated services now. The government has set in place mechanisms to ensure that they receive those services over time.

It is true to say that no other government has been more committed than the Howard government to improving telecommunications services in regional, rural and remote Australia. This government has provided more than \$1 billion to improve telecommunications and information technology infrastructure and services in rural Australia. There have been two inquiries—the telecommunications service inquiry, or the Besley inquiry; and the regional telecommunications inquiry, or the Estens inquiry—to assess the adequacy of telecommunications services in non-metropolitan Australia. The Besley inquiry made a series of recommendations and the government responded with a \$163.1 million package of measures to address those recommendations. The Estens inquiry made 39 recommendations. The government accepted all of them and has responded with a \$181 million package of measures.

Telecommunications services in regional Australia are unquestionably better than when Labor was in government—and this applies to services in urban and metropolitan Australia as well. The Labor Party claims that Telstra's network is in disarray, that it has fallen into disrepair and that it is riddled with faults. The Howard government is concerned that all Australians have access to a reliable phone service and that where faults do occur they are repaired quickly. This is why the government introduced the customer service guarantee.

The member opposite would do well to consider what the situation was like when the Labor Party was in government and when it

was not unusual for people to have to wait months to have faults repaired. The September quarter CSG figures indicate that in rural areas Telstra cleared faults within the CSG time frames in 95 per cent of cases, 94 per cent of cases in remote areas and 91 per cent of cases in urban areas. The network reliability framework aims to ensure the overall reliability of the network. Telstra has undertaken work to improve the 54 worst performing exchange service areas identified by the Australian Communications Authority. This complements Telstra's continuing programs to improve and upgrade its network. In December 2003, the national average availability of phone services was 99.92 per cent. For the first 12 months of reporting under the NRF, service availability was at 99.9 per cent. In voting terms, that is almost the sort of vote they used to get in the Soviet Union or in Iraq when so-called elections were held.

Senator Ian Campbell—Or Warburton when there were no scrutineers.

Senator EGGLESTON—Yes, or Warburton—but I do not think we will go into that. Nevertheless, these are outstanding figures. I commend this bill to the Senate. (*Time expired*)

Senator CHERRY (Queensland) (6.54 p.m.)—The Australian Democrats will again be voting against the [Telstra \(Transition to Full Private Ownership\) Bill 2003 \[No. 2\]](#) because the government have still failed to make out a case that this privatisation is in the public interest. It is a pity that we are debating this bill again today. There are 96 bills on the agenda for the Senate that I counted and yet we are required to waste time debating this bill again. We debated this bill at great length last year and had an extensive Senate inquiry last year. Between then and now, nothing has changed in terms of the government's position. No serious

negotiation has been entered into by the government with anybody else. The concerns raised by the Senate the last time we debated this bill here have not been addressed. In fact we are just going through the motions.

Senator Ian Campbell interjecting—

Senator CHERRY—I have a very good speech here—I am about to give you a good education, Senator Campbell—about privatisation, but this debate, frankly, is not about privatisation; this debate today is about creating another double dissolution trigger. So I thought I might briefly address that issue before I move on to the actual bill itself.

By bringing this bill on for debate now, the government is opening up the possibility that this bill could become the trigger for a double dissolution election. I wonder at times whether the government have fully thought through the consequences of that. The sale of Telstra as a proposition is consistently opposed by up to 66 per cent of the population. If the government want to make this a trigger for a double dissolution, that is fine—that is their business. But it is worth noting that the minute the government call a double dissolution election, by the nature of the changes in the quotas, they will lose four senators. It is as simple as that. At the moment, the coalition have 35 senators. If they repeat the same vote they got at the last federal election, which looks fairly unlikely on current polls, then they would move up to 37 or 38 senators. But with the same vote they got into 2001, in a double dissolution election they would get a maximum of 31 or 32 senators—so they would lose five senators. I am pleased to see that Senator McGauran is here, because two of those senators whom they would have otherwise had in Queensland and New South Wales would be National Party senators.

In addition to that, the probability of getting the bill through a joint sitting is actually

quite remote. Because of the changes to quotas in double dissolution elections, the government would probably have 31 out of 76 votes, which would be a deficit of 14 seats. So they would need a majority of 15 seats in the House to actually overcome the Senate deficit. At the moment, their majority in the House is 14. So they would need to increase their majority from that current position to be in a position to make up the deficit in the Senate at a joint sitting. It is worth noting that a swing of just five per cent against the government would see their House majority reduced to just 11 seats. A swing of one per cent would see their majority reduced to seven seats. A swing of 1.6 per cent would see a Labor government elected.

So even though the probability of getting this bill through a joint sitting is fairly remote we are still required to waste time today on this bill, we are still required to waste time tomorrow doing the media ownership bill and we were required to waste time last week doing the termination of employment bill yet again. Who knows what other bills we will be required to waste time doing between now and May with those 96 bills standing on the agenda—real bills—waiting to be debated by this Senate.

Senator Ian Campbell—So what you are saying is that we go to an election three times in a row, promise something and then don't bother trying to legislate.

Senator CHERRY—I think you should note the fact that every opinion poll shows that 66 per cent of the population is opposed to this. Why don't you put this up as a plebiscite? Then you could see if people support the ideas in this bill.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! I suggest that Senators Cherry and Campbell have a private meeting outside after your contribution, Senator Cherry.

Senator CHERRY—I remind Senator Campbell—through you, Acting Deputy President—that the slogan for the last election was ‘we will decide who comes to this country and the circumstances in which they arrive’. It had nothing whatsoever to do with the sale of Telstra. This particular bill fails every public interest test of decent public policy. It is a pity that the government is, as I said, wasting our time making us debate it again. In October last year the Democrats called for stronger regulation to protect consumers, increased competition and regulation to improve network reliability. We called for the government to meet their obligations under the competition principles agreement and to undertake an independent review of structural separation—including consideration of the ACCC’s *Emerging market structures in the communications sector* report. We called for a comprehensive analysis of Telstra’s investment and infrastructure to be undertaken. We asked that Telstra be directed to increase its investment infrastructure to meet tougher performance standards and national policy objectives.

The government have made no effort whatsoever to address these issues and recommendations. These recommendations reflect the concerns of the public that came out through the Senate inquiry. They reflect the concerns regularly expressed about Telstra on talkback radio, out in the bush and even in the suburbs. Yet they have made no serious effort whatsoever to actually address those concerns. In the last four months they have not even addressed the concerns raised by ACCC, the regulator. Senator Eggleston made a significant play about the fact that the government introduced competition in telecommunications. Have a look at what the regulator says about competition in telecommunications. The regulator said that competition has not developed to the extent that it would have liked or it had expected

when it was introduced. In fact Senator Alston asked the ACCC to give him a report on competition in the market and any issues that might emerge. It said that the problems with competition are structural, that they cannot be fixed by regulation—they are structural problems—and government has refused to respond to that particular report. Yet we are asked to consider this bill, knowing full well that the competition regulator says that it cannot regulate Telstra effectively in the current competition market, knowing full well that there are still serious concerns about the performance of the network in terms of rising fault levels, knowing full well that the country measures have not yet been delivered. Yet we are still being asked to vote on this bill.

This bill actually shows this government is bereft of ideas in terms of actually developing a decent telecommunications policy. The government only have one policy, which is to flog it. Only last week we saw the ACCC serve Telstra with a competition notice for engaging in anticompetitive behaviour in relation to Telstra’s wholesale pricing of high-speed Internet services in light of its retail offerings. The ACCC were also critical that Telstra did not inform the ACCC early enough about the price reduction. There has also been a leaked confidential document from Telstra’s infrastructure services division, dated December 2003, which states that faults in Telstra’s network are at a six-year peak, that the customer access network fault rate has been increasing since June 2001 and has accelerated in the last nine months and that this acceleration can be attributed to reduced rehabilitation activity in the recent past, and that the growth in the fault rate appears to be due to general network deterioration rather than a specific exceptional cause. What a great epitaph that is for the government’s regulation of telecommunications!

At the Senate inquiry into this bill last year, that Senator Eggleston chaired, the CEPU questioned the effectiveness of the benchmarks of customer service guarantee faults, arguing that the emphasis on statistics had resulted in quick fix temporary work being done to clear faults without dealing with underlying problems. The Australian Communications Authority has acknowledged that 'some, and only some' of the causes of recurring faults relate to remedial work but that the new network reliability framework will allow the regulator to 'be able to work out where recurring faults were, what sorts of problems were being exhibited and to do something about them'. That framework has only been in operation for some 12 months but the ACA has already required Telstra to perform remedial work on 54 poorly performing exchanges and, following an audit of a further 48 exchanges, has identified a further four requiring remedial work.

With respect to Telstra's network, the leaked confidential document stated that without adequate investment in rehabilitation the customer access network fault rate will continue to increase. Yet Telstra has been deliberately reducing its investment in infrastructure to increase its dividend payouts to shareholders for what I can only assume is a strategy to increase the shareholder price for a possible sale. Between 1995 and 2000 Telstra's capital investment averaged between 22 per cent and 27 per cent of its revenues. By 2003 it had slumped to just 15.5 per cent of revenues and it is projected to fall to less than 14 per cent this financial year. This compares with the OECD average of around 23 per cent of revenues. If Telstra were required to restore capital expenditure to 20 per cent of revenue—a level it held for all but the most recent years of its history—it would increase capital spending by \$1.35 billion a year, which would allow on Tel-

stra's estimates a full overhaul of the network to a 56 kilobits per second standard in just four years. The Democrats believe that it would not be unreasonable to ask the minister to use his powers under part 3 of the Telstra Corporation Act to direct Telstra in the national interest to upgrade its full network to that sort of capacity. Of course we have stated this before but, again, there has been no response from the government, no particular concern about using its powers to ensure that there is a decent strategic national policy objective in telecommunications.

Since this bill was last debated there have been a few media reports arguing that a fully privatised Telstra could still be controlled by regulation. I do not know where people can get this particular argument from. When you have heard the main regulator through the ACCC Commissioner, Ed Willett, saying that regulatory changes should be made prior to privatisation, surely the message is loud and clear: there are real concerns about whether a fully privatised Telstra can be reined in effectively.

Telstra is the most regulated company in the country because it is one of the most vertically and horizontally integrated companies in the telecommunications sector in the world and it dominates the market in all major telecommunications services. Despite partial privatisation in 1997 and 1999, the ACCC concluded that competition had not developed as extensively as generally expected after full competition was introduced in 1997 and that various telecommunications markets were not yet effectively competitive, and during the 2001-02 progress towards achieving competitive telecommunications markets slowed. In their report *Emerging market structures in the communications sector*, the ACCC identified that without competition between telecommunications providers it was likely that networks would not be developed and used to their full poten-

tial; that new services, such as high-speed Internet, would not be introduced as early as they otherwise would; and that services would not be provided efficiently and at least cost for consumers. It has also been argued that the record-keeping rules to assist the ACCC assess anticompetitive behaviour will not remove the source of Telstra's market power and may not be an effective strategy to combat anticompetitive behaviour, which discourages real competition in the telecommunications industry.

Not only does the bill, through its repealing part 3 of the Telstra Corporation Act 1991, reduce the ability to monitor and intervene in market power abuse; but the ACCC has given evidence that there are no areas of this bill that would improve competition. The government, however, continues to ignore the recommendations of the OECD, the National Competition Council and the ACCC. The National Competition Council recommended that a review of the merits of separating any natural monopoly elements from competitive elements of the public monopoly be undertaken. This has not occurred. The OECD has made similar recommendations about considering structural separation as a means of promoting competition as an alternative to regulation. No review has occurred.

The ACCC, in its report to government in July on competition, concluded that the structural power of Telstra precludes regulation being fully effective in ensuring fair competition and pricing and that structural separation should be considered, particularly in respect of the Foxtel HFC network. Again, no government response to that report has actually been released. This is just a morsel of the evidence that Telstra should not be fully privatised while the current structural and regulatory arrangements are in place. These are amongst the many reasons to maintain majority public ownership of Telstra. The Democrats and the majority of the

Senate are saying: 'If it's broken, don't sell it; fix it.' In addition to the regulatory and structural issues, the inquiry into the full sale of Telstra also found that Australian household consumers are still paying too much for their services; that services are not equal between urban Australia and regional and rural Australia; that there are no future-proofing mechanisms to ensure meaningful outcomes; that Australia's specific research and development is dissipating; and that networks are not being developed and used to their full potential.

In addition, there is little evidence around the world that reducing public ownership improves customer outcomes, particularly in markets where the former government telco remains the strong market player. Comparing public ownership using the OECD's price for domestic phone charges comparator highlights this relationship, with all countries judged in relation to Australia's domestic phone cost of \$US452 price parity. Three of the four countries with the cheapest phone prices have majority publicly owned telcos, while three of the four with the highest prices have private ownership rates in excess of 90 per cent. That in itself is a very good argument neither for nor against privatisation of Telstra but rather for looking for other reasons to actually consider its position.

Further, we need public ownership to ensure that regional and rural Australia has appropriate and decent services. Telecommunications are an essential economic and social infrastructure in rural areas and are becoming more important in the context of the information economy and the need to access services such as e-commerce, e-learning, e-health and e-banking. For example, the New South Wales Farmers Federation called for the following regulations to be reviewed before even considering the privatisation of Telstra:

- Timely and affordable access to future technology for rural and regional Australia is guaranteed under the Universal Service Obligations (USO) and USO include data standards as well as telephony services.

- A permanent trust fund is established with 10% of the proceeds from—

this sale—

to support the provision of high quality telecommunication services in rural and regional Australia.

- Each of the Customer Service Guarantee (CSG) criteria are met for each customer category (urban, major regional, minor regional, remote) in each State, rather than just the national average and that the CSG criteria include a better measure of carrier performance and volume of faults and new installs—

installations—

and are based on geographic not demographic criteria.

- Automatic penalties and a rectification process are defined for breaches of the USO and CSG in legislation.

Yet the government has not done any of those things at all. In fact, just last week Deputy Prime Minister John Anderson said that Telstra would not be sold off immediately because the preconditions had not been met. He said:

Our commitments on getting bush services right and getting future-proofing right are absolutely intact and they've not yet been fully delivered.

So why has the government brought this bill on? The National Party do not want Telstra sold and that is what their leader is saying, yet we are debating this bill, which has been rushed through—it was in the House last week and up here this week—pushing 96 other bills out of the way. On all key criteria the government has failed to make out a case that the sale is justified and in the public interest, whether it be on competition, service, legal or financial grounds—and the public knows this.

In September 2003, Senator Bartlett and I undertook a survey of the people in rural and regional Queensland seats, asking how they felt about the government's agenda, supported by the National Party, to sell off the rest of Telstra. Eighty per cent of the nearly 13,000 responses were opposed to the further sale of Telstra. Four months later, a ninemsn poll on 5 February found that 77 per cent—that is, 26,544 people—agreed that Telstra should be kept in public hands. Also in that same survey that Senator Bartlett and I conducted, over 80 per cent of people believed the Senate would be doing the right thing by blocking this sale tonight. It is not in the public interest. Even members of the government coalition backbench are saying so, and bringing this bill on tonight is simply blatant political manoeuvring. Bringing on the bill now is a waste of the Senate's time and a slap in the face for the public, more than 70 per cent of whom do not want Telstra fully privatised.

It is the government's focus on debt reduction and shareholder value over the national security and economic and social development of Australia that continues to be of concern to the Democrats and the majority of Australians. The Democrats argue that in its rush to reduce debt, despite Australia having one of the lowest national debts in the OECD, the government has not given adequate consideration to the implications of the full privatisation of a vertically integrated monopolistic Telstra and the alternatives to it. The Democrats will again not be supporting the full privatisation of Telstra because it is so clearly against the public interest.

Senator LUNDY (Australian Capital Territory) (7.12 p.m.)—Once again we find ourselves debating this Telstra privatisation bill, the *Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]*. It is like Senator Cherry said: it feels like Groundhog Day in many respects because the government have

been so persistent in bringing this back again and again, knowing full well that they are not likely to get support in this place.

Senator Cherry—It's a waste of our time.

Senator LUNDY—It is a waste of time, but I guess it is time when we get the opportunity to articulate once again all of the powerful and compelling reasons why further privatisation of Telstra is such folly. I am privileged, in my portfolio responsibility of information technology, that I am able to focus on the communications infrastructure of this country, particularly on the role of data users or Internet users. That creates a unique perspective. I have to say that some years ago it was more notable than it is now, but with the growing number of Internet users the object of achieving greater quality of data communications services has become a central issue in what constitutes future-proofing the Australian telecommunications network, and Telstra, largely because of their still dominant position in the market after years of competition, are quite central in determining the quality of Internet access and what sorts of data services are available through the network. I will go more to the specifics a little later, but firstly I will turn to the broad national challenge that stands before Australia at this point in time.

Every day that passes sees new challenges and opportunities arising on the Internet and how people use that particular technology. It is a truly global medium and, as such, it services a global society of which Australia is part. But different nations have been able to respond in different ways to the challenge of the need for better, faster, higher-quality communications infrastructure and the potential that the Internet offers. What I have been able to observe, as I think many others have, is that a given country's ability to exploit their communications potential has not

necessarily been linked to the stage of their economic development.

Some developing countries have managed to leapfrog whole generations of copper technology and are now investing in and deploying communications networks that are broadband and that do take those countries to the next level of how they communicate. By using fibre-optic, wireless and broadband services generally, they are able to bypass whole generations—it is longer than generations, it is decades of a copper based network that has fundamentally shaped our future here in Australia. Many of these developing countries through wisdom, foresight and an understanding of the power and potential of high-bandwidth communications infrastructure have developed the public policy necessary both to stimulate Internet usage and to invest in the hardware in those networks themselves.

On the other hand, some developed countries have understood that their existing economic and social strength derived from advanced communications infrastructure can be further strengthened, again by focused and timely investment, to upgrade their existing infrastructure to broadband networks. In some cases this has obviously occurred because the investment environment has been right. But most often it is because the government of the day has articulated a vision that goes to the very core of what economic and social development is all about—that is, this almost ancient cliché of the Internet being a new highway and a utility in the way that roads and electricity have been in the past is a fundamental prerequisite to that progression and growth.

Other developed countries have, unfortunately, developed a 'wait and see' approach, content to become followers and to see what happens elsewhere. Invariably, these countries have failed to grasp altogether the need

for universal broadband constituting an essential utility for the 21st century. Unfortunately and unforgivably, under the Howard government Australia has become a victim in this category. It is under a negligent Howard government that very little real attention has been paid to this critically important task of ensuring that Australia's communications networks are adequate for effective participation in 21st century society and economy. We have to ask this question: is being merely adequate enough?

We have watched Australia slide down the international scales of broadband penetration. We have watched the performance of other nations who have embarked upon a visionary public policy of upgrading their own networks outstrip Australia 10 to one in sheer speed of making that investment. As a result Australia is losing its edge, and in a global economy that is the worst outcome. Surely a more appropriate vision for Australia is to be up there with the dynamic and visionary nation states that foresee an age where digital delivery completely and utterly dominates communication, learning and public and private services, including health, commerce, financial services, security and so forth.

However uniquely Australia may have been positioned in the past, it is the Howard government's blinkered, backward, stunted and conflicted handling of telecommunications policy—characterised by an unwillingness to see beyond the ideological privatisation agenda and the derivative attempts to bribe the electorate with the takings of those sales—that has led to an inability to articulate a vision for how advanced broadband communication infrastructure will underpin social cohesion and economic expansion across all regions in Australia. It is this ideological agenda that has consumed the Howard government. Achieving privatisation is the only consideration, it seems—hence this

debate again in the Senate today. The neglect through ignorance of critical communications policies has been at the expense of Australia keeping pace with the rest of the world in quality, affordable broadband services, and hence Australia's capacity to compete in the knowledge based, high value added, future orientated industries.

The obsession with Telstra's privatisation has meant a preoccupation with increasing or maintaining Telstra's share price. Why? Because a higher share price means that the potential share buyers in any further sell-down will be willing to part with their money. This is a fundamental conflict of interest. It is the privatisation agenda itself that creates this conflict of interest, as the Howard government can only privatise if there is enough market interest in the shares—in other words, if someone wants to buy. This is why I found it extraordinary to hear the Minister for Communications, Information Technology and the Arts, Mr Williams, attempting to assert in a *Financial Review* article on Wednesday last week that indeed it was the remaining majority public ownership that somehow presented a conflict of interest. He said:

Labor failed to explain how it would deal with the conflict of interest the government has as both a majority shareholder of the telecommunications carrier and regulator of the industry as a whole.

It is absolute rubbish to assert that. In fact, it seems to conflict with one of the pieces of correspondence associated with the free trade agreement. I will quote from what I presume to be a draft letter subject to legal review for accuracy, clarity and consistency—like most of the correspondence associated with the FTA. I will read a paragraph from that letter which directly contradicts what Minister Williams was trying to assert in that article in the *Financial Review* last week:

Notwithstanding the Australian Government's current majority holding of equity in Telstra, Aus-

tralia's telecommunications regulatory environment is open and competitive and all telecommunications carriers are subject to the same regulatory scrutiny by independent regulatory agencies. The Government will continue to ensure that its interest in Telstra does not affect this regulatory independence. Telstra is also subject to Australia's policy of competitive neutrality as set out in the 1995 Competition Principles Agreement between the Australian Government and the state and territory governments. Competitive neutrality requires that significant government business activities do not enjoy a net competitive advantage simply by virtue of the public ownership.

It seems to me that obviously Mr Vaile and Mr Williams have not been talking on this issue. Any attempt to try to paint that the ongoing retention of the majority of Telstra in public hands as somehow a conflict of interest for Labor is both spurious and misleading. Labor has no conflict. Labor has clearly and consistently argued that it not only will not privatise any more of Telstra but it values any dividend returned to the public purse as a result of their remaining 50.1 per cent share in Telstra. At no point has Labor given any indication that the regulatory policy will be somehow used in the way that the article from Mr Williams implies. Telstra has consistently maintained that the ongoing dividend is of far greater fiscal benefit to taxpayers of Australia than any one-off sum reaped from the sale of Telstra. We have consistently argued that. Indeed, my colleague Mr McMullan has demonstrated on many an occasion the crossover point. Clearly the dividend from maintaining that public share in Telstra is the best way for Australian taxpayers to get that fiscal benefit.

Labor has stated specifically that the primary public policy goal is quality, affordable, future-proofed telecommunications services in Australia. For Labor there is no conflict of interest because there is no privatisation agenda. That is the real difference. It is worth reflecting on how the preoccupation

with maximising the share price has led to quite an irrational underinvestment in Telstra's infrastructure. The truth is that the sensible, long-term strategy for Telstra to maintain value in their share price would be to build and maintain infrastructure that is genuinely future proof and has an eye to the networks Australia is going to need in the future. Instead, we have Telstra admitting in a Senate inquiry that they are extracting the last sweat from their copper network—an ageing, decrepit, local loop copper network, as we have been able to demonstrate through various Senate inquiries and Senate estimates investigations. This is a disgrace and signals that at some point money will have to be spent on upgrading this network if Australia is going to remain competitive and indeed do justice to the potential that underlies these networks.

Senator Ian Macdonald—Who is going to provide the money?

Senator LUNDY—Senator Macdonald asked: 'Who is going to provide the money?' Invariably, under the coalition's policy, it will come back to the taxpayers to provide that money. It is an interesting point because the government is very keen to say: 'Who is going to provide the money?' I would like to come back to the issue of how the Commonwealth government has played its role in helping Telstra to fill the gaps over the years. In the process, it has managed to further entrench them in the market and has done very little to alter some of the underlying inefficiencies in the network. Indeed, it has not encouraged Telstra in any way to make the investment necessary to upgrade the network as a whole or, at the very minimum, maintain the existing network so at least it functions.

Where are the analysts on this issue? It was very interesting to see how quickly they commented on some of the revenue implications of the recent broadband pricing compe-

tition notice issued by the ACCC. But the analysts conveniently ignore profound statements such as Telstra provided at one of their more recent Senate hearings when they talked about their network being on its last sweat and being five minutes to midnight. Where are the analysts in commenting on Telstra's performance when they observe statements like that indicating that Telstra are reaching a crisis point? They have been unwilling to maintain the network to provide the necessary services. Further investment is obviously imminent, not to mention that some sort of substantial investment in new infrastructure has to be the logical conclusion to the state that Telstra have allowed their existing network to fall into.

We all know that Telstra are guilty of underinvestment. Telstra continuing their market dominance has had the effect of suppressing technological advancement. Obviously it is part of maximising their returns with minimal expenditure. We have heard a lot in this place about the reduction to their capital expenditure, or capex. The Howard government is guilty of helping Telstra along the way. I believe that, in partnership with the current management of Telstra, the Howard government has worked very hard to fool the public into thinking that somehow it has been acting on complaints about Telstra. One example of this is the way in which 19.2 kilobits was established as a minimum standard for Internet connectivity. This may have been so when web sites were flat pages with no images. Even then I doubt it, as 19.2 kilobits is, as I am sure even Senator Macdonald would agree, absolutely useless when it comes to downloading web pages of the calibre that are now available just through general services. Try using 19.2 kilobits in downloading an email attachment. If you have a PowerPoint presentation, you have absolutely no hope.

Senator Macdonald, I am sure that you, as I do, receive continuous complaints about line dropouts and slow line speeds. When people lodge these complaints, invariably the advice they get from Telstra is that they had better go and talk to their ISP or reconfigure their modem or computer in some way. Let me tell you, if it were not for the exposure by the Senate committees, the campaign about the use of pair gains and the ACCC's insistence that Telstra advise their customers about the existence of pair gains, Telstra would still be blaming the poor performance of Internet connections with their network on the modem, the computer or the ISP. What a lot of rot! Two years down the track, we now know that Telstra were covering up the use of this poor and outdated equipment and the fact they are still installing it today. There are many different types of pair gains. It sounds like a technical issue but the bottom line is that these types of systems that Telstra use in their network have a number of effects of inhibiting the quality of service for Internet connections. In some cases, they also have the effect of blocking access to some of the broadband style services like ADSL.

This is the Telstra that the government says is ready, is somehow up to scratch. I cannot think of anything further from the truth and believe that it is only by virtue of public ownership that Telstra finds itself accountable in this place. It is only by virtue of public ownership that we in the Senate have the capacity to demand answers to these questions. What better check and balance on a still dominant player that cannot even tell the truth to its customers following the asking of a direct question without the intervention of the regulator and focused parliamentary scrutiny? In itself, that presents a compelling argument to never, ever privatise Telstra in any further way whatsoever.

The other example of how the government has helped Telstra along relates to the report

that I know many senators have mentioned. The ACA has reported glowingly on Telstra's improvements in fault levels, only to find that the leaked internal Telstra document brought forward by Labor several weeks ago proved conclusively that Telstra's fault levels were soaring. This was due to underinvestment in the network and not to what the government and Telstra presented as an excuse—inclement weather incidences. These fault levels are at a six-year high, and this fact corresponds directly with the sort of feedback that all of my Labor colleagues and I have been receiving out and about in the real world.

Finally, I think it is fair to say that all the inquiries the government has organised and orchestrated have lent themselves to very soft recommendations that are compromised in themselves. I have already mentioned the 19.2 kilobits. We now know from recent evidence that this was a contrived speed designed to fit within what Telstra was capable of providing. In addition, we now also know that, despite Telstra having agreed and the government having supported a recommendation to remove the types of pair gains systems that I spoke about earlier, Telstra is only doing so when those systems become congested. It is not doing it off its own bat or in any proactive way, as was the commitment and understanding at the time.

There are so many issues in relation to Telstra, and I know that the Senate has spent a lot of time going through them. This debate does present an opportunity for the whole range of compelling arguments not only as to why Telstra is so far from being future proof but also as to why the government is so conflicted within its ideological privatisation debate as to actually persist with this argument. The government has caused this underinvestment by virtue of its privatisation agenda, and now we find ourselves in the

situation of having to defend once again the stopping of privatisation. (*Time expired*)

Senator BROWN (Tasmania) (7.32 p.m.)—The Greens totally oppose the **Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]**. We have done so all the way down the line and will continue to do so. I note at the outset that the sale of the first tranche of Telstra in 1997 made a fortune of \$3 billion in a day, mainly for local and overseas institutions. Then along came the second tranche, and the Prime Minister was amongst those telling 'mums and dads'—and I heard him using that term tonight on TV—to get out there and become part of the new phenomenon of everybody owning shares. They bought up very big and made a capital loss of \$6 billion very quickly. It is likely that the second half of Telstra will be sold at something like half the price of the first half.

Senator Ian Macdonald—So you concede that it is going to be sold, do you?

Senator BROWN—I said 'likely' in that circumstance, Senator Macdonald. I concede that, if the government got the numbers, it would sell Telstra at any price, because the people it relates to in the big end of town are going to make a killing out of it. That brings me to the motivation for this bill being before the Senate tonight, and that is the free trade agreement. There is no good reason for selling Telstra at this time. It would be a loss to the public purse, it would certainly be a very unattractive investment for those people who burnt their fingers in the sale of the second tranche and it would be a big loss to the long-term revenue stream for government for such things as education, health and the environment. But the free trade agreement has now come along and it has attached to it, amongst other things, a letter saying that the government will show its intention to sell Telstra. That is why we are here tonight.

Mr Acting Deputy President Cherry, I heard a very cogent argument from you earlier in the night about the other bills that are waiting to be dealt with by the parliament. The question is: why is this one being brought up and why are large amounts of public money and parliamentary time being spent at the moment debating this bill? The answer is George W. Bush. The Prime Minister wants to go and sign the free trade agreement with Mr Bush in the next month or two and maybe get some medal like the Legion of Honour around his neck in the United States before he comes back to call an election in Australia. But if he is going to be able to do that, amongst other things he needs to be able to say that he has faithfully carried out the requirements of the American establishment to whom he is so obsequious, and amongst those requirements is that he show good faith in pushing for the sale of Telstra.

Why is that? Because Telstra would be good pickings for American corporate interests if it were to be put on the public market and freed of the government majority that is there at the moment—just as sections of Australia's water industry and electricity industry, for example, have been good pickings for overseas companies in the past. However, we know now—and that is the difference between this debate and the last one—that one of the conditions extracted from the Australian government by the American negotiators, who outpointed the negotiators who were there with Mr Vaile time and time again in making the free trade agreement, was the commitment to again publicly make this commitment to the sale of Telstra. We are not about to endorse that. We will not endorse the free trade agreement, much less the making available of Telstra for potential sale to overseas interests who would be waiting to take parts out of it if it were to go into the hands of the private sector.

That having been said—it is there on the *Hansard* from Senator Nettle and me last October—let me reiterate on behalf of the Greens that we believe it is a much better thing for Telstra, in the interests of telecommunications fairness in Australia, to be in the public sector and out of the private sector. That is not unique to Australia. Many other countries—like Germany, Japan, France, Austria, Belgium, Finland, Norway, Holland and Korea—have their telecommunications in the government sector, because that way the whole of the people can get better access to the sort of telecommunications quality which otherwise tends to go to the city. We have seen that tendency even under the current telecommunications regime in Australia; it will only get worse if it passes into the private sector. We believe that Telstra in the hands of the private sector would see two very different standards and that those people who have not got much to offer in terms of profitability to the privatised giant would lose out.

We are also concerned about the revenue stream. We believe—and the figures to date from the sale of the first two tranches endorse this—that it is much better to keep it in the government sector and have the profits go into building schools, aiding hospitals and paying for security in the interests of the wider community rather than into the retirement of debt, which is nowhere near the bargain and which is much more short term than the long-term interest of keeping Telstra in the public domain.

Telstra is an important part of Australian life and an important force—provided it is kept under the impulse of government, parliamentary and parliamentarians' scrutiny—for the fair delivery of telecommunications in an age where communications are more important than ever before and will become even more important in the future as the world globalises. The Greens have not been

persuaded. Rather, we have been dissuaded from supporting the government's bill. No new argument has come forward. The only thing that has changed between now and last time, if you exclude the potential for the government to use this as a trigger for a double dissolution, is the free trade agreement. We do not think the interests of the American free traders should be paramount over the interests of the Australian community in getting excellence in telecommunications. (*Quorum formed*)

Senator McLUCAS (Queensland) (7.43 p.m.)—I rose in this place last year to speak to this very bill, which was rejected on 30 October 2003 by honourable senators. Labor has been and remains resolute in its opposition to the privatisation of Telstra. I again rise to contradict the government's intention in the *Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]* to sell down the remaining government shareholding in Telstra, for this bill would have a detrimental impact in the communities that I represent in Queensland and on services in other regional communities throughout Australia.

However, before I touch on those matters I want to turn to the government's motivation in returning to this place with identical legislation. Given that the parameters of this debate have remained unchanged over the last 4½ months, the action of the government appears to be a waste of both valuable chamber time and taxpayers' money. Yet the government had the opportunity to act. The government could have acted on matters of concern like providing protections to the continuing applicability of freedom of information legislation to Telstra. But they have not. There is also the matter of the future application of Commonwealth occupational health and safety legislation and there is the need to enshrine and strengthen protection for Australian telecommunications users living outside capital cities.

A privatised Telstra would be a giant private monopoly too powerful for any government to effectively regulate. It would be extending that power, with its deep pockets, into the media by buying up half the Australian media. It would focus inevitably on the most lucrative markets in the biggest cities at the expense of people in country Australia. We saw, only recently, Telstra spending in excess of \$600 million, a vastly inflated figure according to financial commentators, to buy the Trading Post Group. When I read of that event, it signalled to me yet more focus, on the part of Telstra's current executives, on corporate acquisitions rather than on core business and only served to reinforce my opposition to this bill. It seems to me that if Telstra wanted to get out of telephony and buy a television network instead, that would just be terrific for this government. If the people of Australia think that is a far-fetched scenario I have got sad news for them, for only a few years ago Telstra did in fact attempt to purchase the Channel 9 network.

It gets worse. Last week we heard about the government's plans for a \$3.25 million pre-election advertising blitz. Labor has released documents that reveal a Howard government plan which involves promoting Telstra positively in newspapers as a payback for receiving big advertising contracts. This is nothing short of a shameful, taxpayer funded cash for comment scandal. We learnt in the *Townsville Bulletin* today that these efforts to sex up the image of Telstra in the lead-up to the sale are known as WHAM, an acronym for Winning Hearts and Minds. Judging by the recent polls the government needs a bit of WHAM, but the taxpayers of this nation should not be asked to fund its desperate grab for votes.

It was embarrassing to watch Mr Anderson, the Minister for Transport and Regional Services and Deputy Prime Minister, last week on the issue of Telstra's service quality.

Minister Anderson could not make up his mind about whether or not Telstra's services to the bush and the regions were up to scratch. His bet each way last Wednesday and Thursday came at a time when Telstra's own internal documents show soaring fault levels that cannot this time, in the light of these same documents, be blamed on the weather. But rather than address these faults it seems that this government would rather spend taxpayers' money buying useless propaganda than getting Telstra to do their job properly.

Here we are again debating the same legislation with no augmentation to FOI, occupational health and safety, service requirements or the focus on utility functions that most honourable senators called for last time around. It is a stark reminder of the government's ideological agenda. The words, 'Just flog it,' sum up their position on Telstra perfectly. The outcome of this debate seems certain. Given that this is the case, why are we here today when there is no shortage of urgent legislation awaiting our consideration? Let me say that Senator Boswell has no idea. In fact, the Leader of the National Party in the Senate was reported in the *Cairns Post* on Saturday as saying, 'I don't know,' when asked why the government was bringing back this flawed bill to the Senate for another round of debate. Fellow senators, it is clear that we are here only to progress this government's ideological agenda and to augment their political positioning, and the taxpayers are footing the bill.

While the government continues to pursue its agenda, the situation in regional Australia improves not one iota and the National Party, including senators who know better or who, like Senator Boswell, should know better, continue to kowtow to the Prime Minister. As Senator Boswell and his colleagues well know, North Queenslanders have made their opposition to further privatisation well

known throughout the Estens and the Senate inquiries. Our business community has likewise voiced concerns about service levels through its participation in surveys which overwhelmingly demonstrate community concern. I spoke in detail on these points during my last speech and can assure honourable senators that the situation has not changed.

That is because the people of Far North Queensland know what is coming. They know that a giant, privatised Telstra will focus on the most lucrative markets in the major cities, following the dollars as shareholders dictate, at the expense of small markets like ours and lower income earners. As well as poor mobile phone coverage, faulty telephone lines and service difficulties with fixed telephone services, access to high-speed or broadband Internet services has emerged as a problem for regional Australians. Poor broadband coverage, inadequate dial-up Internet data speeds and constant Internet line drop-out are a fact of life in many communities.

On 17 March this year, over 20 residents of Holloways Beach near Cairns turned out on a very wild and wet night to tell Labor's shadow minister for information technology, Senator Kate Lundy, of how they have been led a merry dance by Telstra over the past two years on ADSL. The meeting at the Holloways Beach Community Centre was organised in consultation with Mr Col Evans, the president of the Holloways Beach Residents' Association, after my office had received numerous complaints. These complaints, I might add, came not only from Holloways residents but also from people living in the adjoining suburbs of Yorkeys Knob and Machans Beach concerning the lack of ADSL in these areas and the quality of existing dial-up services. I should point out to the Senate that these communities are approxi-

mately five kilometres from the CBD of Cairns.

A woman by the name of Glenda Andersen was unable to attend on the night but was one of many people to ring my office. She said:

The number of drop-outs is ridiculous and the speed is slow. I can't get broadband and have had to get a separate extra line put into my house which costs extra money and it hasn't helped the situation. The situation in Holloways is so bad that it makes me feel like giving up and not using the Internet and that's not how you should feel in this day and age.

At the meeting itself, some residents spoke of having been misled about the timing of ADSL services being provided from the Yorkeys and Holloways exchanges. Mr Robert Wood, from a business called Sands On The Beach, said that 95 per cent of his guesthouse business was generated through the Internet and when the business was set up two years ago Telstra had told him that ADSL would be available within six months. He is still waiting. Masons Studio Jewellery said they would have opted for ISDN if the Telstra sales representative had not dangled the ADSL connection carrot before them almost a year ago. That business's supply chain is totally dependent on the Internet and problems with dial-up reliability and poor bandwidth have meant missing many valuable opportunities.

The owner of the local newsagency at Holloways, Mr Bruce Sharples, spoke of the surprise that tourists staying at the major resort opposite his business experienced when having to grapple with dial-up rather than broadband. But of course that is all they, as a business, can offer because Telstra has not enabled the local exchanges for ADSL. Not surprisingly, Senator Lundy, who has an enormous level of technical knowledge about the nature of exchanges and broadband services, asked the Telstra representative pre-

sent to explain how the existing exchanges are configured. Obviously, once we have that information we can work out the level of investment required for these facilities to be upgraded or replaced. This is Telstra's bread and butter but unfortunately the Telstra representative on the night was not able to furnish residents with this information. My office was advised on 23 March by Mr Wally Donaldson, the local manager of Telstra Countrywide, that he also is unable to provide us with this basic information and that we will have to make inquiries through Telstra's national public affairs process. Senator Lundy and I will do that. We will follow that up through Senate estimates if necessary.

The other interesting fact that came out of the meeting was that these residents have had to register their interest for ADSL on not one but two separate Internet sites and have, on each occasion over the past 12 months, more than met Telstra's arbitrary targets for the provision of the service. So let us be clear: these targets that Telstra actively promotes mean nothing in reality. And as of last weekend the bar has been lifted to another level. Telstra's representative is now soliciting ADSL applications from members of the community—including, sadly, through the meeting that we held. The purpose of soliciting the applications, we are advised by Mr Donaldson, is to augment the business case for the FNQ Countrywide region to put to Telstra management.

This is all very well and good but if the business case has not yet been put, why has Telstra used its websites and sales advice to raise community expectations about the timing of ADSL service delivery? Surely the business case is as simple as estimating take-up rates using the demographics of Yorkeys Knob, Holloways and Machans and then estimating the forward revenue and making a judgment about whether this revenue warrants the cost of whatever exchange upgrades

or replacements are necessary. It is really not that difficult. I would commend an introduction to marketing textbook to Telstra to assist them in reaching a speedy decision on this issue.

And, if Telstra decide they are not going to upgrade the exchanges, the community needs to be informed that this is the case. This would enable them to investigate or negotiate alternative high-speed data services with other carriers. But rather than make this decision two years ago, Telstra has been happy to continue to collect revenue from dial-up subscribers experiencing high drop-out rates whilst reassuring these communities that ADSL availability is just around the corner. Since this meeting my office has had representations from other areas of Cairns. We have taken a call from residents in Brinsmead, an inner city suburb of Cairns, and I had a letter from the Cairns Adventist School. The letter said:

We have recently applied for an ADSL connection at our School. However we have been informed that our present lines will not support ADSL and that the signal would be too weak. As a growing education institution we need to be able to offer students and staff the best form of Internet connection. It seems strange that we are a school based in the central part of the city and yet we are unable to access ADSL ... we have found it difficult to liaise with Telstra and they are unable to give any answers ... it's not as if these are outlying rural areas.

Well, in my book this level of service is simply not good enough from a moral standpoint, nor is it ethical business practice. No wonder communities are researching alternatives. Telstra, in my area, is clearly providing inappropriate advice to many local businesses and residents who have acted in good faith on that advice and are now inconvenienced and out of pocket as a result.

Finally, I should report that the Holloways meeting was told that the member for Leich-

hardt, rather than highlighting this issue, has simply fobbed off queries with a similar approach. At least, according to one meeting attendee, he has been more honest by stating that in his view we are still some 18 months away from ADSL on the Cairns northern beaches. When one considers that the government is happy to sit back and allow Telstra to spend \$600 million on the Trading Post Group but will not direct it to spend what is needed to upgrade these exchanges to ensure residents get something approaching the data standards the corporation should be providing, Mr Entsch should just hang his head in shame.

I have highlighted one issue facing my local community. But there are hundreds of communities all over Australia who are getting a taste of what life will be like under a privatised Telstra. Many communities are suffering from poor or unreliable services or the complete lack of services as our network degenerates to something that seems held together with sticky tape and BluTack. And Australians are meant to believe that this bill will protect Telstra from being sold until certain standards in rural and regional areas are met. From the *Sunday Age* of 21 March we learnt that Senator Lees may now be 'prepared to reconsider her position if the government significantly improved telecommunications services across the nation and promised to spend all the proceeds from the sale—estimated at \$30 billion—on the environment and upgrading infrastructure.' Well, you would not want to hold your breath on this given what has happened to the Democrats' deal on GST, brokered by none other than Senator Lees herself.

Paul Pollard's paper for the Australia Institute, *Missing the target: An analysis of Australian government greenhouse spending*, makes it very clear that the Democrats, under the leadership of Senator Lees, were duded. The Howard government repeatedly trots out

the line that it is spending \$1 billion on greenhouse programs. In 1997 it committed itself to \$180 million over five years and in 1999 to \$796 million over five years. Pollard's analysis shows:

After taking into consideration all departmental greenhouse spending, the Howard government would need until after 2008 to deliver on its claim that it is spending \$1 billion on greenhouse programs.

Pollard goes on to state:

The Government should abandon this unsupportable claim.

The Government's failure to spend, in the time-frame agreed, the money allocated as part of the GST tax deal with the Australian Democrats is the primary reason for its inability to meet the target of \$1 billion.

Earlier this month, the Australian National Audit Office also analysed the Australian Greenhouse Office's failure to deliver on the government's promises.

Why should the environment be treated as a third-rate issue which can only be addressed by asset sales? I urge Senator Lees and other senators who sit on the cross-benches not to again fall for this contemptible way of dealing with the nation's pressing environmental problems.

It is clear that the government's guarantees about future proofing are nothing more than pro-sale PR puffery. The government is allowing Telstra to let Australia go backwards in terms of broadband. We are 19th in the OECD in terms of household connections. This is not just a niche issue; it is a fundamentally important issue for the development of regional Australia. It is what key corporate stakeholders and institutions from the north have told this government, but the government, as we know, is not listening. I hope my fellow senators, particularly those in the minor parties—the Greens, the Democrats, the Independents and One Nation—are listening. I urge them all to support Labor

and join with Labor to give voice to the view of the overwhelming majority of the Australian people, that Telstra should not be sold.

Senator STEPHENS (New South Wales) (8.01 p.m.)—I rise to briefly add my voice to the protests against the fact that, once again, we have the **Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]** before us in the Senate. We know that Labor remains absolutely opposed to any further sale of Telstra. Even after the Estens inquiry report, where the expectations of country people were that things were going to improve dramatically, those expectations have really been dashed and we continue to hear great tales of woe about what is actually happening out there in the bush. We know that communications services are not up to scratch and that the situation will only become worse under private ownership.

Everybody knows that a private company's main concern is to make a profit—the bigger the better. Providing high-quality services to less profitable areas, such as rural and regional Australia, certainly is not a priority for Telstra and will not be a priority for a privatised Telstra. No matter what the government says, we all know deep down that once the communications giant is sold we will not be able to adequately regulate it to improve and maintain essential communications services. Under the current government we are getting a taste of how a privatised Telstra might act and, to be frank, it is quite terrifying. Money is being squandered with overseas losses in the vicinity of \$2 billion, our infrastructure is ageing and crumbling, our line rental prices are out of control and jobs are being lost to overseas.

It was revealed just two weeks ago that internal Telstra documents show that faults in their network are at a six-year high and that the fault rate has been increasing since June 2001. Two days later the Australian Commu-

nications Authority conceded that 11 per cent of Telstra services had a fault in 2003. This is after having claimed in July last year that the percentage of Telstra services without a fault at the national level remained at around 99 per cent, while the percentage of services available nationally was about 99.9 per cent. What is really happening here? Are we being told that all of a sudden Telstra services have declined sharply or have we been misled about Telstra's service standards all along?

The week before last, Senator Forshaw and I travelled to the Riverina and western New South Wales, visiting electorates that are doing it tough under the current government. We spoke to many people and organisations about their concerns. Just like Senator Mackay, again and again we heard about the mess Telstra is in in the bush. At Deniliquin for example, the locals told me the weekend I was there that their CDMA network had been down for two days; when they contacted Telstra about the situation they were told by Telstra that there was no problem at all with the network, even though they could not physically use their CDMA phones. A similar situation occurred in Balranald over Christmas. This occurred in areas where people are having to rely on the network for their work.

Just as with other senators' staff, my electorate staff are constantly receiving complaints about Telstra. I recently had a constituent from Candelo in south-east New South Wales who has been having trouble with a faulty telephone line for years. The problems include incessant buzzing and clicking while on the phone as well as continuous Internet connection drop-outs. Telstra finally traced the trouble to a section of above-ground cable that had suffered extensive damage over time. They have patched up the cable on a number of occasions but the problem just keeps resurfacing. This family, and other residents who are affected by

this poor cabling, are being driven to distraction by poor servicing by Telstra contractors and by inadequate solutions to longstanding problems—and they are desperately seeking a satisfactory response to their pleas.

I know I make much of the discrepancy between metropolitan and regional services, but society as a whole is becoming more reliant on telecommunications services to carry out everyday tasks. Regional businesses these days need effective telecommunications services to do their day-to-day business. That is the expectation of customers and clients: a reliable telecommunications network that allows people to go about their business, regardless of where they live. It is also the expectation of government. Government departments rely on being able to engage with their customers and clients, and that is not an easy task if you are connected through an old copper line exchange with a baud speed of 19,000 on a good day. But Telstra certainly is not living up to those expectations. Its services are falling far short of both community and government expectations.

Every member of this place, if truthful, can provide examples of the ongoing problems being experienced by their constituents, whether it is line faults, lack of high-speed access or service response times—even, as I most recently heard, a lack of available telephone lines for a regional community, so a new business that wanted to set up their online business discovered that there were no lines available until the exchange could be upgraded. Months of delay was involved. The consequence of course was that this business moved elsewhere—to somewhere they could get telephone numbers allocated for their business stationery, and where they had access to ADSL and telephone lines to actually conduct their business. That is hardly good enough, especially when Telstra has reduced its full-time staff from approxi-

mately 51,000 to just over 37,000 since 1999—many from the maintenance and customer service areas—and when capital expenditure has been reduced from \$4.478 billion in 1999-2000 to \$3.437 billion in the last financial year.

Telecommunications is vital in our everyday life, and this government is plainly cutting corners. Telstra fault levels are soaring due to underinvestment in the network and, as Senator Lundy described, the fact that we are using old technology. We are witnessing the reduction of maintenance staff and funds. It is vital that there be a real concentration of time and money put into infrastructure, in particular where it has fallen behind—in regional Australia, where we need to be encouraging businesses to set up and offer employment in the bush. I, for one, do not believe in letting communities that are already suffering a downturn created by the drought just fall apart for lack of employment and opportunities. We need to attract people to our regions by making relocating a business to a smaller city or a rural community attractive. Last week I spoke to community and small business groups in Dubbo, who were particularly interested in and well-informed about this whole issue.

Apart from incentives that might be offered, the first step is to make sure that business has access to the technology that metropolitan centres have. We need to provide a level playing field so that relocating or establishing a business in the country is a viable option. With business comes jobs, and with jobs come financial security, services, professionals, families and so on. The primary problem appears to be access to high-speed Internet or broadband services. ADSL and cable broadband is nonexistent in many parts of regional Australia. Regional Australians have to pay significantly more for satellite broadband access, which is far more expensive and, arguably, an inferior broadband

technology. We in the country know that if Telstra is sold things will only get worse, and the impact it will have on our rural towns and communities could be devastating. Telecommunications and Internet services are essential in today's world, and they are essential if rural and regional Australia is to be able to compete with cities for business opportunities and jobs. Labor is committed to providing these opportunities. A privatised Telstra will focus on the more lucrative markets in the bigger cities and, consequently, neglect the interests of lower-income and regional Australians.

Beyond the fall in the quality of services, other concerns are that discount concession schemes for pensioners will be in jeopardy and that pressure will be placed on the government to introduce timed local calls. People already struggling with higher line rentals now face the prospect of increases in their bill each week. Just the week before last the ACCC issued a competition notice to Telstra over its broadband pricing strategy. It appears that Telstra is charging its wholesale broadband customers more than its current promotional consumer rate, which is a \$29.95 a month plan. On the face of it, it looks a little like a Telstra that is already exerting its market dominance in order to force others from the market. We will certainly watch with great concern if Telstra is successfully sold off. It is inevitable that a privatised and entirely market driven giant will abuse the power it has adopted. A majority publicly owned Telstra is the only effective way of making sure that all Australians have telecommunications access, let alone allowing people in regional areas to advance alongside our city counterparts in the areas of technological advancement.

The future-proofing arrangements for regional telecommunications services offered here by the government are no guarantee of reasonable future levels of service—they

cannot be taken seriously. The ministerial power of direction will be lost with the sale. This is an important reserve power to be used if Telstra acts in a manifestly inappropriate manner and refuses to redress such action. It is a way in which the government can ensure that people are not forgotten for the sake of profit at any price. Telstra's reporting obligations will also be lost when the Commonwealth's equity falls below 15 per cent. The obligations include the giving of financial statements, notification of significant events, keeping ministers informed and requirements for corporate plans. A privatised Telstra will do precisely as it likes—profit will be its sole motive.

Labor will use a four-point reform strategy to bring Telstra back to its primary role and maximise the benefits of competition. Telstra will be required to focus on its core responsibilities, to reduce its emphasis on media investments and failing foreign ventures, and to increase its focus on what Australians need: the availability of affordable and accessible broadband services for all. There will be greater regulation of its business practices—such as stricter internal separation of Telstra's wholesale and retail activities—consumer protection will be increased and the price control regime will be made fairer. Under this government Telstra is already acting as if it were privatised, and we are feeling the effects. Labor will oppose this bill to the end because we believe that all Australians need these services to be consistently improved and maintained, and we know that majority government ownership is the only way to do this.

Senator MACKAY (Tasmania) (8.14 p.m.)—Mr Acting Deputy President Cherry, I admit to being a bit puzzled about why we are here debating the *Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]* today. I did listen with great interest to your contribution earlier and I must say I concur

entirely with your analysis. Further, I note what a waste of chamber time this is when we have a whole lot of legislation on the agenda. I am also puzzled for another reason: to be talking about selling Telstra must mean that the government has ensured that telecommunications services in rural and regional Australia are, to quote the Prime Minister, up to scratch. They must be. Why else bring it back on? The government promised the Australian people that it would not proceed with the full privatisation of Telstra until service standards improved—until services were 'future proofed', to use the government's term—and it had ensured that rural and regional Australians would not be relegated to receiving second-class services into the future. The fact that we are here debating the full sale of Telstra must mean that all this has been achieved.

Senator O'Brien—Or it's a non-core promise.

Senator MACKAY—That is right: or it is a non-core promise, because this government is always true to its word. The government claims it has a mandate to sell Telstra as a result of the last election campaign. It does not. The policy that the government took to the last election was that it would not sell Telstra until services were up to scratch. This government would never play fast and loose with the truth, would it? For the purposes of Hansard, that is called irony. I would like to believe that. I would like to believe that this government and Telstra have had an epiphany, that they have seen the light, that they have had a damascene revelation and that they are now genuinely committed to improving standards, to fixing the disintegrating fixed line network, to providing adequate mobile coverage and to ensuring the availability of high-speed, reliable Internet access. But I am afraid I just do not believe it. I do not trust this government. I do not believe that this arrogant, ideologically driven gov-

ernment—or, to use the words of Shane Stone, this mean, tricky and out of touch government—will do what they say.

Nor do I believe Telstra, an organisation that is beginning to reflect the values of this government. Telstra is another arm of the government these days, as far as I am concerned. It is an organisation that is showing contempt for the Australian people, an organisation whose chief, Ziggy Switkowski, has not once deigned to appear at Senate estimates, the mechanism through which Telstra is accountable to the Australian people. He has not appeared once at estimates and yet he managed to appear as a guest speaker at a \$600-a-plate fundraising breakfast for the Treasurer, Mr Costello.

I do not believe the government because I know, as every Australian knows, that Telstra's services are far from being up to scratch. I have seen with my own eyes the cables wrapped in tape and plastic bags. I have driven less than half an hour from Hobart, the capital of my home state of Tasmania, and not been able to get mobile phone reception. I have spoken with constituents who are frustrated about the slow dial-up Internet speeds and inadequate broadband access. I have seen the documents that Telstra and the government do not want us to see—the fault documents and the leaked document released by shadow minister Lindsay Tanner the other day that showed that Telstra is all too aware that it is presiding over a decaying network and is doing little to fix it.

I have seen Telstra decimate its work force, sacking the workers who were employed to keep the network in a state of good repair and cutting back its capital expenditure budget, leaving a dilapidated network simply unable to cope. From the financial years 1999-2000 to 2002-03, according to Telstra's own figures, full-time employment

has fallen from 50,761 to 37,169 whilst capital expenditure has dropped from \$4.5 billion to \$3.4 billion. At the same time I have seen Telstra blow huge amounts of money on overseas investments, with write-offs of billions of dollars the end result. I have watched with disbelief as its plans to buy Fairfax were revealed, followed by the overpriced acquisition of the *Trading Post*.

Then as recently as last Friday I read in the *Australian* that the Telstra board members plan to all fly first class to London, at \$14,000 a head, for their May meeting. I understand this has been put off because of the unavailability of some of the members. I am sure that the people of Australia will be relieved to know, however, that the trip has only been postponed until some date in the first half of the year and that the board members will get the opportunity to 'observe technological best practice in the telecommunications industry'. I guess the fact that the Telstra board feels it needs to fly to England to see best practice in operation says something, doesn't it?

Telstra has taken its eye off its core business, the business of delivering high-quality telecommunication services to all Australians. Telecommunication services are vital to the life of this nation. Labor are committed to retaining majority public ownership because we know that without it we can say goodbye to high-quality, equitable access to those vital services. We only have to look at recent events to know that there is no hope for rural and regional Australia under a privatised Telstra.

We discovered last Wednesday, again courtesy of shadow minister Lindsay Tanner, that the government was secretly planning a \$3 million pre-election media campaign to try to con rural and regional Australians into believing that Telstra should be sold. So weak are the government's arguments that

this campaign would have seen the government in effect bribing regional papers to run its lines. The plan, it seems, was for the government to pay for full page ads in exchange for stories based on information from the communications department.

Senator O'Brien—More cash for comment.

Senator MACKAY—Yes, indeed. The government would not have to consider this appalling misuse of taxpayers' funds if it simply ensured that Telstra lived up to its obligations. As I have said, the government promised not to sell Telstra until services in regional and rural Australia were 'up to scratch'. So let us have a look at this bill before us to see what guarantees there are for rural and regional Australians, who may not be prepared to simply take the government at its word. Surprise, surprise, there are none. This bill contains no caveat that Telstra cannot be sold until regional services are up to scratch. If this bill is passed Telstra can be sold at any time of the government's choosing. Rural and regional Australians will have to trust the government. They will have to trust the Prime Minister, the Treasurer and the finance minister to put the interests of the regions ahead of a fist full of dollars to spend on debt reduction.

Let me make this absolutely clear: the government have said again and again that the Telstra sale proceeds will go on debt reduction. The Treasurer has said that and Senator Minchin has said that. But nobody else seems to recall that from the other side of the chamber. It is the Howard government's policy, and they have repeated this every time they have been asked outright, that the sale proceeds will be used to retire debt. It will be spent on debt reduction because to do anything else, Mr Costello tells us, would send the budget into deficit. That is true. Yet we had the spectacle of Minister

Anderson, the Deputy Prime Minister and Leader of the National Party, allowing phoney debates to take place at National Party conferences about how the cash is going to be spent. So The Nationals need to be honest with themselves and their constituents about that.

Senator O'Brien interjecting—

Senator MACKAY—I know, it is a big call, isn't it, Senator O'Brien. Senators from the minor parties and Independent senators need to recognise that there will be no buckets of cash for rural and regional infrastructure and there will be no buckets of cash for the environment; there will be a one-off repayment of debt and a forgoing forevermore of the revenue that is returned to the Australian people by virtue of their majority ownership of Telstra. So, to recap, this bill contains no provisions to delay the sale until the services are 'up to scratch', whatever that actually means. We must rely on the government to determine when that might be. That is a bit of a worry I think—call me crazy.

The Prime Minister, speaking with Libby Price on ABC radio on 8 November 2002, when the Estens report was about to be released, said:

... I said that we wouldn't have a further sale of shares in Telstra until we were satisfied that things were up to scratch in the bush. That's the expression I used and it's the expression I continue to use. There will always be some people who can say that there's something more that ought to be done and can be done, it's a question of what is a reasonable test of that condition.

He went on to say, and I think these are very important quotes in the context of this debate:

... I think we have come a long way, I really do, and there has been a very significant improvement in services and that will be apparent. There are some areas where further change and improvement is still needed, that will be apparent as

well. But you have to look at the whole picture, you have to apply a reasonable test.

It is those words, I believe, that should have set alarm bells ringing around the country, particularly in rural and regional Australia, because the Prime Minister was admitting that he would not necessarily wait until services were up to scratch—that it would depend on a reasonable test of that. And on whom are we supposed to rely for that ‘reasonable test’, to use the Prime Minister’s terms? Surely not the Australian Communications Authority, the so-called communications watchdog, who admitted to me in Senate estimates last October that their published figures on Telstra’s faults were misleading. Perhaps they were not deliberately misleading, but they were misleading nonetheless. Perhaps, again, we will just have to trust the government on this one.

The Prime Minister’s last few words in that interview on ABC radio were the most chilling. Let me repeat them. He said:

But you have to look at the whole picture, you have to apply a reasonable test.

By ‘look at the whole picture’ the Prime Minister is saying that we have to weigh up what is in the government’s best interests regarding the timing of a sale and what may be in rural and regional Australia’s best interests regarding service standards. I know, in terms of the form of this government, which way the scales will tip.

In my role as deputy chair of the communications legislation committee, I took part in the inquiry into this bill—together with you, Mr Acting Deputy President, and Senator Eggleston, who I note is in the chamber too. We received over 150 submissions from all around the country. Only six of those, you would recall, were in favour of the bill. One of those was from the government—quelle surprise!—one was from Telstra, and there is no shock there; two were from investment

banks who stand to profit hugely from the sale of Telstra; and only two were from truly disinterested parties. We also travelled around the country, at least to those parts of the country the government would allow us to visit—you would recall that debate—and heard first-hand the evidence about how sorely lacking services are. Even the Deputy Prime Minister’s friend Dick Estens, of the Estens inquiry, effectively admitted in the Dubbo hearing that regional services were not up to scratch. That was on 1 October.

Twenty-nine days later, the government—and that includes The Nationals—voted in the Senate to pass this bill. The Nationals voted to sell out rural and regional Australia, and the government did the same. I should point out here that the Tasmanian Liberal senators were complicit in that as well. That is the arrogance of this government: they get clear and detailed evidence that services are substandard and then, despite the Prime Minister’s promises to the contrary, turn around less than a month later and vote to sell off Telstra, guaranteeing that those services will never improve and condemning rural and regional Australia to receiving second-rate access to telecommunication services forevermore. Fortunately for rural and regional Australia, Labor, the minor parties and the Independents did not sell them out and the bill did not pass the Senate. So what did the government do? As you pointed out, Mr Acting Deputy President, they simply waited a couple of months and brought back exactly the same bill. Such arrogance from a completely out of touch, tired and lazy government.

Let me have a brief look at what else this bill allegedly offers those in rural and regional Australia. The government claim that, in this bill, they provide some guarantees of service levels in the regions. The provision exists for an optional regional licence condition, the terms of which are entirely at the

discretion of the minister. When my colleague Senator Lundy asked at our hearing whether this could theoretically consist of a Telstra shop in Gundagai and one technician in Kalgoorlie—in terms of fulfilling the provision for Western Australia—the official from the department of communications told her that, yes, it could. That is not much of a guarantee in respect of presence. The reality is that this bill provides no prescribed regional service standards at all. Once again, the government are asking us to trust them on this.

I do not have to rely on anybody's instinct to know we cannot trust the government on this one. We only have to look at what happened with the Estens report recommendation that a minimum of 19.2 kilobits per second Internet speed be guaranteed to all Australians. Dick Estens himself has since admitted that this speed is no longer adequate—and good on him for doing that. But, even given the less than adequate initial recommendation, the government have still failed to act. The government made much of how they would respond to this and other Estens recommendations in full. But as it turns out, all the government have done is ensure that Telstra has to provide this speed if requested, and only then if it is not prevented from doing so by circumstances beyond its control. What are they? Could they be that the customer chooses to live in a rural or remote area perhaps? Would that count as circumstances beyond its control? This condition is an absolute joke. It is double jeopardy: you need to know to ask and then, even when you do ask, there is no guarantee you shall be given. The government roll over to Telstra yet again.

That brings me to the final of the so-called protections for rural and regional Australia contained in this bill—the five-yearly review of regional services by a committee to be appointed by the minister, a committee of the

minister's mates with no obligation for the minister or Telstra to act on any recommendations even assuming that the minister's mates would make any recommendation. That is another joke, I believe, being perpetrated by this government. These are just some of the reasons why Labor will not be supporting this bill. I will not be supporting it because I am not prepared on behalf of rural and regional Australia and my home state of Tasmania to take this government on trust. I will not be supporting it because the government cannot be trusted, as this bill shows. Even where there are supposedly guarantees for rural and regional Australia, the government has yet again played mean and tricky and those guarantees are not worth the paper they are not written on. Even if I and the Labor Party were prepared to countenance the idea that we may all be better off with a giant private monopoly delivering telecommunications services in this country, I would not be able to support the bill in this form and neither would Labor. At the end of the day I do not believe that Telstra should be fully privatised. I believe that it is only by retaining Telstra in majority public ownership that Telstra will be forced to focus on delivering high-quality and equitable services for all Australians. If we pass this bill we give up public scrutiny and accountability at our peril. I oppose the bill, as does Labor.

Senator BUCKLAND (South Australia) (8.31 p.m.)—I too rise to speak on the **Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]**. Labor has always opposed the full privatisation of Telstra and will continue to do so. The bill repeals provisions of the Telstra Corporation Act 1991 that requires the Commonwealth to retain 50.1 per cent of equity in Telstra, and that then, of course, would enable Telstra to be fully privatised.

Labor oppose the full privatisation of Telstra because we believe that telecommunications systems are essential services, and essential services like Telstra must continue to be provided by the government—not by a contractor, not by a private company, but by the government. This is particularly important because of Australia's geography. We are disproportionately reliant on telecommunications as a public utility because of the vast distances between major centres. This issue of distance makes telecommunications vital to the social fabric of our nation as well as contributing to our economic performance. It is only through majority government ownership that Telstra can be sure that it delivers a high-quality telecommunications service to the Australian people.

If you go to the remote areas of South Australia, as I often do—and we hear that others do but they do not seem to come back with the story of the people—and if you visit places like the northern Flinders Ranges or the Oodnadatta Track or north of Coober Pedy or to the West Coast and the Eyre Peninsula or if you go to the Yorke Peninsula or the south-east of the Mallee or the mid-north of South Australia, you consistently get told that they were under the illusion that all of their service needs would be provided before this sale was to go through. It was an illusion. The services and repairs they were promised when breakdowns occurred would have been provided by now if the government had been serious. They were not serious and they misled the people into believing that this was the right thing to do. To privatise this very important service that we have is the wrong thing to do.

When The Nationals come back to report in the Senate that they are happy with the deal, it is hard to understand where they are getting that information from. They are certainly not getting it from the bush. The people in the bush are very clearly saying, 'We

do not want to sell Telstra.' That may be the view of South Australia where we do not have The Nationals, apart from a state member, but I cannot imagine those in outback Queensland or outback New South Wales or Victoria being any different. They too fear what the government is doing with this bill.

We oppose the full privatisation of Telstra because Labor believe that a fully privatised organisation would put profits and shareholders far and above the interests of the consumers, especially in unprofitable rural and regional areas of Australia. And that must be right because every business does that and we understand that. Business operates on profit for its shareholders: it does not worry about the consumer as long as the money is coming in. So why would a privatised Telstra worry about the few in the bush when they are getting the majority of their profit from city based consumers? Indeed, they would not even be providing services to those folk in the bush.

We all know that private companies have the very high principle of loyalty to their shareholders, not their customers; we have seen that time and time again. When a company goes bad, it is the customer that suffers first. Evidence received during an inquiry into the further sale of 50.1 per cent of Telstra suggested doubt over the government's ability to regulate a fully privatised Telstra. Maintaining majority public ownership of the company ensures protection of the public interest and also ensures accountability through the parliament.

We also oppose full privatisation because of our belief that continuing government ownership has a beneficial effect on the Commonwealth budget. The Commonwealth budget is reliant on dividends generated by Telstra. The flow of the dividend stream would be terminated if Telstra were to be fully privatised and, in turn, there would be

an adverse effect on future government revenues and budgets. We have already heard Senator Mackay say that the government have made it very clear that they intend to retire debt with the money raised through the sale. It is estimated that the sale of Telstra, based on conservative assumptions—I did this work on this particular bill some time ago, but these are conservative assumptions—would make the budget worse off by more \$2.1 billion over the four-year period beginning 2005-06. It is also suggested that there are direct budget costs associated with selling Telstra such as: paying financial advisers, and we have heard about that; forgone Telstra dividends; and public debt interest savings. How can the government say to Australians that there are valid arguments to fully privatise Telstra? There are no valid arguments, and that is why Labor will keep control of Telstra.

Another reason we oppose full privatisation is that it will be harder to regulate Telstra once the ministerial power of direction in the Telstra Corporation Act 1991 is removed. The ministerial power of direction is gone once the government's share falls below 50 per cent. This is a very important reserve power for the government to make sure that Telstra behaves in a way that best protects the nation's interests—not their own, not the company's and not the shareholders' but the national and the public interest. Once the government's equity in Telstra falls below 50 per cent the government can no longer exercise its authority over Telstra on a range of Commonwealth acts and regulations.

Clearly, a fully privatised Telstra will put shareholders first, and the future employment security of employees will be threatened. This government keeps pretending it has, and keeps lecturing the Labor Party on, a commitment to working people and employment; it is all a sham as it has no inter-

est, because this bill will threaten the livelihood of many. The CEPU's submission to the inquiry into the bill suggests that Telstra's staff and investment cutbacks under the Howard government and the resulting serious problems with Telstra's network will only get worse if Telstra is privatised. The CEPU documented Telstra's decline in staffing levels from 76,522 in 1996 to 37,169 in 2003, a loss of 39,353 jobs over 6½ years. It is no good getting up and saying, 'They all got picked up by contractors,' as that is nonsense. That did not happen; there is absolutely no proof of that happening. In fact, there is no anecdotal or real demonstration that the government had any intention of those people being picked up, nor was there any intention by those who took over the contracts of taking on people who were former Telstra employees. That is why we have people employed by Telstra on the west coast of South Australia going into the Northern Territory, Western Australia and New South Wales—and no doubt coming the other way as well—to service clients' needs. The CEPU added that majority public ownership of Telstra would help ensure that Telstra behaves in a socially responsible manner. It is important that we have this organisation which is looking after the bulk of our telecommunications needs. That includes things like the Internet, broadband and other services of that nature that I am not sufficiently technically minded to test my hand on, but I do know that it provides all of those services.

Senator Forshaw—Give it a go!

Senator BUCKLAND—I could, and I would outdo the government on my knowledge, but I will not do that. It is clear that this government does not have the interests of the public at heart. Real social responsibility goes the day that the government hands over the key, which it is so interested in doing. So it is for these reasons and a raft of others that Labor will continue to oppose a

fully privatised Telstra. Importantly, we believe that a fully privatised Telstra will threaten employee security. For some of us, it means a lot that there is employee security, that people have a job to go to—not a part-time job, not a casual job but a job that is there each day that they go through the front gate. These people travel vast distances in remote locations, out of contact with others for many hours, to help us keep in contact with each other, and everyone in this chamber benefits from that probably on an hourly basis.

A fully privatised Telstra will see public accountability through reporting become a thing of the past. Under this bill, Telstra will no longer be subject to the Freedom of Information Act. Only by keeping Telstra in public hands will we ensure Telstra is accountable to the people of Australia through our parliament. The bill, if allowed to go through parliament, will enable the government to sell Telstra when it suits them, regardless of whether the services provided by Telstra are up to scratch—the services it promised would be up to scratch before the sale. And, clearly, they are not up to scratch now. There was evidence presented to that inquiry suggesting that service standards have not improved sufficiently to warrant the sale of Telstra. It is also evident from the inquiry and the Senate's Australian telecommunications network inquiry that services are below par in regional Australia. It is fairly important to understand that because it is in regional Australia where you have isolation that you rely more heavily on these services than in other centres. The National Farmers Federation stated in its submission to the inquiry into this bill that there was some way to go before Telstra services are 'up to scratch'. Their position has not changed. Quite frankly, services are worse.

Look at the situation we have now in the Riverland where the large Greek community

relies on Telstra to provide for them by relay on Sundays their Greek devotional services for free. At the end of the month I understand that they are going to have to come up with some \$7,000 to continue that service. That is going to be hard if they cannot come to some arrangement. What happens when it is privatised? That will be the end of this very important community service. It cannot be conceived that a private company would be prepared to provide this valuable service without full payment. They are already being asked to pay \$7,000 or more. It is going to be more under a privatised provider.

I was interested to read in the report a letter that Mr Steve Olive of Bathurst in New South Wales wrote to the inquiry opposing the sale of Telstra. In his letter he stated:

When you sell Telstra off completely you will be creating Australia's Microsoft—a totally dominant organisation with little regard for community requirements or desire to support areas that don't drive high profit.

We read regularly about Microsoft. As I say, I am not able to say much about the technology of computers or that sort of thing but I do have a son who works in the industry and by listening to him I can pick up some words. I know that companies like Microsoft have set themselves up to become governments in exile—certainly in the revenue raising area. They pride themselves on that. A fully privatised Telstra would result in a huge private monopoly that would be too powerful for any government to effectively regulate. Telstra has the largest market share in fixed line, domestic long-distance, international calls, mobile and Internet access.

Full privatisation raises genuine doubts as to whether regulators such as the ACA and ACC, who are trusted by the Australian people, will be able to prevent and regulate anti-competitive behaviour. Their monitoring and reporting role came under scrutiny during committee hearings into this bill. The inquiry

revealed that some of their reports on Telstra's performance were seriously misleading. And the public is being seriously misled by the government in what it is saying are the reasons for wanting to sell. For example, the network reliability framework 'percentage of service without fault' and 'percentage of service availability' figures that have been released have passed off monthly averages as annual averages—somewhat misleading. As a result, the government and Telstra were able to claim that Telstra's annual network reliability framework figures are above 99 per cent, which contradicts anecdotal and union evidence about poor Telstra network reliability levels. If ACA's effectiveness as a regulator preventing and redressing anticompetitive behaviour is in question before a fully privatised Telstra, it will be even more so if Telstra is fully privatised.

Labor believes that Telstra should remain a majority publicly owned company providing high-quality telecommunications services to Australia for all Australians regardless of where they live. For those reasons, I, with Labor, strongly oppose the further sale of Telstra.

Senator WONG (South Australia) (8.51 p.m.)—I have a sense of *deja vu* as I rise to speak on the **Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]**, which is not surprising given that this is identical to the legislation that was rejected by the Senate in October last year. If any elector were listening to this debate, they might well ask, 'What has changed in the intervening period?' What major change has there been in the factual circumstances we are confronted with or in any other policy issue that has led the government to reintroduce a bill identical to the one that was so recently rejected? Very little seems to have changed. If anything, from some of the figures we have recently seen regarding Telstra's fault rate, things may well have got worse. So one wonders

why the government is insisting on proceeding again with a piece of legislation identical to that which has already been rejected.

When I spoke on the previous legislation on the full sale of Telstra I raised a number of issues that have not been resolved in the short passage of time since the bill was defeated. Primarily, the concerns I raised were the clear difficulty a government would have in regulating a private monopoly of the dimension and nature of Telstra, which is what Telstra would become if it were sold, and the critical role Telstra plays in our national infrastructure. I will start by referring to the second reading speech, which was circulated with the bill. I would like to bring to the chamber's attention one of the assertions made in it by the minister which, to my way of thinking, is inaccurate. In the second reading speech he says:

Changes in Telstra's ownership status, however, will not affect the Government's ability to protect the interests of consumers, competitors and the public generally.

It is the fallacy at the heart of this assertion which forms one of the key reasons that the Labor Party continue to oppose the full sale of Telstra. The fallacy—the mistake in the government's thinking—is that somehow the change in ownership would not affect the government's ability to achieve outcomes for consumers. That is simply not true. Senator Buckland, who spoke before me, raised the example of Microsoft. It is not a bad analogy at all, Senator Buckland, because it reminds us of what occurs in a market which is dominated by a single player, where there is a virtual monopoly in a particular industry or sector of industry. It reminds us how powerless governments can be when confronted with that sort of market power and monopoly. It would be impossible for a government to effectively regulate a fully privatised Telstra in the current market conditions. It is that fallacy the government keeps maintain-

ing in the face of evidence to the contrary which goes to the heart of our concerns with this legislation.

Given the nature of the telecommunications market, the virtual monopoly that Telstra has in many areas, and its size and dominance, the reality is that regulation would be rendered ineffective when it comes to maximising benefits to consumers. There are times when regulation is the appropriate mechanism for governments to intervene in the economy. This is not one of them by itself. Obviously we can have regulation but we also need the safety of maintaining the majority share ownership in public hands. When it comes to Telstra, the government continue to tell the Australian people that it is in their interests to sell off this public company. The government make this argument on the basis of questionable accounting. They also seek to rely on hollow assurances regarding the standard of Telstra services, particularly with reference to the level of services to regional and rural Australians. I am reminded of a reference in the second reading speech which really encapsulates the 'take us on trust' approach of the government when it comes to this legislation. That reference reads as follows:

While the Government is moving to establish the legislation immediately, it has undertaken not to proceed with any further sale of Telstra until it is fully satisfied that arrangements are in place to deliver adequate telecommunications services to all ...

It is a very high, fine-sounding statement. It is a pity that, given the government's record on this, it is not believable. It is astonishing that a government would bowl up to this chamber of the parliament saying, 'Trust us on this critical issue of services to regional and rural Australia in this legislation.'

The reality is that this is one of those occasions where regulation is not the most effective means of achieving beneficial out-

comes. This is one of the occasions when public ownership is important—and there are such occasions, although it is not very fashionable these days to talk about it. I would suggest that there are two principles you could postulate to justify where you would prefer regulation: first, there is no good reason for governments to be in the business of that sector, and, second, there is reasonable competition within that sector so that consumers have the benefit of competition and no one company has a virtual monopoly. Those are the situations where regulation is appropriate. This is not one of those situations. This is not the case when it comes to the telecommunications market in Australia. The reality is that the vast majority of telecommunications services available to and utilised by Australians are still delivered by Telstra. The rate is even greater outside the metropolitan areas of our country. In rural and regional Australia, by and large it is Telstra that delivers those services. Telstra's network essentially has a monopoly across most of Australia.

Given its position in the market and its virtual monopoly across many sectors of the telecommunications market, it is difficult to see a privatised Telstra, with its No. 1 priority being its loyalty to its shareholders and not to Australian consumers, putting money into what it would regard as low-profit areas in rural and regional Australia. In those areas, as we know, infrastructure requirements are expensive. The fact is that a privatised Telstra simply could not justify to shareholders spending that money on a budget bottom line basis. It is expensive to deliver these services into many areas of Australia. For a private company, it would simply not be worth their while to do so.

It is even more ludicrous of this government to continue to suggest that a company the size of Telstra, with its extraordinary market dominance, could be effectively regu-

lated so as to ensure that these services were kept up to scratch, let alone improved and enhanced. The reality is that a privatised Telstra would be too powerful for any government to properly regulate. It would seek to dictate policy and regulatory issues and its primary loyalty would always be to its shareholders, not to Australian consumers.

Even as it stands, Telstra is struggling to deliver what we would consider to be fairly basic services. There has been some talk previously in this chamber about the Estens inquiry. That inquiry was a sham. It received hundreds of complaints from regional Australia about poor regional telecommunications services, but unfortunately many of these complaints were ignored in the ensuing political whitewash. Nevertheless, poor mobile phone coverage, faulty telephone lines, poor broadband coverage, inadequate dial-up Internet data speeds and constant Internet line drop-out are just a small selection of the problems experienced by regional Australians.

The cruel irony is that the government know this. They know that services in what is supposedly one of their core constituencies are not up to scratch, but they still say, 'Take us on trust.' The minister's second reading speech to this chamber said: 'Take us on trust. We just want to put up a mechanism so that we can privatise Telstra when we want to but we promise not to do it until we are fully satisfied that arrangements are in place to deliver adequate services.' I suppose that is a little bit like the never, ever GST—another one of those promises which the Australian electorate could not rely on the government to deliver.

We know from documents which were leaked to the opposition that the government had in mind another one of its pet propaganda campaigns to try to convince the Australian electorate about the benefits of selling

Telstra. It seems to be a bit of a *modus operandi* of this government. Certainly in relation to the nuclear dump in South Australia there were leaked documents which showed that the government wanted to spend, I think, \$300,000 of taxpayers' money convincing the people of South Australia that their opposition to the dump was wrong. We also know from last week that leaked documents showed that the government was planning to fund a pre-election Telstra sale media blitz. It was seeking to use about \$3 million of taxpayers' money to try to convince regional Australians that Telstra's regional services were up to scratch.

The leaked media strategy outlined how to get favourable articles supplied by the government run in regional newspapers, apparently in exchange for increased advertising spends, and various other mechanisms the government was going to use to try to convince regional Australians that the services were up to scratch and that there was a basis for selling Telstra. It is yet another example, I say, of this government thinking about using taxpayers' money to try to convince them to do something when, at the end of the day, people know the reality. Just as the majority of South Australians do not want a nuclear dump imposed on South Australia by this government, people in rural and regional Australia do not want a privatised Telstra. It seems interesting that yet again in this debate we have had very little input from The Nationals.

Senator Forshaw—The famous Nationals!

Senator WONG—The famous Nationals, as my colleague Senator Forshaw says, the great defenders of rural and regional Australia—where are they? Are they here representing the interests of their electorates? Are they here explaining to the chamber why the sale of Telstra will be such a great thing for

their electors? I was part of a parliamentary inquiry into rural and regional banking services, and it was clear from the evidence to that inquiry that business is reluctant to invest in rural and regional areas because in many cases they are not seen as being economically viable. Why would a privatised Telstra be any different? But we do not see much from The Nationals in this debate. Maybe they are too scared to oppose the Liberals. Maybe they are just conscious of their position as a junior coalition partner and do not want to brook any disapproval from their more senior coalition colleague.

So what has changed since this bill was last here in October? Have services improved? Should Australians, particularly those in regional areas, be comfortable now? As I have said before, services have not changed. In fact we should be more concerned than ever about Telstra's services. We had the rather extraordinary and perhaps very well-timed disclosure this month that the Australian Communications Authority had found that Telstra's faults had actually been far worse than they had previously thought. I know Senator Mackay, who is now in the chamber, has done a lot of good work in estimates trying to uncover the truth about Telstra's network, and now the house of cards is finally starting to fall. What we have learnt is that, despite the fact that in June last year the Australian Communications Authority said that the percentage of services without faults was around 99 per cent, the ACA issued a statement this month saying:

Telstra's performance for 12 months of 2003 ... was now known to be just over 89 per cent of services without a fault.

A 10 per cent difference—incredible, isn't it? One wonders who has been, if not telling porkies, at least gilding the lily somewhat. It is quite astonishing that the government have the hide, in the very month when we have seen that the fault level is in fact far higher

than has ever been conceded, to still seek to put an identical bill to this chamber for approval and that they do it on the basis of: 'Trust us. Give us the mechanism to sell and we promise we will not sell until services are up to scratch.'

In the few minutes I have left I want to say something regarding the Independent senators in this place. I note that Senator Lees has in public indicated—and I think quite reasonably—that this bill should have been delayed because she and others had not had the opportunity to assess everything which had occurred since the Estens inquiry. She said:

Telstra is a long way off being ready for sale.

In a sense she is right, but I would say this: there are issues which stand against the sale of Telstra at any point. They are that this huge public company, which has a monopoly in so many areas in Australia, would be extremely difficult for any government to regulate effectively and that infrastructure in telecommunications is the new nation-building agenda for Australia. It is one of the ways we can ensure Australians have access to the knowledge and information they need. So I would respectfully suggest to Senator Lees that it is not simply a case of waiting for the services to be up to scratch; it is a case of working out whether or not the public interest—the national interest—is best served by having this company in public or in private ownership. I would argue, as the Labor Party has consistently argued, that the national interest is best served by maintaining Telstra in majority public ownership.

Senator FORSHAW (New South Wales) (9.08 p.m.)—Senator Wong said at the commencement of her excellent speech that she had a sense of *deja vu* about this debate. She is spot-on. As one wit once said, 'At the risk of repeating myself, it is a case of *deja vu* all over again.' That is what we have here to-

night with the [Telstra \(Transition to Full Private Ownership\) Bill 2003 \[No. 2\]](#). Indeed, that is what we had last week. At the beginning of last week, what was the first piece of legislation that the government wanted dealt with? It was a rehash of the unfair dismissals bill, the [Workplace Relations Amendment \(Termination of Employment\) Bill 2002 \[No. 2\]](#), which they rolled up to the parliament with last year and which, of course, was defeated. But they put it on the *Notice Paper* again, pushed it through the House of Representatives again and brought it back here to the Senate. And once again it was defeated, because it was a bad proposal.

What do we get the first day back this week? What we get is a rerun of the Telstra privatisation bill. You have to ask whether or not this government has its attention focused on the key issues facing this country today. Once again it is seeking to put forward a proposal to sell off the remaining 51 per cent of Telstra, knowing that Australians overwhelmingly oppose that privatisation and knowing that people in rural and regional Australia overwhelmingly oppose the further sale of Telstra. But, for some blind ideological reason—I cannot think that it would be an electoral reason—this government wants to push ahead.

People occasionally say that there is not much difference between the major parties when it comes to certain political issues. I think that is a lot of nonsense and have never accepted it. The facts demonstrate that there are many issues where, on matters of principle and policy, there are differences between the government and the Labor Party. In respect of the privatisation of Telstra the difference could not be more stark. At the next election the people will have the choice between a Liberal-National Party government that wants to sell the great public institution of Telstra and put it forever into the hands of the private sector or a Labor government that

will retain majority ownership of Telstra. It will be a clear choice, just as there will be a clear choice about the future of Medicare and so many other issues.

When this government was elected back in 1996, it went to the people with an election policy that stated:

The Liberal and National Parties believe privatisation should only occur where it is demonstrably in the public interest.

We do not take the view that privatisation is an end in itself. Indeed there are many Government functions which public interest and accountability considerations demand remain in public ownership and control.

They were the words the coalition used in its election policy before the 1996 election. They were the words and that was the commitment it put to the Australian people before that election. I have to say that the government got it right. When it said, 'Privatisation should only occur where it is demonstrably in the public interest,' it was correct. We know the privatisation of Telstra is contrary to the public interest and we also know that 'there are many government functions which public interest and accountability considerations demand remain in public ownership and control'. It is hard to think of any that would more adequately fit that description than Telstra, the great telecommunications network of this vast country—a country with many sparse areas where people living long distances from the city and the coastline have to depend on telecommunications for their very survival and their livelihood. That is but one reason why the public interest demands that Telstra remain in majority public ownership.

It is a pity that the coalition did not put into practice those words that they espoused once they came to office. What they did, of course, was decide to sell the first third of Telstra—33 per cent. They did it on the back of some votes from Independents who caved

in, unfortunately, for a few extra dollars for their particular state. Now we find that nothing is better, nothing has improved—it has got worse.

Senator Mackay—It has got worse in Tasmania.

Senator FORSHAW—It has got worse in Tasmania, as Senator Mackay has just pointed out, and that was one of the states where the promise was made that the extra funds would go into improving telecommunications and would go into improving the environment. That third of Telstra has gone. The money that was raised from that sale has not achieved improvements. It is gone. It has been spent. We are now left with this proposition to continue this sort of ideological madness.

The government, at the time they sold the first one-third of Telstra, argued in this chamber and elsewhere that this was but a one-third sale. It did not mean that any more would be sold. When the opposition pointed out to the then Minister Alston that this was but the start of the eventual total sale of Telstra, we were accused of scaremongering. The then Senator Alston sat over there and ranted and raved about opposition scaremongering—he claimed that this did not mean the full sale of Telstra; nothing could be further from the truth. They then proceeded to sell another 14 per cent to get it up to 49 per cent.

On that occasion they argued, ‘We’re not selling the majority share; we are actually keeping it at 49 per cent so that the government can maintain the majority share ownership of 51 per cent. Why are they doing that? Because the government said they did not want to sell off all of Telstra until services, particularly in rural and regional Australia, had been raised to an acceptable standard—a standard that gave rural and regional Australians equitable access to telecommunications

services such as those that were enjoyed by their fellow Australians in the cities and suburbs of the coastal regions in particular.

Now we find the government once again comes back and says, ‘We’ve sold off 49 per cent. It’s a bit irrational to keep 51 per cent in majority ownership, so we might as well sell the lot.’ That is one of the most disingenuous arguments I have ever heard put forward by a government for a major legislative change such as this. It is disingenuous because, having said that they would sell the first third and then the next 14 per cent but that they would not sell the rest until services had been improved, they then came out and said, ‘We’ll sell it anyway.’ It does not matter whether services in the bush have improved or not. The government intend to sell it. They have tried to con the Australian electorate. I do not think the Australian electorate has been conned. In fact, I know they have not been and they are not going to fall for this rhetorical sophistry in the future.

There are many reasons why we should retain Telstra in majority public ownership and they have been mentioned on many occasion in this debate, in the debates in the other chamber and in the previous debates in October last year. There are fiscal reasons, economic reasons, reasons of social policy and reasons of ensuring equity of access for all Australians. We all know the arguments and they are all true. They all demonstrate that, on every measure, it is far better to retain Telstra in public ownership than it is to sell it off. You do not have to take my word for that. Go out and talk to rural and regional Australians. Talk to people in the cities as well who enjoy, in many cases, the best of communication services. It is not always the case. I cannot get mobile phone coverage where I live in Sydney but maybe that happens to have something to do with the topography.

If you talk to people across Australia, they do not want Telstra sold off. They just do not want it sold. I was in Dubbo and Wagga the week before last talking to local councillors, and they do not want Telstra sold. They were complaining about the decline in service standards and the increasing number of faults. It has just been mentioned here that there has been an 11 per cent increase in the level of faults in the last year alone, despite the protestations of Telstra about providing an adequate service. This figure shows that the level of faults has increased substantially. When I was out in the bush talking to people on the council—these were not Labor Party people, many of them were National Party supporters or conservative supporters—they made it very clear: ‘We do not support the sale of Telstra.’ And why would they? This government promised them better services and they have not got them.

We now find out that Telstra have sought a substantial increase in funding for their maintenance budget because of the increased service problems that they are experiencing.

Senator Mackay—They’ve been found out.

Senator FORSHAW—As Senator Mackay said, they have been caught out. When they made claims about their service, I think they said it was 99 per cent fault free. That has been demonstrated to be at least 11 per cent out, which is a substantial error.

The performance of the National Party has to be raised in this debate. Where are the National Party senators on this speakers list? I cannot find one, not one. The great defenders of the bush who sit over there in that corner of this chamber and lecture us about how they understand the needs of the bush are missing in action. Like a Telstra telephone call in the bush, they have dropped off the line. In fact, they did not even get on the line. They did not even get involved. They did not

pick up the phone. The National Party’s position here is one of complete and utter subservience to the Liberal Party. They have not stood up for the constituents that they claim to represent. In the old days, the Country Party ministers would have done it.

Senator Mackay—Black Jack McEwen.

Senator FORSHAW—Yes, the Black Jack McEwens, the Doug Anthonys, the Ian Sinclairs and so on, they would have stood up on this. The great bush socialists would have stood up.

These people who represent The Nationals today have forgotten what it is to represent people in the bush. According to newspaper reports, Minister Anderson has said that he could not see Telstra being sold ‘in the current circumstances’. That acknowledges that in the current circumstances services still have a long way to go to reach a level where Telstra would meet the test that the government itself set—let alone to meet the test that all Australians would set. Minister Anderson’s view was that it should not be sold in the current circumstances. Well, if that is the view of the Deputy Prime Minister, what is this bill doing in this parliament? Obviously the Liberal Party are trying to push this through despite what Minister Anderson might think privately and despite what he has stated on at least one occasion.

We know that other senators and members of The Nationals have essentially been muzzled on this issue. They are not prepared to stand up for the constituents they claim to represent. That is also evident in the conflicting positions that have been put forward by Minister Anderson and the Treasurer. Mr Anderson is on the record as having said, ‘If we sell off the rest of Telstra the proceeds will go to infrastructure in the bush. We would improve the roads and telecommunications, fix up the salinity problems, clean up the rivers and build new bridges. That is

where all these proceeds of Telstra will go.' Mr Costello, the Treasurer, said, 'Sorry about that, old chap, but it is going to go to retiring debt.' The Minister for Finance and Administration, Senator Minchin, has said, 'Yes, it's going to be used for retiring debt.'

So once again The Nationals, trying to retain some semblance of credibility in this debate, are trying to run this argument: 'Well look, if we sell Telstra we might get some extra dollars for these infrastructure needs in rural Australia.' They have just been pushed aside again by those who control the purse strings in the government—the Treasurer and the minister for finance—in their obsessive passion to retire debt. But in the process they will sell off the one great public institution that still remains in public ownership in this country.

This bill is really a sham. You have to ask the question: what are the government on about here? Why are they putting forward this legislation at this time, knowing in their heart of hearts that many of their members do not support it, the overwhelming majority of their constituents do not support it and the overwhelming majority of Australians do not support it? I am hopeful that once again the Senate will not support it—that it will reject this bill. We found some evidence of what this government is about when we found out—again through a leak—that the government proposes to go into advertising overdrive. They are going to spend \$3 million.

Senator Ferris—What has this got to do with Telstra?

Senator FORSHAW—Senator Ferris asks what this has got to do with Telstra. What it has to do with Telstra, Senator Ferris, is that the government is proposing to spend \$3 million on an advertising campaign to try and convince Australians that it is a good idea to sell Telstra. That is what this has got to do with Telstra. Senator Ferris shakes her

head. I think she has come into the debate a bit too late and has probably dropped off the line, as well, on this one. All I can say in concluding my remarks in this debate is that once again this bill should be rejected. It should be rejected because it is contrary to the public interest. It is contrary to the interests of all Australians. I urge the Senate to reject this bill.

Senator MOORE (Queensland) (9.27 p.m.)—I rise this evening to talk in this round of the ongoing debate about the sale of Telstra. When I was considering whether I would take part in this debate on the **Telstra (Transition to Full Private Ownership) Bill 2003 [No. 2]**—and we have heard arguments before about how many times it has been before this place—I decided that I wanted to put a couple of words on the record to keep faith with the number of people who have contacted our office with their concerns about this proposed sale. I also wanted to speak on behalf of the many people who provided evidence to the rounds of Senate inquiries and those who gave their responses about why the people of Australia do not want Telstra sold.

This would not be a surprise to anyone in this place because everyone who has risen to speak so far this evening has made it clear that their position has not changed. They are not supporting the bill no matter how many times it comes back to this place. But the argument is not with the people who sit in the Senate; the argument about the proposal by this government to sell Telstra is with the community of Australia. The government has gone out many times—in election mode and in many other attempts—to convince the people of Australia that Telstra should be sold. First of all the government tried in election mode and they promised the people of Australia that it was in their best interests to have Telstra sold. During the 2001 election campaign the government actually made a

deal with the people they were trying to convince to vote the Liberal-National coalition back into government. They made a deal with the people of Australia then that they would only fully privatise Telstra once they could certify that regional telecommunications services were adequate. The promise to make services adequate did not seem to be such a major promise. It was not a wide-sounding promise, was it? Once again, it was only a promise to one segment of the Australian community. They were not saying to the whole community that we must have the best possible telecommunication services and that we must be a leader in this area. They did not say that we must look at extending telecommunications at home and internationally, as we had been doing for many years with the previous companies.

No, the promise that the Liberal-National would-be government made to the people of Australia in 2001 was that, if regional telecommunications could be made adequate, then that would give the government the mandate to fully privatise Telstra. In an attempt to convince the people of Australia—and, on the way, the people who vote on behalf of the people of Australia in this place—that these services had struggled to that wonderful goalpost of ‘adequate’, there have been at least two national inquiries looking at regional service delivery across the country and innumerable Senate inquiries plus a series of Senate estimates processes, all focused on establishing exactly what the current status of service delivery is across the country.

At the end of those processes, what do we have? We have no agreement by the people of Australia that their services are anywhere near adequate and we have no agreement that Telstra should be sold. What we do have are recommendations from committees that say that processes have been put in place to ensure that services may become adequate.

That does not mean that the gate has been reached; that means only that processes have been put in place. At no time have senators on this side of the chamber been anything but very grateful that these processes have been put in place. We have praised Telstra management for ensuring that processes have been put in place to meet the ‘adequate’ performance indicators. What we have not been convinced of is that we have adequate telecommunications.

People who gave evidence to the most recent of the Senate inquiries into Telstra did not give any guarantees to the government that they believed their services were adequate. In fact, listening to Senator Eggleston earlier, I was beginning to wonder whether we were attending the same Senate inquiry. I heard Senator Eggleston speak about the number of people who came to the inquiry who were convinced that the regulations in place were ensuring that people have confidence in their telecommunications. That was not the evidence that came before our committee. What we had was people from all parts of Australia—businesspeople, community people, people who are involved with education—who enumerated the issues in the community that were not adequate.

I am going to concentrate on people in my own state of Queensland, although these examples are not peculiar to any part of Australia; they reflect the ongoing issues with telecommunications now—not three years ago when the promise was made, but now. I am talking about people who live 16 kilometres outside Roma, a major regional city in Queensland, who cannot get any mobile coverage—not some mobile coverage, not the confusion and aggravation of having coverage pop in and out, but no coverage. There are people who told us about not being able to contact their children at school because they did not have that safety link of mobile phone coverage on which most of us can

rely. One of the wonders of the modern telecommunications era is that we are able to be in contact with our families and businesses regularly. It is not adequate service for people outside Roma not to have mobile coverage.

There are people who are trying to conduct business in regional Queensland—and when I say regional Queensland in this sense, I am talking about the areas of the southern Sunshine Coast just outside Brisbane, Caboolture, in the area around Deception Bay, who were trying to download a straightforward Microsoft update, something that is essential to maintain business practice or to complete university assignments. It took two hours to download one update and then there was a 24-hour wait to have the system tick over again. They are people who live outside Queensland regional areas who have cut across to the CDMA coverage—which is what was being encouraged by Telstra when we were looking at trying to balance adequate coverage in the regional areas of Australia—but who have no CDMA coverage. They are people who have to wait up to an hour in order to conduct two banking transactions using the marvels of online banking, if it even works at all.

This example is one I think I have used before in this place. There are nursing staff who, due to inadequate mobile coverage on highways, have to estimate and report drive time between locations so that, if they do not arrive at their destination, someone will come looking for them. There are people in a mobile nursing service who have customers who are reliant upon them coming to provide normal updates on medical practice, to change dressings and to look at medications. They are in a not so remote area. Not only do they not have mobile coverage to say when they are coming but, because of road conditions and the uncertainty of other conditions, they are not able to have any guarantee that

if something went wrong on the trips on that road they would be able to call someone for help, such as the RACQ in Queensland or family members or anyone who could help out.

There are businesses that, due to a lack of adequate data services, are having trouble distributing training and other material to their field officers, apprentices and employees. That is the sort of straightforward action which is publicised quite openly by service providers who say that you are able to run your business from home, that you are able to provide services and be operational in the area. What happens? The system does not work, you are unable to complete your transactions and your services then cannot, at any stretch, be considered adequate.

The people who gave evidence to the inquiry were not there to cause trouble. They had responded to an invitation by the government to come and have their say. There was some expectation—as Senator Forshaw said, we are not quite sure where the information came from—that the government believed that people would say that services were good, that the processes that had been put in place as a result of previous inquiries were now working and that, therefore, goalposts had been reached and it was okay to sell Telstra. What witnesses told us over and over again—giving their evidence quite openly in front of their neighbours, the media that turned out and all the local areas—was that they had not provided that mandate to the government. They did not believe the services were adequate. They did not believe that that special compact the government had made with them as the Australian community—that the government would not progress the further sale of Telstra until the services were adequate—had been achieved. The community of Australia responded resoundingly that they felt that compact had not been achieved. It did not matter how

many times the government asked, how many inquiries were held or—as we are waiting to hear—how many advertising dollars will be spent. Maybe we could find out whether that in fact has been reached. Maybe some kind of phone survey would be a useful methodology to use in that case, or maybe something on the Internet, which with any luck people could call up.

One of the more telling aspects—and it was being run consistently through the process—was that because so many people of Australia had invested in Telstra shares they would be more understanding of the economic prerogative of the process, that this was going to be a good business venture to actually raise the value of those shares that people had already purchased. This argument was being run quite consistently. In fact, in my memory of the recent Senate inquiry, there were only a couple of groups that were consistently positive about the need for the sale of Telstra. Those groups were Telstra and the lawyers who wanted to be involved in the sale. They had quite positive responses to why it was a good idea to sell Telstra. However, in one of the regional centres in Queensland one particular witness had spelt out in her submission that she did own Telstra shares and in the questioning we engaged her in that way. She said on record about the sale of Telstra—and I think that this actually sums up for me a great deal of the current stage of the debate with the sale of Telstra—‘Yes, I am a Telstra shareholder, but foremost I am a concerned Aussie. Don’t sell Telstra.’

Senator LUDWIG (Queensland) (9.39 p.m.)—The *Telstra (Transition to Full Private Ownership) Bill 2003* [No. 2] seeks, as we have heard, to repeal the provisions of the Telstra Corporation Act 1991 that require the Commonwealth to retain 50.1 per cent of equity in Telstra. This is the same bill that was rejected by the Senate on 30 October

last year. It passed the House on 11 March and returns again to this chamber. The opposition is the only federal party that has maintained a consistent ironclad opposition to the future sale of Telstra. The government, on the other hand, has flip-flopped on the timing of the sale. The opposition has stood firm on its opposition to the proposed sale as it is not in the nation’s best interest. Reinforcing this belief was a report in the *Australian Financial Review* on Thursday, 25 March, which included Deputy Prime Minister John Anderson’s comments that services were not up to scratch in the bush. It is a frank observation by the Leader of The Nationals, and says much about the state of the coalition.

Despite the whitewash by the recent Estens inquiry, regional Australians know that telecommunications service levels are nowhere near up to scratch compared with the city. Hundreds of regional Australians wrote to the inquiry complaining of poor regional telecommunications services. Poor mobile phone coverage, faulty telephone lines, poor broadband coverage, inadequate dial-up Internet data speeds and constant Internet line drop-outs are just a few of the many problems facing regional telecommunications services in the bush. The rosy picture of regional telecommunications services painted by the inquiry was a sham and in complete contradiction of the hundreds of submissions to the inquiry. So much for an independent inquiry or an expert committee.

Australians have a right to demand maximum efficiency and service from our largest telco. Full privatisation of Telstra will not guarantee services to both rural and metropolitan Australia. The bill provides for the Minister for Communications, Information Technology and the Arts or the Australian Communications Authority to make licence conditions requiring Telstra to maintain a local presence in regional, rural or remote parts of Australia. It also requires regular

reviews of regional telecommunications every five years by an expert committee appointed by the minister. These provisions, in truth, cannot be taken seriously. A huge privately owned Telstra, I think, would dictate to the government what the licence conditions should be. There would be no guarantee of equitable regional service levels if Telstra were fully privatised. Telstra, in my view, would leave towns in regional Australia faster than the banks.

Labor established in the Senate inquiry into the bill that there are no standards for the bill's regional licence conditions. They could consist of as little as one Telstra shop in Mackay or a service van in Longreach and still comply with the wording of the bill. As for the provisions in the bill establishing an independent expert committee appointed by the minister, the last one of those was the inquiry itself and that was a whitewash. The government appointed Dick Estens, a National Party member and a mate of the Deputy Prime Minister, as its chair. Not surprisingly, the committee came up with exactly the report the government wanted. The government will appoint the committee it wants to produce the report it wants, as was the case with the last inquiry—and, again, nobody will take it seriously.

It is reported that the federal government was working on a \$3.25 million advertising campaign for the sale, of which something in the order of \$1.77 million was to be spent to induce regional newspapers to run telecommunications features—which is nothing short of a scandal. The government intended to spend more than one half of its advertising budget on convincing rural, regional and remote Australia of the wonderful benefits that they would have with a company that was fully privatised rather than a majority owned government asset. It begs the question: does this government believe people would actually fall for the very simple ap-

proach that Telstra will not be sold until services are up to scratch? National Party members know this will be a make or break situation for them. With complaints to the communications ombudsman up 25 per cent, this government should be ashamed to reintroduce this bill in this chamber. The government assertions that services and improvements to rural Australia in the area of telecommunications are ongoing are a farce. The facts speak for themselves. Perhaps the National or Liberal senators from Queensland could stand up and tell us how wonderful telecommunications are in regional Queensland.

Turning to the advertisement—'bribe' is perhaps a better name for it, as it was described on page 5 of the *Financial Review* on the 25th of this month—the government sought to inject \$1.77 million into a print campaign designed to woo regional Australians. This bribe entailed giving newspapers that gave maximum departmental written coverage in the form of a full-page spread an incentive. It was decided that those who ran the initial spread would receive additional taxpayer funded two-page 'awareness raising' departmental written propaganda. The campaign was designed to counter negative publicity in the bush over the sale. If, as the Prime Minister asserts, Telstra is giving the required service to the bush, why the need for a bribe? Doesn't the Prime Minister believe newspapers would be only too happy to report on Telstra's successes in the bush? I think they would, if in fact it was performing—but it is not. It is obvious that it is a bribe and the government should own up. The money would have been better spent helping to improve telecommunications in the bush.

After his statement that telecommunications services in the bush were not up to scratch, the Deputy Prime Minister defended

the newspaper advertisements—peculiar, you might say. He said:

... it is very important that people in rural, regional and remote areas are fully aware of the various opportunities that the government is creating for them in the area of telecommunications.

This seems to be a total backflip by The Nationals on the issue of communications reliability and accessibility in rural, regional and remote areas of Australia. Perhaps the National Party senator from Queensland can stand in this chamber and tell Queenslanders what opportunities will be provided to communities in regional and remote Queensland from improved telecommunications rather than improved advertisements. Does the National Party believe jobs in rural areas will be safe from corporate restructure? Perhaps the Prime Minister and his deputy should go to Marree and sell his idea that we are ready to proceed with the sale of Telstra. Why have I singled out Marree? Let me tell you a little tale about their woes.

In February this year, after virtually four days without a phone service, the town of Marree was reconnected to the world with a simple repair that took less than 15 minutes. The entire town of about 100 people were without a normal phone service from late Thursday night until Monday evening. A resident reported the problem at noon on Friday and said she was told it could not be fixed until the following Thursday. The reason it could not be fixed was that the sole Telstra employee for the area was on vacation. Telstra services are not up to scratch—in fact, it would be fair to say that services are falling, lines are congested and access to reliable telecommunications services are at an all-time low.

Twenty-six per cent of Telstra's income for the last financial year came from consumers who use landline phones. That is more than one-quarter of Telstra's income

coming from people who are accessing their landline phone service. These people deserve the right to access communications services when they want to. They deserve to have access to broadband Internet services and they most certainly deserve to have access to local and long-distance phone services. If the Howard government believes in throwing away millions of dollars on advertising for rural, regional and remote dwellers in an effort to sway disaffected voters then the embarrassing waste of taxpayers' dollars should be brought to light. Doesn't the government believe that the \$1.77 million it is throwing away on this campaign could be better spent on ensuring Telstra complies with the minimum standard that is expected by the government? That amount of money could put in place a few technicians to help places like Marree, to replace people who go on leave in remote, regional and rural areas.

Turning to the Senate inquiry, of the 42 submissions received from my home state of Queensland, 39 were opposed to the sale. Most of the submissions referred to the lack of accountability in repairing black spots, complaints against the telco for bad billing practices and failure to adequately provide a consistent cable Internet service. The government repeated its mantra in the bill's second reading speech that it will not sell Telstra:

... until it is fully satisfied that arrangements are in place to deliver adequate telecommunications services to all Australians, including maintaining the improvements to existing services.

That was a quote from the second reading speech. I think it is a little bit far from what the truth might be. If this is the case then why is this bill before the Senate again? Australians know this is a furphy, having witnessed the 2002 Estens inquiry whitewash on regional telecommunications services. I have raised this issue previously but it seems Telstra was not listening when I explained that

people living in areas of Logan, 20 minutes south of Brisbane and the second largest city in Queensland, reported that they have been unable to adequately access broadband Internet services through Telstra. After raising this issue in parliament, and 18 months after residents—

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Cherry)—Order! It being 9.50 p.m., I propose the question:

That the Senate do now adjourn.

Brisbane City Council Elections

Senator SANTORO (Queensland) (9.50 p.m.)—Tonight I am availing myself of the earliest opportunity in this place to extend warm congratulations to Campbell Newman on his magnificent election victory in the race for Lord Mayor of Brisbane. The great victory that Campbell Newman won for the Liberal Party in the Brisbane lord mayoral election on Saturday is outranked by only one other element in what became a highly significant day for Queensland—the removal from office of Councillor Tim Quinn, Jim Soorley's replacement as interim lord mayor. That is a great victory for the people of Brisbane.

The fact is that for 12 years under Lord Mayor Jim Soorley, and 10 months under Lord Mayor Tim Quinn, Labor at City Hall in Brisbane took the people of Brisbane for granted. Labor made a lot of noise but it was responsible for a lot of silence and secrecy too: silence and secrecy about flood reports that indicated homes were at risk in areas where buyers had been officially encouraged, by flood data that the council supplied to them, to believe they were outside the danger zones; silence and secrecy about contracts for major city council works; silence and secrecy about cosy deals that Lord Mayor

Jim and Lord Mayor Tim orchestrated and that were beneficial to the Labor Party; silence and secrecy about shemozzles like the Coronation Drive upgrade—the 'upgrade that wasn't' for far too long and, when it finally was, wasn't what it had been sold as—a \$16 million project which ended up costing \$33 million; silence and secrecy about the Waterworks Road upgrade, something that went on for so long that by the time it was finished the traffic had already outgrown it and, instead of the original \$30 million, it ended up costing \$50 million; silence and secrecy about safety concerns on the signature floating boardwalk project linking the CBD with New Farm, which started out at \$6.5 million, cost \$13 million to construct and which is widely rumoured to have major maintenance problems; silence and secrecy over significant details of the so-called green bridge linking the University of Queensland at St Lucia with the southern bank of the Brisbane River and from which private vehicles would be banned; and silence and secrecy about the Labor council's real agenda for retail development.

Labor clearly lost the Brisbane mayoralty by making a lot of noise about things that did not really matter and keeping mum about things that did. Labor lost the Brisbane mayoralty because Campbell Newman, son of two former Liberal federal ministers, Kevin and Jocelyn Newman, ran a great, solid campaign over a lengthy period and truly connected with people. He proclaimed himself the can-do man—and, as Labor discovered on Saturday night, the can-do man did it. 'Can do' was a message people wanted to hear. They were fed up with hearing 'can't do' from the money-hungry Labor machine. The Labor Party did not hear this message until the votes started flowing in on Saturday evening. It seems, from some of the comments we have heard from the Labor side in the aftermath of Saturday's election, that

they thought their support was rusted on. In fact, in the aftermath of Jim Soorley's cynical abandonment of his post last year after he decided he was the bored mayor of Brisbane, it was rusted through. Tim Quinn just sawed through an extra couple of crucial bolts in his short interregnum.

There is no issue of who has a mandate in Brisbane for the next four years. I can only presume that the current Deputy Mayor, Councillor Maureen Hayes—who does not represent Brisbane, only her ward of The Grange—will by now have reflected on her words and decided that she would far rather declare herself to have been grievously misquoted in today's press. In the *Courier-Mail* this morning she was quoted as saying, 'The result in the wards shows that well over 60 per cent of the people want Brisbane to go in the direction that we are taking it.' In fact, as is clear from the record, the Liberal Party received 205,674 primary votes at the ward level—there are 26 wards in Brisbane—and the Labor Party received 186,305. The percentages are even clearer: the Liberal Party won 47.1 per cent of the primary vote and the Labor Party 42.7 per cent. In the mayoral ballot, Campbell Newman received 207,586 votes—that is 47.5 per cent—and Tim Quinn received 176,511 votes, or 40.4 per cent. With preferences still to be distributed, it is crystal clear that Campbell Newman won a clear majority of the city-wide two-party preferred vote. In other words, the Liberals won a clear mandate in both ballots for the Liberal platform on which the elections were contested.

It must be this factor that caused that veteran of Labor spin, Wayne Swan, the member for Lilley, to lose his marbles. He got on ABC radio in Queensland this afternoon to deny that Labor was in any way embarrassed by Tim Quinn's loss. He said Councillor Quinn's defeat should sound a warning to the Prime Minister. This is what he said:

It was a long-term Labor administration and I think if there are any lessons in it, they're all for Mr Howard: that long-term leaders are in danger in this political environment.

Now there is a spin that truly defies gravity and turns fact on its head.

Councillor Quinn did not lose the mayoralty because he had been there for too long. He lost because he spent 10 months carrying the can for an arrogant predecessor, because of his own feet of clay as chair of the planning committee—the 'hide the flood report' committee—and because Brisbane voters saw through his charade. Fortunately for Brisbane, and to his great credit, Labor councillor David Hinchliffe has a far clearer view of both actuality and the proper procedure to follow. He has called on Labor not to obstruct the policies Lord Mayor-elect Newman will bring to City Hall with his new administration and he has said it is essential to Brisbane's future that the deputy mayor—whoever it is, it will be a Labor councillor—works closely with the lord mayor and 'recognises and respects the will of the people'.

Mr Newman, for his part, has said he accepts that the deputy mayor will be a Labor councillor and that he is happy to work with that person as his deputy. The way forward is clear, except apparently to Labor obstructionists who have difficulty coming to terms with democratic votes. But tonight is about congratulations rather more than policy—there is plenty of time to talk about vision versus political myopia, about the real contrast between Campbell Newman's Liberals in City Hall and Labor's tired team. Throughout the two years of hard work he put himself through to promote the Liberal message in Brisbane's civic politics, Campbell Newman was solidly supported by his wife, Lisa, Lisa's family and his own family—and of course the greater Liberal family. His victory is a victory for everyone who got out there with him and helped fill in the po-

litical potholes that hindered a Liberal revival in Brisbane for far too long. Campbell Newman, by the way, is a true family man. He and his wife Lisa have two children: Rebecca, who is 11, and Sarah, who is eight. He brings the perspective of a young and growing family right into the Lord Mayor's office at City Hall.

Congratulations are also due to Norm Wyndham, who won the ward of McDowall for the Liberals—the only ward that the Liberals won on the night, but there were massive swings right across the city in all other wards. We are thinking tonight of Adrian Schinnerer as he hopes that he can get those extra 100 or so votes that he needs to get over the line in the ward of East Brisbane. Congratulations also to all the other fine Liberal candidates, many of whom just missed out, who served the Liberal Party well, who distinguished themselves as people of great character and who showed great commitment to the party and marked themselves as future Liberal candidates to watch. The Liberal Party is back in town—in Brisbane town, to be precise.

Special thanks are due to Mr Ben Myers, director of the Brisbane local government campaign, for his superb contribution to the Liberal Party's and Campbell Newman's success. Special recognition must also be extended to Geoff Greene, who, despite being a recent arrival to Queensland politics—he is the Queensland Liberal Party state director—contributed his experience, advice and political know-how when requested and when he saw the need to do so. But most importantly, the Liberal Party and Campbell Newman thank the people of Brisbane for their trust—for giving the Liberals the opportunity to administer Brisbane, the country's largest local government. Campbell Newman and the Liberals will certainly not disappoint the people who have given them their trust.

Recognition must also go to Liberal state president, Michael Caltabiano, and his administration, who just under two years ago showed the courage and the foresight to endorse Campbell Newman much earlier than some in the Liberal Party wanted. They set him on a path that achieved the result on Saturday night. A big thank you is also due to Councillor Graham Quirk, who took over the leadership of the Liberal team in the council under difficult circumstances and who I know has been a tower of strength to Campbell Newman during the past two years. Thanks to all in the Liberal family—Queensland Liberals and many interstate Liberals—who so readily lent a hand in this great endeavour. They include my good friend Eric Abetz—in fact Eric Abetz was the first interstate senior Liberal to come and campaign for Campbell Newman—Jocelyn Newman from Tasmania, Wilson Tuckey from Western Australia, Phil Ruddock from New South Wales, Robert Hill from South Australia and Jeff Kennett from Victoria. That is by no means an exhaustive list, but it illustrates the breadth and depth of national Liberal commitment to getting Liberals elected to office.

There is one more thing I want to say. Queensland Labor Premier Peter Beattie must carry some of the responsibility for Labor's loss on Saturday of the crown jewel of Australian local government. Mr Beattie's list of offences against the people of Queensland is getting longer by the month. We have had 'wine gate', where he single-handedly turned a farce into a political crisis. We have had 'car gate', the saga of the ministerial electoral vehicles—who should drive them and, even more crucially, who should crash them. We have had the expensive farce of the Goodwill Bridge, something else a Labor leader managed to get to end up costing twice its initial contract price. We have had the sad and shocking saga of his inability

to deal with child protection issues while he concentrated on protecting his failed ministers in that portfolio. We have had deficit budgets at a time when the flow of Commonwealth funding to the Queensland budget has grown substantially, and the list goes on. The Premier's once shining reputation is now tarnished and the loss of Labor's stranglehold on City Hall in Brisbane adds another layer to that deteriorating record.

Wet Tropics World Heritage Area

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (10.00 p.m.)—I would like to speak tonight about a very significant environmental area in my home state of Queensland, the wet tropics World Heritage area. And, whilst we are on the topic of local government elections in Queensland, I note the re-election over the weekend of the Mayor of the Douglas Shire, Mike Berwick. I think it is his fourth term—it is certainly his third term. It is quite a significant effort in that particular shire. The Douglas Shire contains the world famous Daintree rainforest area, and Mike Berwick and a number of other people have put a lot of effort into trying to protect the forest and the quite magical environment north of the Daintree River. It is a great credit to him that he has managed to do that in conjunction with people across the political spectrum and across the community in the Douglas Shire. The administrative centre of the Douglas Shire is the town of Mossman, with its Mossman sugar mill. From my experience, the cane growers in that area are probably amongst the most forward thinking and conscientious in attempting to be aware of the need to improve environmental performance in that industry. It is an industry in northern Queensland that is having a lot of difficulties at the moment and yet there are attempts to improve the environment and to do so in a way that actually recognises the need for

long-term sustainability. So I do congratulate Councillor Berwick on his achievement.

Unfortunately, despite all his efforts over a number of years, the wet tropics World Heritage area, including the incredibly valuable Daintree region, is still facing a number of serious threats. The most recent annual report from the Wet Tropics Management Authority, which was tabled in this place, highlighted that fact. Of extra concern is the decreasing pool of financial resources for the Wet Tropics Management Authority to deal with these very significant threats. The financial details contained in the annual report state that the most serious threats to the World Heritage values of the wet tropics are climate change, vegetation clearing and the spread of pests and weeds.

Obviously, climate change is not an issue that the Wet Tropics Management Authority can deal with directly, but it is an issue that the Howard government can and should be addressing. Unfortunately, its record on climate change issues is one of neglect and inaction. Its refusal to take effective action in this area and its willingness to stand in the way of the development of a comprehensive international agreement to address climate change threatens many species in the wet tropics and the very things that the World Heritage area is intended to protect. If you add to that the potentially very serious threat to the adjoining World Heritage area of the Great Barrier Reef Marine Park, you get an idea of the environmental and economic damage that can be done, and is likely to be done, if we do not get action on climate change. It needs leadership at a national and an international level, and instead we have had the Howard government dragging the chain in this crucial area. It will have undoubted and very serious economic consequences for Queensland and particularly for northern and far northern Queensland because those two unique and quite magical

World Heritage areas are under great threat because of climate change in particular.

The annual report of the Wet Tropics Management Authority stated that modelling results indicated that it is possible that up to 66 per cent of all of the wet tropics endemic vertebrate faunal species may be lost over the next 50 to 100 years. This alone should prompt drastic action from the government. Given the vulnerability of the wet tropics to climate change you would expect that the federal government would be taking steps to ensure that it is as robust as possible so that it is capable of withstanding the predicted changes. This will be a sensible management response. There has been some movement from the federal government, which I had publicly praised a number of times, in relation to the Great Barrier Reef with an increase in the protected areas. Let us also recognise the threats to the World Heritage area and values of the wet tropics and do more to protect those.

The wet tropics is highly fragmented. It is surrounded by agricultural and urban development. If it is going to have a chance of withstanding global warming, this situation must change. The Democrats believe that both the federal and Queensland governments must commit substantial resources to acquiring land to ensure that there are corridors for wild life and buffer zones between remnant vegetation and agricultural and urban areas. A land acquisition program will also assist in overcoming the current management difficulties that are caused by the fact that the wet tropics contain over 730 separate parcels of land, around 300 of which are privately owned. Frankly, it is incomprehensible that the responsibility for the management of this remarkable area is spread across so many different land managers. I think that most Australians assume that when an area is declared a World Heritage area—like the wet tropics World Heritage

area—it is like a super national park. The fact is that it actually has less protection in many respects than a national park.

The federal and state governments must also put an end to the clearing of native vegetation in the World Heritage area. At present it is estimated that over 1,000 hectares of native vegetation are cleared each year, most of which is cleared for the purposes of pasture and crop expansion. Whilst this may appear to be a relatively small area, the management authority estimates that the loss of this area displaces around 60,000 mammals and 39,000 birds. It is outrageous that this is occurring and it must come to an end.

The other major issue that requires attention if the wet tropics is going to be given a chance of withstanding the effects of climate change is the spread of pests and weeds. The report of the management authority notes that the number of naturalised exotic plant species in the area has increased from 320 to over 500 in the past decade and that there are now seven naturalised exotic mammal species, five bird species, at least five fish species, two reptile species and, of course, the infamous cane toad in the wet tropics. There have also been several outbreaks of dieback, which the management authority estimates could eventually threaten up to 14 per cent of the entire World Heritage area. Without climate change the influx of exotic species is a matter of grave concern. When you factor in climate change, it should be enough to prompt immediate action and a substantial increase in the size of the management authority's budget. Unfortunately, this annual report indicates that the reverse is happening. As the threats build to this unique and incredibly valuable World Heritage area, the budget of the management authority continues to decrease. In 1999-2000 the management authority had a budget of almost \$8.3

million. It has now dwindled to a little over \$6 million.

On top of that, we have the absurd situation where the authority has now become dependent on annual grants under the Natural Heritage Trust program for its existence, which hugely impedes its ability to deal strategically with the many issues facing the World Heritage area, and valuable resources are gobbled up in having to make annual funding applications. It is simply ridiculous that an authority that manages such an unbelievably unique and environmentally valuable and precious area has to operate in such a manner. I have heard suggestions that there are plans to merge the management authority into the Queensland EPA. I can only hope that these are only rumours.

The Democrats believe that, as a first step, the Howard government should put forward \$10 million to buy out the remaining private parcels of land in the Daintree lowland coastal rainforests. After numerous years of campaigning going back at least a decade by many people, including the Australian Democrats, the Queensland government and the Douglas Shire Council have agreed to provide \$5 million each for the acquisition of properties in this area and they have asked the federal government to match their contribution. As far as I know, Minister Kemp has yet to respond. I now urge him to respond, to put the future of the wet tropics before politics and to make this contribution to this invaluable program.

The local government elections are over now and we do not have to worry about whether this impacts on those results. Let us act to ensure that this unbelievably valuable area does have a good chance of surviving. There has been a lot of quite appropriate publicity about the dangers and threats to the Tasmanian forests, another beautiful area. If you were measuring this purely in terms of

biodiversity and ecological value, it would not be parochial to say that the forests of the Daintree are far more significant in an environmental sense and an economic sense in terms of the tourism dollars that rely on them, yet the Daintree is under great threat and it is not getting the attention it deserves. The Democrats call on the federal environment minister to provide—and it would be a simple step—the resources to ensure that vulnerable land is bought back and adequate resources are provided to ensure that the wet tropics area is appropriately managed.

Mining: Iron Ore

Senator EGGLESTON (Western Australia) (10.10 p.m.)—Tonight I would like to say a little about the Pilbara iron ore industry, which is going through a very exciting time. Stimulated by China's voracious appetite for raw materials to feed its industrial rise, the Pilbara iron ore industry is being revitalised and expanded through huge investment. Burgeoning demand for iron ore has translated into higher prices, with increases in prices for the year 2004 of over 18 per cent above what they were a year ago. The boom of the Pilbara iron ore industry is underscored by the fact that BHP Billiton is conducting a feasibility study into further expansion of its operations to more than 145 million tonnes of iron ore exported per annum.

The latest development, announced by BHP Billiton at the beginning of March, is that it will enter into a long-term deal, the Wheelarra Joint Venture, with four of China's leading steel mills. In a 25-year deal, the mills have agreed to purchase 12 million tonnes of iron ore annually in return for taking a 40 per cent interest in a sublease over BHP Billiton's Jimblebar mine, near Newman. This is a historic deal which will deliver substantial additional export earnings to Australia of around \$US9 billion over the

next 25 years. The joint venture follows on from the expansion that has occurred in BHP Billiton's Pilbara operations over the last few years. In order to cope with the increased demand for iron ore, BHP Billiton's rail facilities and Port Hedland port facilities have been upgraded and expanded in a \$US351 million project. The port and rail facilities now have a capacity of 100 million tonnes of export iron ore per annum. On 5 February 2004, the company announced that it will further expand the capacity of its iron ore operations to 110 million tonnes per annum by the end of the year, at a cost of \$US111 million. BHP Billiton makes the point that this represents a 64 per cent increase in its capacity since the turn of the century and a virtual doubling of its capacity since 1996, which is just eight years ago.

At the end of October last year, BHP Billiton's new \$US213 million Area C mine, with a 15 million tonne annual capacity, was officially opened and the output of its Yandi mine has been expanded by three million tonnes per annum as a result of another multimillion dollar project. It is very good to see Area C opened up because it has always been something that was going to be developed over the last 30 years. To see that finally occur proves that, after all, tomorrow does come in some situations.

BHP Billiton employs some 2,000 people and 1,900 contractors at its iron ore operations and HBI plant in Port Hedland. In the second half of 2003, it achieved record iron ore production of almost 45 million tonnes and record exports of 44 million tonnes. BHP Billiton's Mount Whaleback mine, which is the original Newman mine, is one of the largest open-cut mines in the world. It is 5.5 kilometres long and 1.5 kilometres wide. From its processing and shipping facilities at Nelson Point and Finucane Island in Port Hedland, the iron ore is shipped around the world.

In 2002-03, the port of Port Hedland experienced a total throughput of 81.8 million tonnes of cargo, of which 76.6 million tonnes comprised iron ore exports. By way of contrast, as I am sure Senator Tierney will attest, the port of Newcastle had a total throughput of 76.8 million tonnes, just a bit more than Port Hedland. I am sure the further development of Port Hedland will result in that port eclipsing Newcastle in total tonnage exported through the port.

Of course, BHP Billiton is not the only company with iron ore operations in the Pilbara that is benefiting from the current boom in investment. Hamersley Iron, wholly owned by Rio Tinto, announced in December last year that it will expand its operations at its Dampier port and Yandicoogina mine at a total cost of \$US920 million. The Western Australian Department of Industry and Resources describes this as 'one of the largest investments in recent years for a mining project anywhere in Australia'. The capacity of the port will rise from 74 million tonnes per annum to 116 million tonnes by the end of 2005 and the mine's output will expand from 20 million tonnes per annum to 36 million tonnes in early 2005. The figures in the Pilbara are always huge and somewhat mind-boggling. The size of the investment and the industry in that region is always mega.

Since 1966, Hamersley has exported more than a billion tonnes of iron ore. In 2003, it exported more than 74 million tonnes of iron ore to China, Japan, Korea, Taiwan and Europe. Robe River Iron Associates, which was one of the early operators in the Pilbara and is now owned by Rio Tinto under the company name of North, last year also expanded its capacity to 25 million tonnes. The cost of achieving that expansion was \$US105 million, again a very large sum of money.

Robe River Iron Associates has two mines: Pannawonica and West Angelas. It expects customer demand to be at record levels over the next few years and accordingly is evaluating the potential for further expansion of its operations. Together, these three companies, BHP Billiton, Hamersley Iron and Robe River, have iron ore mining and processing operations that employ around 9,000 people in what used to be regarded as one of the most remote areas of Australia but is now very much just a part of Western Australia.

Western Australia is one of the world's largest producers and exporters of iron ore. In 2002, it accounted for over 16 per cent of global iron ore production and 37 per cent of global iron ore seaborne trade. In 2002-03 there was record production of some 188 million tonnes of iron ore valued at \$5.2 billion. Western Australia is the largest exporter of iron ore to China. China has become the world's largest producer of iron and steel, having replaced Japan in that role. Indeed, between 2000 and 2003, Chinese iron ore demand has more than doubled. In 2002-03, China accounted for some 32 per cent of Western Australia's iron ore exports, gaining on Japan, which then took the next largest share. Rio Tinto's Chief Economist, Mr David Humphreys, says:

Massive investment in new steel-making capacity points to continuing growth in the demand for iron ore. Were all current investments in capacity to come to fruition ... China's steel capacity would rise to around 300 million tonnes/year at the end of 2005. This compares with production of 220 million tonnes in 2003.

It must be said that this underscores the growth of the Chinese industrial economy.

China is a country that in the next 25 or 50 years can be expected to undergo a massive industrial expansion, and Western Australia will play a very important role in providing raw materials for that expansion.

Senate adjourned at 10.20 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—

Civil Aviation Amendment Order (No. 2) 2004.

Exemptions Nos CASA EX09/2004, CASA EX14/2004 and CASA EX17/2004.

Instrument No. CASA 114/04.

Class Rulings CR 2004/27-CR 2004/29.

Health Insurance Act—Health Insurance (Accredited Pathology Laboratories—Approval) Amendment Principles 2004 (No. 1).

Higher Education Funding Act—Determinations under section 15—Determinations Nos T9-2004 and T10-2004.

Product Rulings PR 2004/24 (Erratum) and PR 2004/32-PR 2004/34.

Quarantine Act—Regulations—Statutory Rules 2004 No. 40.

Taxation Ruling TR 96/14 (Addendum).

Telecommunications (Interception) Act—Declaration of eligible authority as agency—Corruption and Crime Commission of Western Australia.

Veterans' Entitlements Act—Instruments under section 196B—Instruments Nos 5-10 of 2004.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Attorney-General's: Institute of Public Affairs
(Question Nos 2044 and 2051)

Senator O'Brien asked the Minister representing the Attorney-General and the Minister for Justice and Customs, upon notice, on 15 September 2003:

- (1) For each of the following financial years: (a) 1996-97; (b) 1997-98; (c) 1998-99; (d) 1999-2000; (e) 2000-01; (f) 2001-02; (g) 2002-03; and (h) 2003-04, has the department or any agency for which the Minister is responsible, including boards, councils, committees and advisory bodies, made payments to the Institute of Public Affairs (IPA) for research projects, consultancies, conferences, publications and/or other purposes; if so, (i) how much each payment, (ii) when was each payment made, and (iii) what services were provided.
- (2) In relation to each research project or consultancy: (a) when was the IPA engaged; (b) for what time period; (c) what were the terms of reference; (d) what role did the Minister and/or his office have in the engagement of the IPA; (e) was the contract subject to a tender process; if so, was it an open tender or a select tender; if not, why not.

Senator Ellison—The Attorney-General has provided the following answers to the honourable senator's questions:

- (1) Yes. In the financial year 1996-97 the Australian Customs Service made two payments to the Institute of Public Affairs for book bounties. The payments related to an industry assistance scheme whereby companies were able to claim a subsidy for book publication and production costs. The payments were made on 5 July 1996, for \$1,352.72 and on 6 March 1997, for \$648.95.
In the financial year 1997-98, the Human Rights and Equal Opportunity Commission (HREOC) made a payment of \$12.00 to the IPA for a publication purchase. The payment was made on 21 June 1998.
The Attorney-General's Department made a total of four payments to the IPA during the financial years 1997-98, 1999-2000 and 2002-03. The first payment of \$12.00, for the publication "Betraying the Victims", was made on 30 March 1998; the second payment of \$50.00, for general member subscription, on 18 May 2000; the third payment of \$30.80, for subscription to the IPA Review, on 1 June 2000 and the fourth payment of \$33.00, for a further subscription, on 9 April 2003.
- (2) Not applicable.

Industry: Southern Pacific Petroleum
(Question No. 2446)

Senator Carr ask the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 16 December 2003:

- (1) Has the Minister, his office or his department been approached during the past 3 months by shale oil company, Southern Pacific Petroleum (SPP) for financial support; if so: (a) what was the nature and value of the support requested; (b) what was the Government's response; and (c) what reasons were provided for the Government's decision.
- (2) Has the Minister, his office or his department been approached by Mr Jeff Sandefer, his representatives or the receivers recently appointed by him to SPP; if so, what was the nature of the approach.

Senator Minchin—The answer to the honourable senator's question is as follows:

- (1) Yes.
- (2) Yes.

SPP and subsequently Mr Sandefer's investment company, Sandefer Capital Partners as well as Ernst & Young, Receivers and Managers appointed to SPP by Mr Sandefer, sought an extension to the current effective excise exemption available to petroleum products produced from shale oil. The Government advised SPP's Receivers and Managers on 10 March 2004 that it has decided not to extend the excise exemption.

Health: Rural and Aboriginal and Torres Strait Islander Students
(Question No. 2521)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 2 February 2004:

- (1) Given that the numbers of rural and Aboriginal and Torres Strait Islanders students enrolled in most university undergraduate courses in medicine, pharmacy and nursing declined between 2000 and 2001, what strategy is being adopted to improve participation rates of these groups in these courses.
- (2) Given this decline in Indigenous enrolments, on what basis does the Government claim that higher education enrolments are 'trending steadily upwards', as stated on the Liberal Party of Australia's website in issue no.8 of Behind the Scenes, dated 15 December 2000.

Senator Ian Campbell—The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

- (1) Data collected by the Department of Education, Science and Training (DEST) show that the numbers of rural and Aboriginal and Torres Strait Islander students enrolled in undergraduate courses in medicine, pharmacy and nursing increased between 2000 and 2001. Senator Vanstone has separately tabled detailed data on this question on behalf of the Minister for Education, Science and Training.

In order to improve participation rates for Aboriginal and Torres Strait Islander students and advance other Indigenous health workforce objectives, the Australian Health Ministers' Advisory Committee (AHMAC) endorsed the Aboriginal and Torres Strait Islander Health Workforce National Strategic Framework (Workforce Strategic Framework) in 2002. Under the Workforce Strategic Framework, and in close cooperation with State and Territory governments, the Australian Government is vigorously implementing various strategies in order to increase the number of Indigenous health professionals in Australia, including:

- Working closely with the deans of medicine, nursing and health sciences to ensure that units on Indigenous health, culture and history are incorporated in all undergraduate degrees;
- Funding for university and Vocational Education and Training sector courses that focus on recruitment and retention of Aboriginal and Torres Strait Islander students and Indigenous health content;
- Funding scholarships for Aboriginal and Torres Strait Islander students studying medicine, nursing, allied health or to become Aboriginal and Torres Strait Islander health workers;
- Supporting Indigenous professional associations such as the Australian Indigenous Doctors Association and the Congress of Aboriginal and Torres Strait Islander Nurses; and
- Updating national Aboriginal and Torres Strait Islander Health Worker competencies to improve the qualifications and professional standing of these workers, and increasing opportunities for qualified health workers to articulate into tertiary level degrees.

In addition to these Indigenous-specific health workforce participation strategies, my Department also administers a range of programs that target rural and remote Australians to gain health qualifications:

- The Australian Government Rural and Remote Nurse Scholarship Program. This Program offers a range of scholarships that attract undergraduate and postgraduate students from rural and remote areas.
 - The Rural and Remote Pharmacy Workforce Development Program offers 15 scholarships per year to assist rural and Aboriginal and Torres Strait Islander students to undertake an undergraduate degree in pharmacy.
 - There are 100 aged care nursing scholarships available for rural, remote and regional students each year.
 - Additional medical training places under the former A Fairer Medicare package have been retained in the Medicare Plus package. From this year the Commonwealth is providing 150 new training places to be added each year to the GP registrar-training program. Also, in 2004 an additional 234 publicly funded medical school places have been made available. Both of these initiatives are targeting areas of workforce shortage and will particularly benefit rural and remote areas where there is a high Aboriginal and Torres Strait Islander population. In addition, Medicare Plus will provide more nurses and allied health professionals in rural and remote areas.
- (2) Data collected by DEST show that the numbers of Aboriginal and Torres Strait Islander students enrolled in undergraduate courses in medicine, pharmacy and nursing increased between 2000 and 2001, consistent with the steady increase reported in *Behind the Scenes*.

Aviation: Airspace Review

(Question No. 2536)

Senator Allison asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 12 February 2004:

Can details be provided of the review of the new airspace arrangements, which was announced by the Minister on 19 January 2004, and in particular: (a) who will conduct the review; (b) what will be the terms of reference for the review; (c) what is the timeframe for the completion of the review; (d) will public submissions be called for; if so, how and when; (e) will there be public hearings; and (f) will the report of the review be made public.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

- (a) The review was conducted by the agencies specified in the Australian Transport Safety Bureau (ATSB) Recommendation. The agencies are Airservices Australia and the Civil Aviation Safety Authority, in consultation with the National Airspace System Implementation Group.
- (b) The terms of reference for the review were contained within the recommendations from the ATSB Report (No. 200305235), into the occurrence north of Launceston, Tasmania.
- (c) Agencies have provided their responses to the ATSB recommendations.
- (d) Public submissions were not invited.
- (e) No.
- (f) Yes. All responses to ATSB recommendations are made public and published on the ATSB website.

**Aboriginal and Torres Strait Islander Commission: Mr Brian Johnstone
(Question No. 2587)**

Senator O'Brien asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 25 February 2004:

- (1) With reference to the suspension of Mr Brian Johnstone from the position of Aboriginal and Torres Strait Islander Commission (ATSIC) media director and part (1) of the answer to question no. 112 taken on notice on 29 May 2003 during the 2003 Budget estimates hearings of the Legal and Constitutional Affairs Legislation Committee:
 - (a) what discussions did Mr Wayne Gibbons conduct with Mr Mick Gooda, Ms Ros Kenway and/or Ms Bronwyn Nimmo about Mr Johnstone's conduct: (i) before he was suspended, (ii) at the time of his suspension, and (iii) after he was suspended;
 - (b) if discussions did take place, in what capacity were Mr Gooda, Ms Kenway and/or Ms Nimmo included in those discussions;
 - (c) were persons other than Mr Gooda, Ms Kenway and/or Ms Nimmo consulted by Mr Gibbons in relation to the suspension of Mr Johnstone; if so: (i) who did Mr Gibbons consult, and (ii) in what capacity were they consulted; and
 - (d) was legal advice sought from Ms Kenway, Ms Nimmo and/or any other party in relation to the suspension of Mr Johnstone, if so, when and how was that advice obtained and can a copy of that advice be provided; if not, why not.
- (2) With reference to part (10) of the answer to question no. 112: is it correct that, contrary to the department's advice, Mr Johnstone was first advised of his suspension by hand delivered letter on 18 December 2002.
- (3) Was an official notice posted on the ATSIC Intranet site on 18 December 2002 advising ATSIC staff that Mr Johnstone's replacement, Mr Brian Aarons, would be appointed as media director and the media section renamed the communications branch; if so, can a copy of that notice be provided; if not, why not.
- (4) (a) When did ATSIC first begin its discussions with Mr Aarons about his recruitment to direct the media/communications section; (b) who was involved in those discussions; and (c) how were they conducted.
- (5) Can the Minister confirm that Mr Aaron's position was not advertised.
- (6) Did Mr Johnstone's suspension mean the media section was leaderless from early December 2002 through to February 2003, a period that included a board meeting to elect a new chairperson.
- (7) Did anyone speak to Mr Johnstone about the revamping of the media section; if so, when.
- (8) Was Mr Johnstone offered the opportunity to fill the position filled by Mr Aarons.
- (9) With reference to the guidelines for determining breaches of the code of conduct, dated 5 March 2003 and signed by Mr Gibbons (which were attached to the answer to question no. 112), section five of those guidelines, under the heading 'Determination process to be informal', provides that the process for determining whether an Australian Public Service employee has breached the code of conduct must be carried out with as little formality and as much expedition as a proper consideration of the matter allow: was the investigation into Mr Johnstone's conduct conducted with as little formality and as much expedition as possible.
- (11) Is it correct that Mr Johnstone was suspended for assisting ATSIC Commissioner Robinson to write a letter to the then Minister for Indigenous Affairs.
- (12) Did the Minister complain about the letter; if not, who complained about the letter.

- (13) Was an audit undertaken into the activities of the media and marketing section at the time of Mr Johnstone's suspension; if so: (a) when did the audit commence and when was it concluded; (b) what did the audit cost and can a breakdown of those costs be provided; (c) what were the findings of the audit; and (d) can a copy of the audit report be provided; if not, why not.

Senator Vanstone—Aboriginal and Torres Strait Islander Services (ATSIS) has provided the following information in response to the honourable senator's question:

Mr Johnstone was engaged under the Public Service Act as a non ongoing employee for a specific period. His employment contract expired on 31 March 2003 and under the Public Service Act could not be extended beyond this time regardless of the outcome of the Code of Conduct investigation that was in train prior to that date. As with all ATSIC employees, Mr Johnstone was accountable to the Chief Executive Officer of ATSIC for the period of his employment.

There is no connection between the investigation into the suspected breach of the Code of Conduct undertaken in respect of Mr Johnstone and the consequential filling of the position of Manager of the National Media and Marketing Office (retitled the Communications Branch). Under the Public Service Act, Mr Johnstone was not able to continue in that role after 31 March 2003 and a replacement needed to be identified for the position.

The information provided below does not extend to personal details as it is not normal practice to provide such information for privacy reasons, unless there is a compelling reason to do so. Discussions relating to this matter were held on a strictly need-to-know basis and were confined to senior officers within ATSIC who had a legitimate role in providing technical advice on the handling of the Code of Conduct matters within the organisation.

In respect to the investigation undertaken into the possible breach of the Code of Conduct, this was undertaken in accordance with the ATSIC Misconduct procedures. Mr Johnstone was given due opportunity to put his views forward on the suspected breaches and the independent report prepared on them. As part of the process a preliminary investigation was conducted by the then Acting Deputy CEO (DCEO) to establish whether Mr Johnstone may have breached the Code of Conduct and whether a more formal enquiry was required. This was initiated entirely for internal reasons, not in response to any external complaint (of which there were none). The Acting DCEO established that there was sufficient reason to believe that a breach may have occurred and that a more formal investigation was required. This was arranged and undertaken with limited formality and as expeditiously as possible, noting the intervening Christmas and holiday period.

An independent investigator was appointed who was given full access to all records associated with the matter and who took statements and held discussions with both Mr Johnstone and the Acting DCEO. Neither the Acting DCEO nor Mr Johnstone advised the investigator that he should speak to other persons in relation to this matter prior to his report being prepared. The investigator provided a report on his findings to the officer authorised by the CEO to determine whether a breach had occurred and what sanctions, if any, were warranted. The Authorised Officer was the newly appointed Deputy CEO, who was an external appointment to the organisation and had no previous involvement with the matters. The DCEO considered the report and made a finding in relation to it. The outcome was advised to both the CEO and Mr Johnstone.

The filling of the Manager, National Media and Marketing position being vacated by Mr Johnstone following the expiration of his contract on 31 March 2003 was undertaken by the ATSIC CEO, Mr Gibbons. On being advised that Mr Johnstone's contract was close to expiry and could not be extended under the provisions of the Public Service Act, an officer was identified for transfer to the position. The appointed officer was an existing public servant, who was already at the level required to fill the vacancy and had held similar positions at both Reconciliation Australia and at the Council for Aboriginal Reconciliation. The transfer was undertaken in accordance with Section 26 of the Public Service Act,

without requirement to advertise the position. The appointment was announced in a staff bulletin on 18 December 2002, a copy of which is attached, and the officer commenced on 6 February 2003.

An audit of the Public Information output of the National Media and Marketing Office was conducted between December 2002 and January 2003. A final report was issued on 28 April 2003. The audit was conducted as part of the normal scheduled audit program of the Office of Evaluation and Audit (OEA). The audit was conducted by officers attached to OEA and cost around \$17,500. In summary, the audit indicated that, with the exception of the work area not having an Operational Plan, which had the effect of there being a lack of clarity in the roles and responsibilities of staff and objectives within the unit, the functions and administration within the unit were managed satisfactorily.

Internal audit reports are internal working documents issued as "AUDIT IN CONFIDENCE" to the Commission as a service to management and are not otherwise available for release. In this instance the audit report contains references to business affairs, including consultancies, in the communications arena where disclosure could be reasonably expected to unreasonably adversely affect the Commission in respect of its business affairs.

ATTACHMENT

CEO ADVICE TO STAFF

Review of Media and Marketing

As part of the restructure of national office I have decided to make changes to our current National Media and Marketing Office (NMMO) to achieve a more inclusive role for this crucial area of ATSIC.

In an agency that is both geographically dispersed and facing a vast range of program and service challenges, it is essential that we strengthen linkages between our various organisational units.

The roles envisaged for the revamped media unit—to be renamed the Communications Branch—include promoting more effective internal communications, as well as reaching out to our clients and stakeholders to promote the service and achievements of ATSIC. The provision of consistent and quality support to Commissioners and Regional Councils is also a priority.

For these reasons I am upgrading the position of the Director to the status of other key Branch Heads in the new national structure.

I have recruited Mr Brian Aarons to take on this new leadership role with effect from mid February 2003.

Brian Aarons has had long and varied experience in media, communications and public relations. He also has a longstanding commitment to the rights of Indigenous peoples, and involvement in movements and activities supporting those rights, going back to the Freedom Ride of 1965 as a young student at Sydney University.

Brian worked for six years (1994-2000) as the Communications Director for the Council for Aboriginal Reconciliation, and for the past two years has been the Communications and Policy Manager for Reconciliation Australia, the independent private body which the Council established to continue its work after December 2000.

In these and previous positions, Brian has been extensively involved in media liaison and promotion; writing and editing of a wide range of publications, including major reports, media releases and feature articles; producing or overseeing the production of publications and other communication and promotional materials; the commissioning of major public opinion research surveys; and putting together teams of staff and consultants to promote and undertake media management for large events including Corroboree 2000 and the People's Walks for Reconciliation.

Brian has managed both small and large teams in a variety of media and communications settings. He acted as the Secretary to the Council for Aboriginal Reconciliation for a total of six months, and has been the Acting General Manager of Reconciliation Australia for seven months.

QUESTIONS ON NOTICE

I look forward to welcoming him to this organisation.

Wayne Gibbons

18 December 2002

Fuel: Diesel Oil
(Question No. 2629)

Senator Brown asked the Minister for Revenue and Assistant Treasurer, upon notice, on 2 March 2004 a question which has been referred to ITR by the ATO:

How much diesel was sold in Australia each year during the period July 1990 to June 2003.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator's question:

Based on the information contained in DITR's Australian Petroleum Statistics database, the quantities of Automotive Diesel Oil sold in Australia each year during the period July 1990 to June 2003 were as listed below:

Financial Year	Automotive Diesel Oil sold, in mega litres
1990-91	9795.3
1991-92	9984.6
1992-93	10321.4
1993-94	10721.3
1994-95	11174.7
1995-96	11923.2
1996-97	12321.3
1997-98	12563.5
1998-99	12825.2
1999-00	13245.1
2000-01	12952.4
2001-02	13441.2
2002-03	13888.0

Fuel: Ethanol
(Question No. 2630)

Senator Brown asked the Minister for Revenue and Assistant Treasurer, upon notice, on 2 March 2004 a question which has been referred to ITR by the ATO:

How much ethanol was sold in Australia each year during the period July 1990 to June 2003.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator's question:

Reliable information on the quantity of ethanol sold in Australia each year during the period July 1990 to June 2003 is not available to the Government.

CSIRO has estimated the production of fuel grade ethanol at 47 – 53 ML for 2002-03.

Fuel: Liquefied Petroleum Gas
(Question No. 2631)

Senator Brown asked the Minister for Revenue and Assistant Treasurer, upon notice, on 2 March 2004 a question which has been referred to ITR by the ATO:

How much liquefied petroleum gas was sold in Australia each year during the period July 1990 to June 2003.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator's question:

Based on the information contained in DITR's Australian Petroleum Statistics database, the quantities of Liquefied Petroleum Gas (LPG) sold in Australia each year during the period July 1990 to June 2003 were as listed below:

Financial Year	Total LPG sold, in mega litres	LPG sold for automotive use
1990-91	3390.5	584.5
1991-92	3233.5	707.6
1992-93	3548.3	791.5
1993-94	3733.7	882.8
1994-95	4082.2	1124.8
1995-96	3997.3	1330.5
1996-97	3600.0	1549.8
1997-98	3896.6	1601.5
1998-99	3469.3	1598.5
1999-00	3603.6	1902.9
2000-01	3892.7	2221.4
2001-02	4153.6	2422.2
2002-03	3851.1	2416.3

Customs: SmartGate System

(Question No. 2648)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 2 March 2004:

- (1) What progress has been made in relation to the implementation of the SmartGate system at international airports around Australia.
- (2) Which airports currently use the system.
- (3) Are there any plans to introduce SmartGate at other airports around Australia; if so: (a) at which airports; and (b) what is the expected cost.
- (4) What is the current cost of maintaining and/or utilising the system.
- (5) Are any full-time Australian Customs Service (ACS) personnel employed in using or maintaining the system; if so: (a) at what Australian Public Service (APS) levels are they employed; and (b) how is this expected to change in the future if the system expands.
- (6) Are any part-time ACS personnel employed in using or maintaining the system; if so: (a) at what Australian Public Service (APS) levels are they employed; and (b) how is this expected to change in the future if the system expands.

Senator Ellison—The answer to the honourable senator's question is as follows:

- (1) SmartGate is a pilot system only and an evaluation of the technology was undertaken in 2003. No decisions have been made in relation to the implementation of the SmartGate system at international airports around Australia.
- (2) The SmartGate pilot system only operates at Sydney Airport.
- (3) The Government is considering whether the SmartGate system should be extended.

- (4) It costs \$104,000 per annum to maintain the current SmartGate pilot system. This does not include any upgrades or enhancements.
- (5) (a) One full-time Customs Officer level 2, APS 4/5 equivalent, is employed at Sydney Airport to maintain the SmartGate system. One full-time Customs Officer level 5, EL2 equivalent, two Customs Officer level 4 EL1 equivalent, one Customs Officer level 3, APS6 equivalent are employed in the Traveller Strategies section which is involved in research, policy, development and evaluation of SmartGate.
- (b) No decision has yet been made on any expansion of the SmartGate system.
- (6) (a) No part-time Customs personnel are employed to use or maintain the system. One part-time Customs Officer level 3, APS6 equivalent is employed in the Traveller Strategies section which is involved in research, policy, development and evaluation of SmartGate.
- (b) No decision has yet been made on any expansion of the SmartGate system.

Trade: Free Trade Agreement

(Question No. 2683)

Senator Nettle asked the Minister representing the Minister for Trade, upon notice, on 9 March 2004:

With reference to the answer to a question without notice Senator Nettle asked of the Minister representing the Minister for Trade on 4 March 2004 in relation to the free trade agreement (FTA) made between the governments of Australia and the United States of America in February 2004, into which of the three categories of side letters do each of the side letters to the FTA mentioned in the answer fall.

Senator Hill—The following answer has been provided by the Minister for Trade to the honourable senator's question:

The majority of side letters fall into the three main categories as follows:

Additional clarification of how a provision will apply to either or both Parties (binding)	Additional commitments that apply only to country making them (binding)	Confirmation of current policy or system operation (non-binding)
Aspects of Intellectual Property	Blood Plasma	Waiver of Customs Duties
Bovine Spongiform Encephalopathy	Bourbon and Tennessee Whiskey	Guarantees
Education Services	Foreign Investment Review Board	Privatisation of Telstra
Express Delivery Services	Foreign Investment Review Board Review	Expedited Availability of Insurance Services
Gambling, Tobacco and Alcohol	Foreign Investment in the Financial Services Sector	
Immigration Measures	Pharmaceuticals	
Import Without Bond		
Internet Service Provider		
Liability		
National Treatment		
National Treatment – Phonographs		
Procurement Matters		
Recognition		
Securities		

There are four remaining side letters which are not listed above as they do not fall clearly into one of the three categories. They relate to Cooperation in Competition Policy, Telecommunications Consultative Mechanisms, Air Services and Higher Education in US States.

The side letters on Cooperation in Competition Policy, Telecommunications Consultative Mechanisms and Air Services, represent commitments to ongoing discussions. As such, it was not considered appropriate for them to be legally binding.

The fourth side letter, from the United States on Higher Education in US States, is intended to fall into the second category, although as currently drafted, it represents a stand-alone treaty-level agreement – this will be addressed in the legal review of the FTA text.