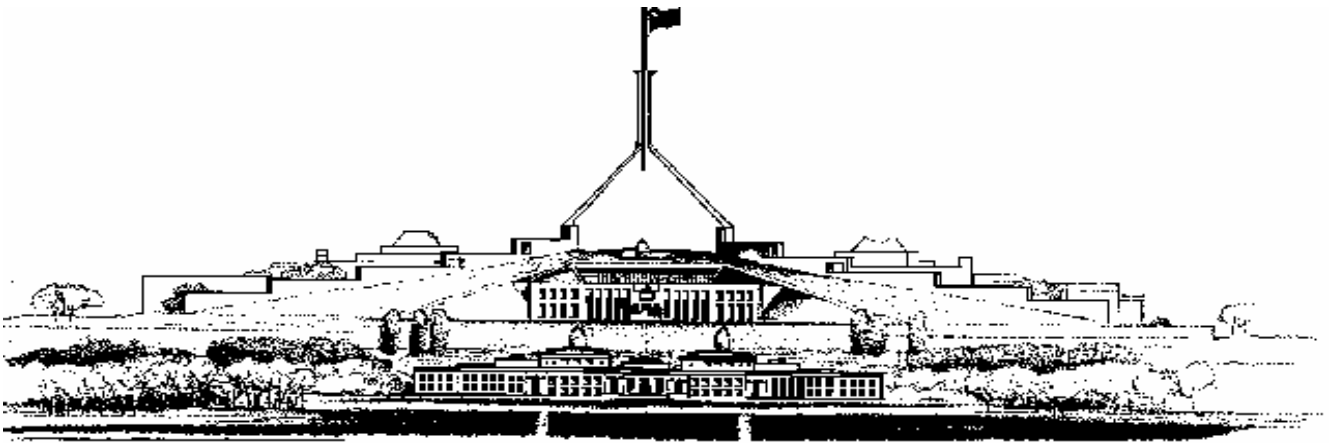




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



Senate

Official Hansard

No. 2, 2004

WEDNESDAY, 1 DECEMBER 2004

FORTY-FIRST PARLIAMENT
FIRST SESSION—FIRST 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, 18, 21, 22, 23, 24
August	3, 4, 5, 9, 10, 11, 12, 13, 30
November	16, 17, 18, 29, 30
December	1, 2, 6, 7, 8, 9

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**FORTY-FIRST PARLIAMENT
FIRST SESSION—FIRST 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, Patricia Margaret Crossin, Alan Baird Ferguson, Stephen Patrick Hutchins, Linda Jean Kirk, Susan Christine Knowles, Philip Ross Lightfoot, John Alexander Lindsay (Sandy) Macdonald, Gavin Mark Marshall, Claire Mary Moore 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 Christopher Vaughan Evans

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

Manager of Government Business in the Senate—Senator the Hon. Christopher Martin Ellison

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

Deputy Leader of the National Party of Australia—Senator John Alexander Lindsay (Sandy) Macdonald

Leader of the Australian Labor Party—Senator Christopher Vaughan Evans

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
Fifield, Mitchell Peter ⁽⁷⁾	Vic	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⁾	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

Senator	State or Territory	Term expires	Party
Macdonald, John Alexander Lindsay (Sandy)	NSW	30.6.2008	NATS
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 Queensland to fill a casual vacancy vice John Woodley, resigned.
- (4) Chosen by the Parliament of South Australia 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 Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, 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

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 Defence and Leader of the Government in the Senate	Senator the Hon. Robert Murray Hill
Minister for Foreign Affairs	The Hon. Alexander John Gosse Downer MP
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 Finance and Administration, Deputy Leader of the Government in the Senate and Vice-President of the Executive Council	Senator the Hon. Nicholas Hugh Minchin
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 Indigenous Affairs	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 Women's Issues	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
Minister for Communications, Information Technology and the Arts	Senator the Hon. Helen Lloyd Coonan
Minister for the Environment and Heritage	Senator the Hon. Ian Gordon Campbell

(The above ministers constitute the cabinet)

HOWARD MINISTRY—*continued*

Minister for Justice and Customs and Manager of Government Busines in the Senate	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 Human Services	The Hon. Joseph Benedict Hockey MP
Minister for Citizenship and Multicultural Affairs and Deputy Leader of the House	The Hon. Peter John McGauran MP
Minister for Revenue and Assistant Treasurer	The Hon. Malcolm Thomas Brough MP
Special Minister of State	Senator the Hon. Eric Abetz
Minister for Vocational and Technical Education and Minister Assisting the Prime Minister	The Hon. Gary Douglas Hardgrave MP
Minister for Ageing	The Hon. Julie Isabel Bishop MP
Minister for Small Business and Tourism	The Hon. Frances Esther Bailey MP
Minister for Local Government, Territories and Roads	The Hon. James Eric Lloyd MP
Minister for Veterans' Affairs and Minister Assisting the Minister for Defence	The Hon. De-Anne Margaret Kelly MP
Minister for Workforce Participation	The Hon. Peter Craig Dutton MP
Parliamentary Secretary to the Minister for Finance and Administration	The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Industry, Tourism and Resources	The Hon. Warren George Entsch MP
Parliamentary Secretary to the Minister for Health and Ageing	The Hon. Christopher Maurice Pyne MP
Parliamentary Secretary to the Minister for Defence	The Hon. Teresa Gambaro MP
Parliamentary Secretary (Foreign Affairs and Trade)	The Hon. Bruce Fredrick Billson MP
Parliamentary Secretary to the Prime Minister	The Hon. Gary Roy Nairn MP
Parliamentary Secretary to the Treasurer	The Hon. Christopher John Pearce MP
Parliamentary Secretary to the Minister for Transport and Regional Services	The Hon. John Kenneth Cobb MP
Parliamentary Secretary to the Minister for the Environment and Heritage	The Hon. Gregory Andrew Hunt MP
Parliamentary Secretary (Children and Youth Affairs)	The Hon. Sussan Penelope Ley MP
Parliamentary Secretary to the Minister for Education, Science and Training	The Hon. Patrick Francis Farmer MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry	Senator the Hon. Richard Mansell Colbeck

SHADOW MINISTRY

Leader of the Opposition	Mark William Latham MP
Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research	Jennifer Louise Macklin MP
Leader of the Opposition in the Senate and Shadow Minister for Social Security	Senator Christopher Vaughan Evans
Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology	Senator Stephen Michael Conroy
Shadow Minister for Health and Manager of Opposition Business in the House	Julia Eileen Gillard MP
Shadow Treasurer	Wayne Maxwell Swan MP
Shadow Minister for Industry, Infrastructure and Industrial Relations	Stephen Francis Smith MP
Shadow Minister for Foreign Affairs and International Security	Kevin Michael Rudd MP
Shadow Minister for Defence and Homeland Security	Robert Bruce McClelland MP
Shadow Minister for Trade	The Hon. Simon Findlay Crean MP
Shadow Minister for Primary Industries, Resources and Tourism	Martin John Ferguson MP
Shadow Minister for Environment and Heritage and Deputy Manager of Opposition Business in the House	Anthony Norman Albanese MP
Shadow Minister for Public Administration and Open Government, Shadow Minister for Indigenous Affairs and Reconciliation and Shadow Minister for the Arts	Senator Kim John Carr
Shadow Minister for Regional Development and Roads and Shadow Minister for Housing and Urban Development	Kelvin John Thomson MP
Shadow Minister for Finance and Superannuation	Senator the Hon. Nicholas John Sherry
Shadow Minister for Work, Family and Community, Shadow Minister for Youth and Early Childhood Education and Shadow Minister Assisting the Leader on the Status of Women	Tanya Joan Plibersek MP
Shadow Minister for Employment and Workplace Participation and Shadow Minister for Corporate Governance and Responsibility	Senator Penelope Ying Yen Wong

(The above are shadow cabinet ministers)

SHADOW MINISTRY—*continued*

Shadow Minister for Immigration	Laurence Donald Thomas Ferguson MP
Shadow Minister for Agriculture and Fisheries	Gavan Michael O'Connor MP
Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Banking and Financial Services	Joel Andrew Fitzgibbon MP
Shadow Attorney-General	Nicola Louise Roxon MP
Shadow Minister for Regional Services, Local Government and Territories	Senator Kerry Williams Kelso O'Brien
Shadow Minister for Manufacturing and Shadow Minister for Consumer Affairs	Senator Kate Alexandra Lundy
Shadow Minister for Defence Planning and Personnel and Shadow Minister Assisting the Shadow Minister for Industrial Relations	The Hon. Archibald Ronald Bevis MP
Shadow Minister for Sport and Recreation	Alan Peter Griffin MP
Shadow Minister for Veterans' Affairs	Senator Thomas Mark Bishop
Shadow Minister for Small Business	Tony Burke MP
Shadow Minister for Ageing and Disabilities	Senator Jan Elizabeth McLucas
Shadow Minister for Justice and Customs, Shadow Minister for Citizenship and Multicultural Affairs and Manager of Opposition Business in the Senate	Senator Joseph William Ludwig
Shadow Minister for Pacific Islands	Robert Charles Grant Sercombe MP
Shadow Parliamentary Secretary to the Leader of the Opposition	John Paul Murphy MP
Shadow Parliamentary Secretary for Defence	The Hon. Graham John Edwards MP
Shadow Parliamentary Secretary for Education	Kirsten Fiona Livermore MP
Shadow Parliamentary Secretary for Environment and Heritage	Jennie George MP
Shadow Parliamentary Secretary for Infrastructure	Bernard Fernando Ripoll MP
Shadow Parliamentary Secretary for Health	Ann Kathleen Corcoran MP
Shadow Parliamentary Secretary for Regional Development (House)	Catherine Fiona King MP
Shadow Parliamentary Secretary for Regional Development (Senate)	Senator Ursula Mary Stephens
Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs	The Hon. Warren Edward Snowdon MP

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Wednesday, 1 December 2004

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

**ABORIGINAL AND TORRES STRAIT
ISLANDER COMMISSION
AMENDMENT BILL 2004**

First Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 a.m.)—I move:

That the following bill be introduced: A Bill for an Act to amend the *Aboriginal and Torres Strait Islander Commission Act 1989*, and for other purposes

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 a.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 a.m.)—I table the explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

**ABORIGINAL AND TORRES STRAIT
ISLANDER COMMISSION AMENDMENT
BILL 2004**

The purpose of the Bill is to abolish the Aboriginal and Torres Strait Islander Commission. The Bill, which is largely identical to the Bill passed by the House of Representatives and considered by the Senate in June 2004, is part of a major

reform of the Australian Government's approach to Indigenous affairs.

The Bill does one thing. It abolishes ATSIC. The bulk of the Australian Government's reforms to Indigenous affairs are proceeding independently of this Bill.

In June 2004 the Bill was referred to the Senate Select Committee on the Administration of Indigenous Affairs. The Committee was due to report back on 30 October 2004. It will now not report back until 8 March 2005. The delay has already cost the taxpayer over \$1 million in Commissioners' remuneration. The further delay will cost a similar amount.

This unnecessary expenditure of public money continues despite the fact that the Chair of the Committee has said that submissions showed little support for ATSIC. It is also a fact that the Opposition publicly announced on 30 March 2004 that it would abolish ATSIC.

The Board of Commissioners has nothing to do. During the election campaign the Leader of the Opposition was consulted about whether we should approve additional requests for travel funds and staff. He agreed with my view that we should only provide for those payments for which we have no choice.

So we are paying wages for no work—around \$100,000 per year for each Commissioner. Around \$200,000 per year for the Chair. Every week costs another \$65,000 and when the Board is abolished there will be a minimum payout of four months salary for each Commissioner.

Enough is enough. The Senate has another chance to stop this nonsense.

The Terms of Reference for the Senate Select Committee are broad.

The Committee could continue to investigate the administration of Indigenous programmes and services by mainstream departments and related matters but let this Bill pass so that we can honour our election commitment and indeed the commitment of the Opposition.

Significant changes to the way in which services are delivered to Indigenous Australian people have already been introduced. A quiet revolution has been underway since 1 July 2004, involving a

radical new approach which will see Indigenous people empowered and taking control of their own destiny.

Nothing short of revolutionary reform is required if we are to turn around the appalling indicators of Indigenous disadvantage and the sense of hopelessness that many Indigenous people face every day.

The amount of money spent can no longer be the benchmark—outcomes must be the measure.

For too long many mainstream agencies were not closely involved in Indigenous issues. Setting up a second rate specialist agency like ATSIC to do their job for them did not work. Unfortunately over time this led to these mainstream agencies becoming unfamiliar with the issues. We have taken the problem head on. We have transferred Indigenous programmes to mainstream agencies and have taken steps to make sure that those agencies will be much more accountable. The Heads of these agencies meet together each month on Indigenous issues—this is unprecedented.

A Ministerial Task Force has been established to lead the change and to improve coordination and accountability. A new Office of Indigenous Policy Coordination will coordinate policy advice across departments.

Thirty new “whole of government” Indigenous Coordination Centres will be the Australian Government’s presence on the ground. They will offer a simple, coordinated and flexible “one stop shop” service.

In the past Indigenous communities would have to shop around for funding assistance. We will make dealing with Government simpler. From now on we will do the shopping around—we will help with solutions rather than creating barriers.

Some might say that bureaucratic reforms are not the answer. Of course they are not the complete answer but they are an important part of the answer. The community of Lockhart River in Cape York for example has to deal separately with around twenty Commonwealth and State Government departments. There are over fifty separate funding agreements. The community is drowning in a sea of red tape. We want to change to one agreement with the Australian Govern-

ment. We will ask the Queensland Government to join us.

This Government has never shied away from the fact that passive welfare has been devastating for Indigenous Australians particularly in remote areas. In our election commitment we said that unconditional welfare must become a thing of the past.

The provision of special Indigenous funding programmes will be based on the concept of mutual obligation through shared responsibility agreements negotiated with local families and communities.

In our election commitment we moved to offer more choices to Indigenous Australians by introducing programmes to fund scholarships at the best Australian schools and to provide support for young people to take up apprenticeships and other employment opportunities in the larger towns.

We have appointed the National Indigenous Council (NIC) to provide policy advice to the Government at a national level.

The NIC is a far different sort of body to ATSIC—we have no intention of repeating the failed ATSIC experiment. ATSIC elections cost between \$7 million and \$9 million, annual remuneration for Commissioners alone costs the taxpayer almost \$3 million and a further \$1 million for travel expenses. No one could sensibly argue that there are not far better ways to spend that sort of money to benefit Indigenous people.

The NIC is not meant to be a representative body. It is a group of respected individuals with practical experience and expertise. They have their own ideas and a track record of achievement in various fields.

They agreed to be involved in the Council because they are committed individuals who want to see change. The Government is determined that their opinions will be heard and acted upon.

They will not be the only group that the Government will take advice from. There are numerous representative bodies and Committees at the national level that will continue to express their views. Other Indigenous leaders will do so also—and we will listen.

At the regional level we are working with State and Territory Governments, Regional Councils and a range of Indigenous organisations and communities to establish new regional representative arrangements. We recognise that different models are likely to emerge to suit different regions and jurisdictions.

But we do not want these representative and advisory bodies to prevent us from dealing directly with local families and communities. Our approach of shared responsibility agreements based on a 20-30 year community vision will be the vehicle for that.

All these measures have been put in place independently of the Bill. Most of the provisions of the Bill are consequential to the abolition of ATSIC or put in place transitional or other provisions arising from the abolition of ATSIC.

This includes the transfer of the Regional Land Fund to the Indigenous Land Corporation and of ATSIC's Housing Fund and Business Development Programme to Indigenous Business Australia. Other land and property assets will be divested to Indigenous interests prior to the abolition of ATSIC or be transferred to the Indigenous Land Corporation or Indigenous Business Australia for divestment or use for the benefit of Indigenous people.

The Office of Evaluation and Audit which audits ATSIC programmes will audit the full range of Australian Government Indigenous specific programmes. It will continue to investigate the performance of bodies that obtain funding from Indigenous specific programmes.

The current Bill includes a few minor changes to the previous Bill in order to take into account the passage of time and to clarify some specific provisions.

The previous Bill sought to abolish ATSIC on 1 July 2004. The current Bill provides for ATSIC to be abolished on a date to be proclaimed and for the Regional Councils to be abolished from 1 July 2005 or the day after ATSIC is abolished, whichever is the later.

So, if I can be clear. This Bill does not establish the National Indigenous Council or the Ministerial Taskforce, it does not transfer Indigenous programmes to mainstream departments, it does not create Indigenous Coordination Centres—

these reforms have already happened. The Bill simply abolishes ATSIC.

I trust that the Opposition will now fulfill the commitment of the Leader of the Opposition to abolish ATSIC and allow passage of the Bill through both Houses of Parliament as soon as possible.

Ordered that further consideration of this bill be adjourned to the next day of sitting which is more than 14 days after today, in accordance with standing order 111(6).

BUSINESS

Rearrangement

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

That government business notice of motion No. 2 standing in my name for today, relating to a proposal for capital works in the parliamentary zone, be postponed till 6 December 2004.

Question agreed to.

NATIONAL SECURITY INFORMATION (CRIMINAL PROCEEDINGS) BILL 2004 NATIONAL SECURITY INFORMATION (CRIMINAL PROCEEDINGS) (CONSEQUENTIAL AMENDMENTS) BILL 2004

In Committee

Consideration resumed from 30 November.

NATIONAL SECURITY INFORMATION (CRIMINAL PROCEEDINGS) BILL 2004

The CHAIRMAN—The question is that amendments (1) to (4) on sheet 4424, moved by Senator Brown, be agreed to.

Senator BROWN (Tasmania) (9.33 a.m.)—At the end of consideration last night, we had established from the Minister for Justice and Customs that the government has a section in the Attorney-General's Department which operates to vet lawyers qualified in Australia, to determine whether or not

they are fit people to represent Australians before courts where matters of national security are involved. I asked the minister to tell the committee how many lawyers are currently listed by this section of Attorney-General's and to give the committee the criteria which are used to determine which lawyers are suitable and which lawyers are not suitable.

What we can take from this is that this government has, in a corner of the Attorney-General's Department, a black list of lawyers, vetted by bureaucrats who are not known to the public or to the legal profession, using a set of criteria that is secret and using some unknown parameters set down by the government. This is a government department and the Attorney-General has the final say, so the operation becomes a political one in determining who is or who is not a fit lawyer to appear before an Australian court. The Greens' amendments would change that. They follow the Senate committee recommendation that there be involvement of the court in determining who is or who is not a fit lawyer and, indeed, what is or what is not information that, in the national interest, is to be kept off the public record. I ask the minister for justice: exactly what is this section of the Attorney-General's Department which determines who is or is not a fit lawyer? What is the nature of the list of black-banned lawyers kept by this section of Attorney-General's? And what are the criteria used by the bureaucrats in this section of Attorney-General's to determine who is or who is not a fit person to appear before an Australian court to represent a person who has been charged and brought before that court?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.36 a.m.)—First, I will just make this clear so that Senator Brown gets the answer and does not have to ask this question again. There is

no black list of lawyers. I repeat: there is no black list of lawyers. He mentioned that there is some black list, some list of lawyers that are black listed. That is not true. I make that very clear for the record.

Second, I am not aware of any lawyers that have applied for security clearance that have been refused. It is open for any practising lawyer in Australia who has a practising certificate to apply for security clearance—any lawyer. I am aware that the process that is involved is conducted in accordance with the Commonwealth Protective Security Manual. Persons are assessed for their suitability to access national security information. The process involves a range of background checks and assessments. The Australian Security Vetting Service, which I mentioned yesterday, is located within the Protective Security Coordination Centre, a division of the Attorney-General's Department. That security vetting process is a confidential process.

Different processes are applied according to the level of security clearance required—top secret, secret or confidential. So it could well be that, for the issue at hand at the hearing, only a certain level is required. It could require a higher level. It depends on the circumstances of the case. This is not abnormal in security clearances. These different levels have been around for a very long time. They have been applied across the board and they would be applied to those people involved in the trial, not just the defence counsel. I want to make that very clear. The fact that the prosecuting lawyer is a prosecuting lawyer from the DPP does not mean that that person gains instant access to information. They too would have to be security cleared to the required level. That must also be borne in mind.

Senator BROWN (Tasmania) (9.39 a.m.)—That draws up the question: what

about the judges? Is security clearance required for them? Can the minister tell the chamber more about the Australian Security Vetting Service? Who makes up this Australian Security Vetting Service? Who is the head of that section of the department? What is the line of responsibility through to the Attorney-General with respect to the Australian Security Vetting Service?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.39 a.m.)—I am advised that the judge is not required to be cleared. Counsel are but the judge is not. I would imagine that that is on the basis of the independence of the judiciary. As you know, we have the independence of powers in relation to the executive arm of government and the judiciary. That is no doubt the principle behind that. So the counsel appearing in the trial do have to be security cleared; the judge does not.

Senator BROWN (Tasmania) (9.40 a.m.)—We are talking here about the independence of the judiciary from political process. That is why the Greens are moving to ensure that the court determines what matter or evidence should be heard in camera. The court should determine who or who is not a fit person to represent a client before that court. The illogicality of the legislation as we have it—this legislation represents political interference in the court system, which should have independence—is writ large by the determination that judges will not be vetted but lawyers will be vetted. I asked the minister about the Australian Security Vetting Service. Could he explain: what is this service, how many people are employed by it, who is the head of that section of Attorney-General's and what is the line of responsibility from the Australian Security Vetting Service to the Attorney-General?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.42

a.m.)—I do not have the annual report with me from the Attorney-General's Department. It is in that report, which has been tabled. I refer Senator Brown to that. I will get that information for him but it is publicly available. It is in the annual report. I just do not have that here at the moment.

Senator BROWN (Tasmania) (9.42 a.m.)—What is not in the annual report, I will guarantee, is the criteria used for vetting Australian lawyers who want to represent clients before the court. I asked the minister: what are those criteria? I ask for the third or fourth time: what are those criteria? Because the government is turning down the recommendations of the Senate's own inquiry, by refusing the Greens' amendments, how will the minister assure the chamber that the Australian Security Vetting Service will not become anything other than a political weapon to use against lawyers whom the government does not think are fit to appear before a court? What assurance is there? What openness, what scrutiny, for example, does the Senate have of the Australian Security Vetting Service? Where is the responsibility and openness of this service? Can the minister tell the committee: who heads up this service?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.43 a.m.)—Of course, Senator Brown asked me a different question, the answer to which I said would be found in the annual report. As to the vetting process itself, that was not the question, and he is wrong to suggest that it was. He now asks that, and I can advise him that, as I said earlier, different processes apply for the different levels of clearance. The clearance system is based on negative vetting. This aims to identify anything in a person's background or lifestyle likely to pose a security risk. Positive vetting entails an extensive examination of the person's life until suitability for clearance has been established

beyond reasonable doubt. That is a system which is generally only required for the top secret level. In the other levels negative vetting is what is required.

A security assessment from ASIO is required for people who require access to national security information. If a clearance is denied the applicant may seek a review of the decision by the Administrative Appeals Tribunal, and I think that that is very important to remember. If that is denied they can seek redress in the Administrative Appeals Tribunal, which is an important aspect. The security clearance, of course, is a preventative measure. It is essential in the conduct of the protection of the national security of this country and the process here is one which applies as it would to anyone else seeking a security clearance. This is not a process to prevent lawyers from appearing in a case at all. It is a process to protect the national security of Australia. That is a summary of how it works. The manual itself is a confidential document which, for security reasons, cannot be released.

Senator BROWN (Tasmania) (9.45 a.m.)—I ask the minister for the third time: who heads up the Australian Security Vetting Service? It is a simple question; it should be a simple answer. I go to the document that we have just heard is secret. Obviously, you get to the point where lawyers are going to be vetted according to a secret list of criteria which is not going to be made available to them. The minister says that an appeal to the Administrative Appeals Tribunal will be open to them. Are the criteria that are being used to vet a lawyer and to prevent her or him from appearing before a court going to be made available in that hearing at the AAT? Are the reasons for black-listing the lawyer going to be made available at that hearing of the AAT? I understand that they are not going to be made available to the court. I would think therefore that they are

not going to be made available to the AAT and therefore an appeal to the AAT itself becomes a farce. It should be remembered that we are talking about a government department vetting lawyers and determining whether or not they are fit people to appear before a court on grounds such as lifestyle—and I will ask the minister about that in a moment.

The Greens are saying that this should be determined by the courts. If you are going to have a just determination as to who is or is not a fit person to hear information which, in the national interest, is to be kept secret, the court should make such a determination on the evidence brought before it by the government. What this legislation does is to rip away the ability of the court to make that determination and leave it to politicians, to the government of the day, to the Attorney-General and to this so far secret Australian Security Vetting Service. I have never heard of it before, but there it is in Attorney-General's. I ask the minister again: who is it? Who heads it up? How many people are there in this section of the department? He says that there is no black list. There is a putative one; there is one coming down the line, and when we ask for the criteria used by this secret part of Attorney-General's for vetting lawyers in the future, the minister says that the Senate cannot have it because that is secret, too. So there is a series of questions that I want to have the minister answer before we proceed.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.49 a.m.)—I have been advised that Mr Mark Withnell heads the Security Vetting Service. It is not secret; it is in the annual report. I do not think that is very secret; it gets tabled in this parliament. As for the numbers, I will take that on notice and advise the committee. I do not have that to hand but I think that is in the annual report as well. In relation to the

Administrative Appeals Tribunal, it does have access to all the information. Senator Brown is quite wrong to suggest that it does not. There is a special security division of the Administrative Appeals Tribunal which hears appeals of this sort. As you would appreciate, there are a number of appeals to the AAT which deal with sensitive matters—not just in the area we are talking about but in other areas. The AAT is no stranger to dealing with these situations. The special security division of the AAT deals with these matters and has access to all the information. So the appeals process is a thorough one. It is a transparent one and one which provides that aspect of check and balance. In relation to the Protective Security Manual, access to that document is restricted. It is one which I understand is being currently reviewed and updated. There is no dark mystery in that; it is appropriate that these things be reviewed, and I give that to the committee by way of information. For security reasons it is not released, and that is the situation.

Senator BROWN (Tasmania) (9.50 a.m.)—When the AAT hears the appeal from the lawyer, is the lawyer given the evidence upon which she or he is black-banned?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.51 a.m.)—As I understand it, whilst the AAT has that information, it is not always passed on to the person concerned. So the member of the AAT would have it before him but it is not always the case that the person concerned receives that information or all of it.

Senator BROWN (Tasmania) (9.51 a.m.)—So you make an appeal without the information upon which you have been listed made available to you. You have to make an appeal without the information that has been used to find you effectively guilty. I ask the minister: if the AAT appeal involves members of the AAT being privy to that informa-

tion, why is it that the court itself is not a suitable place for that information to be made available? Why is it that the court itself cannot make that determination?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.52 a.m.)—I have already gone over the reasons that we have these provisions in this bill—and that is to provide certainty. It avoids the court being embroiled in decisions on aspects of international relations—very sensitive aspects of international relations. It gives some certainty at the outset as to what may or may not be included. But getting back to the AAT, we think that in the circumstances where you are dealing with national security you have to have a check and balance. We think there is sufficient balance in the fact that the member of the AAT has that information and can quiz ASIO on it. The ASIO assessment is not something you bandy around. We think that in the circumstances to restrict it to the AAT member is appropriate. That AAT member can ask questions of ASIO and can look into it, but it defeats the purpose if it is distributed further.

Senator BROWN (Tasmania) (9.53 a.m.)—The minister has just mentioned ASIO. What is the relationship between ASIO and the Australian Security Vetting Service? Who is doing the vetting of the lawyers? Is it the vetting service or is it ASIO? How does this relationship work? I remind the Senate that it was established last night that we are not just talking here about matters of security in the way people might expect—that is, terrorist matters and otherwise. This is much wider than that. This involves people who might be a worry to the government in some way relating to international or bilateral trade agreements. We are not just looking at physical security, but economic security as well, and an extraordinary widening of the government's ability to determine what information is fit to be brought

before a court and who is fit to be brought before a court. I remind the chamber that the process opened up through this legislation is one where witnesses brought to defend somebody who is charged before a court can themselves be refused an appearance before the court because they are seen to be a threat to security, including economic security.

This is a dangerous process. The Greens are saying that the court should make a determination about what information should be made public; that is built into our amendments. The court can hear evidence in camera but it should make that determination—not some bureaucrat in Attorney-General's. Likewise, the court should make a determination as to who is or is not a fit person in terms of security clearance to appear as a lawyer before it—not some bureaucrat in Attorney-General's. The government is saying, 'We are going to determine it'—the politicians. Ultimately, the person in the Australian Security Vetting Service is going to be in a close relationship with the Attorney-General and, therefore, the government of the day, and it is the Attorney-General who makes these determinations. Here we have an intrusion of the government into the Australian court system to determine, firstly, what courts may hear and, secondly, who is fit to appear before that court, both as witnesses and as legal representatives.

No wonder that the Law Council of Australia has misgivings about this, as did the Senate committee itself, and as does Amnesty International. I remind the Senate that President Steve Southwood QC of the Law Council of Australia wrote just over a week ago saying that the bill as proposed would still restrict an accused person's right to a lawyer of their choice:

We remain concerned by the prospect of defence lawyers having to undergo a government sanctioned security clearance in order to represent

clients in cases with alleged national security overtones.

That is the problem. This is political intrusion into the court system. This is the government of the day reaching out and intruding itself into the court system. The minister for justice says it might be embarrassing to international relations to have our courts make these determinations. What a specious argument that is. What an indictment on the integrity of the Australian courts. On the one hand, it says that we will not have a security clearance for judges. On the other hand, it says the judges are not themselves fit to determine who will appear before the court or what information should be kept from the public record in the national interest. That is what is wrong with this bill. The Greens' amendments rectify that wrong and make sure that politics does not intrude into the courts. The minister says there is not a black list of lawyers. We cannot know that. What we do know is that this bill sets up a black-listing process. There will be a black list of lawyers. People will be banned. That is the point of this legislation—it allows the government to ban certain lawyers from appearing in courts in certain cases.

A political choice will be made as to which lawyer is fit and which lawyer is not fit, and the courts cannot do anything about it under this legislation. The Greens' amendments are saying that the courts should be able to make that determination; do not leave it to the politicians, to the government of the day. It is a fraught process, and it overturns the whole history of that separation between politics and the courts which is fundamental to our democratic system in Australia. That is why we are not supporting the legislation as it stands. That is why we have brought forward these measured amendments. These are critical amendments to respond to what the legal community itself is saying is a very

serious problem with the government's legislation.

The minister has simply said: 'You have to trust us. We have a secret vetting service, we have a secret list of criteria and we will establish a secret list of lawyers who are banned.' I do not like that process at all. I do not think any fair-minded person is going to say that that is good for democracy. I think it is an affront to the Australian courts and to the Australian legal profession, who are fit to make that determination—much better than politicians, including the Attorney-General of the day, whoever that might be. Whatever one might think of the current Attorney-General, this is wide open to abuse by future governments. They can simply use this legislation before the committee today to pick and choose which lawyers will or will not be allowed before Australian courts in certain matters.

We are left with more questions that we have answers for. The minister has not been able to explain why this system is better than leaving it to the courts to make the determination. That is the essential point missing here. The minister says, 'We'll be looking at such things.' This is not just ASIO; this is a determination in Attorney-General's, who will be looking at such things as lawyers' lifestyles. I ask the minister: 'What is it in the lifestyle of lawyers that will be secretly vetted by Attorney-General's that may determine that a lawyer is not going to be allowed to appear before a court? How do you make that determination and be assured about it?'

Senator WATSON (Tasmania) (10.02 a.m.)—I wish to make a short contribution merely to remind the committee that we must not diminish the role of parliament, including the role of the Senate in matters of national security.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.03 a.m.)—In relation to Senator Brown's question on what is there in the lifestyle of lawyers that could be a threat, I still hold a practising certificate and I do not think I will go there. I still have some degree of connection with the legal profession, if you like—I might have to end up there one day earning a living. Seriously, it has nothing to do with the lifestyle of lawyers.

Senator Brown—That's what you said.

Senator ELLISON—No, it is about the person's background and it applies across the board. The vetting service conducted in excess of 2,000 security clearances in the last year that was reported in the annual report. The criteria that apply are in the PSM and they apply across the board. There is nothing which attaches to a particular profession. Whether you are a doctor or a lawyer, a plumber or an electrician, the principles remain the same and the PSM applies across the board. I reject totally that the aspect of being a lawyer in some way puts you at a disadvantage or an advantage. It is looked at totally objectively.

Senator BROWN (Tasmania) (10.04 a.m.)—The obvious problem in that is that doctors and plumbers are not wanting to appear to represent Australians before the Australian courts. We are talking here about the separation of powers between the body politic and the Australian court system, and this is a clear intrusion of politics into that court system. The minister has been totally unsatisfactory in terms of directly answering the questions I have been putting to him, but I ask again: why is it that the courts cannot make this determination? The minister said yesterday that it may be embarrassing. What would be embarrassing about a court making a determination on who is fit to appear before it as a legal representative?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.05 a.m.)—As I have said repeatedly, this provides a certainty so that at the outset of the proceedings there is a clear direction as to what does and does not come within the ambit of national security. It provides that aspect of certainty which is desirable for everyone involved. I have gone over at length the desirability of having that certainty, especially when dealing with other countries in relation to security matters so that they know exactly where you stand. I do not think the courts necessarily relish making determinations as to what comprises national security. Certainly, as to what constitutes a fair trial is something which is quite different and which in this legislation we have retained for the courts to decide. In relation to the question of national security, we believe you need this certainty so that, at the outset of any proceeding, people know where they stand.

In relation to national security relationships with other countries, where you have a sensitive decision which has to be made a court could find itself having to arbitrate on that very question in relation to something which goes to the heart of a relationship between Australia and another country. That is not something that courts normally do. In fact, those security issues are a matter for the executive government of the day. Time and time again, the special relationship that we have with foreign countries as two sovereign states is recognised internationally as being something within the domain of the executive arm of government in those respective countries. It is something which we believe in this legislation is essential for the operation of national security and the protection of national security, and it provides certainty to all.

In relation to a security clearance, I would remind Senator Brown that in this particular bill we might be talking about lawyers hav-

ing a security clearance, but I can tell you that scientists, officials and people who do work for the government, such as subcontractors who may be tradesmen—for instance, electricians doing work at ASIO headquarters or something of that nature at a Defence installation—need security clearances because they may be working on a job which is involved in national security. Obviously you are going to have that applying across the board, and to say that we have singled out lawyers is fanciful. What we have done here is applied a security clearance to lawyers who appear in the courts in these instances. We apply security clearances to plumbers and electricians who do work on sensitive installations and we apply security clearances to people who do work in other areas, whether they work for the government, whether they are scientists or even whether they are staff of ministers. To try to conjure up some misapprehension that we are singling out lawyers in some way or that they are disadvantaged in some way because of their profession is totally false.

Senator BROWN (Tasmania) (10.08 a.m.)—The problem here is that the minister cannot distinguish between the political system and the judicial system, and that is quite clear in what he just said. We are not arguing that plumbers who are going to fix up a pipe at ASIO should not get a clearance or that somebody working for a minister should not get a clearance. What we are arguing is that, when it comes to the court system, a political decision should not be made as to who is or is not a fit barrister to appear before a court. The evidence should be brought by the government to the court and the court should make that determination. This is a breakdown of the division between politics and the courts, because the politician—that is, the Attorney-General, the government of the day—is going to make that determination. That is what is wrong with this system.

Let me give you another example. We have just today got the news about the Red Cross finding that the circumstances at Guantanamo Bay are in breach of international law. There has been torture at Guantanamo Bay, but our government denies it because it is embarrassing to say so to the United States government, which is responsible for the torture. That is a political decision. What we do know is that the courts, even in the United States, are finding against the military commission system, which is a breach of the separation between justice and politics in the United States. It is a breach that has been taken aboard by this government, which no longer recognises the difference and is intruding more and more into the court system. Where you get a failure by the body politic to honour the court system, what does it do in the United States under the Bush administration? It sets up its own false court system—a military commission, a kangaroo court. What does the Howard government do? It says, 'We endorse that.' So you have this dangerous breakdown of the division between the judicial system and the political system, where politicians invent their own version to get a better outcome as they see it. What is happening at Guantanamo Bay is outrageous in terms of the Australian and the American system of justice. It has been put at arm's length from the Australian system and the American system of justice by the politicians. It has been found guilty by the Red Cross, in whom we may trust.

The legislation we have today is a further intrusion of the political system into the court system. It is taking away the court's right to determine who is or is not a fit person to appear before it as a witness, who is or is not a fit person to appear before it as a barrister and what is or is not appropriate information to be kept off the public record in the national interest. It is dangerous legislation. It is a further erosion of the safe-

guards in our democratic system that the courts will not be intervened upon by political considerations. That is what this legislation does. It allows the politicians of the day to start interfering with the court system in Australia. We should safeguard against that, and the Greens' amendments do safeguard against that while looking after national security. That is why we are so strongly in defence of the amendments we have brought forward. They are not just Green amendments. In fact, they are not Green amendments at all; they take the recommendations of the Senate Legal and Constitutional Legislation Committee, the Law Council, several witnesses before the Senate committee and groups who have spoken out in public, such as Amnesty International.

Senator GREIG (Western Australia) (10.13 a.m.)—It is timely to bring the debate back a little to the heart of the Australian Greens' amendments (1) through (4), which is closed hearings in court proceedings. It is the Democrat view that, while appreciating Senator Brown's intention in moving those amendments—and we share the view that holding open, public trials is an essential element of the criminal justice system—nevertheless we believe that the closed court provisions in the bill are appropriate.

Perhaps it is timely to recall how courts currently deal with sensitive information or information affecting national security. Almost always the admissibility of such evidence would be debated in the absence of the jury and frequently in a closed courtroom. That is a normal occurrence. There is nothing extraordinary about hearings about these matters in a closed courtroom. Given that the court would be likely to make an order for a closed court in any event, we Democrats do not see any difficulty in mandating that in the legislation. We are sympathetic to Senator Brown's point that, as far as possible, decisions about the handling of sensitive infor-

mation should be left to the discretion of the court. However, the need for a closed court in a limited range of circumstances, we believe, is appropriately enshrined in the legislation. On that basis, we will not be supporting these particular amendments.

Senator BROWN (Tasmania) (10.15 a.m.)—We do disagree with the Democrats on that matter. We do not agree with mandatory sentencing. That is an interference with the court's right to make the appropriate determination according to the evidence before it. And we do not believe in mandating closed courts. That, again, is a matter that is properly dealt with by the courts of the day. You either have trust in the judicial system and the court system and its independence or you do not. The Democrats are joining the other parties in this place in crossing that line.

Question put:

That the amendments (**Senator Brown's**) be agreed to.

The committee divided. [10.20 a.m.]

(The Chairman—Senator J.J. Hogg)

Ayes.....	2
Noes.....	42
Majority.....	40

AYES

Brown, B.J.	Nettle, K. *
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NOES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Buckland, G.
Campbell, G.	Carr, K.J.
Cherry, J.C.	Colbeck, R.
Collins, J.M.A.	Conroy, S.M.
Crossin, P.M.	Eggleston, A. *
Ellison, C.M.	Faulkner, J.P.
Ferris, J.M.	Fifield, M.P.
Forshaw, M.G.	Greig, B.
Hogg, J.J.	Hutchins, S.P.
Johnston, D.	Kirk, L.
Knowles, S.C.	Lees, M.H.
Ludwig, J.W.	Lundy, K.A.

Mackay, S.M.	Marshall, G.
McLucas, J.E.	Moore, C.
Murphy, S.M.	Murray, A.J.M.
O'Brien, K.W.K.	Patterson, K.C.
Ray, R.F.	Ridgeway, A.D.
Santoro, S.	Scullion, N.G.
Stephens, U.	Tchen, T.
Webber, R.	Wong, P.

* denotes teller

Question negatived.

Senator GREIG (Western Australia) (10.24 a.m.)—by leave—I move Democrat amendments (1), (2), (3) and (4) on sheet 4438:

- (1) Clause 27, page 19 (line 22) to page 20 (line 7), omit subclauses (1) and (2).
- (2) Clause 27, page 20, (lines 9 and 10), omit "a proceeding is covered by paragraph 14(a) (about a proceeding involving a trial) and, under section 26,".
- (3) Clause 27, page 20 (line 11), after "time", insert "before or".
- (4) Clause 28, page 22 (lines 1 to 5), omit subclause (6), substitute:
 - (6) If the proceeding is covered by paragraph 14(b) (about extradition proceedings), the court must adjourn the proceedings for the purpose of holding a hearing to decide whether to make an order under section 31 in relation to the calling of the witness.

These four Democrat amendments go to the heart of our concerns relating to the potential for the Attorney-General's certificate to operate as conclusive evidence in some circumstances. In its current form the bill provides that if the Attorney-General provides a certificate, either during pre-trial proceedings or extradition proceedings, that certificate is to operate as conclusive evidence that the disclosure of the information is likely to prejudice national security.

There are a couple of points that we feel need to be made about these provisions. Firstly, it is important to note that in the vast majority of cases the Attorney-General's cer-

tificate will be issued prior to the commencement of a trial and therefore the conclusive evidence provision will apply. This provision is not limited to a small number of circumstances but is likely to apply to the vast majority of certificates issued by the Attorney-General. Secondly, although the court will retain its discretion to admit or exclude evidence to which a certificate relates, the court will no doubt be guided by the certificate of the Attorney-General in most cases. As I argued in my speech in the second reading debate, in issuing a certificate the Attorney-General is essentially making a finding of fact without any real opportunity for the defendant to be heard. Given that the court may rely on the certificate in making an order to exclude the evidence, this may have a significant impact on the defendant's right to a fair trial.

Again, as I have previously stated, the potential unfairness that is associated with the Attorney-General's certificates is compounded by the fact that they are not liable to judicial review. The only accountability mechanism that applies is the Attorney-General's obligation to provide an annual report to parliament. We feel that, taking all those factors into consideration, it is entirely appropriate for the Attorney-General's certificates to operate as conclusive evidence in any circumstances and, accordingly, these amendments seek to remove the conclusive evidence provisions in relation to pre-trial and extradition proceedings.

Senator LUDWIG (Queensland) (10.26 a.m.)—These deeming provisions mean that the Attorney-General's certificate is, as has been said, conclusive evidence that disclosure of the information in proceedings is likely to prejudice national security. I will deal with the issue of unfairness that might burden the defendant in that matter at a later point. But I remind Senator Greig that at any stage the court can determine if it is signifi-

cantly unfair. I will not go to the bill to read those parts out which say that the court can at any stage discontinue but, in other words, it can say that it is manifestly unfair and come to another conclusion. But I think this amendment does something different, and we can deal with that issue later on. Whilst the certificate is in place—whenever that might come into the process, whether it is before or during, because it can be issued in any time—until the court rules otherwise, it is an offence under the act for the defendant or their legislative representative to reveal such information. So it is a way of ensuring that information that forms part of the process is not revealed, regardless of the eventual decision of the court regarding the capacity for its disclosure to prejudice national security—so it is held at that point.

It is clear that these are onerous provisions that place a heavy burden on the defendant and their legal representative to abide by the terms of the Attorney-General's certificate. They are required to abide by the terms of the certificate until the certificate has been ruled upon by the court. However, the opposition believes that this burden is necessary to ensure that there is no disclosure of information in the proceedings. Disclosure is only made once legal recourse for the Attorney-General or the prosecution to prevent a disclosure has been expended. So it holds it in that position until such time as it is ruled upon. I think this safeguard is necessary to ensure that no irreversible disclosures are made before the legality of those disclosures is fully tested. I think that is sensible. These irreversible disclosures must be made only in such limited circumstances because of the potentially adverse impact that these disclosures could have on our national security. Once they are out there, there is no way to draw them back. That is why these provisions are onerous and do place a heavy burden on defendants.

The result of adopting the amendment would be to introduce the potential for defendants and their legal representatives to second-guess the findings of the court and pre-emptively disclose information based on their belief that the court would eventually overrule the certificate. So a defendant or their lawyer might come to a position where they have a reasonable belief that information might be able to be disclosed, and they disclose it. Once it is disclosed, it cannot be drawn back. It is designed to ensure that it is held there.

Modern courts manage their processes. I have no doubt that they would be able to solve that issue relatively quickly. The court can determine when to bring it on. There is always a need for the court to oversee its own processes to make sure that trials are speedy and not drawn out unnecessarily. This is one of those areas where the courts can play a role, do play a role and have been playing a role. I am sure Senator Greig has listened to the questions to the various courts at estimates hearings. They have indicated what their case management processes are and how they ensure that they do not have long, drawn-out cases and that these issues are dealt with. So I think it falls under all of that. The other issue which could come up is that they could be drawn out, or long periods might elapse. In these instances everyone would require and want this issue to be determined conclusively and quickly so that the people who do have a heavy onus placed upon them can be relieved of that onus once the determination is made.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.31 a.m.)—The government has considered these amendments and does not support them. Senator Ludwig has made some observations about these amendments that the government would agree with. I will quickly deal with each amendment in turn. The first Democrat

amendment proposes removing those clauses of the bill which provide that the Attorney-General's nondisclosure certificate is conclusive for all pre-trial proceedings and for all extradition proceedings. The pre-trial process was introduced as a means to ensure timely justice that is not frustrated by endless delays and challenges relating to the admission into evidence of national security information. It is best to have that sorted out in the pre-trial procedures. That gives everyone certainty. Extradition proceedings are also mentioned. An extradition proceeding is not actually a trial of a person for an offence; it merely determines whether an individual should be surrendered to another country to face trial there. The admissibility of evidence is then a matter for the trial in that other state.

The Democrats' second proposal is to delete the introductory words to clause 27(3), which are:

If a proceeding is covered by paragraph 14(a) (about a proceeding involving a trial) and, under section 26 ...

This phrase is a technical drafting means of ensuring clause 27(3) applies to paragraph 14(a) proceedings, that is, criminal proceedings. When you look back at the definition of proceedings in 14(a), it does not apply to extradition proceedings. Clause 27(3) requires a closed hearing to be held for criminal proceedings if the Attorney-General has issued a certificate under clause 26. To remove those words would render that proposed section ineffective

Amendment (3) seeks to extend the application of 27(3) to circumstances where the Attorney-General has given a certificate before the proceeding. We believe it is not necessary to extend this provision. The Attorney-General will issue a certificate if he or she considers that the information is likely to prejudice national security. The Attorney-General will consider that information only

after he or she has been notified that such information may be disclosed during a proceeding. A person is required to notify the Attorney-General only if the legislation applies. The legislation applies only if the Director of Public Prosecutions advises that a particular matter may result in the disclosure of national security information. This would occur only once the DPP has been given a brief of evidence after a person has been charged—that is, once the proceedings have commenced. Accordingly, the words ‘during the proceedings’ would cover this from that point onwards. There would be no situation of ‘before the proceedings’.

Amendment (4) seeks to exclude the provision that the Attorney-General’s certificate is conclusive for extradition proceedings. I reiterate that extradition proceedings are not a trial of a person for the offence but merely determine whether an individual should be surrendered to another country to face trial there. It is an administrative action.

For those reasons the government does not support the Democrat amendments. I agree with the comment made by Senator Ludwig that, although these provisions are onerous, they are there with the relevant checks and balances. We believe that to incorporate these amendments would render the system unworkable. We have a situation where the Attorney-General gives his or her certificate before the proceedings in pre-trial proceedings and extradition proceedings. They are conclusive. Of course, once a trial has started, if a certificate is given, the court can still make an order that overrules the Attorney-General’s certificate.

Question negatived.

Senator GREIG (Western Australia) (10.36 a.m.)—by leave—I move Democrat amendments (5) and (6) together:

(5) Clause 29, page 23 (lines 25 to 28), omit paragraphs (3)(a) and (b).

(6) Clause 29, page 23 (line 33) to page 24 (line 1), omit “the defendant, the legal representative or”.

These amendments relate to what is no doubt the most controversial aspect of the bill—namely, the potential for a court to hear evidence in the absence of the defendant and his or her lawyer. I spoke on that issue at length in the debate on the second reading and noted the wide range of highly respected organisations which have expressed concern that this will fundamentally compromise the defendant’s right to a fair trial. We argue that it is a fundamental element of Australia’s criminal justice system that a defendant should have the right to be present during his or her trial. Indeed, it is a right enshrined in the International Covenant on Civil and Political Rights. By enabling the court to hear evidence that may adversely affect the defendant in their absence, this bill violates that fundamental right. We Democrats are strongly opposed to these provisions and take the view that they should be removed altogether from the bill, and that goes to the heart of these two amendments.

Senator LUDWIG (Queensland) (10.37 a.m.)—As the Democrats have said, these amendments aim to remove the discretion of the court to exclude the defendant and their legal representative, if the legal representative does not have a security clearance, from the section 31 closed hearing. One fundamental issue that has been missed—or at least glossed over—by the minor parties is that the section 31 closed hearing is not the trial. I think that is important to reflect upon. It is not the trial of the defendant. My advisers tell me the closed hearing is a *voir dire* in practice. It is a process which is designed to deal separately with these matters of national security. The opposition, as a consequence—and I will go on to explain a little more as we take up the time—do not support these amendments because we fundamentally be-

lieve that these amendments would undermine the basic objects of the bill.

The bill aims to create a separate, closed hearing, not a trial—and I tried to explain how that sits—where the court can consider arguments about the disclosure of information; perhaps forum is a word you could use. It is fundamentally necessary that that forum be closed because arguments could be considered within that and then be declared security sensitive by the Attorney-General. There is a requirement that the forum be closed so that security sensitive information can be considered and that consideration cannot of itself lead to the disclosure of security information such as to prejudice national security. We do not want to be in a position where the forum could prejudice national security. What would be the point of having the forum? What would be the point of having the section 31 closed hearing? The whole point of it is to ensure that there is integrity to that system. If the court did not have the capacity to exclude the defendant and their legal representative from the section 31 closed hearing, if the legal representative did not have a security clearance, then the court would not have the capacity to create that intended forum.

Without that forum, or separate hearing, the whole object of the bill is effectively defeated. It is not the trial of the defendant. I think you have to put that delineation in your mind when you address this national security bill. You have to be able to conceptualise the difference between a closed forum hearing, which is to determine a particular issue, and a trial, which is to determine the guilt or innocence of the person. It is important to note that a section 31 closed hearing, from which the defendant and their legal representative—if they do not have a security clearance—can be excluded is not, as I have said, a trial. If it is not a trial then the decisions that are made in it are about the nature of the

security information. The trial may be subsequent to that forum or the forum may be part of the trial—that is, you could be in the middle of a trial and need a forum because something came up, and that could come up more than once depending on the witnesses. The trial may or may not have started and you may have a forum. At any point in the process the certificate could be issued and you would come out of the trial, go into the closed forum and determine those issues.

There are also a couple of safeguards, as a few things might pop up. In the trial itself the court does not have the discretion to exclude the defendant or their legal representative. When you are in the trial, the court cannot say, 'Because you don't have security clearance, you're excluded.' Due to the amendments to clause 19, the court now expressly has the power to permanently stay proceedings if it concludes that, due to an order it made pursuant to clause 29 about excluding a defendant or their legal representative from a section 31 closed hearing, the defendant's capacity to receive a fair trial has been substantially adversely affected. If you have a situation where in the forum the defendant's legal representative was excluded because they did not have a security clearance, the defendant's legal adviser cannot then be excluded from the trial. If the court determines that because of a decision it made in that forum the defendant may not receive a fair trial because they have been substantially adversely affected, it can stay the proceedings. When you put those two bits together, the bill would be defeated in its purpose if you did not have that process in place. For those reasons we do not support the amendments.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.43 a.m.)—Senator Ludwig has outlined the situation in relation to the operation of this bill. I agree with what he said on the applica-

tion of it. For those reasons too the government does not support the amendments proposed by the Democrats.

Question negatived.

Senator LUDWIG (Queensland) (10.44 a.m.)—I move opposition amendment (3) on sheet 4432 revised:

- (3) Clause 29, page 24 (after line 7), after subclause (3), insert:
- (3A) In considering whether to make an order under subsection (3) in relation to a legal representative of the defendant, the matters the court should consider include but are not limited to:
- (a) the period in active practice without either previous criminal convictions or adverse findings in disciplinary matters;
 - (b) previous experience in handling confidential information;
 - (c) the effectiveness of any implied or express undertaking to use such information only for the purpose of defending an accused in the relevant court proceedings.

Amendment (3) proposes to insert a new subclause 29(3A) to outline some of the important factors that must be considered by a court when determining whether the legal representative of a defendant who has not been given security clearance may be present during a closed hearing where the disclosure of information at the closed hearing would be likely to prejudice national security. The matter to be considered by the court concerns the previous experience of the defendant's legal representative in handling confidential information, their period in active practice without criminal conviction or disciplinary action, and the effectiveness of the existing implied undertakings to only use relevant information for the purpose of defending the accused in the proceedings.

This amendment ensures that consideration is given to those matters that bear upon

an assessment of the fitness of the defendant's legal representative who has not received a security clearance to participate in the closed hearing in which information will be disclosed that would be likely to prejudice national security. The amendment reinforces the objects of the bill by ensuring that various matters are considered by the relevant court. They go to ensuring that, if there is a position where the court considers these matters of the representative's experience, there is a clear basis on which to do that. We think this amendment adds to, rather than modifies or changes, the intent of the bill. We think it shores the bill up in this instance and makes it a bit more practical and workable.

Senator GREIG (Western Australia) (10.46 a.m.)—We Democrats will support this amendment, which aims to require that a court take a number of matters into account when deciding whether to exclude a legal practitioner from any aspect of the proceedings on the basis of national security concerns. In particular, the court will be required to consider, among other things, the legal practitioner's period in active practice without previous convictions or adverse findings in disciplinary matters, the legal practitioner's previous experience in handling confidential information and the effectiveness of any confidentiality undertaken. By requiring the court to consider these additional matters, the amendment should help to guard against the wrongful exclusion of legal practitioners from proceedings which have important implications for their clients.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.47 a.m.)—The opposition has proposed a new subclause 29(3A) which would bring into the ball game, if you like, what the court can consider in relation to the antecedents of the defence counsel. We have had debate previously in this committee on the vetting process for defence counsel. We believe it is ap-

appropriate that all things be canvassed during that vetting process and that that not be extended to the consideration by the court of the length of practice of the practitioner, previous criminal convictions or any adverse findings in disciplinary proceedings. We think the question of security clearance should be dealt with in that vetting process only. I think the extension of this consideration to the court really does blur it somewhat. Whilst that may be a consideration during the vetting process, there are certainly other aspects to be considered. We think it should be considered during the one process rather than having a vetting process and then still having the court take a look at whether this person has any professional blemish on his or her history. For those reasons, the government on balance do not support the amendment proposed by the opposition.

Question agreed to.

Senator LUDWIG (Queensland) (10.49 a.m.)—by leave—I move opposition amendments (4) and (5) on sheet 4432 revised:

- (4) Clause 29, page 24 (lines 18 to 21), omit subclause (5), substitute:
 - (5) The court must make the record available to, and only to:
 - (a) a court that hears an appeal against, or reviews, its decision on the hearing; and
 - (b) the parties to proceedings, unless the court determines that the provision of the record or part of the record to the parties would prejudice national security.
- (5) Clause 29, page 24 (after line 21) at the end of the clause, add:
 - (6) Notwithstanding subsection (5), if a court makes an order under subsection 31(5), the court may make the record of the closed hearing, or part of the record of the closed hearing, available to the public, unless the court determines that

the publication of the record or part of the record would prejudice national security.

Amendment (5) contains a new paragraph to be inserted which says that the court must take a record of the proceedings of a closed hearing and that it will be available to the parties to proceedings unless the court determines that the provision of the record or part of the record would prejudice national security. This amendment removes the legislative prescription that the transcript must be sealed and allows the court to determine if the record of proceedings is to be made available to the parties to the proceedings and to a court that hears an appeal against, or reviews, the court's decision on the hearings.

Allowing access by the parties to the record promotes an important public interest that the administration of justice can proceed publicly while balancing the importance of protecting national security. It would seem a sensible addition to the process to ensure that the transcript is available to the parties. They may require reflection upon that transcript or a check of the record to determine that those were the matters that were dealt with. The amendments provide that the court can otherwise seal the record if necessary—if they do not think it should be given out. So the amendments do give the court the discretion in that regard. We think that these are sensible amendments and that they should be supported.

Senator GREIG (Western Australia) (10.51 a.m.)—Opposition amendment (4) provides that, in addition to providing the record of a closed hearing to any appellate court, the court must also provide such a record to the parties to the proceedings provided that that does not prejudice national security. While we Democrats take the view that the record should be provided to the parties in all circumstances and could be protected by way of confidentiality undertak-

ings, we nonetheless welcome this improvement and give our support to it.

Senator LUDWIG (Queensland) (10.51 a.m.)—The amendments I moved promote an important public interest so that the administration of justice can proceed publicly while balancing the importance of protecting national security. Courts, as I have said earlier, should have some discretion to achieve this balance, particularly in circumstances in which an abuse of process may occur in the closed hearing. A blanket prohibition on the publication of the record would otherwise prevent this becoming known publicly and an appropriate response being taken. There is a public interest that has to be served in relation to that. It is an important public interest. There should be promotion to ensure that both of these matters are addressed and that the government accepts the amendments. It still allows the court the ability to determine these things but it also provides for two important steps: it ensures that a balance is struck between the public interest and the protection of national security, and it also ensures that the court cannot be subject to an abuse of process, because the appropriate public response can then be taken when it becomes available.

Senator GREIG (Western Australia) (10.53 a.m.)—Opposition amendment (5) also relates to the record of a closed hearing. It simply provides that the court may make such a record or part of such a record available to the public, provided that it does not prejudice national security. Ensuring that criminal trials are open to the public is an important aspect of our legal system which helps to promote accountability, fairness and confidence in the criminal justice system. This is therefore an important amendment and we will support it.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.54

a.m.)—Whilst we are cognately debating opposition amendments (4) and (5), can I say that the government does not support either of those. In relation to amendment (4) I point out that, generally, the spirit of this proposal is contained in clause 32 of the bill which provides for the court to give reasons for its decision for making an order under clause 31. That relates to an order admitting, excluding or redacting the information or excluding a witness. At the outset, I would point that out to the committee.

In relation to the proposal on the distribution of the transcript and making it public, I would point out that section 85B of the Crimes Act 1914 permits a court exercising federal jurisdiction to order the proceedings to be held in a closed court where the orders are expedient in the interests of the defence of the Commonwealth. So there is a provision for a closed hearing. That being the case, it follows that you do not widely distribute the transcript of the record of those closed proceedings. Clause 29(5) in this bill provides that the court must:

- (a) make and keep a sealed record of the hearing; and
- (b) make the record available to, and only to, a court that hears an appeal against, or reviews, its decision on the hearing.

You really need that for any conduct of appeal. We believe that to disseminate that widely, or even to provide that for distribution to the counsel or defendant concerned, detracts from the fact that you have a closed hearing. Once you decide that a closed hearing is in order, then the record of proceedings should be equally protected, albeit with that provision that the court has to give reasons for its decision and that the record is kept for any appeal purposes.

Senator LUDWIG (Queensland) (10.56 a.m.)—In relation to the latter part, there is a public interest for the disclosure of that in-

formation more widely, bearing in mind that that is after the court has decided that it is not one of the issues that should be kept private. In other words, it is a matter that has passed through the system and nobody sees any particularly dark issue about it. In those instances, there does not seem to be any practical reason that it should not be made available. I think it also promotes openness and transparency, especially amongst the people that turn up to provide information. If you then say it should be sealed and left for any appeal that is required and be provided to the court only in those circumstances, it does not provide a public good. If you accept the amendments that we have put forward, they will allow a public good as a consequence.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.57 a.m.)—I can see Senator Ludwig's point on that but I think it is important that the government place on record the fact that, even though an order might not be made, there might be information of a sensitive nature which might be divulged during the course of that closed hearing. It might not be sufficiently so that it is a matter of national security but it might divulge other things, such as the modus operandi of intelligence agencies. In any event, I think I have made the government's position clear.

Question agreed to.

Senator BROWN (Tasmania) (10.58 a.m.)—I move Greens amendment (7), as follows:

(7) Clause 31, page 27 (lines 5 and 6), omit subclause (8).

This amendment effectively removes the provision under clause 31(8), which reads:

In making its decision, the Court must give greatest weight to the matter mentioned in paragraph (7)(a).

That matter is one of national security against the defendant's right to a fair hearing. It would be interesting to hear from the minister how a court would give greatest weight to taking away the right of a defendant to a fair hearing. Either you take it away or you do not. I presume that this means that the defendant's right to a fair hearing is overridden by the government's decision that the matter is one of national security. Is there any other way, measure or indication that the government has as to how this weighting is transferred from the right of the defendant to a fair hearing to national security?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.00 a.m.)—I draw the committee's attention to clause 31(7), which says:

(7) The Court must, in deciding what order to make under this section, consider the following matters:

... ..

(b) whether any such order would have a substantial adverse effect on the defendant's right to receive a fair hearing, including in particular on the conduct of his or her defence;

It does not take away any consideration. Senator Brown has put it in rather black and white terms, that it is either in or out. It is certainly there as a factor. We do not agree with the Greens' amendment. We believe that the way it is framed in clause 31(7) is appropriate, with 31(8) attaching where greatest weight should be placed. The discretion in relation to the determination of a fair trial is still very much there.

Senator BROWN (Tasmania) (11.01 a.m.)—I ask the minister: what does 'greatest weight' mean? Is it 60-40 or 70-30? What does this term mean? Minister, could you define the term 'greatest weight' as intended by the person putting these words into this legislation?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.01 a.m.)—The phrase ‘greatest weight’ has its normal meaning as we use it in our normal language. We do not define every term that a court has to use or apply. Its natural meaning would follow. I am sorry if Senator Brown does not understand what that means, but it is pretty obvious; it speaks for itself.

Senator BROWN (Tasmania) (11.01 a.m.)—I understand what it means, but it is a helpless clause. It is not defined. It gives an indication but it does not give any definition. It effectively becomes a nonsense because it does not give definition. The Greens’ amendment would remove it.

Senator GREIG (Western Australia) (11.02 a.m.)—Greens amendment (7) removes the requirement that, in balancing the competing interests of protecting national security and the defendant’s right to a fair trial, the court must give more weight to the protection of national security. We can agree with that and we would agree with Senator Brown that this is a particular matter which should be left to the discretion of the court to determine on the circumstances of each case. In this circumstance we do not support a legislative requirement to certainly give more weight to one consideration over the other, particularly when the right to a fair trial is at stake.

Senator LUDWIG (Queensland) (11.03 a.m.)—For some of the reasons that have already been outlined by the government in respect of Greens amendment (7), the opposition will not be supporting it. It is our view that clause 31(8) should not be omitted from the bill. This provision reflects the stated object of the bill by reinforcing the manner in which the various matters set out in clause 31(7) are to be considered by a court when determining what orders in fact should be made regarding the disclosure of the infor-

mation. Among those matters is the requirement that the court consider whether any order that is made would have a ‘substantial adverse effect on the defendant’s right to receive a fair hearing’, as amended in this place yesterday. In order to trigger this provision, consideration must be given to whether the effect on the defendant’s right to receive a fair trial is not insubstantial, insignificant or trivial. Furthermore, the court maintains an absolute discretion under clause 19 to stay proceedings once a closed hearing has taken place, irrespective of what orders were made during the closed hearing, if in the court’s opinion the defendant would be unlikely to receive a fair hearing.

The point I was making earlier—you may not have been in the chamber, Senator Brown—was that the closed hearing is not the trial of the defendant. It is a separate forum—if you want to give it a separate name other than ‘closed hearing’, but ‘closed hearing’ will suffice—where a certificate has been issued under clause 31. Notwithstanding what might happen, there is the ability under clause 19, when the defendant is on trial, for the court, in the court’s opinion, to determine that a fair hearing is not likely to take place and for that reason stay the proceedings. So what happens is that you have the closed hearing and there is also a trial. As has been said, I think it is essential to the understanding of the process that you have to be able to delineate between the two. A closed hearing can take place either before or during the trial—it can, of course, happen a number of times during the trial. It is designed to ensure that there is fairness in the trial. The closed hearing is to determine as to the competing issues—what is within the public interest and what, in the government’s view, comes within national security, to ensure that national security is not compromised as a consequence. For those reasons and the reasons that I outlined earlier about

the process, we are not in a position to support the amendment.

Question negatived.

Senator BROWN (Tasmania) (11.06 a.m.)—I move Greens amendment (5) on sheet 4424:

(5) Clause 31, page 27 (after line 6), at the end of the clause, add:

- (9) Where a court makes an order permitting information to be disclosed as being subject to the Attorney-General's non-disclosure certificate, the court must be satisfied that the amended document or substitution document to be adduced as evidence would provide the defendant with substantially the same ability to make his or her defence as would disclosure of the source document.

The purpose of this amendment is to give fairness to the defendant. I recommend it to the committee.

Senator LUDWIG (Queensland) (11.07 a.m.)—We have already dealt with some of those issues, but it is worth adding that clause 31(7) of the bill already details the matters that must be taken into consideration by a court when determining what order it will make regarding the disclosure of information. So the provisions within the bill already detail what the court must consider when making an order it may otherwise arrive at. Among those is the requirement that the court consider whether any order it makes would have a substantial adverse effect on the defendant's right to receive a fair hearing. It is important to keep coming back to the fact that the process—given the forum of the closed hearing, which is separate from the trial—has a requirement that the court consider whether any order it may make would have a substantial adverse effect on the defendant's right to receive a fair hearing, as was amended in this place yesterday.

I think it is important to keep in train that it is then not the hearing.

Under clause 19(2), in the hearing the court can also come to a similar provision because in that instance, where they cannot exclude the non-security cleared lawyer—so that everyone is in there—the court can still stay proceedings once a closed hearing has taken place, irrespective of what orders were made during the closed hearing, if, in the court's opinion, the defendant would be unlikely to receive a fair hearing. So in the hearing—as distinct from the closed hearing—which relates to the trial, clause 19 gives the court that discretion to still stay proceedings if, in its opinion, the defendant would be unlikely to receive a fair hearing.

To put those together, under clause 31(7) the court must take matters into consideration when determining what orders it will make regarding the disclosure of information in the closed hearing and the court can determine whether or not it might have a substantial adverse effect on the defendant's right to receive a fair hearing there. Subsequently, if it did not and the information was excluded, redacted or summarised, then during the trial, which determines the defendant's guilt or innocence, the court can say that in those proceedings, in the court's opinion, the defendant would be unlikely to receive a fair hearing on the information that has been presented or having regard to the way the information has been allowed to come forward from the closed hearing. For those reasons we are not going to support the amendment.

Senator GREIG (Western Australia) (11.10 a.m.)—The legislation makes it very clear that, at all stages of a trial, the trial judge retains the power to stay the proceedings if an order made under proposed section 31, which would include amending or editing a document on national security grounds,

would have a substantial adverse effect on the defendant's right to receive a fair hearing. Because the court retains this power, we feel it is unnecessary for an additional requirement to be made that the court ensures any editing of a document provides the defendant with the same ability to make his or her defence.

But a more important point to make here is that, given that Senator Brown's amendment (7) has failed—it did have Democrat support but it was not passed in this place—if we were now to progress with the amendment before us, it would effectively render the bill's regime unworkable. We would argue that that is because the court would have an obligation to give most weight to national security interests in deciding whether to order the editing of a document, yet the court would simultaneously have to be satisfied that the defendant would have the same ability to make his or her defence. So, while the Democrats do not agree with the requirement to place more weight on the protection of national security, if it remains in the bill, it will be important to ensure that the bill is workable and does not place conflicting obligations on the judiciary.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.12 a.m.)—The government does not support the Greens' amendment. It concurs with the points made by the opposition and the Democrats in this regard. I will not extend the debate unnecessarily.

Senator BROWN (Tasmania) (11.12 a.m.)—The Greens do not accept any of those arguments. We believe that where we can amend this bill to make it fairer and weight it in defence of a defendant's right to a fair trial, which is fundamental to our democratic system, we should do so. We stand by the amendment.

Question negatived.

Senator GREIG (Western Australia) (11.12 a.m.)—I move Democrat amendment (7) on sheet 4438:

(7) Clause 32, page 27 (lines 17 to 29), omit clauses (2) to (4).

I will speak to both amendments (7) and (8), but procedurally, of course, they will need to be moved separately. These amendments relate to the obligation of a court to provide a draft copy of its reasons for making an order under proposed section 31 to the prosecutor and, in some circumstances, to the Attorney-General. Both the prosecutor and the Attorney-General then have the opportunity to request that the court make changes to its statement of reasons. We Democrats view these provisions not only as inherently unfair to the defendant but as a dangerous blurring of the separation of powers.

Regardless of any genuine security concerns raised by the prosecutor or the Attorney-General at this stage, these provisions have the potential to create at least the perception that the executive government is instructing the courts and playing an active role in their decision-making process. The Democrats believe it is important to guard against that perception. It should be the case that the prosecutor and the Attorney-General can make their national security concerns clear to the court prior to the making of a proposed section 31 order. There is no need to give them an additional right to vet the judge's statement of reasons. For those reasons, we believe these provisions should be removed from the bill.

Senator LUDWIG (Queensland) (11.14 a.m.)—I will deal with these amendments concurrently although I understand that they have to be put separately. These amendments aim to remove the capacity of the prosecutor and the Attorney-General, if the Attorney-General is a party to an appeal to the court, to vary the proposed written statement of

reasons published by the court following a section 31 closed hearing prior to that statement being published. These amendments will remove the required prior notice to the prosecutor and the Attorney-General of the proposed written statement of reasons following a section 31 closed hearing and only allow an ex post facto appeal to vary the form of the published statement.

The opposition do not support these amendments because we believe that the removal of the prior notice mechanism from the bill effectively makes the entire appeal mechanism contained in the bill redundant. There is no practical benefit in appealing to vary a written statement of reasons once those reasons have been published. The cat, so to speak, is out of the bag, because they have already been published and, if anything were going to be damaged by that, it would have already been damaged. It reminds me of defamatory remarks—the remarks are out there. So the point of it being varied ex post facto seems to be redundant in that sense.

The opposition believe that the nature of the potential disclosure that may be contained in the written statement means that it is legitimate for the prosecutor and the Attorney-General to make the decision about the need to appeal to vary the written statement in the context of that statement having not yet been published—and that is prior to publication. If there is a requirement to change it, let it be done at that point. For that reason we believe that clauses 32(2), 32(3) and 32(4), as well as clause 33 of the bill, should not be omitted because they serve a legitimate and important purpose contained within the bill.

It is also worth noting that nothing in clauses 32 or 33 of the bill undermines the court's ultimate discretion to determine the form of their own written statement of reasons. The court still retains that ability. Ulti-

mately, these clauses simply regulate the timing of the publication and possible appeals in a manner that is consistent with the objects of the bill and appropriate given the subject of reasons. For those reasons we will not be supporting the Democrat amendments.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.17 a.m.)—The government too will not be supporting the Democrat amendments. Although we are debating them cognately they will be put separately. In relation to clause 33, we believe that allows for a delay. It states:

If the court makes a decision under section 32, a statement recipient (within the meaning of that section) ...

People who receive the statement are, as stated in 32(1):

- (a) the person who is subject of the order;
- (b) the prosecutor;
- (c) the defendant;
- (d) any legal representative of the defendant—

and the Attorney-General, if that applies. So those people must be given the opportunity to request a delay in the court giving a statement of reasons and that delay is to allow them to consider an appeal. Clause 33 is very important.

When you go back to clause 32 it is appropriate that the prosecutor or the Attorney-General, if he or she were represented at the closed hearing, have a statement of reasons so that they can make application in relation to that. I think that the regime set out is a reasonable one. It does deal with issues at the time and it allows notice to be given for any issues with a statement to be addressed at that stage. It is important that it be addressed at that stage rather than later through an appeal process. For those reasons the government does not support the Democrat amendments.

Question negatived.

Senator GREIG (Western Australia) (11.19 a.m.)—I now formally indicate that the Democrats oppose clause 33 in the following terms:

(8) Clause 33, page 28 (lines 1 to 9), **TO BE OPPOSED**.

The TEMPORARY CHAIRMAN (**Senator Kirk**)—The question is that clause 33 stand as printed.

Question agreed to.

Senator GREIG (Western Australia) (11.19 a.m.)—The Democrats oppose part 4 of the bill in the following terms:

(9) Part 4, page 31 (line 1) to page 32 (line 15). **TO BE OPPOSED**.

This relates to the requirement for legal practitioners to submit to security clearances or risk being denied access to certain evidence in a trial. I outlined the Democrats' concerns in relation to those provisions during my second reading contribution. To reiterate those concerns, we believe there is a risk that the security clearance will compromise a defendant's right to instruct a lawyer of his or her own choice, unduly delay the trial process, and possibly increase the defendant's legal costs.

In relation to the impact on legal practitioners, we are concerned by the intrusive nature of the proposed security checks and the perception that this may create in terms of the potential misuse of personal information about legal practitioners. We are also concerned by the fact that the procedures for security clearances are contained in the Commonwealth Protective Security Manual, which is not a public document and is subject to change at the will of executive government. Like many of the highly respected organisations that presented evidence to the Senate Legal and Constitutional Legislation Committee, we Democrats are fundamentally opposed to the concept of security clearances

for legal practitioners who are, after all, officers of the court routinely required to provide confidentiality undertakings. So we are seeking to remove part 4 from the bill, which establishes the security clearance regime.

Senator LUDWIG (Queensland) (11.21 a.m.)—The Democrats are seeking to remove part 4 from the bill, which allows the Secretary of the Attorney-General's Department to give written notice to a defendant's legal representative that an issue is likely to arise relating to a disclosure of information or information in the proceedings that is likely to prejudice national security. This notice then allows the person, the subject of the notice, to apply for a security clearance from the Attorney-General's Department.

The opposition realises that the security clearance of lawyers is a contentious and controversial issue—that is recognised. However, the opposition believes that, in the extremely limited circumstances that are contemplated by this bill, the unusual security measure is warranted. This in-principle support for the security clearance of lawyers is limited to circumstances which were supplied by the Australian Law Reform Commission in its inquiry into the protection of classified and security-sensitive information in criminal proceedings. The principle is not one that simply rests with the government. In its report *Keeping secrets: the protection of classified and security sensitive information*, which was released in May 2004—I will not castigate the government again for not paying significant heed to that report—the ALRC noted that it felt uncomfortable making a recommendation to the effect that a court or tribunal could order a lawyer to submit to the security clearance process. However, the ALRC noted that if important material is not available to counsel in the proceedings counsel run a risk of failing to provide their client with effective assistance and consequently should consider seeking a

security clearance or withdrawing from the proceedings. The ALRC suggested that the proposed focus should not be on the dignity or convenience of the lawyer, but rather on the client receiving the best possible representation in circumstances in which highly classified information must be protected. The Senate Legal and Constitutional Legislation Committee also concluded that the security clearance of lawyers was ultimately necessary if security-sensitive information is to be protected in an environment where criminal proceedings can still go ahead.

The opposition shares the view of the ALRC and the Senate Legal and Constitutional Legislation Committee, and for that reason accepts part 4 of the bill, which is necessary to facilitate the process through which the defendant's legal representatives can be notified that they have the capacity to apply for a security clearance. For those reasons we will not be supporting the Democrat amendment.

The TEMPORARY CHAIRMAN (Senator Kirk)—The question is that part 4 stand as printed.

Question agreed to.

Senator BROWN (Tasmania) (11.25 a.m.)—In the wake of the committee's determination that part 4 should stand, I move Greens amendment (6):

- (6) Page 32 (after line 15), at the end of Part 4, add:

39A Court orders in relation to security clearances

- (1) It is within the competence of a court in considering all the circumstances of a case, to determine whether a defendant's legal representative requires a security clearance before he or she can access information, and a court may so order.
- (2) A court may order that specified material not be disclosed to a defendant's

legal representative unless he or she holds a security clearance at a specified level.

This amendment does what I argued for earlier in the morning—it gives the court the discretion to determine whether or not a lawyer or barrister appearing before the court is a fit and proper person to hear matters that may affect national security. If there is doubt about that, the court can require the legal representative to get a security clearance. This amendment retains for the court the right to that discretion, rather than the legislation's transference of that right as it stands to the politicians—the government of the day, the Attorney-General of the day. We do not think that is right.

So this amendment is an important one which upholds the separation of powers, retains the right of the court to make a determination about the fitness of legal representatives appearing before it, and ensures that that is not made by political fiat or determined according to the interpretation of a set of rules which is not on the public record. The amendment has the outcome which the government and opposition desire, except it gives the court the ability to make that determination rather than the Secretary of the Attorney-General's Department or the Attorney-General, as the legislation stands.

Senator LUDWIG (Queensland) (11.27 a.m.)—We believe that the courts already retain a discretion pursuant to clauses 29(2) and 29(3) to determine the circumstances in which a defendant or their legal representative may be present during a closed hearing. The Greens' amendment should not be accepted because the court already retains that discretion under those provisions and the amendment does not add anything to the bill. Clauses 29(2) and 29(3) already outline the process. Rather than reiterate that process, we have to get over the hurdle of understanding the difference between a closed hearing

and a trial. The discretion rests in those two provisions. For those reasons we are not prepared to accept the amendment.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.29 a.m.)—The government, likewise, do not support the amendment. We believe that in relation to security clearances and the vetting process we have put our position clearly. There is nothing further we can add other than to say that we think the procedures in the bill are appropriate and should not be extended to the court.

Senator BROWN (Tasmania) (11.29 a.m.)—The Labor Party's argument does not stand, by the very fact that section 39 is here—it is a new section headed 'Security clearance for defendant's legal representative'—and the Greens' amendment amends that section, not some other section that the government might be referring to. It is a reasonable and proper amendment which, as I say, puts this matter in the hands of the courts—determining who is or is not a fit person to be a legal representative—rather than leaving it with the politicians.

Senator LUDWIG (Queensland) (11.30 a.m.)—In all fairness, it leaves it with the court because in that closed hearing the court can determine whether or not it accepts. It seems to be that the court has the discretion whether to accept the security cleared lawyer or the lawyer, as the case may be. It is not the politicians in this instance. The court has that discretion. The court can say yea or nay in this instance, and whatever happens from thereon happens. That seems pretty clear to me: it is not the politicians determining in this instance; it is the court. I think that was also reflected in the position that was adopted by the Senate Legal and Constitutional Legislation Committee when it looked into this legislation. I think it is clear that in this instance your provision does not add

anything, because the discretion already exists.

Senator GREIG (Western Australia) (11.31 a.m.)—I have a question for the minister. Minister, what would be your understanding if the amendment moved by Senator Brown were to be adopted? Would that require lawyers to undertake a mandatory security clearance? My reading of the bill is that that is not the case currently but that this amendment might have that effect.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.31 a.m.)—Yes, that is my understanding and the government's understanding of the amendment.

Senator GREIG (Western Australia) (11.31 a.m.)—My fear was that that was what it might lead to. I certainly appreciate what Senator Brown is trying to achieve here: the intention is to take the security clearance regime out of the hands of government and place it in the hands of the courts. As I have now been able to determine, that would have the flow-on effect of mandating that lawyers would be required in all circumstances to undergo security clearances, yet the bill itself does not go that far. I am not convinced that that is appropriate. It is then a decision for the defendant or his or her lawyer as to whether the lawyer submits to a security clearance. Obviously there will be ramifications in terms of access to information if the lawyer does not submit to a security clearance, but the point is that the clearance process remains optional, not mandatory. I would not like to see the bill go further in that regard, so the amendment before us will not have Democrat support.

Senator BROWN (Tasmania) (11.32 a.m.)—It does not mandate anything. The legislation says:

It is within the competence of a court in considering all the circumstances of a case, to determine

whether a defendant's legal representative requires a security clearance before he or she can access information, and a court may so order.

It might order that this person does not require a clearance; it does not mandate anything at all.

Question put:

That the amendment (**Senator Brown's**) be agreed to.

The committee divided. [11.37 a.m.]

(The Chairman—Senator J.J. Hogg)

Ayes.....	2
Noes.....	44
Majority.....	42

AYES

Brown, B.J.

Nettle, K. *

NOES

Allison, L.F.

Barnett, G.

Bartlett, A.J.J.

Bishop, T.M.

Boswell, R.L.D.

Brandis, G.H.

Buckland, G.

Campbell, G.

Campbell, I.G.

Chapman, H.G.P.

Cherry, J.C.

Colbeck, R.

Collins, J.M.A.

Crossin, P.M.

Denman, K.J.

Eggleston, A.

Ellison, C.M.

Faulkner, J.P.

Ferguson, A.B.

Ferris, J.M.

Fifield, M.P.

Forshaw, M.G.

Greig, B.

Hogg, J.J.

Hutchins, S.P.

Johnston, D.

Knowles, S.C.

Lightfoot, P.R.

Ludwig, J.W.

Marshall, G.

Mason, B.J.

McGauran, J.J.J. *

McLucas, J.E.

Moore, C.

Murray, A.J.M.

O'Brien, K.W.K.

Patterson, K.C.

Payne, M.A.

Ray, R.F.

Ridgeway, A.D.

Scullion, N.G.

Stephens, U.

Tchen, T.

Webber, R.

* denotes teller

Question negatived.

Bill, as amended, agreed to.

NATIONAL SECURITY INFORMATION (CRIMINAL PROCEEDINGS) (CONSEQUENTIAL AMENDMENTS) BILL 2004

Bill—by leave—taken as a whole.

Bill agreed to.

National Security Information (Criminal Proceedings) Bill 2004 reported with amendments; National Security Information (Criminal Proceedings) (Consequential Amendments) Bill 2004 reported without amendment; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.45 a.m.)—I move:

That these bills be now read a third time.

Question put.

The Senate divided. [11.50 a.m.]

(The Acting Deputy President—Senator S.C. Knowles)

Ayes.....	35
Noes.....	7
Majority.....	28

AYES

Barnett, G.

Bishop, T.M.

Buckland, G.

Campbell, G.

Carr, K.J.

Colbeck, R.

Collins, J.M.A.

Crossin, P.M.

Denman, K.J.

Eggleston, A.

Ellison, C.M.

Ferguson, A.B.

Ferris, J.M.

Fifield, M.P.

Forshaw, M.G.

Hutchins, S.P.

Johnston, D.

Kirk, L.

Knowles, S.C.

Ludwig, J.W.

Lundy, K.A.

Mackay, S.M.

Marshall, G.

McGauran, J.J.J. *

McLucas, J.E.

Moore, C.

O'Brien, K.W.K.

Patterson, K.C.

Payne, M.A.

Ray, R.F.

Scullion, N.G.

Sherry, N.J.

Stephens, U.

Tchen, T.

Webber, R.

NOES

Allison, L.F. *	Bartlett, A.J.J.
Brown, B.J.	Greig, B.
Murray, A.J.M.	Nettle, K.
Ridgeway, A.D.	

* denotes teller

Question agreed to.

Bills read a third time.

AVIATION SECURITY AMENDMENT BILL 2004

Second Reading

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

That this bill be now read a second time.

Senator MARK BISHOP (Western Australia) (11.53 a.m.)—Aviation security has always been a significant management and policy matter in Australia. Aircraft have always been susceptible to safety threats from passengers and also, as is clear from recent events, from ground based interference. Unlike for most other forms of transport, operational failure for airborne craft is catastrophic. Just as mechanical safety is highly regulated for safety reasons, so is operational safety in flight regulated. The point is that the demand for the higher standard of aviation safety is nothing new; indeed, it has been the entire basis for aviation regulation in this country. That is why any debate on the issue is so often charged with strong feelings. In the final analysis, as we have seen publicly in recent weeks, the public interest must always come first. One reason we in Australia have had such an excellent safety record is the very risk averse attitude of the public. Government simply reflects that view. We would be foolish to think this matter has its origins in the events of September 11, 2001. If anything, those events simply reminded us that there is no room for complacency. Any security regime can always be improved. As the old adage goes, 'Where there's a will, there's a way.' The job of regulators is to

make sure that all of the known ways are eliminated.

In Australia there is, justifiably, a strong public expectation that the government will provide a stringent aviation security regime. It can therefore be said that we on this side support any improvements to aviation security, but of course not uncritically. In that context we support the Aviation Security Amendment Bill 2004. But, as we know, it is just another in a long series of bills presented in an almost ad hoc fashion. In fact, this bill is simply a bandaid to existing legislation and it has all the hallmarks of having been drafted on the run. This bill represents more of the work in progress approach we have come to expect from the Howard government when it comes to post September 2001 security environment matters. This bill does little for aviation safety—little, that is, which should not have been done before. The Howard government has been aware of the need to upgrade the country's aviation security regime for some time. Back in 1998, the Australian National Audit Office, ANAO, released a report entitled *Aviation security in Australia*. This report concluded that, while Australia complies with international standards, more needs to be done. These standards are embodied in annex 17 of the 1944 Convention on International Civil Aviation, commonly known as the Chicago convention.

Following the horrendous terror attacks on the United States in September 2001, the need for an updated aviation security system became paramount. Those events fundamentally changed the way in which the world thinks about aviation security. Those events also highlighted just how an aircraft can become a very deadly weapon. Yet, unbelievably, it has taken the Howard government in excess of 2½ years after September 11 to attend to our air security legislation. It was not until almost 30 months after those terri-

ble acts that aviation security legislation was finally passed. This bill can therefore really be characterised as a work in progress. At every given opportunity, the government like to remind Australians that they take issues of national security quite seriously; yet we have another bandaid to cover yet another crack in the Howard government's security arrangements.

This bill has two parts. The first amends the Aviation Transport Security Act 2004 and the Civil Aviation Act 1988. These amendments will allow background checking for persons who have access to security restricted areas at airports but who are not required to hold an Aviation Security Identification Card, ASIC. That is how the crack is now being fixed—belatedly. But here is a question the minister might answer: does this apply only to future applicants and, if so, what is to be done retrospectively? ASICs cannot be issued to a person who, amongst other things: has an adverse criminal record; would be considered by the secretary to 'constitute a threat to aviation security' if he or she held an ASIC; or is an unlawful non-citizen. Such persons will include pilots and trainee pilots who do not have access to officially designated security restricted areas at airports. The rationale of the government is probably one of, 'Oops, we forgot about them in the past and now we will fix it,' otherwise described as a 'drafting oversight'. Madam Acting Deputy President Knowles, wouldn't you think that after the events of September 11, 2001 pilots and pilots-in-training would be the first place to start in any security checking regime? Yet the Howard government has missed them until now—three years after that event.

There is, though, a more important change which also has the signs of adhocery. For the first time CASA, the Civil Aviation Safety Authority, will have a role in aviation security rather than just aviation safety. There is

no explanation for this in the bill or the explanatory memorandum. However, it does seem logical for the appointed safety regulator to have an involvement in this role. But why is it only now that CASA is being given the opportunity to undertake this role? Other questions remain. What has been the relationship between CASA and the department of transport in formulating aviation security regulations? More to the point, when will that legislation actually come into operation? Why, after three years, do we have this patchwork of legislation and regulation, with different authorities with different powers? To the uninitiated, it is one big bureaucratic mess. To those used to observing the Howard government, it is business as usual.

The second part of the bill amends the Aviation Transport Security Act 2004 to include contractors of Airservices Australia as aviation industry participants. It also amends the Aviation Transport Security (Consequential Amendments and Transitional Provisions) Act 2004 to allow certain programs under the Air Navigation Act 1920 to continue as programs under the Aviation Transport Security Act 2004. We are advised that this will enable existing programs to be gradually transitioned to the new requirements under the Aviation Transport Security Act 2004. Otherwise, existing programs would terminate on the day the substantive provisions of the Aviation Transport Security Act 2004 commence. That sounds to us like, 'Oops, we forgot about continuity' or another drafting oversight.

In essence what we have here is another piece being sewn into the patchwork quilt of aviation security legislation. But almost three years down the track we are yet to see much of the legislation in effect. We are still awaiting the drafting of regulations under the Aviation Transport Security Act, and now we have empowerment for still more regulations to be created. Until we see that drafting

done, it is impossible to say whether in fact we have a tougher security regime or, more importantly, a more effective aviation security regime at all. There is simply much not done. We have a maze of overlapping legislation and powers to regulate, with little guidance as to what is to be regulated—not to mention the overall attitude of, 'Trust us, we're the government.' Frankly, the opposition has the view that this is becoming a farce. Three years after September 11, 2001, we actually have very little in place and being given effect to at all. The jury is still out, and it is probably reasonable to expect that we will get more of this ad hoc legislation as more gaps open up and become apparent. When will it end, and when will we get in place a security regime that is clear, transparent and effective?

In debating this bill, it is also opportune to set out Labor's attitude to aviation security. Labor know that aviation security is a top priority for the travelling public in and around Australia. This extends not just to those travelling from major airports and on international flights, but also to regional travellers. From 1 January next year it will be a requirement for all checked baggage at all major airport terminals for international flights to be X-ray screened. This will apply to major domestic flights only by 2007. The Howard government has introduced only limited security measures for regional airports. Labor believe that the government should be investing more to improve security at all 146 regional airports. The government's measures to improve security at regional airports, we believe, do not go far enough. Many of these airports clearly remain vulnerable, including airports in major regional centres such as Albury, Burnie, Devonport, Lismore, Bundaberg and Gladstone. Every day flights leave these airports for major regional centres and capital cities, without passengers being screened. We say

that is unacceptable. The public expectation is that aviation security in Australia is robust and strong. However, these expectations are not being met by the Howard government's approach to regional airport safety.

With these comments, the opposition's view is clear. We do support this legislation, but we are critical of the fact that it has been a long time coming. It has been poorly explained. We believe that the government's policy on regional airports, particularly on screening, safety and security, is simply inadequate. Deficiencies exist, particularly with respect to screening of passengers and baggage at some of the aforementioned regional airports. In closing, Labor support this legislation and the need for a safe and secure aviation industry.

Senator ALLISON (Victoria) (12.05 p.m.)—The Aviation Security Amendment Bill 2004 introduces provisions to require pilots to undergo ASIO screenings every two years when renewing their licences. This is part of a raft of increased security measures in the area of aviation following the events of September 11, 2001 in the United States. Whilst the Democrats agree with the need to protect Australians, the travelling public and the public more broadly from potential terrorist attacks, we are concerned about the cost-shifting to pilots in this bill and the direction in which this government's antiterrorism legislation is going in terms of chipping away at our civil liberties and the presumption of innocence in the public at large.

The Democrats agree that ASIO has a central role to play in gathering intelligence and identifying potential terrorist threats. This legislation proposes that pilots be subject to ASIO screening, as I said. It also proposes that CASA be allowed to impose fees, requiring pilots to bear the cost of those background checks. Pilots will be required to pay what is currently proposed to be \$200 every

two years. We say that, instead of pilots being charged, ASIO should be properly resourced to perform its function in protecting Australians from terrorism and that it is the responsibility of the government to ensure that ASIO is properly resourced.

This legislation does not just affect pilots flying the large commercial jets; it applies to thousands upon thousands of other pilots, ranging from hobby pilots flying gliders and ultralights to emergency service personnel and the Royal Flying Doctor Service. It will affect pastoralists and graziers in remote regions of the country, who often use aircraft to travel vast distances, and will affect the hundreds of pilots flying the so-called milk runs delivering mail and other goods in places such as Cape York Peninsula while clocking up hours in the hope of one day getting a job on a Dash 8 or a 737 for a major airline. Despite the high costs involved in acquiring a pilots licence, many of these pilots are not wealthy and would earn far less than one might expect.

I guess more important than the \$200 is the fact that, while this legislation may go some way to identifying potential security threats which may or may not exist, it will not identify all of the security threats. If anything, these measures will focus on only the lesser of any potential risks posed by pilots of aircraft. It should be noted that—and I draw the attention of the government in particular to this—as was the case with the events of September 11 in the US, a person need only be skilled in flying an aircraft to hijack a plane and fly into the side of a building; that person does not necessarily need to be licensed. In fact, it was reported following the events of September 11 that the hijackers of planes involved in those attacks took lessons in flying aircraft only and were not interested in landing them. I do not know whether that media report was accurate, but it does demonstrate the point that a person

does not necessarily need to go through the processes of being licensed. Similarly, a person may not necessarily need to have had flight training in Australia. It is entirely conceivable that a person obtained their licence or even pilot training without obtaining a licence in another country and travelled to Australia as either a pilot or a passenger in an aircraft, or by other means, before attempting to commit a terrorist act.

ASIO, as I am sure the government is aware, obviously cannot rely solely on this method of intelligence gathering to identify aviation security risks. It is important to note that these measures will play only a minor role in augmenting much broader intelligence gathering in this area. We feel that it is important that the government reviews and reports on the effectiveness of the provisions of this bill and that these provisions be reviewed after a period of time. We want to know how many suspected terrorists are identified through these searches; how many licences are revoked, suspended or denied to applicants; whether there were any appeals and how many of those were successful; and so on. I will therefore be moving amendments to insert a sunset clause so that the legislation can be reviewed in four years time and the parliament can at that time decide whether the provisions of the bill are justified.

The move to automatically screening every pilot as a matter of course raises some serious questions about the start of the slippery slope or the thin end of the wedge—however you might like to describe it—when it comes to civil liberties. The parliament has passed over 20 security and antiterrorism laws in recent years, and the Labor Party has been far too eager in my view to embrace these without asking some of those serious questions. Already in the 40th parliament we have passed laws so that all employees working at airports undergo ASIO checks when

applying for an ASIC, as they are called. Just this week parliament is to consider laws that will not only allow ASIO to conduct checks on those people who use dangerous substances, such as ammonium nitrate, but also enable the government to make regulations for checks to be conducted on people who use a thing prescribed by the government. Earlier this week the government, with the help of the Labor Party, passed laws allowing agencies to intercept SMS messages and emails without a warrant. The Democrats moved 33 very simple amendments which we believe were reasonable to protect basic civil liberties, but these were not even considered. One has to ask: where is the debate in this place from the opposition on these issues?

The government wants to blanket screen all pilots, and blind Freddy could see where this is going to lead us. Flight attendants are already covered by the provisions for all ASIC holders to be screened. Next, the government might be telling us that anybody in the country holding a truck licence will need to be screened because trucks can be used as lethal terrorist weapons. Why stop at trucks? Perhaps anybody holding a bus drivers licence could also be checked, as could doctors, chemists, biologists and other scientists who also might be able to produce biological or chemical weapons. Perhaps we should slap them with a \$200 ASIO screening tax as well. Better still, why not slap any university student who applies for entry to a science degree with a \$200 ASIO tax? At what point, I would ask, do we stop? These may be ludicrous suggestions or they may not be.

Will we at some point find ourselves with 'Australia cards' and subject to automatic ASIO checks every two years? Will we all have to pay a \$200 tax for the privilege of this? Is this the price that we pay for being citizens in this country or for being truck drivers, bus drivers, flight attendants or pi-

lots? In the light of the potential damage, destruction and loss of life which can be caused by the use of an aircraft as a terrorist weapon, we are prepared to accept that on balance it is reasonable to ask pilots to undergo an ASIO check when applying for a licence. But we do not accept that pilots should have to contribute to meeting the cost of that. We will remain vigilant and, with the prospect of a government controlled Senate next year, we ask government senators to also remain vigilant and ensure that our civil liberties are not encroached upon by similar types of legislation into the future.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.13 p.m.)—in reply—I thank honourable senators for contributing to the second reading debate on the Aviation Security Amendment Bill 2004. I welcome the support of both the Labor Party and the Australian Democrats. I will respond very briefly to a couple of points made by Senator Bishop. I guess it is in Labor's political interest to paint the government's security measures over the months and now years since the attack on the twin towers in the city of New York on September 11 as a patchwork. I guess that is a political point that they would seek to make. The reality, however, is that the Commonwealth government under the leadership of Prime Minister Howard and the National Security Committee of cabinet, and very skilled and dedicated people in the relevant portfolios, have worked to create an integrated and comprehensive response to a new threat to mankind and to civilisation.

That has involved a range of measures across transport, defence and civil emergencies to ensure that Australia and our allies have in place integrated responses that will give the best level of security and protection to the Australian people in this new security environment. It is a new environment. It is a

new paradigm. It is a new threat that the world faces. It is a threat that advanced pluralistic democracies like Australia have to face up to. We are, in fact, defending what so many Australians have died for in wars. We are, in fact, defending liberty. We are, in fact, defending a democracy which is under challenge from those who do not like democracies, who do not like a pluralistic society and who do not like freedom of religion or freedom of expression. This is, to be fair to Senator Allison, a very important debate to have on the balancing of civil liberties, which we all hold so dear, and the security of the nation and of individuals as a whole. The government treads very carefully to balance that. In the measures before the Senate today there are a number of protections. For example, pilots or trainee pilots who feel that their rights are being infringed can go to the Administrative Appeals Tribunal if they think they have been unfairly dealt with.

Senator Bishop made a point about the progress of our aviation security measures. We do not—as others did, for what were clearly partisan almost pork-barrelling reasons—go around to key marginal seats saying, ‘We’ll upgrade security at this particular regional airport.’ Mr Latham, in his failed attempts to stir up some politics on this issue, went to a few marginal seats in the lead-up to the federal election and said, ‘We need to improve regional security so we’ll improve screening at this airport.’ Those airports generally correlated with key marginal seats that Labor were targeting—unsuccessfully, of course—in the election. Senator Bishop named a few of the towns that he thought should have upgraded security. It was sort of a marginal seats strategy, not a security strategy.

Our strategy was to have our decisions about regional airport security—and, in fact, the security measures that are before us in this bill—driven by a process involving sen-

sible experts who could guide the government in terms of risk assessments. So we conducted a review of these risks in July 2003 and in December 2003, guided by the risk assessment process conducted by the Australian Security Intelligence Organisation, we announced an expansion of the nation’s aviation security regime. In the process of implementing some of these measures we found there were some legislative barriers to action, relating to the Civil Aviation Safety Authority in particular.

We want to ensure that we have our pilots, trainee pilots and other people involved in the aviation sector checked by ASIO and given a security clearance so that we minimise the risk of people with ill will or ill intent getting into the sky in aeroplanes. Prior to September 11, it was a relatively benign activity. You and I, Madam Acting Deputy President Knowles, have spent a lot of our time in the general aviation sector and we know that probably all of the people in that sector in Australia perform a wonderful service for this country, particularly across the remote parts of the country, and that they pose absolutely no risk. But, since September 11, we now know that an aeroplane of virtually any size can be turned into an enhanced weapon. That is what we are addressing—it is a serious concern and it is a serious issue. We need to face up to it.

I think we are not helped by the Australian Democrats condemning either the government or the Australian Labor Party for passing measures that seek to enhance the security of Australia. The Labor Party have made it clear that they will support this bill. They have given us support on a number of occasions for pieces of legislation. I think gratuitous attacks on either the government or the Labor Party, saying that in some way we are trampling people’s civil rights in these measures, are wrong. Senator Allison asked at what point would we stop. We will diligently

assess the risks to Australian citizens in Australia and around the world using the best expert advice and intelligence that we can possibly muster. When that expert advice guides us to legislative actions that can improve the security of Australians—and, therefore, ultimately improve their liberty—then we will bring them to this parliament and argue for them. We will not stop, to answer Senator Allison's question, until the war on terrorism is won and until the security situation is safe again. I do not think anybody knows when that will be.

These are ludicrous suggestions—to use Senator Allison's own words—about measures for bus drivers and other people. There may well be a case at some stage for bringing new measures in, but we will be driven by expert advice from intelligence organisations and other experts. Senator Allison has criticised obliquely measures to improve the security around people who work in secure areas at airports. I think all Australians who are travelling would like to know that the people who move around secure parts of our airports have had security clearances. I think all Australians would feel that their civil liberties are improved by those sorts of measures. These measures mean that as you go through authorised areas to move in and out of airports you would know that to get through them you need to have had a security clearance. That is a measure that was obliquely criticised by the Democrats.

I want to address the measures that are being introduced in relation to the transportation and storage of ammonium nitrate—the material of choice for blowing up Marriott Hotels and other places around the world. I think most Australians would like to know that we have in place a rigorous set of measures to ensure that this substance—which is generally used for the fantastic purpose of improving plant production but can be abused and can, in the wrong hands, be used

to destroy human life—is correctly used. I think most Australians would agree that that is a worthwhile and sensible thing for the governments of Australia to get together and work on, in consultation with the agricultural industry and the suppliers of ammonium nitrate.

Equally, these are measures to provide our security services with interception powers to ensure that they can try to get intelligence to try to pre-empt a terrorist attack. They are about using the best modern equipment to intercept telecommunications to ensure that our intelligence, security and police organisations can hopefully prevent an attack. I do not regard these measures as anything other than measures that ultimately improve the liberties of our civilians. I commend the bill to the Senate and wish it a speedy passage.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ALLISON (Victoria) (12.23 p.m.)—by leave—I move Democrat amendments (1) and (2) on sheet 4434 together.

(1) Page 2 (after line 11), after clause 3, add:

4 Cessation of operation of Act

This Act ceases to operate at the expiration of four years after its commencement.

(2) Schedule 1, item 4, page 5 (lines 21 to 23), omit paragraph 74H(1)(j).

In doing this, I acknowledge that there is no support in the chamber for these amendments. However, I ask the minister, who says that he is guided by expert advice in these antiterrorist moves: what was the nature of the expert advice that led to the decision to put the pilots through ASIO checks and what was the general substance of it?

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and

Heritage) (12.24 p.m.)—The nature of the advice was that it flowed from a review by the Australian Security Intelligence Organisation concluded in July, which was a revised threat assessment in relation to aviation security. It followed a comprehensive review.

Senator ALLISON (Victoria) (12.24 p.m.)—Your debate criticised what I have said about this but you did not give me any real substance in the answer. Why was it recommended, presumably by this expert advice, that pilots would go through ASIO checks every two years? What was the evidence to suggest that once a pilot is licensed that there is a risk every two years, every one year or every six years? What informed that decision?

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.25 p.m.)—I do not have that information before me but I note that my staff have security checks on a regular basis. I would presume that it is sound practice. I am not an expert on these practices but I would imagine that it would be sensible to ensure these matters are up to date. One would imagine that, if there had been some behaviour or some other activity that had changed over the course of two years, then that would be something that would be entirely appropriate to review from time to time.

Senator ALLISON (Victoria) (12.25 p.m.)—We are expected in this place to take on face value the evidence which gives rise to the need for cracking down on civil liberties. I want to correct the record. The minister seemed to be suggesting that the Democrats were opposed to restrictions on the use of ammonium nitrate. That is not the case. In fact, in this place we have said for some time now that it is ludicrous that this material is not traceable, that it is available very broadly. We have alerted the government to

this, which we see as a very real security issue. Please, Minister, do not suggest that the Democrats have been opposed to that move. What I did question was the fact that, as I understand it—I did not have the passage of this legislation—the government can determine any substance at all to be in this category. That appears to me to be an opportunity, at least, for misuse of government powers.

But getting back to the amendments, as I said in my speech in the second reading debate we would like to introduce a sunset clause into this legislation. We think there is a good argument for a review of how necessary and how successful this has been so that the parliament can be informed about those measures that I have mentioned. Our second amendment would remove the requirement by CASA to collect fees from pilots. As I said, I think this is a cost-shifting exercise. It is a bit like the Senate being required to pay for the extra security in this place. Why are we asking pilots to pay for security? It should be a matter for ASIO. If it is important enough to be done then it should be something which the government covers through ASIO funding. I am disappointed that there is no support for these amendments. They seem to me to be sensible and certainly not outrageous given the kinds of possibilities that are inherent in this legislation in terms of civil liberties in this country.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.29 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**FAMILY AND COMMUNITY
SERVICES AND VETERANS' AFFAIRS
LEGISLATION AMENDMENT (2004
ELECTION COMMITMENTS) BILL
2004**

First Reading

Bill received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.29 p.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.30 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

**FAMILY AND COMMUNITY SERVICES AND
VETERANS' AFFAIRS LEGISLATION
AMENDMENT (2004 ELECTION
COMMITMENTS) BILL 2004**

This Bill will amend the social security law, the family assistance law and the Veterans' Entitlements Act 1986 to give effect to certain commitments made by the Government during the 2004 election campaign. The amendments relate to self-funded retirees, older Australians and carers on income support, grandparents caring for children and certain disability pensioners.

The Bill contains five major measures.

Firstly, the Bill establishes a new payment, to be known as the seniors concession allowance, which will provide all holders of the Commonwealth Seniors Health Card with a payment of \$200 per year.

This payment recognises that most self-funded retirees do not receive concessions for energy, rates, water and sewerage, and motor vehicle registration from state and territory governments. It also recognises the contribution that this group has made in providing for their own retirement.

The payment will be made in two instalments, in December and June each year, to people who are eligible cardholders on 1 December and 1 June respectively. It will be indexed twice yearly, exempt from taxation and payable if the cardholder is temporarily absent from Australia for up to 13 weeks.

Transitional arrangements will be in place for the first payment of seniors concession allowance. Anyone who is eligible for a Commonwealth Seniors Health Card in December 2004 will qualify for the December 2004 payment.

Secondly, the Bill establishes a further new payment, to be known as the utilities allowance, which is payable to senior Australians of age pension age (or veteran pension age) who are in receipt of income support. The payment will help this group to pay regular household bills such as gas and electricity.

In general, the payment is \$100 per year for singles and \$50 per year for each member of a couple. It will be paid twice each year, following the pension indexation adjustments on 20 March and 20 September. After the first payment, it will be indexed twice yearly. It will be exempt from taxation and will be payable if the recipient is temporarily absent from Australia for up to 13 weeks.

The taxation status and temporary absence rules for both payments are consistent with the treatment of a number of income support ancillary payments, and the standard compliance and debt recovery provisions will apply to the new payments.

The utilities allowance and seniors concession allowance will benefit over two million older Australians who have contributed, and continue to contribute, to Australia.

Thirdly, this Bill will provide additional support for people providing care to an adult or a child with a disability—a group of people who perform a vital role in our community. This will be done by increasing the number of hours that carers can

spend in work, training or study, from 20 to 25 hours per week, without losing qualification for carer payment. This will provide greater flexibility and more opportunities for carers to participate in the workforce, and for them to have more of a break from caring, without affecting their carer payment eligibility.

In recognition of the special needs of grandparents with the primary care of their grandchildren, this Government waived, from 1 November 2004, the work, training and study test for access to child care benefit. This gives eligible grandparents access to child care benefit for up to 50 hours of approved child care a week.

This Bill will now make child care more affordable for grandparent carers who are receiving income support, such as age pension or carer payment, by enabling them to have access to a special rate of child care benefit. The special rate, provided for in this Bill, will cover the full cost of child care fees charged to eligible grandparents by approved child care services.

Finally, the bill will provide for increased bereavement payments under the Veterans' Entitlements Act 1986, in respect of disability pensioners who were receiving above general rate disability pension. Previously, the bereavement payment had been limited to 100 per cent of the general rate.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (12.30 p.m.)—I rise to speak on the Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Bill 2004. At the outset I indicate that Labor will be supporting the passage of this bill. However, as with much of the government's legislation, we will support it not because the policy initiatives are strong or represent the best approach to dealing with the issues that we face as a nation, but because it lessens some of the hardships created by the poor policy choices this government has made over the last eight years. Many people across Australia are suffering because of this government and we have no intention of standing in the

way of any relief they can get. Disappointingly when we look at them as a whole, these policies make no attempt to address the underlying structural problems in our social welfare system. The debt crisis brought about by this government remains unresolved and at least 1.4 million families are facing debts averaging around \$800.

This bill is a loose collection of quick fixes, a bandaid approach to social welfare, which demonstrates this government's failure of will, ability and interest in this portfolio area. Real welfare reform is about making the social security system simpler and more accessible for the six million Australians who access income support payments each year. Good policy—Labor policy—would create a simpler, more efficient system that ensures that Australians who need income support can get it, and get it when they need it. In contrast, the government continues to make the system more complex, with a new one-off payment every time a problem arises, each with a slightly different eligibility test and each with a different indexation arrangement.

In addition to the government's failure to address the structural problems in our social security system, this bill highlights its willingness to create two classes of welfare recipient, just as in other areas where its policies create a two-tiered system for consumers in health, education and telecommunications. So I will take the opportunity to point out some of the failings of this bill and show how these are symptomatic of the government's continued mishandling of our social security system. Look at the glaring mistakes and inconsistencies in the government's funding of this bill. Even the government's own bean counters in the Department of Finance and Administration and in Treasury concluded that the savings intended to fund these initiatives were overestimated by \$130 million. So from a government that claims to

be economically responsible we now have a \$130 million funding black hole. Worse still, the government has not introduced the legislation that is required to implement the changes needed to fund the other \$700 million worth of savings to pay for the measures outlined in this bill.

The bill itself seeks to implement a range of new payments and benefits for senior Australians, all of which were promised by the government during the election campaign. As the minister has indicated, the amendments to legislation outlined in the bill are to: create a utilities supplement for senior Australians of age pension or veteran pension age who currently receive income support; establish a new seniors concession allowance for self-funded retirees who hold the Commonwealth seniors health card; change the eligibility requirements for carer payment by increasing the number of hours that carers may spend in work, training or study without losing qualification for carer payment; create a new special rate of child-care benefit for grandparents with primary care of their grandchildren; and extend bereavement payments to widows of totally and permanently incapacitated veterans and ex-servicemen.

I will speak about each of these initiatives in turn. Schedule 1 of the bill creates a new utilities supplement for senior Australians by amending a range of Commonwealth legislation, including the Income Tax Assessment Act 1997 and the Social Security Act 1991. The new payment is intended to assist senior Australians to pay for regular household bills, such as those for gas, electricity and water. Currently, senior Australians on income support are entitled to receive one of a number of concession cards that provide access to cheaper prescriptions and a range of other benefits. The bill provides that all Australians of age pension or veteran pension age who receive income support will be eli-

gible for the new payment. The utilities supplement is \$100 a year for singles and \$50 for each member of a couple, and it will be subject to consumer price index indexation. The payment will be paid in two instalments each year, on 20 March and 20 September, starting in March next year. The government claims that the new benefit will be paid to 2.2 million senior Australians each year, at a cost of \$606.4 million over four years.

While Labor supports this initiative, which will provide greater financial assistance to pensioners of age pension age, an obvious by-product of this measure will be to create two classes of pensioners—those that receive the utilities supplement and those that do not. The government said in its election policy announcing the utilities supplement that it ‘recognises that some older Australians who rely on income support can experience difficulty in saving up to pay regular household bills such as the gas or electricity bill’. That is certainly true. I am sure that is particularly true in Canberra in winter. But what the government fails to acknowledge is that it is not just older Australians on income support payments that have difficulty in saving to pay regular household bills. There are many thousands of needy Australians struggling on pensions who are not of age pension age and so will not receive any assistance through the utilities supplement.

The utilities supplement does nothing to help those Australians receiving carer, widow, disability or sole parent pensions who are not of age pension age. For example, a carer aged 60 caring for a partner of a similar age with severe disabilities will be treated as being less deserving of financial support than an age pensioner couple in a similar situation who are just a few years older. Perhaps the government believes that pensioners who are not of age pension age are less deserving than those who are. But, as I have already indicated, Labor does not in-

tend to prevent eligible pensioners from benefiting from this legislation.

Schedule 2 of the bill establishes a new seniors concession allowance of \$200 per annum for self-funded retirees who are eligible for the Commonwealth seniors health card. It does so by amending a range of Commonwealth legislation, including the Income Tax Assessment Act and the Social Security Act. The new payment recognises that many self-funded retirees do not generally receive energy, rates, water and motor vehicle registration concessions in the same way as some other senior Australians do. It also acknowledges the contribution made by self-funded retirees in providing for their own retirement.

The bill limits the new cash payment to holders of the Commonwealth seniors health card. Under the existing means test arrangements for this card, the new payment will be available to retirees with adjusted taxable income of less than \$50,000 per annum for single people and \$80,000 per annum combined for couples. The government proposes to make the payment on 1 December and 1 June each year, starting with a \$200 payment on 1 December 2004. As with the utilities supplement, the cash payment to self-funded retirees will also be subject to CPI indexation. The government estimates that 287,000 self-funded retirees will receive the new payment, at a total cost of \$255.2 million over four years. However, the \$200 payment sells self-funded retirees short. The payment is just another bandaid measure to compensate self-funded retirees for the government's failure to live up to its promises. At the 2001 election, the government promised that it would:

... work with State and Territory governments to extend more of the State and Territory concessions that Age Pensioners now get to [Commonwealth Seniors Health Card] holders.

Unfortunately for self-funded retirees, the government has failed to deliver those benefits. Now the government is providing a \$200 payment as compensation for that failure—a fraction of the value of the full concession benefits that were promised in 2001. It is also unclear whether the government intends for both members of a self-funded retiree couple to be eligible for this new payment—a question about which I will ask the minister in the committee stage. The bill does not appear to preclude this outcome as long as both members of the couple are eligible for the Commonwealth seniors health card. This is clearly inconsistent with the government's treatment of the utilities allowance, which is available at a couples and at a single rate. The utilities allowance cannot simply be claimed twice by both members of a couple. It is also inconsistent with the age pension, which is available at a couples rate and a single rate. Couples do not simply get double the single rate of age pension. So in the same bill we have completely different policy approaches on display—another classic demonstration of how this government makes policy on the run.

Schedule 3 of the bill amends section 198C of the Social Security Act to change the eligibility requirements for carer payment by increasing the number of hours that carers may spend in work, training or study without losing qualification for carer payment. Currently, people caring for an adult or a child with a disability and who receive carer payment may temporarily cease providing care in order to undertake training, education, unpaid voluntary work or paid employment. However, the maximum length of time that a carer may temporarily cease providing care in order to undertake any of these activities and still retain their carer payment is 20 hours per week. The bill increases that threshold from 20 to 25 hours per week. The government claims that this measure will

increase flexibility for carers by allowing them to increase their labour force participation, thereby reducing their potential for long-term welfare dependency. The government estimates that the change will cost \$18.5 million over four years.

On the face of it, this seems like a good initiative. It appears to give carers greater flexibility to participate in the work force, increase their income and consequently improve their standard of living. But, while the government is increasing the number of hours that carers can work, what it has not told them is that it is not changing the income test for carer payment. So for every dollar earned from paid work, carers will lose 40c of their carer payment. If a carer on the minimum wage of \$12.30 an hour works an extra five hours a week for \$61.50 in income, they will lose \$24.30 of their carer payment—40 per cent of the financial benefit that comes from the paid work. Combined with the increase in personal income tax they must pay, carers in this situation are confronted with a very high effective marginal tax rate in the order of 57 per cent. This is a major disincentive for them to seek the additional paid work that the government says will occur as a result of this bill. As always with the government, it seems to give with one hand but take with the other.

Schedule 4 of the bill amends the A New Tax System (Family Assistance) Act 1999 and the A New Tax System (Family Assistance) (Administration) Act 1999. It does so to improve child-care assistance for grandparents in receipt of income support who have primary care responsibilities for their grandchildren. The changes mean grandparents who have primary care of their grandchildren and who are receiving income support will be entitled to a special rate of child-care benefit. This special rate will cover the full cost of child-care fees charged to eligible grandparents by approved child-care ser-

vices. The government estimates that the change will cost \$78.5 million over four years and proposes that it commence on 1 January 2005.

Labor supports the measures relating to grandparents as far as they go, but we note that, first, the assistance is limited to grandparents who are lucky enough to find a child-care place—that is, a place in an approved long day care centre or family day care—and, second, many of the 27,000 Australian grandparents with dependent grandchildren will gain nothing from the changes in this bill. For example, many grandparents, particularly those who live in rural or regional Australia, are confronted with the same reality that hits many parents—there are just not enough child-care places in approved child-care centres. These grandparents will get no benefit at all from these measures.

In addition, many grandparents use registered care for the simple reason that such carers are more conveniently located or because their grandchildren have a strong relationship with the carer. In contrast, I note that in our election policy Labor undertook to give extra financial help to all grandparents who provide primary care to their grandchildren, whether they used child-care services or not and whatever the type. Grandparent carers need this sort of universal assistance, in recognition of the personal sacrifice that they make by helping raise their grandchildren. The bill falls short by failing to provide that universal assistance.

Also of great concern is the fact that the government's election costings for this initiative were just plain wrong. The bill contains the official estimate of \$78.5 million over four years for the special rate of child-care benefit. This compares with the government's election estimate of \$70 million. That was about \$8.5 million off the mark. So

much for the claims of sound economic management.

Schedule 5 of the bill honours an election commitment to extend bereavement payments to widows of TPI veterans and ex-servicemen. The current provisions for bereavement payments of disability compensation under the Veterans' Entitlements Act are that six fortnightly payments are made to surviving partners, but only up to the 100 per cent level of the general rate. The bill will extend these payments to include all payments in excess of the general rate. This will benefit surviving partners of all 45,000 people in this category, including 28,500 TPIs and 15,000 extremely disabled. The cost is estimated at \$14.8 million over four years. Under the bill, the new arrangements will apply from 1 January 2005.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Kirk)—Order! It being 12.45 p.m., I call on matters of public interest.

Employment: People with Disabilities

Senator WONG (South Australia) (12.45 p.m.)—I rise to speak on a matter of public interest. Last week we saw the Howard government exposed for years of failure to seriously tackle welfare reform and years of failure to support welfare recipients with better work opportunities. We saw the real intent behind their initiatives exposed through their threat of coercion. We saw their real agenda: cutting costs. We saw the complaint about the rising cost of the DSP and we could see that the driver of government welfare policy is in fact the Treasurer. Most Australians would have preferred to see a focus on creating opportunity and on partnership.

Last week the government released the interim evaluation report on a pilot program

established to investigate the interest of disability support pensioners in seeking employment and their success in gaining employment. The release of the report confirmed the government's failure and revealed the government's intent. The pilot program was a positive initiative and, arguably, well overdue. We welcomed its inception in January and sounded notes of caution about the implications of the program results at the time. The concern we raised at the time essentially was over the lack of support provided by this government to disability support pensioners who would like to work. An obvious example is the oversubscribed programs administered through the Department of Family and Community Services. Specialist disability open employment services have caps on the number of people they can assist and there are waiting lists of people wanting support to work. Perhaps the government should consider supporting those who are providing the support as a first step. Nevertheless, the pilot program was a positive initiative and it was no great surprise to most observers to see that many people want to work.

The government announced that people want to work with great surprise and fanfare, as if they had made some amazing discovery and as if it is somehow unbelievable. The government find it unbelievable that people who are on the DSP may be on it for a very good reason and that, nevertheless, they may still want to work whenever and however possible. Instead, the government sees the DSP as the haven for people who feign bad backs. Their instinctive response when they see a disability support pensioner who is not working is to threaten coercion.

The response by the Minister for Workforce Participation to the interim evaluation report simply made no sense. In one breath he said that the report showed that people want to work. However, in the next breath he

said that it showed people needed to be coerced to work. Unless he and I were reading different reports, it showed nothing of the sort. There was no evidence in the report to suggest that coercion was suitable or necessary, and there was a simple reason for this: participation in the pilot program was voluntary. It is logically and practically impossible for a pilot scheme where participation is voluntary to show that coercion will produce better results. That leaves one possible conclusion for the claimed need for coercion: this government is gearing up for a punitive and unfair policy driven by the coercion of disability support pensioners. The government is gearing up for yet another crude plan to cut people off DSP benefits by simply changing the eligibility test just as it has attempted to do twice before.

The other telling sign is that in his first major interview on the topic the minister emphasised the costs involved in maintaining the DSP. There is no doubt that the cost is increasing. However, the response cannot be to simply shift people from the DSP onto unemployment benefits. As we know, the government are refusing to release details of their plans, which I might say is hardly in the spirit of genuine reform. But they have form. Twice in the last parliament they proposed legislation to amend the definition of work capacity from 30 hours a week at award wages or above to 15 hours. This would have had the effect of cutting around 200,000 Australians off the DSP. Currently, the test is whether a person is capable of working 30 hours a week inside a period of two years and follows a medical determination that the person has a disability.

On its second attempt the government attempted to broaden the appeal of the legislation by inserting a grandfather clause so that the change would take effect only for new applicants for the pension. On both occasions Labor rejected the legislation. My message

to the government is this: if you want to continue with the same unreasonable approach to disability support you will get the same response from Labor. We will continue to say no to unreasonable and unfair attacks on disability support pensioners. If, however, the government is not just focused on improving the budget bottom line—and this is contrary to every indication so far—and if the government is prepared to look at ways in which we can genuinely support people on welfare moving into work, including those on the DSP who have the capacity to work, my door is always open.

There is some obligation here for government. We have to encourage an employment environment that fosters the employment of people with a disability. We have to recognise that many disabled people will not be able to make the transition to work and, for those that can, support will be required. We have to recognise that government is not doing all it can to improve incentives and to break down the substantial barriers. Welfare reform must be mutual and must be based on partnership. If the government is genuine we are prepared to talk. But we will not engage in coercion and cost cutting at the expense of some of our most vulnerable Australians.

I would like to look now at some of the results of the report. The spin from the minister was that disability support pensioners have so far been unaware of the vast array of services open to them if they want to return to work. In his press release of 24 November the minister said:

The pilot also found that unnecessary concern about the consequences of undertaking paid work on access to benefits and concessions was a factor in a decision not to pursue employment. An immediate priority is to ensure that more people on DSP are informed about the option to give work a try and not be worse off, and of the assistance available under the Job Network.

It seems to me that comment displayed some uncharacteristic understatement from the minister. What the report really shows is the consistent failure by this government's employment programs to provide appropriate services and appropriate referrals to services.

Let us have a look at what the report actually said. You need go no further than page 1 to read this key finding:

The majority of participants (62%) had already indicated a willingness to work by actively registering as looking for work but most did not have a current referral to Job Network services before their commencement or were receiving Job Search Support Only services.

What that means is that well over half the participants had already said they wanted to work, but they were not referred to the right place. There is a big difference between the minister's spin and the reality. Another omission from the minister's pronouncements was this critical finding:

- Referral information was often out-of-date and difficult to update.

This impeded the efficiency of referrals between providers, and inhibited job seeker access to services. Systems requirements and Pilot policy were not well understood by providers, and attempts to communicate it via the Pilot website, emails and regular teleconferences were not successful. Some of these issues may have affected commencements as a few job seekers appear to have lost motivation after prolonged delays in the commencement process.

... ..

The evaluation has gathered evidence of significant disincentives and widespread ignorance inhibiting DSP recipients' take-up of work opportunities.

These are fairly damning criticisms. It is clear that the government also has work to do at Centrelink. Some examples of Centrelink experiences cited by DSP recipients included asking Centrelink questions about work or study options but being told they

were not required to do anything and feeling discouraged from asking further, and a lack of information from Centrelink about available employment assistance unless it was specifically requested. Perhaps the minister should check that the system actually works before making threats to disability support pensioners.

We know that currently less than 10 per cent of DSP recipients report any earnings and currently less than two per cent are participating in Job Network. The minister hears that and says, 'Clearly, we need to coerce them.' But there are significant barriers to participation for Australians with a disability. Not least among these is the fear of loss of benefits on finding work and the implications to benefits if work is lost. For example—and I quote from page 10 of the report:

DSP recipients reported ...:

- difficulties in ... establishing eligibility for DSP due to stricter eligibility requirements and a lengthy claims process ... Many stated they would be more likely to take on work if they had a 'safety net' which allowed them to return to the pension if needed.

This concern is significant, given that retaining work is often harder for DSP recipients, particularly those with mental health problems. Currently, if you lose your job because of your disability, you will be guaranteed return to the DSP. But how many employers would state that as the reason, and is it desirable to have that reason recorded on your employment record, anyway? DSP recipients also reported:

- previous negative experience with employers and perceptions of discrimination by employers, which discourages DSP recipients from testing their work capacity.

I ask: are these people the ones the minister refers to as not being on the DSP legitimately? Are these the people who need to be coerced? The minister, like so many of his colleagues, implies that people on income

support are undeserving. Some people, they say, are abusing the system with pretend problems. The minister in that case should ensure that there is no abuse of the system. That is what the government should do. The solution is not to make everybody who needs the pension pay for those who may not have needed the pension in the first place. Compliance is not the primary reason for welfare reform. Not being assured of compliance is not the reason to move people from welfare to work. There are far better reasons than that.

Labor are very serious about welfare reform. We strongly believe in providing the means and the incentive to help Australians contribute to and improve our productivity and their personal circumstances. Labor have led the way in welfare reform, focusing on partnership and on mutual obligation. Australians who are not working but who have the potential to work need support to help realise their potential. A statement from the report which should be taken very seriously by the government is this:

DSP recipients were obviously attracted by the Intensive Support Services being offered through the pilot.

And, as the report went on to say:

- Pilot participants reported improved prospects of finding work, a greater incidence of case management and higher levels of satisfaction than for DSP job seekers in Job Network services generally. They reported receiving more intensive servicing, and felt the services were more likely to be appropriate for their disability and service needs.

The minister should stop pretending that this report endorses the erosion of support for Australians with a disability and realise that what it does show is that many people with a disability want to work, and a bit more help from their government would be welcome.

Davidson, Ms Gay

Senator FERRIS (South Australia) (12.57 p.m.)—Today I want to pay tribute to a woman who was well known to many of us in this house and who was a trailblazer for women in the profession of journalism. Gay Davidson died in Canberra last week and several hundred of her friends gathered to mark her passing in a service last Friday. Gay was a journalist in Canberra for 30 years, many of them at the *Canberra Times* and much of that time in the Canberra press gallery. In fact, Gay Davidson was the first female head of bureau in the Canberra press gallery for the *Canberra Times* from 1975. Gay's face is among those preserved forever in that famous photograph on the steps of the old Parliament House as Sir David Smith dissolved the parliament of Prime Minister Gough Whitlam.

When I think of my friendship with Gay, lasting as it did for more than 40 years, three words come to mind to describe her: 'tenacity', 'capacity' and 'generosity'. Let's start with 'tenacity'. How many young girls drove themselves to school in the 1950s in a pre-war Singer sports car wearing their father's World War II RAF flying jacket and refused to accept that uniforms were compulsory? Gay's entry into journalism as one of the first women reporters on a New Zealand newspaper came at a time when girls covered mainly women's or social issues. Now, that's tenacity. Gay told me recently that she regarded newspaper reporting as a bit of a game. She recalled how she had lurked one frosty winter night outside a local trade union headquarters listening through a ventilation grille to a highly secret meeting of the Amalgamated Society of Railway Servants, who were determined to manipulate the vote to get a strike that they wanted. Gay wrote the story and split the New Zealand Trades Council as they searched for the rat who had

leaked to 'that girl reporter'. Now, that's tenacity.

But her capacity to achieve, to organise, to mentor, to befriend and to counsel even the most challenging friend earned her early respect from those in Canberra fortunate enough to be invited to her bountiful dining table in Hobart Avenue. Senior bureaucrats, academics, politicians, layabouts, strays adopted by her and her husband Ken and on occasions pure ring-ins were all made welcome and often left at lunch there wondering as darkness was falling where on earth the afternoon had disappeared to, lost as it was in a swirl of fascinating conversation that had captured all of us.

Gay's years as a senior and highly respected journalist in Canberra gave her a unique insight into the workings of the bureaucracy, academia and, importantly, government. She became a respected health and social welfare policy commentator and later served on a number of boards and committees in the ACT. Her generosity was boundless and, as a regular boarder at her Hobart Avenue home, I can attest to the number and variety of people I would find there when I returned from a late night parliamentary sitting. Apart from those who had stayed on from lunch, there were teenagers with parental conflicts, women escaping from troublesome relationships, men ejected by exasperated wives and lovers—all of them finding solace, a comforting meal and a warm bed in the generous hospitality of Gay's home. That spirit of generosity lives on today in her daughter Tui, who has so patiently and compassionately supported her mother in these last difficult years.

Many people will remember Gay Davidson as the tireless campaigner for a compulsory measles vaccine after the tragic death at the age of 12 of her second daughter, Kiri, from complications arising from what ap-

peared to have been a simple childhood illness. More recently, Gay has struggled with a difficult illness herself, borne with great dignity and the courage that was characteristic throughout her life. Dozens of Canberra friends gathered to say goodbye to Gay and to celebrate her life at the Canberra Press Club where, ever the trailblazer, she had also served as the first female president. Her many friends mourn her passing.

Environment: Recherche Bay

Senator BROWN (Tasmania) (1.02 p.m.)—I want to talk to the Senate about Recherche Bay in far south Tasmania—it is about as far south as you can drive; in fact, Cockle Creek, which is as far as you can drive, is on the southern edge of Double Bay—which is named after one of the two French scientific expedition ships. The expedition commanded by D'Entrecasteaux set out from France in 1791 and arrived in Tasmania in January 1792. The ship stayed for five weeks, and they gathered many botanical specimens, including the blue gum, which is now the floral symbol of Tasmania. They were aware that Aboriginal people had been in the area but they did not meet any. However, they made extensive exploratory forays in various directions from Recherche Bay, including quite a remarkable overland trek to a peak to the south of Mount La Perouse, then to the south coast and back to Recherche Bay.

The ship circumnavigated the continent of Australia and went back to Esperance in Western Australia, named after the other ship, in early 1793. They had such great recollections of Recherche Bay in Tasmania and were in need of repairs and fresh water, so they set sail across the Great Australian Bight back to Recherche Bay and stayed for a few more weeks. This time they met the Aboriginal people, the Palawa. The first meeting came after four of the officers

walked overland from Recherche Bay and camped overnight at a creek entering what is now Southport Lagoon. In the morning they woke up and decided they would walk along the southern part of Southport Lagoon to the entrance which they had visited the year before. On this walk they heard human voices and found the Aboriginal people fishing in Southport Lagoon. They put down their muskets and, to cut a long story short, there were a couple of hours of intriguing communication between the French and the Palawa, neither understanding each other's language but a lot of understanding, enjoyment and exploration of each other's similarities and differences during those couple of hours.

When the French decided to go back to the ship a couple of warriors went with them and, much to the amazement of the French, when they got back to the camp site where they had slept the night before, the warriors pointed out where each of them had been sleeping. This brought home to the French that this was Palawa country and the Palawa knew what was going on and it was not the other way around.

The French had put in a garden in 1792. When they went back in 1793 they found the remnants of the plants in the woods and were again amazed that one of the warriors came and pointed out which were their plants—that is, the Palawa plants, the indigenous plants—and which were the French imported plants put in the garden the year before. Quite remarkably the remains of that garden, the wall, were discovered last year by two Tasmanians, Helen Gee and Bob Graham. The remains of the observatory that the French set up onshore at Recherche Bay in 1792 were also discovered. This was a very important breakthrough in navigation, which was to have a big impact on global navigation in the following century. The observatory was set up after the French had failed to set up their scientific equipment rapidly

enough to witness the transit of Venus across the sun, which brought heartbreak to the astronomer on board the ship.

The thing about Recherche Bay and the north-east peninsula, where the French walked so frequently and saw Tasmanian tigers and a whole range of other marsupials, is that it is effectively intact but is under great and imminent threat from logging. There is an imminent proposal to complete a road across the Southport Lagoon conservation area which was started over a year ago to allow logging of the very forests from which the French entered and collected their specimens and on the edge of which is the remnant garden and observatory.

One-hundred and forty hectares of this peninsula is in private hands, owned by the two Vernon brothers. Unfortunately, the Tasmanian government has not secured an arrangement with the Vernon brothers to buy this private land to ensure that it is kept because of its extraordinary global importance as a meeting place between the scientists of the European enlightenment and the extraordinary knowledge of the Palawa people in Tasmania, the Indigenous people. Last Friday, with Cate Weate and Margaret Blakers from my office, I walked across the peninsula, in the vicinity of where the road will be completed if allowed to go ahead, and also in the vicinity of what is one of Australia's rarest plants, the Tasmanian swamp eyebright, listed by the federal authority, internationally and by the Tasmanian heritage unit as critically endangered. I was astonished to find that this plant, which is down to 40 mature species in one area of about a quarter of a hectare, has a four-wheel drive track going straight through the middle of its habitat. There is a fence being built against the remnant plants—goodness knows how many were destroyed by this four-wheel drive track—with some star pickets, and that is it. This is a failure at state and federal level of

the authorities to protect a magnificent flower, arguably one of the rarest plants on the face of the planet, by neglect.

What is more, off-road vehicles crossing the peninsula have created massive environmental damage. Besides the introduction of the root rot fungus *Phytophthora cinnamomi*, in places the squalid broadening of the tracks by off-road vehicles trying to get through swamp areas is as wide as 80 metres. There is debriding of all the native vegetation, there is soiling of the streams and there are enormous ruts built through the very country through which the French walked to meet the Indigenous people in 1793. This is a matter of state government neglect and failure to properly equip Parks and Wildlife to prevent that destruction. There is in place a draft management plan which would prohibit four-wheel drive vehicles south of Southport Lagoon and therefore in the region of this rare plant, but it has not been brought into being.

This whole region is extraordinarily beautiful. East of Recherche Bay is Black Swan Lagoon on the other side of the peninsula—I counted 162 black swans on this lagoon on Friday—and then a long white beach, along which the French walked in 1793 and met a group of 40 Palawa people coming south. The French carved a tree, by the way, just off the beach which disturbed the Indigenous people greatly as introducing a bad spirit to their forest. Thirty years later, one of the local warriors told a European that the Indigenous people destroyed that tree after the scientific expedition had left. What we have here is an intact historic landscape, as it was when the French arrived, except for some past selective logging and these four-wheel drive impacts that we see today. We have the opportunity here in this nation, in the interest of international human history, culture and remarkable ecological intactness, to prevent the loss of that landscape and to preserve its

integrity by preventing the logging and the procedure of that road.

I noted yesterday in question time that there is no forest practices plan covering the completion of the road. Whether or not the minister has been able to establish that, there is an enormously wonderful opportunity here for the new Minister for the Environment and Heritage, Senator Ian Campbell, and for Prime Minister Howard to rescue this area by paying fair compensation to the owners of the private land out of, if necessary, the \$50 million or so that the Prime Minister has said will be allocated to Tasmania as part of the compensation package, or from other Commonwealth moneys, to ensure the integrity of this area for the nation's benefit into the future. But it needs urgent and clear-headed action. It is a really great opportunity for this government to show that it understands the nation's history, that it celebrates it, that it understands the ecological value of remnant places which are as intact and as beautiful as Recherche Bay and that it is prepared to put aside the minimal amount that would rescue the area and then manage it so that it can be presented for Australians to go and see. With signage and proper presentation, it would be one of the most fascinating places for all of our citizens now and in the future to visit and to see the country just as the French saw it and, more particularly, just as the Palawa people lived in it. It is an incredibly wonderful opportunity. When I was there on Friday, there was Mount La Perouse to the west, as described by the French, still with snow on it. They noted that snow was there in January and February, in those days before global warming.

I appeal to the government to seize this opportunity for a remarkably good outcome at Recherche Bay. I understand that the French Ambassador is in the state at the moment and is going to Recherche Bay. Negative international attention will come to

Tasmania and to Australia if the logging and this obscene road, with its two-metre deep ditch and up to four-metre pile of what was the native cover piled to the side, resumes. That has been proceeding through the Southport Lagoon conservation area. It has been stopped, but it certainly needs to be seen that it is not resumed and in fact that reparation is made there.

Mr Howard committed himself during the election campaign to releasing the defined details of the maps of the 170,000 hectares of old-growth forest to be protected by the government today. It is a promise that has not been kept. It is the first breach of promise from the election campaign. We have to accept that there are good reasons behind that breach of promise, and if they include the rescue of the north-east peninsula, the Southport Lagoon conservation area, Recherche Bay and its potential to become part of the glorious World Heritage area of Tasmania, then I will be one of those who will overlook such a lapse. Here is a great opportunity for this government to do something very lasting for the nation and for the international community interested in history and ecology. (*Time expired*)

**Economy: Household and Personal Debt
Product Safety**

Senator LUNDY (Australian Capital Territory) (1.17 p.m.)—It is the first day of December today, and as we head into the Christmas-New Year period I would like to speak as shadow minister for consumer affairs about two major issues: consumer debt and product safety. The Christmas-New Year period is one of particularly high consumer spending, primarily on gifts and holidays. It is important for Australians to be aware of a number of issues and risks that may affect us during this period. Consumer confidence is generally high as we head into the holiday season, with the Reserve Bank of Australia

this month revealing that consumer confidence surged to its second highest level in 30 years. Recent fluctuations notwithstanding, it is obviously a period of substantial spending. While this news is great for retailers, many Australian families will soon develop post holiday blues as they continue to struggle under a mountain of debt due to inadequate warnings on credit cards and the traps that come from spending a lot during this period.

Labor has been warning about the growing debt crisis for more than four years but the Treasurer and the Howard government have done little to address, inform and educate Australians about how they can better deal with rising levels of household debt. From a very practical point of view, the Howard government could be doing more to support consumers. With newspapers today carrying stories of record household debt, reporting that the average Australian household is spending 2.3 per cent more than it earns each week, it is clear that accumulating debt has become a way of life for many Australian households.

Today's stories come from the release of the AMP.NATSEM report yesterday: *Household debt in Australia—walking the tight-rope*. The report confirms the new records Australians are setting in accumulating debt. The report found that all forms of debt are on the increase; home loans, other property loans, personal loans, HECS and credit card debt are at record levels. It is worth placing these statistics on the record. In 2002, Australian households owed \$422 billion in housing and other loans and on credit cards. This accumulated household debt amounted to just under 60 per cent of the value of Australia's gross domestic product. This means, according to the AMP.NATSEM report, that in 2002 each household in Australia carried a debt of \$60,000 which, given an average disposable household income of about \$46,000, means that the level of debt repre-

sents 1.3 years of income. This implies that many Australians will be burdened with high levels of debt for years to come.

As a nation we are spending more than we earn, which is why it has become so important that as much information as possible about the levels of debt we are incurring reaches Australians. Record levels of combined household debt place increasing pressure on families at this time of the year, when credit cards are often used to purchase Christmas presents or while holidaying, because people are finding it harder to save for the increased expenses incurred during the year.

Credit card debt is increasing at an alarming rate, with Reserve Bank of Australia figures showing this month that Australians owe nearly \$28 billion on our credit and charge cards. The figures I am referring to increased by another \$157 million in just one month, from August to September this year. The interest bill for Australians in September alone was a whopping \$266 million. That is almost \$9 million a day. Credit card debt is an issue that affects the majority of Australians, with around 69 per cent of Australian households responsible for either a credit or charge account, with an average household credit and charge card debt in excess of \$5,300. This figure has skyrocketed under the Howard government, going from \$1,601 in June 1996, just a few months after they took office, to \$5,309 in September 2004. It is just not acceptable that the Howard government sit back and watch Australians fall further and further into the debt trap with no inkling of an attempt to curb the credit and charge card crisis. While the Howard government sit dormant on addressing this issue, it is the Australian public who lose out. The Howard government should follow Labor's lead in this area to address credit card debt.

I would like to refer to a series of points that Labor contained in its policy leading up to the last election. They include: firstly, requiring that credit limits be increased only at the request of the cardholder; secondly, prohibiting unsolicited promotional material with preapproved limits; thirdly, requiring financial health warnings to ensure that consumers are made aware of the potential cost of credit card finance; and, fourthly, ensuring that monthly statements contain warnings about how long it would take to repay debt if only minimum payments were made and the amount of interest that would be paid. Those are four commonsense points that certainly some jurisdictions in Australia have already acted upon. But there has been a singular lack of leadership from the Howard government to address those issues and provide a bit of practical support.

Before I move on to product safety I also want to make a general comment about rising household debt. The last time household debt was so high was in the early nineties, and the reason for that increase pointed to high interest rates. At that time, the possibility of that matter being resolved was linked to the decrease in interest rates that followed. That puts it in sharp perspective now, when we are experiencing record household debt at a time when interest rates are low. If they are low and we have this immense amount of household debt, it highlights consumers' vulnerability to interest rate rises right across the nation. If you have that exposure of household debt when interest rates are so low, the risk to households and families of interest rates rising is potentially disastrous. We all know this is the sentiment that the Howard government tried to tap into during the election campaign. But it is the vulnerability that consumers have been placed in as a result of that debt that the government must take responsibility for and not try to mislead or trick Australian people into believing that

they are better off having this high household debt while interest rates are so low. It is a very daunting situation for anyone who has a big mortgage and debts to face.

I would now like to turn to product safety. This issue, again around Christmas time, is particularly important. People have a right to know when they are purchasing gifts for family and friends that their gifts are safe and reliable. The state governments are in effect the front line of consumer affairs. I wish to take this opportunity to acknowledge the excellent efforts undertaken by the states and territories in leading the way in advocating the rights of consumers and ensuring that appropriate regulations and laws are in place to protect these rights. Secondary to the states are the four federal agencies dealing with aspects of consumer affairs. Despite this secondary role, there is an increasing necessity for the Commonwealth to play a collaborative role and provide leadership. They have a responsibility to bring about greater harmonisation between the states and territories and their respective laws, particularly on the issue of product safety.

It is very easy for consumers to become confused when attempting to check on a product or report a faulty product when they have to grapple with the concept of separate agencies in their states and in the federal jurisdiction. Product safety information can become even more confusing for consumers, particularly at Christmas time when everyone's life is in a bit of a flurry and they are trying to purchase many toys and gifts for their children or for other children. The states and territories have had little choice but to act independently in the banning of toy products deemed unsafe. For example, the Victorian state government conducted a blitz on dangerous and banned toys late last week in the lead-up to Christmas.

The Victorian government are communicating to Victorian consumers the products to be wary of. To their credit they have been involved in a concerted effort for all the states and territories to work more closely together. That raises the important question: why is the Howard government leaving it up to individual state and territory governments to source and research these products to determine whether they meet safety standards? Surely the government has a role to play. The complete lack of federal leadership shown in relation to developing national uniform product safety legislation or guidelines is, unfortunately, typical of this government on issues of consumer affairs. It is just not good enough and it is not unacceptable when there is a constructive role it could play. I know that the states would welcome the constructive involvement of the federal government were it forthcoming.

But the fact is that the Howard-Costello government have paid little regard to the Ministerial Council on Consumer Affairs, which represents state and federal ministers. They have had little input and taken little from the discussions of this group to develop improved consumer affairs policy. It is hoped that Mr Chris Pearce, the member for Aston and Parliamentary Secretary to the Treasurer, who I understand is now the chair of the ministerial council, will show a little more leadership from the federal government.

Australians need a consumer advice service which deals with product safety nationally and which is available for all Australians, and it should be led by the federal government. It is not acceptable to wait until a state gets sick and tired of doubling up and other inefficiencies and instigates its own interstate agreements. I commend the states on the efforts they have made in trying to cooperate. It is not good enough for the federal government to sit back and do nothing. They should be taking a lead in this area and

supporting the good work of the states to date. The Ministerial Council on Consumer Affairs, in their 'Review of the Australian consumer product safety system' discussion paper released in August this year, stated:

The involvement of multiple jurisdictions in regulating the safety of consumer products results in duplication of effort which places pressure on Government resources. This is because similar regulatory tasks, such as issuing mandatory standards or bans, are often conducted by each jurisdiction in respect of the same product.

They further stated:

There is a need for a system that ensures the clear, comprehensive treatment of products in a way which draws upon the expertise and resources of businesses and is supported by more efficient use of the resources available to government.

That says it how it is. The doubling up affects not only the consumer as the report states; the development of product safety legislation over time in each jurisdiction has created some obstacles and additional costs for businesses that wish to sell their products to consumers throughout Australia. So there is an issue of red tape caused by having the same product sold in a range of jurisdictions. Surely, if nothing else, that would motivate this government to act.

The government needs to heed this report and to recognise the problems in its product safety system. The Labor opposition will be on the back of the government to ensure it follows through in addressing the issues raised in the paper and that it implements the changes to the Australian product safety system. Whether it is a council report or the federal government's own report, time and again we see that the report is released only after years of completely ignoring the issues. The report is then placed on the shelf in the minister's office somewhere and nothing is done about it. We want to see a change from the Howard government. Labor want to see

some activity, not a government that sits back and observes the ridiculous doubling up and inefficiencies it is inflicting upon our state and territory governments in the consumer regulatory systems. It is incumbent upon this government to show the sort of leadership expected from a federal government acting on its own report.

During the election Labor committed to providing improved consolidated information and research regarding product safety through the office of consumer affairs, and Labor will continue to keep this government accountable for fixing their system. This particular issue, as I said, has been around for a long time. I have not tried to detail all of the products here, but I do urge people who are listening to note that consumer affairs and product safety are critical issues. People do not want to be put in the appalling situation of either giving a gift or purchasing something they need only to find that there is an unacceptable risk associated with that product. The circumstances around that sort of situation could be tragic. It is obviously a place where government can step forward, work with the state and territory jurisdictions and move very quickly to show federal leadership and get unsafe products out of the marketplace.

Finally, I would like to go back to the issue of household debt. This issue is not going to go away. It is in the context of poor economic management overall. I think that, over time, many Australians will come to see just how vulnerable a position the Howard government has allowed them to find themselves in with its handling of rising household debt.

International Day for the Elimination of Violence Against Women

Senator KIRK (South Australia) (1.32 p.m.)—Last Thursday, 25 November, was White Ribbon Day, which is the International

Day for the Elimination of Violence Against Women. White ribbons are worn on 25 November each year to encourage people, both men and women, to speak out about violence against women.

White Ribbon Day was a particularly poignant occasion in Adelaide this year. Just one week earlier on 17 November a woman was shot by her estranged husband in the Myer department store in the city. On Wednesday, 17 November 61-year-old Carole Schaer arrived for work in the shoe department of Myer in Rundle Mall, just as she had done for the past seven years. Carole Schaer had separated from her husband, 69-year-old Simon Schaer, eight years earlier. She was in another relationship and was getting married in January next year. Ms Schaer had filed for divorce. The papers were to be served on Mr Schaer on 19 November, and Ms Schaer had planned to be in Port Lincoln on that day. Instead, the divorce papers were delivered early. On the morning the papers were served, 17 November, Simon Schaer burned down his home in Magill. He then made his way to the Myer Centre in Adelaide city and shot his former wife, Carole Schaer, at close range with a hand gun. Newspapers reported that former neighbours of the couple in the leafy suburb of Kings Park in Adelaide were shocked at the murder and described the Schaers as a lovely couple.

I give the Senate this example today of this tragic incident that occurred just a few weeks ago in my home town of Adelaide to illustrate the extent to which violence against women can bring about tragic consequences for innocent women. I extend my condolences to the family of Carole Schaer. Violence against women is not a problem confined to one particular social class or age group. Elderly women, young women and pregnant women are all victims of violence. It happens in small towns, in the outer suburbs and in the most affluent neighbour-

hoods. It might even be happening in my street or to someone that I know.

The South Australian government recently published a statistical profile of women in my home state. It confirms that, statistically, women have more to fear from their partners and husbands than they do from strangers. Police records show that, in 2000, 77 per cent of South Australian women who reported being physically assaulted were assaulted by an intimate family member, and in the same year the figure for sexual assault was 97 per cent. Australian research also shows that more than one million women have experienced violence during a relationship. Of these women, 60 per cent said they lived in fear during the relationship, 67.7 per cent of women who suffered violence said that their children had witnessed the violence and 20 per cent of women who suffered violence were pregnant when the violence first occurred.

Family violence generates enormous health and legal sector costs in our communities and is second only to traffic accidents in the use of police resources. Earlier this year here at Parliament House I participated in Amnesty International's launch of its campaign Stop Violence Against Women. On this date Kate Gilmore, Executive Deputy Secretary-General of Amnesty, made a speech. She gave these quite startling statistics: internationally more women die as a result of violence than are killed by cancer, road accidents or malaria; worldwide, one in three women is a victim of violence, including beatings, rape and attack; and 79 countries have no law against domestic violence.

It is sobering to consider that just a few generations back violence against women in Australia was viewed by many as normal behaviour. At the beginning of the 20th century an Australian husband could legally beat his wife. A magistrate infamously ruled that

a man could beat his wife, but with a stick no thicker than his thumb—hence the expression ‘rule of thumb’. Back then rape was a crime, not against the woman but against her father.

I take this opportunity today to express my condolences to the family of Carole Schaer. I am raising the issue of violence against women because it is important that we reflect on the tragic situation many women find themselves in. I also commend the work being done by groups such as Amnesty International and UNIFEM. Praise should also go to the many small community organisations who are working towards a reduction in violence in their local areas.

In October this year, I participated in an antiviolence rally in Port Noarlunga in Adelaide’s south which was organised by people who are involved in the Seeds of Nonviolence project—a community initiative aimed at men in the city of Onkaparinga region. The project offers counselling as well as community programs to support men and their families who are moving away from violence. It was most encouraging that day to see so many people prepared to take a public stand against violence. I want to say a public thankyou to the organisers of that event and to share with the Senate my belief that it is grassroots projects like that, directed at men, which play a key part in violence reduction. I urge the government to investigate and direct further funds in this direction.

Violence against women is often hidden. Women are too afraid or too ashamed to report it, and often when they do it is not taken seriously. On White Ribbon Day, we make a pledge to speak up against violence against women. We say that violence will not be tolerated, and that we will do all we can to work towards offering support and counselling to both men and women who have the

courage to say ‘enough is enough’ and ask for help.

Environment: Policies

Howard Government: Election

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (1.39 p.m.)—Today, 1 December, is a very good news day for the Australian seafood industry and indeed for all Australians who are consumers of Australia’s fine seafood. Earlier this morning I was privileged to be at the Sydney Fish Market to launch the ‘environmental tick’, one might say, given to the Australian seafood industry under the Environment Protection and Biodiversity Conservation Act. Senators will know that five years ago this very tough act was passed by the Howard government, requiring very strict regulations on, amongst other things, the management of the fisheries industries.

Almost on time, with perhaps a little extension, the Australian seafood industry has been able to get that environmental tick under the EPBC Act. That means that this Christmas time Australians can tuck into Australia’s fine, fresh, ‘clean and green’ seafood, content in the knowledge not only that seafood is healthy, good for their diet and very Australian but also that the Australian fish and fish products they are eating come from environmentally sustainable fisheries—some of the most environmentally sustainable fisheries in the world. The 11 Commonwealth fisheries that have been assessed by Environment Australia all came out with a clean bill of health. Four of them will be reviewed in three years time and the rest have a five-year review period in accordance with the EPBC Act. So it is a great result for the seafood industry and for those Australians who love seafood—and shouldn’t that be all of us?

I know all senators would agree with me in urging all Australians to have a lot of Australian seafood come Christmas time. The seafood industry is doing it a bit tough at the moment with the very high prices of fuel, the high Australian exchange rate and the low-quality, low-value fish products that are imported into the country. But we as Australians can help the seafood industry and ourselves by getting stuck into some fabulous seafood this Christmas time.

I also want to touch briefly on the Howard government's commitment to Tasmania and indeed to all Australians in relation to the Tasmanian forests. Senators will recall that the government has given a commitment to add 170,000 hectares of old-growth forest to the reserve system in Tasmania. It is very important to emphasise to all Australians, many of whom have been confused by the ramblings of the Greens party over the years, that this will mean one million hectares of old-growth trees are locked away permanently in reserves in Tasmania forever and a day. If you listen to the Greens and the misleading that they are so adept at, you would think that there are only five or a dozen old-growth trees left in Australia. You would think that there are practically none left because that is the sort of misleading information that the Greens give. Over the last 10, 20 or 30 years, they have been able to hoodwink the public, particularly the public of Sydney, Melbourne and Adelaide, that there are only a couple of old-growth trees left.

The fact is that, following the implementation of the Howard government's election commitments, one million hectares of old-growth forests in Tasmania will be permanently locked away out of 1.2 million hectares, which is the total area of old-growth forests in Tasmania. That is not a bad result. I want to repeat that to emphasise it: of the 1.2 million hectares of old-growth forests in Tasmania, following the implementation of

the Howard government's program one million hectares of old-growth forests will be locked away.

At the moment officers from my department, the Department of Agriculture, Fisheries and Forestry, from the Department of the Environment and Heritage and from the Department of the Prime Minister and Cabinet are working with the Tasmanian government to put together the boundaries of those new additions to the forest. We had hoped to make those boundaries known today. That was the commitment we gave. We wanted to emphasise that we were not going to follow the Labor Party line of having yet another review into the forests—there have been hundreds of them already—and coming back in 12 or 18 months time, thinking about it and perhaps getting a policy then. We wanted it to be firm; we wanted to give the industry the certainty of knowing what is reserved and what is not. More importantly, we wanted to make sure that Tasmanian workers, such as the blue-collar workers and the other workers in the industry, including contractors—those people who are now flocking to the Howard government, to the Liberal Party, in droves because we look after their jobs—understand that we are concerned about their jobs, that we are concerned about the environment and that we are concerned about the forests. But we believe that a balance can be met which will add additional trees to the reserves and which will ensure that all of those workers in Tasmania maintain their jobs. That is the commitment we have given, and we are determined to keep it. It did not happen on 1 December, as we had hoped; it will happen in a few weeks when we complete our negotiations.

I want to read into the record, in response to Senator Brown's petty criticism, that even the Wilderness Society spokesperson in an article today said that he was glad the gov-

ernment was not rushing this decision. The article states:

"It's better to get a good decision than a rushed one," he said. "We don't want to blow this opportunity to protect some of Tasmania's important wilderness areas and forests."

Even the Wilderness Society are supportive of the Howard government's approach to the negotiations to add additional reserve, whereas all Senator Brown can do is complain and whinge.

I think Senator Brown is very uncertain at the moment. Most Australians have worked out that the Greens political party have nothing to do with being green or with the environment. They are all about those very left-wing social and political agendas. They have done nothing on the environment in the last three years. They have hardly asked a question, you might recall, Mr Acting Deputy President. Certainly, they have never turned up at estimates committees to ask any questions at all on the environment. They are just frauds when it comes to the environment, and I think the Australian public saw through them. The Greens have had their worst election result. The results for the Greens and the Democrats this time round were worse than they have been in many years past.

While Senator Brown has tried to put a positive spin on it, the Greens lost their only House of Representatives member and got nowhere near the number of senators he expected. The Greens did not even win the number of seats held by Democrats senators who were defeated. It has been an appalling result for the Greens as a political force, because Australians have worked out that they are frauds when it comes to the environment. The Greens are only interested in left-wing social and political agendas, whereas, by contrast, the Howard government is the greenest, most environmental government that this nation has ever seen. The addition to

the reserves in Tasmania is just one element that demonstrates what an environmentally aware and environmentally conscious government the Howard government is.

I wanted to say a couple of other things about the election but, to allow Senator McGauran to speak on the very important subject of wool, I seek leave to incorporate the rest of my speech in *Hansard*.

Leave granted.

The speech read as follows—

The real winners on 9 October 2004 were the people of Australia who emphatically decided on the team to continue the Australian way of life and the prosperity we have enjoyed since 1996.

As well there were many unsung heroes. All those who worked our campaigns, the booth workers who manned the booths (in the North, many from 6:30am to 6:30 pm non stop!), our brilliant campaign team lead by Federal president Shane Stone and Federal Director Brian Loughnane. Their plans and strategies were carried out in Queensland by State Director Geoff Greene who did a great job—showing how a disciplined team and a well led organisation can make the difference.

To all of those who assisted—in ways big and small—my thanks for helping return John Howard and his team for another term.

Some members of the National Party in Federal Parliament suggest (wrongly) that I am anti-National Party.

In the Federal Election I seemed to have spent a lot of my time campaigning in National Party electorates.

Many of the major forest and fishing towns are in National Party electorates and I did spend time campaigning with National Party candidates in Page (NSW) and in Hinkler (Qld) twice and in Gippsland. I also helped the Nationals campaign in Kennedy.

After spending all day on October 9 manning the booths to help in Peter Lindsay's historic win in the Federal electorate of Herbert, Townsville Young Liberals have produced a second spectacular win only three days later with a clean sweep at the James Cook University Student Un-

ion elections held on the Tuesday and Wednesday after the Federal poll.

The Young Liberals under their banner of "Students for Choice" won the election for President, General Secretary, Education Officer, Welfare Officer, Environment Officer, Women's Officer and two general members.

"Congratulations to Jessica Weber and her team of Young Libs on a magnificent well organised campaign which will ensure student services at Australia's largest tropical University are well managed and directed for the next year."

Young Libs manned the University booth for Peter Lindsay at the Federal election and received a remarkable swing on the booth achieving 47.59% of the first preference votes.

"I am so proud of these young people for their dedication and commitment to democracy and good governance at all levels of government."

Senator Macdonald said that the involvement of young people in the political process in North Queensland augers well for the future expansion of the Liberal vote in the North.

Horsham: Wool Factory

Senator McGAURAN (Victoria) (1.48 p.m.)—The time provided for the Wednesday lunchtime debate allows for all sorts of issues to be brought up. I would like to bring to the attention of the Senate the Wool Factory, a business in Horsham, Victoria, that keeps some 900 merinos. They are housed and fed for life. Each sheep is housed in an individual pen under one roof. The object of the Wool Factory is to produce the finest of fine wool. Moreover, this outstanding business employs some 40 special needs workers, who have various disabilities. It is a vital part of Horsham economic life. The business was established in 1983. In that time it has grown, on and off, some of the world's finest wool. With that backdrop, I announce to the Senate that the Wool Factory has achieved a world first. It has produced the finest bale of wool in the world—a 93-kilogram bale of wool with fibres of a thickness of 11.8 micron.

Senator Ian Macdonald—That's fantastic.

Senator McGAURAN—It is fantastic, Senator Macdonald. Just to put that in perspective, it is about a sixth of the thickness of a human hair. The bale is expected to go up for auction in December, when no doubt there will be some keen bidding for it from our main suppliers, such as Japan, China and Korea. The Wool Factory achieved not only this world prize for the finest bale of wool but also a very prestigious award earlier this year from Ermenegildo Zegna—and I suspect there would be a few people wearing Ermenegildo Zegna suits in this parliament—for the world's finest and best fleece. The first bale of wool I mentioned was 11.8 micron, but in this single fleece they were able to achieve 10.6 micron. It came from a sheep also at the Rowville stud of David and Susan Rowbottom in St Helens, Victoria. So it looks as though Victoria is leading Australia, if not the world, in producing the finest wool. And do not think there is not stiff competition for this award. As my colleagues on both sides of the chamber know, Australia has some pretty strong competitors in this market. No lesser countries than New Zealand across the Tasman, South Africa and Argentina compete for this prestigious award.

I had the opportunity recently to visit the Wool Factory and they gave me a sample of the world award-winning bale, which I am very happy to show the Senate. I know I cannot table it, but for all my colleagues in the chamber I have a piece of some of the finest wool ever produced in the world—and it is a Victorian product. I know many of my New South Wales colleagues, such as Senator Sandy Macdonald who is a wool grower, would be envious. I can tell all those Tasmanians who think that they grow some of the best and finest wool, purchased mainly by the Italians, that Victoria has taken the crown

away from all the wool producing states. It is not to say that they do not put in a fair effort but it seems to me that, when it comes to the finest of fine wool, Victoria takes the crown. I would like to congratulate all the workers in the Horsham Wool Factory—and in particular the CEO, Tony Craig, who oversees these workers—and the township of Horsham on—

Senator Webber—Congratulate the sheep.

Senator McGAURAN—And I congratulate the sheep that have produced this fine wool, which I hold up again. I am more than happy to produce it for anyone in the chamber who wants to come over and feel some of the finest of fine wool, which will no doubt end up in some Zegna suit.

Sitting suspended from 1.53 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Regional Services: Program Funding

Senator O'BRIEN (2.00 p.m.)—My question is to Senator Ian Campbell, the Minister representing the Minister for Transport and Regional Services. Can the minister confirm that the Regional Partnerships Strategic Opportunities Notional Allocation, or SONA, guidelines were not advertised and applications for consideration under SONA arrangements could not be sought? Can the minister also confirm that the SONA guidelines provide that projects may originate from representations made to the minister, the parliamentary secretary or other members of parliament? Why did the minister fail to advise the parliament and the public that these secret rules were in operation and why, indeed, were these rules kept secret?

Senator IAN CAMPBELL—Another day, Mr President, of the Labor Party beating up on regional Australia—very unsurprising. Here we have projects that have been

through a diligent process of assessment under two different programs—given the tick by both of them, approved—that on delivery will see employment increase in the Gunnedah region by something of the order of 50 permanent jobs.

Senator O'Brien—I didn't ask about Gunnedah.

Senator IAN CAMPBELL—This is a project approved under the guidelines that the senator has asked the question about. This is a project that Labor want to drag down. They want to attack any coalition initiative which delivers jobs, employment growth, good environmental outcomes and community building attributes to regional Australia. What I would like Senator O'Brien to do when he gets up to ask his entirely inevitable supplementary question is to articulate which of the projects Labor will put in their costings to scrap. Will it be the R.M. Williams centre; will it be the equine centre; will it be the project in Gunnedah to produce ethanol?

Senator O'Brien—Mr President, I raise a point of order on the question of relevancy. My question was not about a particular project; it was about particular guidelines, guidelines which have been revealed only this week by the government. I ask you to draw the minister's attention to the subject of the question and ask him to refrain from dealing with matters which do not relate to the subject matter of the question.

Senator IAN CAMPBELL—Mr President, on the point of order: the question related to a set of guidelines. Yesterday Senator Carr, one of the left-wing comrades of Senator O'Brien, raised these guidelines and this is the project that has been raised under the guidelines. So it is absolutely germane to the question and it describes how important these guidelines are and how they have been abided by.

The PRESIDENT—There is no point of order, but I would remind the minister of the question and that he has two minutes and 50 seconds to complete his answer.

Senator IAN CAMPBELL—Mr President, I need no reminding—although I appreciate your doing that—because the question was entirely predictable. The same attack on regional programs has been made by the Labor Party day in, day out. I think Mr Lindsay Tanner makes it quite clear that one of the great failings of the Labor Party's questions committee as a tactical political organisation is that you can absolutely and entirely predict what Labor are going to ask. I was not surprised by the question at all. The answer is one that the Labor Party do not like because the answer shows that the Labor Party will do whatever they can—they will set up parliamentary committees, they will ask parliamentary questions and they will denigrate any regional program that the coalition government puts together.

The guidelines that Senator O'Brien has referred to are guidelines that were instrumental in approving a project that will deliver 50 new jobs in the regions and 350 indirect jobs. It will provide a new source of demand for agricultural products in that district and more security for farmers in that district who are suffering structural consequences of water reform. It is therefore a good program for the district, delivering environmental outcomes in delivering alternative fuels but also delivering an environmental outcome in underpinning the structural adjustment that is required for a community that is going to go through a process of structural adjustment caused by the need for water reform. So it is an incredible win for the environment, an incredible win for the community in that area, a great win for the Australian economy and, as I have said, a win for the environment.

Where it is a loser is for the Australian Labor Party. What I suggest to the Australian Labor Party is, rather than whinging, whining, carping, being oppositionist and returning to that mentality that has so defeated them over the past years, let us get positive about regional Australia. There is a great opportunity for senators like Senator Carr and Senator O'Brien, rather than whinging, whining, carping, being oppositionist and trying to drag down these regional communities, to actually get out there and engage with the community. Get out there over the summer recess and look at some of these great projects, such as the R.M. Williams project, the equine centre project at Tamworth and the ethanol projects that are being supported by the government through a number of programs—all of these projects which lead to a sustainable and secure future for both the economy and the environment.

Senator O'BRIEN—Mr President, I ask a supplementary question. I again ask the minister to address the questions about the SONA guidelines which he failed to address—that is, why they were not advertised and drawn to the attention of the public and why they were kept secret. Can the minister confirm that on 26 June last year the Minister for Transport and Regional Services issued a statement advising that:

Under Regional Partnerships there is one set of guidelines and one simple application process to make it as easy as possible to apply for Federal Government funding support.

Can the minister also confirm the claim that the Regional Partnerships program operates under one set of guidelines that is still published on the web site of the Department of Transport and Regional Services? Why has the government misled the parliament and the public on the rules that govern the allocation of funding under the Regional Partnerships program?

Senator IAN CAMPBELL—It is quite clear that the Labor Party do understand these guidelines—guidelines that make it clear that where a project is in the national interest and there is a benefit to the nation then we approve it. What the Australian people do not understand, and what Labor do not understand, is that Labor have their own, hidden guidelines. Senator Abetz and I would like to know what the guidelines were that Senator O'Brien used when he approved the turtle interpretation centre. What were the guidelines that he used when he went up to Cairns to that absolutely devastatingly appalling launch of a facility in Cairns done at an Aboriginal-run institution? By the time he and, I think, Senator Kate Lundy left they had the members up there in Cairns—

Senator O'Brien—Mr President, on a point of order: this cannot be relevant to the question.

The PRESIDENT—I cannot direct a minister how to answer the question. He has 17 seconds left, and I remind him of your supplementary question.

Senator IAN CAMPBELL—I think the Australian people do indeed want to know, Mr President. Senator Kerry O'Brien went around announcing regional programs in marginal seats throughout the election. He is having a go at us about guidelines that have actually been abided by. I think that, if he wants to be taken as credible and not hypocritical, he should say what his guidelines were when he announced the turtle interpretation centre and the \$10 million for the national museum indigenous— (*Time expired*)

Workplace Relations: Union Officials

Senator SCULLION (2.08 p.m.)—My question is to the Special Minister of State, Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Is the minister aware of instances of union officials barging into workplaces

with little or no justification? Does the government have any plans to prevent these needless and invasive disruptions? Is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Scullion, a very worthy representative of the people of the Northern Territory, for his question and thank him for asking it. I am, unfortunately, aware of a number of instances of union officials barging into workplaces with little or no justification, disrupting productive workplaces and invading the privacy of both employer and employee. Who could forget that terrible incident in 2001 when the balaclava-clad secretary of the AMWU violently invaded two workplaces in Victoria, causing shock, fear and terror to innocent employees? This incident has now been appropriately dealt with by the courts. Unfortunately, innocent employees and employers have no redress against less violent invasions of the workplace by union officials—invasions that are sanctioned by state Labor governments. I can confirm that the Howard-Anderson government is going to seek to correct this position in the very near future. I know senators opposite will not be happy with this, and their interjections have indicated that. After all, when you look across the chamber, what do you see? You see wall-to-wall trade unionists who have all leached off the hardworking people of Australia to earn an income prior to coming into this place. If you look even closer, you will see the puppet strings attached to their masters in the ACTU, but it appears that the puppet show has gone somewhat haywire. There you have—for those of us who watch *The Muppet Show*—the two grumpy old men sitting in the gallery, in Senators Faulkner and Ray. And, of course, Mr Latham and Senator Conroy provide the ongoing interaction that we observe from Punch and Judy puppet shows on a very regular basis.

Senator Conroy—Ho, ho, ho!

Senator ABETZ—I can understand that you do not find it humorous, Senator Conroy; I was not expecting you to. But running a business is hard enough without being confronted with a constant threat of your workplace being invaded by unionists. Today, less than one in five workers chooses to be a member of a trade union. What trade unions are seeking to do is exert power where they have none and where they are not wanted by the workers. It is time for Labor, for Mr Latham and for Senator Wong to recognise that unionists entering private premises is just not on. It is time for Labor and the unions to move into the 21st century with policies for the 21st century. By way of example, an ACTU official complained the other day about secret ballots, asserting that they were somehow undemocratic. That is the view of the union movement and of the Australian Labor Party—that having a secret ballot prior to strike action is somehow undemocratic. Just recently Labor's former adviser Rod Cameron said:

Labor's industrial relations policy must enter the 21st century; it must not retreat to some position that existed before Hawke and Keating.

That is the choice that Labor now faces. But it is hard to see how Labor can assert the right of entry into the workplace when their own leader refuses right of entry of his own shadow ministers into his own office, as Senator Conroy could well attest—or, indeed, when their own leader refuses right of entry of timber workers to his media conferences when he is announcing his forest policy for Tasmania. The Australian Labor Party are still the puppets of the ACTU, and until they shed themselves—(*Time expired*)

Regional Services: Program Funding

Senator CARR (2.13 p.m.)—My question without notice is to Senator Campbell, the Minister representing the Minister for Transport and Regional Services. Can the

minister now confirm that the Regional Partnerships Strategic Opportunities Notional Allocation guidelines, or SONA, were first approved in September 2003 and amended in March 2004? I ask again: why were these guidelines not advertised? Can the minister confirm that the Auditor-General criticised the previous use of such guidelines and called for a more rigorous statement of the use of guidelines for projects of national significance? Will the minister table a statement conforming with the Auditor-General's requirements in relation to the \$1.2 million Gunnedah ethanol project?

Senator IAN CAMPBELL—Once again we have the Labor Party attacking regional Australia—attacking projects that will help regional Australia and attacking a set of guidelines that have assisted regional Australia in the delivery of project grants for projects that will stimulate employment, underpin the strength of local communities and be good for the environment in a whole range of ways. All Labor can do, of course, is carp, whinge and whine.

They intend holding an inquiry into this program and the government will, of course, provide information to that inquiry as requested. I remind honourable senators and anyone else who is interested that these are programs that have been subject to rigorous audit by not only the Auditor-General but also independent auditors on a quite regular basis. These are programs that we want to ensure are delivered and deliver quality and value for money. That is why the guidelines have been put in place. The projects comply with those guidelines. Everyone seems to be happy with these projects and happy with the great results that they can deliver for Australia. The only people who want to be negative and unhappy about them are the Australian Labor Party. We know the reason for that. It is that people like Senator Carr and the leadership of the Australian Labor Party—and, it

seems, most Labor Party senators—seem happiest when they are closest to the general post office of a major capital city and even happier when they are in a cappuccino strip. They are very unhappy when they get out to the regions. They do not understand the fact that much of the wealth of Australia and much of Australia's prosperity is created by people who live outside capital cities—by people who run home based businesses from farms, for example, who have to struggle against the elements to grow crops and deliver export income for Australia.

Yesterday we had Senator Carr saying what a scandal it was that the proponent of an ethanol plant should have a company that was registered on the farm—at the home. This was an attack on a home based business—an attack on a farmer who wants to expand his business. It was an attack on a farmer who wants to develop an environmentally friendly project which will create full-time employment for dozens of other people and indirect employment for another 350 people, and provide alternative fuels and cleaner air and a structural adjustment that will underpin water reform in that district. So it is a win for the environment, a win for the economy and a win for employment in the local area. And who is against it? The good old hard Left of the Australian Labor Party represented by Senator 'Comrade' Carr.

I was asked about guidelines, and I come back to the issue of guidelines. If we want to talk about guidelines and publishing guidelines, where were the guidelines from Senator O'Brien when he went up to Cairns and visited the centre at the Tjapukai Aboriginal Cultural Park? He and Senator Lundy went up there and put on a political election stunt to announce a \$10 million grant for an Indigenous program. Of course, it flew back in their faces, because they went to what I am told is a quite extraordinarily successful tourist attraction at the Tjapukai Aboriginal Cul-

tural Park. Don and Judy Freeman, the people who manage this park in partnership with the Indigenous owners, said that after Senator Lundy and Senator O'Brien had launched this \$10 million proposal for a Cairns museum—(*Time expired*)

Senator CARR—Mr President, I ask a supplementary question. I once again remind the minister that the question went to the Auditor-General's statement. When will there be a statement produced conforming with the Auditor-General's requirement in regard to this project? What other Regional Partnerships projects have been approved using the SONA assessment guidelines? Can the minister provide a list of these projects, their dollar value, and indicate how they met the SONA requirements? Can the minister give an assurance to the Senate that such projects actually met the national interest test? Finally, can the minister also provide a list of projects that were not approved under the Regional Partnerships program up to the end of September 2004?

Senator IAN CAMPBELL—The supplementary question relates to guidelines, and if there is any further information I can add in relation to that of course I would be happy to do so. As I have said, the government intends to respond to any Senate committee inquiry to the fullest. The question in relation to guidelines begs the question about the Tjapukai national museum and any guidelines that might have been in the back of the minds of Senator O'Brien or Senator Lundy. Don and Judy Freeman, who run this successful private sector operation, were very worried, after the visit of these two Labor luminaries, to see that their successful private sector enterprise was going to have to compete against Labor's vision of a \$10 million one with free entry. They were very concerned. They ended up having to have a meeting—and I feel sorry for them—with Senator O'Brien and Senator Lundy for them

to explain how it would not compete against them. But they remain unimpressed. Mrs Freeman is quoted as saying:

"I don't think they'd given a great deal of thought to what they were doing," she said. "We've asked that they respond to us by Saturday, giving us a commitment that whatever they undertake with the national museum would be in conjunction with Tjapukai."

(Time expired)

Drugs: Strategies

Senator FERRIS (2.20 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Would the minister update the Senate on recent successes in the government's fight against drink spiking and the trade in illegal drugs? Would the minister explain why the government will not be adopting alternative policies to the ones he is outlining?

Senator ELLISON—It is a timely question indeed when you consider we have thousands of school leavers around Australia who are now embarking upon their life after leaving school and are celebrating that occasion. Questions of drink spiking and the use of illicit drugs are indeed relevant. Earlier this year the Ministerial Council on Drug Strategy received a report from the Australian Institute of Criminology which was conceived and commissioned by the Commonwealth. Fifty per cent of the funding for that came from the Commonwealth. I point out to the Senate that in this area the Howard government has given a high priority to the question of drink spiking. When you consider that that report outlined that each year there were between 3,000 and 4,000 drink spiking instances, that one-third of those result in sexual assault and that four out of five victims were female, it gives you an idea of the insidious aspect of drink spiking.

Illicit drugs are another threat that our young Australians face, especially at that

vulnerable stage of leaving school. Earlier this month, Customs and the Australian Federal Police working together seized 820 kilograms of ecstasy, the largest seizure ever in Australia, with an estimated street value of \$200 million. Millions of hits of the drug were saved from reaching the streets of our towns and cities—from reaching the community at a stage when thousands of students would be leaving school.

As well as that, just a couple of weeks prior to that, again Customs and the AFP seized 125 kilograms of crystal methamphetamine, or ice—another amphetamine type stimulant drug, a designer drug that unfortunately is targeted at young people. That was seized in Sydney, again keeping a large quantity of that drug off Australia's streets. What this means is that we are making progress in the fight against drugs. In relation to heroin, we have had international endorsement of the progress that law enforcement has made. As a result of cutting down on the supply of heroin, we have seen a reduction in the rate of deaths from heroin overdoses. We want to do the same for amphetamines and other illicit drugs. In fact, reports from such bodies as the National Drug and Alcohol Research Centre, the Australian National University and the United Nations—all independent reports—acknowledge the great work that is being done by law enforcement in Australia.

Of course, we fight illicit drugs on three fronts: education, health and law enforcement. But we can only succeed through education and health if we succeed in reducing the supply of illicit drugs. In relation to drink spiking, our strategy is the same: we have to target that. Yet we have from the opposition criticism that the Commonwealth government is going beyond the report that I mentioned by saying that we should have uniform laws. I have just seen in the last 24 hours an announcement from Victoria that

they will introduce laws on drink spiking, and I congratulate them on that. Earlier this month New South Wales made a similar announcement. That is the sort of action the Commonwealth has called for: a national concerted effort on drink spiking. To have 3,000 to 4,000 instances of drink spiking in Australia each year is far too many, and we have to embark upon a program of education, law enforcement and targeting offenders, particularly when sexual assaults are involved in this sort of insidious activity. We are totally dedicated at the Commonwealth level to provide leadership in the fight against illicit drugs and in the fight against drink spiking, and we call upon the federal opposition to join us in that mission.

Defence: Financial Statements

Senator CHRIS EVANS (2.24 p.m.)—My question is directed to Senator Hill, the Minister for Defence. Can the minister confirm that the Auditor-General has refused to endorse the Department of Defence's financial statements for the third year in a row? Isn't it true that this action was taken because Defence was unable to locate over \$8 billion worth of public assets as well as being unable to account for over \$1.2 billion worth of employee leave entitlements? Doesn't this demonstrate that financial management in Defence is worse than ever? Can the minister now provide a guarantee that the Auditor-General will approve Defence's financial statements next year? Will the minister offer his resignation if the Auditor-General is again unable to approve Defence's accounts next year?

Senator HILL—There were gross exaggerations in the question—

Senator Chris Evans—No, it is a straight quote from the Auditor-General's report.

Senator HILL—No, it was not quoted from the Auditor-General's report, but it is true that the accounts are again qualified by

the Auditor-General. In fact, the Auditor-General really adopted what the secretary said in relation to the accounts. The important thing is what is being done to remedy the deficiencies in Defence's accounting. I am pleased to advise that Defence recognises that outside assistance is necessary in this regard. Ernst and Young have been appointed to support the revision of Defence's financial principles, policies, processes and systems; the development of a rigorous reconciliation process; the implementation of Australian equivalent international financial reporting standards—because, of course, the standards continue to rise—and completion of due diligence for the accounting separation of the DMO from Defence. The Ernst and Young team is being headed by Mr Bruce Meehan, one of the senior partners of that firm that has done similar work for other major business and government entities. I have met with Mr Meehan. I am impressed with the plan he has in place. I am impressed with the fact that Ernst and Young already have a team working within Defence and intend to make considerable progress even before Christmas.

Senator Conroy interjecting—

Senator HILL—Ernst and Young, apart from working internally with Defence and assisting Defence, will be reporting also to the minister for finance, who just got mentioned, and me on a quarterly basis.

Senator Sherry interjecting—

Senator HILL—Secondly, Defence has agreed that the financial statements project board, which is really a steering committee, should also be enhanced by department of finance inclusion and outside assistance. Again, Ernst and Young are going to be represented on that steering committee, as will a senior representative of the department of finance.

Senator Conroy interjecting—

Senator HILL—Thirdly, Defence has agreed to the introduction of a new financial control framework and the introduction of monthly business sheet reports for each of the 16 individual groups within the department—

The PRESIDENT—Order! Senator Conroy, your leader in this place has asked a perfectly legitimate question. He is trying to hear the answer, and I think he could do without interjections from you and Senator Sherry.

Senator HILL—As I was saying, fourthly, Defence has agreed to a series of defined remedial projects with strict time lines to address the following specific issues: stores, record accuracy, general stores, infantry pricing, supply customer accounts, explosive ordnance pricing, military leave records and property valuations. In relation to both the financial control framework implementation and those specific remedial statements, the steering group will also report to ministers on a quarterly basis. So, on the basis of this comprehensive program that Defence has now put in place to remedy the shortcomings of its audit, I am confident, as I said in my press release, that there will be significant improvement in the short term and, ultimately, the standard of performance that is required by government.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I thank the minister for his detailed response. It contrasts very markedly with his assurance last year that Defence's financial statements show significant improvements. He assured us that all was rosy. I note his admission now that the finance department and Ernst and Young have been called in to try and clean up the mess that he has presided over for the last three years. The core question remains: will the minister guarantee that the Auditor-General will not have to qualify the accounts

next year? Will the minister take responsibility or will he now hide behind the finance department and Ernst and Young? Surely the CEO of the business, the minister, ought to take responsibility for the continued failure to meet those Auditor-General's requirements.

Senator HILL—I did not know I was CEO. I think Mr Smith and General Cosgrove, as the diarchy, might have a different view on that. As I have said, I am confident that the program that we have put in place will lead to significant improvement. Senator Evans knows, or should know, that once the Auditor-General qualifies accounts it is actually very difficult to remove those qualifications. Defence has worked closely with the Auditor-General in putting in place this remedial program. I think that Senator Evans should also acknowledge that, despite these deficiencies, in terms of operations the logistics of the department have worked extremely well. In terms of budgeting there has been a significant improvement overall. In terms of cash management the accounts are not qualified in any way. So there are a lot of positives. Senator Evans, not surprisingly—he is in opposition and, I suspect, will be there for a long time—has concentrated on the negatives. While he wants to focus on the negatives, he also should focus on the positives, which have been a credit to Defence. *(Time expired)*

Iraq

Senator BARTLETT (2.31 p.m.)—My question is to the Minister for Defence and the Minister representing the Prime Minister, Senator Hill. Is the minister aware of the newly released independent report on health conditions in Iraq which states that there is a hugely increased burden of death and mental and physical illness as a result of the conflict in Iraq, and that the incidences of diseases such as typhoid, measles and malnutrition in

children are at higher levels than before the war and are continuing to rise? Is the minister also aware of independent estimates that over 100,000 Iraqi civilians have died as a result of the invasion of Iraq and the ongoing conflict? Has the Australian government made any attempt to verify these findings? If not, why not? Is the Australian government taking any direct action to reverse the current decline in the health situation in Iraq?

Senator HILL—The independent report relating to health to which the honourable senator refers has only just been released. I saw a report on it, not from official sources but from those who released it, this morning, so obviously I have not got an official response to it. I have previously put before the Senate considerable evidence of areas of improvement in health within Iraq and the very significant investment that has been made by the international community towards that goal. There is no doubt that before the war the health system within Iraq was very seriously run down—partly, you might say, as a result of sanctions but also partly because Saddam Hussein had other priorities—and certainly the ensuing conflict would not have helped in that regard. But the efforts by the international community in rebuilding the system and building a better system have been considerable. They are, of course, being hindered by the ongoing insurgency, which makes it very difficult to attract international personnel. That insurgency is also, obviously, hindering the construction of infrastructure. The international community is putting a major effort into the reconstruction of Iraq, into the rebuilding of its institutions and into assisting it with its primary responsibilities in areas such as health and education, and it will continue to do so. I am sure Senator Bartlett is aware of the recent donors conference and the amount of international assistance that is being given.

In relation to that other so-called independent report of deaths of civilians, the truth is that the number of deaths of civilians is not known. But the multinational force has made considerable efforts to minimise civilian casualties throughout this conflict, and it continues to do so. With the development of precision munitions and the like, there is greater scope now to reduce the number of civilian casualties. Certainly those involved in the removal of Saddam Hussein and those who are seeking to give the Iraqi people a better future have made, and continue to make, every effort to minimise those casualties.

Senator BARTLETT—Mr President, I ask a supplementary question. Can the minister confirm whether or not malnutrition in children is worse now than before the war? Is the minister disputing the estimates of 100,000 civilian casualties since the start of the war? How can he refute estimates such as those if he says he does not know himself what the total is?

Senator HILL—I am sure Senator Bartlett would also have read the criticism of that report, which says that its particular statistical basis of focusing on small samples and then extrapolating from those is very suspect. That is why I question those figures. I question them because of the background of the efforts that were made to minimise civilian casualties. In relation to malnutrition and other health failures, I can get the material out again and bring it to the Senate, but there is significant material of improvements. For example, the inoculation of children has been a major program within Iraq since the conflict. It is very difficult. There is no doubt that there is a very difficult environment within the country at the moment. It is very difficult to attract, as I said, international support. But there are a large number of health professionals within the country that are doing their very best in a difficult envi-

ronment. What they need is our support and recognition of the challenging task that they face.

Defence: Financial Statements

Senator MARK BISHOP (2.37 p.m.)—My question is to Senator Minchin, the Minister for Finance and Administration. Can the minister explain why the Auditor-General has refused to endorse Defence's financial statements for the third year in a row? Is the minister aware of any other Commonwealth agency in which financial management is in such a mess? Are there any other agencies that are unable to properly account for over \$8 billion worth of public assets and \$1.2 billion worth of employee leave entitlements? What action has the minister taken to ensure that Defence's financial management improves by the time the Auditor-General next considers Defence's finances? Finally, what advice has the minister given to his colleague the Minister for Defence to ensure that this does indeed occur?

Senator MINCHIN—I have nothing to add to the very comprehensive answer given by the Minister for Defence to exactly this question. The opposition are wasting the time of the Senate and their own time by asking two questions that are exactly the same. The Minister for Defence has comprehensively responded to the issues raised by the opposition in relation to Defence's accounts. All I want to do is congratulate the Minister for Defence on the actions he is taking in ensuring that the issues identified by the Auditor-General in relation to Defence's accounts are being—

Opposition senators interjecting—

The PRESIDENT—Order!

Senator MINCHIN—As I said, I endorse entirely the actions taken by the Minister for Defence in ensuring that the defence department does address properly and comprehensively the issues raised by the Auditor-

General. These issues go to the government's far-sighted introduction of accrual accounting for the nation's accounts. The introduction of accrual accounting has been a significant issue for the whole of the Public Service, and the department most significantly affected by that obviously is Defence because of the massive inventory that it—

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left have been continually noisy and shouting across the chamber during question time. It is disorderly and I would ask them to cease.

Senator MINCHIN—They are trying to distract themselves from their own problems! The defence department have had probably the biggest and most difficult task in adjusting to accrual accounting. From the point of view of the finance department we believe they are doing what is required. We are working with them to ensure that they do put in place the systems and processes required to ensure that they can fully comply with the new regime involved in accrual accounting.

Senator MARK BISHOP—Mr President, I ask a supplementary question. Doesn't the litany of Defence financial management failures in the time that Senator Hill has been the Minister for Defence demonstrate why the minister now shares financial oversight of Defence with Senator Hill? What changes has the minister insisted upon to ensure that the Auditor-General does not have to take the drastic step of refusing to endorse Defence's financial statements again next year? Finally, how much longer will the minister put up with Senator Hill's inability to get financial management in the Department of Defence under control and what will he do about that?

Senator MINCHIN—This is a joke from the opposition. Senator Hill has been an absolutely outstanding defence minister. The

Department of Defence and the military in this country have performed superbly under his ministry. The operations that the defence department and the military have been engaged in have been superb.

Opposition senators interjecting—

The PRESIDENT—Order! Once again, I ask those senators on my left to come to order. There is far too much noise and shouting.

Senator MINCHIN—As I said, the Minister for Defence's record with this department and with the military has been outstanding. The operational performance of Defence as it relates to the accounts and inventories is something that should make everybody in this chamber and indeed the nation proud. The defence department and the finance department are working closely together to ensure that we satisfy the Auditor-General's requirements.

Communications: Child Pornography

Senator HARRADINE (2.42 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. I refer to the recent seizure by the AFP of two million computer images of child sexual abuse. I ask the minister: does she acknowledge that the new laws relating to child pornography do not prevent child pornography being transmitted into Australia via the Internet? Does the minister accept the finding of the review of the Broadcasting Services Act earlier this year that a national server based system blocking access to child pornography is feasible? Is the minister aware that such a system is used by British Telecom to block child pornography? Why has the government been so reluctant to adopt that system? What is the government doing to block child pornography on the Internet and to address the urgent need for a national filtering system?

Senator COONAN—I thank Senator Harradine for this important question. The government has both a strong and a sustained record of cracking down on offensive and inappropriate content being hosted on Australian Internet service providers. The government is tough on Internet pornography and is certainly committed to protecting Australian children and families from the scourge of inappropriate material that can be inadvertently found and is peddled on the Internet. I am very pleased to be able to outline the government's approach to this scourge that modern societies face.

In 1999 the government introduced measures to counter the growing problem of offensive material on the Net when it introduced a comprehensive regulatory scheme which banned X-rated and restricted classification, or RC, material. As part of the program, the government also established NetAlert—which Senator Harradine is well aware of—to help children and families use and enjoy the Internet in a safe and responsible way. NetAlert has played a key role in educating all Australians—parents, their children, teachers and students—about safe Internet surfing. As part of the National CyberSafe Program, which was introduced recently and which I will come to, NetAlert will receive an additional \$2 million to run a two-year targeted training roadshow and information campaign aimed at parents and teachers; because we know that the most effective way to deal with this problem is through a combination of tough regulation and education.

The government recently announced the launch of the National CyberSafe Program. The National CyberSafe Program forms part of the government's National Child Protection Initiative. It is a commitment, worth \$30 million, to protect Australian children and families from sex criminals and online predators. The program is designed to edu-

cate parents, teachers and community groups about the risks for children online and provide them with information about how to keep children safe on the Net—including in chat rooms, where we know that many children are otherwise vulnerable. Community education is an important element of the online co-regulatory scheme established under schedule 5 of the Broadcasting Services Act and builds on the earlier initiatives.

Senator Harradine asked about mandatory filtering systems. Under the industry code of practice introduced by the government, all Australian Internet service providers are required to provide content filters for their customers at cost price or below. These tools allow parents to actively control the access their children have to the Internet from the family computer and to have some degree of confidence about the safety of their children online. If any ISP is found not to comply with the code of practice, compliance can be enforced by the ABA and Internet service providers can be fined up to \$27,500 per day. The government did consider mandatory filtering some years ago and reviewed this recently, as Senator Harradine correctly said. It found, on closer examination, that mandatory filtering would be highly problematic. It would have the potential to simply choke the Internet and drive up costs unacceptably for consumers and small businesses without necessarily solving the problems of offensive content. (*Time expired*)

Senator HARRADINE—Mr President, I ask a supplementary question. What effect has the government's action had on child pornography and other unacceptable images being transmitted into Australia? Why won't the government, at least as a start, prevent child pornography being transmitted into Australia either through the Internet and ISPs or via satellite? Why won't the government take that action since we have laws against child pornography?

Senator COONAN—I thank Senator Harradine for his supplementary question. I said in my answer to his primary question that simple filters are easily outsmarted by merchants of offensive content and that the kind of complex technologies needed to analyse every single item being downloaded were not considered feasible in our review. The review also estimated that the cost of this sort of filtering would be \$45 million a year to begin with, falling to more than \$33 million a year on an ongoing basis. The biggest issue—it is not so much the money—is that such an expensive scheme would not necessarily solve the problem and small to medium ISPs would simply be driven out of business for little or no benefit. What does work is greater information and parental supervision, and those are the kind of programs that the government is promoting with the \$30 million initiative.

Telstra: Chief Executive Officer

Senator CONROY (2.49 p.m.)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Can the minister confirm for the Senate that Telstra boss Dr Ziggy Switkowski agreed to step down this morning as CEO and is entitled to receive a payout of over \$2 million? Can the minister confirm that, under Dr Switkowski, thousands of Telstra employees have lost their jobs, billions of dollars have been lost overseas and Telstra's share price has gone down significantly—lowering the value of the shareholding of millions of Australians—from more than \$8 when he was appointed in 1999 to less than \$5 today? As the government is the majority shareholder in Telstra, is the minister satisfied that Dr Switkowski's \$2 million golden handshake is justified given Telstra's performance in recent years?

Senator COONAN—I thank Senator Conroy for his question. I am glad that he

has found time to pay a bit of attention to his shadow portfolio because it is a portfolio where issues change from day to day. The government was advised this morning of Dr Switkowski's decision to step down from the position of CEO of Telstra on or before 1 July next year. It was, of course, a decision reached by Dr Switkowski in consultation with the Telstra board. As to Dr Switkowski's remuneration—and I think the terms of Dr Switkowski's remuneration have been up on Telstra's web site for about a year—the payout, as I understand it, is \$2.09 million as well as accrued leave and incentive payments. He will also receive fixed remuneration in lieu of notice should he go before 1 July.

As Senator Conroy would know, the government certainly does not seek to intervene in the remuneration decisions of companies. Our approach is to ensure that there is full disclosure by directors and that boards are accountable to their shareholders for remuneration decisions. As Senator Conroy would know from the very lengthy discussion in this chamber about it, the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004, fondly known to all in here as CLERP 9, significantly enhances the director and executive remuneration disclosures that are made in annual reports. The important thing is that there be transparency in disclosure, and that is certainly what has happened here. Among the information that needs to be disclosed, partly due to my colleague Senator Campbell's close attention to this issue in the whole of the CLERP 9 process, is post-employment benefits, including retirement benefits and contributions and other arrangements to benefit employees following cessation of employment.

As everyone would be aware, Telstra, as a result of its corporatisation by a previous Labor government, is subject to these and all

other corporate law requirements. So there is nothing remarkable about Dr Switkowski's remuneration, which is subject to contract and properly disclosed to shareholders. In fact, the board, as I understand it, would be adhering to this contractual arrangement that has been notified and up on Telstra's web site for over a year. I am not at all sure what Senator Conroy is seeking to derive from this because, on my understanding, Dr Switkowski's remuneration was certainly not at the top of executive bands and payouts. The particular issue that needs to be emphasised is that, while these kinds of payments are important, it is really important that there is appropriate disclosure. That is exactly what has happened in this instance.

Senator CONROY—Mr President, I ask a supplementary question. The key issue here is performance and the golden handshake and whether Dr Switkowski is entitled to it. Can the minister confirm that one of the pre-conditions for the sale of Telstra is for the share price to reach at least \$5.25? In light of the rise in Telstra's share price when rumours of Dr Switkowski's demise as CEO circulated recently and of Telstra's plummeting share price during Dr Switkowski's stint as CEO, hasn't the government sacrificed Switkowski to sell Telstra?

Senator COONAN—Dr Switkowski's payout has been well and truly publicised. It has been on Telstra's web site for about a year. In fact, in my earlier answer I specified what that was. The clear point about this is that it has been disclosed and it is an appropriate contractual obligation for Telstra to adhere to in coming to an arrangement with Dr Switkowski, whether he goes before or on 1 July.

Indigenous Affairs: Services

Senator HUMPHRIES (2.55 p.m.)—My question is to the Minister for Immigration and Multicultural and Indigenous Affairs,

Senator Vanstone. Is the minister aware of a report released today that shows the rates at which Indigenous Australians are victims of fatal assaults are up to 11 times higher than the non-Indigenous population? Will the minister advise the Senate how the Howard government's new approach to Indigenous services will help improve the plight of first Australians? Is the minister aware of any alternative policies?

Senator VANSTONE—I thank Senator Humphries for this question. Yes, I am aware of a report released this morning by the Australian Institute of Health and Welfare. It makes terrible reading. It reminds us that Aboriginal women are murdered at 11 times the average rate and Aboriginal men are murdered at seven times the average rate. Suicide rates are nearly twice as high. Deaths from transport injuries are almost three times as high. Deaths from fires, burns and scalds are 10 times higher than any of us could expect to suffer.

This report is not a surprise. It puts a spotlight on the problem. It is a very sad situation and it is not one that has happened overnight. It has happened over decades of disadvantage and of failed solutions of previous governments of all persuasions and at all levels. And it is, frankly, a failure of Indigenous leadership. There have been improvements in a number of areas that we should not shy away from heralding—if only to give encouragement to those who are working in this area. One I might mention in particular is that the rate of deaths in custody is reducing. Deaths in police custody have decreased by more than 50 per cent in this decade as opposed to the decade prior to the royal commission.

But today's figures just remind us of the situation, and recent incidents at Palm Island and at Redfern should remind us all of how far we have to go. These problems will not

be resolved by merely tinkering at the edges. What we have been doing has not been working. We cannot just replace one set of representative structures with another and convince ourselves that we have done something useful. Issues like passive welfare, safer communities and jobs are far more important than structures and who gets the job. We do require radical reform. Incidentally, abolishing ATSIC is just a part of the story. Government assistance must be based on results and on mutual obligation. Communities must be helped to tackle their own problems. Government must offer support but work with communities so that they get a chance to shape their future.

We need to deal with the communities direct, not through intermediaries. To really give Indigenous Australians a voice we must listen to them directly, not through some structures that we create. We are moving away from no-strings welfare to a mutual obligation for individual welfare recipients in remote areas, as for other Australians. The activities that will be required will be developed with local communities so that they match the opportunities and the needs of those communities. I expect they will be vastly different from those services which are required and offered in the metropolitan area. We are going to help individual communities to take greater responsibility for local social improvements in return for federal Indigenous-specific funding. That principle will apply only to those special programs that are only available to Indigenous people. In other words, there will be no greater mutual obligation placed on Indigenous people for normal welfare services than there is on others.

We are looking at practical measures: the no school, no pool funding that we have put into the Northern Territory with the Northern Territory government, and I hope we will be able to extend that; working with the Fred

Hollows Foundation and Woolworths to get nutritious stores and food available to remote communities; scholarships to enable Indigenous kids to board in good schools around Australia; and leadership programs for women and young people. It is all about sharing responsibility, showing respect to each other and allowing local people to shape their future. (*Time expired*)

Economy: Household and Personal Debt

Senator SHERRY (3.00 p.m.)—My question is to Senator Minchin, the Minister representing the Treasurer. In light of today's national account figures showing yet another quarter of negative household savings and the recent warning from the Organisation for Economic Cooperation and Development about the dangers and threats posed by soaring household debt in Australia, is the minister aware that the liabilities of Australian households have skyrocketed from \$267,000 million in 1994-95 to \$797,000 million in 2003-04? Is the minister also aware that current liabilities as a percentage of household income have almost doubled, from 82 per cent to 153 per cent, over the same period? Why have the liabilities of Australian households increased so dramatically, and what action does the Howard government propose to take to address this unsustainable growth in debt?

Senator MINCHIN—The national accounts were released today and they do show some moderation in the rate of growth of the national economy—growth of 0.3 per cent for the September quarter, giving three per cent over the year to September. The government welcomes these figures. It is a welcome moderation in the rate of growth against a backdrop of an economy that is still fundamentally strong, still displaying low inflation, low interest rates and low unemployment, and built on the basis of high levels of domestic confidence in particular.

Senator Sherry asks why liabilities at the household level are relatively high. That is a function of the strength of the economy, and the enormous confidence that Australians have in their ability to borrow and service their borrowings in a climate of low unemployment, strong economic growth and low interest rates. I do not want to delay the Senate but I would refer Senator Sherry in particular to a piece by a respected commentator on the economy, one Alan Kohler, in today's *Age* and other Fairfax newspapers in which he makes it quite clear that 'in short the idea that the country is living beyond its means is a myth'. I would encourage the opposition—and Senator Sherry in particular—to study Mr Kohler's piece, which is a very good analysis of the situation facing Australian households, whose balance sheets—and I made the point in the last sitting week that Senator Sherry needs to look at the balance sheets of Australian households—have record assets.

The net worth of Australians is something like \$250,000 per person, or \$500,000 per household. Australian households, after nearly nine years of our government, are in extraordinarily good shape. The wealth of individual Australians has never been higher. Their capacity to service their debts has never been greater. They have expressed their confidence in the management of the economy both at the election, as we demonstrated, and by their confidence to borrow against their asset base to fund their investments. We have always cautioned Australians to be careful in their borrowings. We would do so again as we approach Christmas. Yes, certainly they should be cautious but they have good reason to demonstrate the underlying confidence, which they do.

Senator SHERRY—Mr President, I ask a supplementary question. Isn't it true, Minister, that not just the OECD but also the Reserve Bank and other reputable and leading

economic organisations have examined the balance sheet and they have concluded that the dramatic increase in household debt, which has been growing at 14 per cent per annum, is simply unsustainable? Why is it that after 8½ years the Howard government have failed to heed these concerns and actually develop policies and do something about this unsustainable debt level?

Senator MINCHIN—The only thing I would add to my previous answer is that we will not do what the previous Labor government did: they crushed the economy by raising interest rates through the roof, bringing on a recession, destroying the livelihoods of thousands if not millions of Australians, destroying small businesses and putting thousands of people out of work. It was a disgraceful period of economic management which we will not repeat.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Centrelink: Auditor-General's Report No. 15

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women's Issues) (3.04 p.m.)—Yesterday Senator Moore asked me about Auditor-General's report No. 15. I undertook to get back to her regarding some questions she had about Centrelink's financial arrangements. I have spoken to the Minister for Human Services, Mr Hockey, and I would respond in this way.

The issues that Senator Moore raised have no impact on payments for Centrelink customers. Payments made by Centrelink are reimbursed by the Department of Family and Community Services on a daily basis through a movement of funds between Re-

serve Bank accounts. At the end of each day Centrelink's account is returned to a nil or credit balance. There is no interest payable. The Department of Finance and Administration, Centrelink and the Department of Human Services are working to address the issue identified in the Auditor-General's report. I point out that this was noted in the Auditor-General's report, and I expect this issue to be resolved shortly.

Indigenous Affairs: Deaths in Custody

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.05 p.m.)—During question time this week, on 29 November 2004, Senator Ridgeway asked me a question regarding the National Indigenous Justice Strategy. I seek leave to incorporate in *Hansard* the further comments that I undertook to relay to the Senate.

Leave granted.

The document read as follows—

Following further advice received from the Attorney-General's Department, I wish to inform the Senate that:

"Indigenous Peoples' Justice Issues" is a standing item for the first round of APMC meetings each year. The National Indigenous Justice Strategy is one of the issues that may be discussed under this broader heading.

Senator Ridgeway's supplementary question asked me about annual reporting obligations of States and Territories on the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody Report. I replied that such reports were provided at the APMC meetings and at the last SCAG meeting. The annual report I referred to is in fact the annual report required by the 1992 National Commitment to Improved Outcomes in the Delivery on Programs and Services to Aboriginal Peoples and Torres Strait Islanders. Whilst these reports do not discuss Royal Commission implementation issues specifically, they deal with a range of State and Territory initiatives in place to address Indigenous justice issues and are presented annually to APMC (and then referred onto SCAG).

However, the Royal Commission did recommend that a program be established to monitor Indigenous and non-Indigenous deaths in custody. The National Deaths in Custody Program was established in 1992 at the Australian Institute of Criminology. The States and Territories now provide statistics on a voluntary basis to the AIC in relation to Aboriginal deaths in custody. The AIC produces and disseminates regular reports on the numbers of deaths in custody, and the patterns and trends observed with these deaths in custody. SCAG and APMC are not involved in the collection of this data.

I referred in my answer to the supplementary question to 10 COAG trial sites across Australia. COAG proposed up to 10 trial sites, although to date in fact 8 COAG trial sites, one for each State and Territory, have been implemented. The 8 trial sites are at Cape York (Qld), Wadeye (NT), the Anangu Pitjantjatjara Lands (SA), Kimberley Region of WA, Shepparton (Vic), Murdi Paaki (NSW), the Australian Capital Territory and the Northern region of Tasmania.

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

Defence: Financial Statements

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (3.06 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Evans today relating to the financial administration of the Department of Defence.

In doing so, I have to say it was a very unusual question time because the Minister for Defence actually answered the question. More than that, he confessed, so it was a very interesting question time. The minister confessed that he had lost complete control of the management of Defence, the financial management of the defence department, and that he had had to call in outside help. He had had to call in the Department of Finance and Administration and he had had to call in Ernst and Young—he had had to call in just

about anybody—because, after three years of having his Defence accounts qualified by the Auditor-General, the minister had finally admitted defeat. Last year he came in here and said, ‘Well, while we’ve got problems there have been significant improvements this year and, while the Auditor-General has qualified our accounts for the second year running, things are on the improve.’

There was no pretence today, no pretence at all. He ran up the white flag and said, ‘Basically I can’t do the job.’ Three years in a row the Auditor-General has said that he cannot approve the defence department’s accounts because they are in a shambles. They are not a true reflection. The department is unable to identify its assets and unable to identify its leave balances. We are not talking about chickenfeed here. We are talking about \$8 billion worth of Commonwealth assets that it is unable to identify. This is one of the largest departments in the Commonwealth and this minister has been unable to get his accounts past the Auditor-General for three years running.

The Liberal Party in Western Australia used to be very fond of the idea of three strikes and you are out when it came to young Aboriginal offenders and others in the criminal justice system. I say to the minister: three strikes and you ought to be out. Three times you have failed to get your accounts past the Auditor-General. Three times the Auditor-General has said: ‘You haven’t got proper financial management of one of our largest departments. You can’t run your department. I can’t sign off on your accounts because you can’t tell me where the tanks are and you can’t tell me how much money we owe our service men and women. You’ve got no proper records.’ Three years in a row the Auditor-General has said, ‘I can’t sign off on these.’ Yet the minister has failed to get on top of this issue.

Senator Hill has been in the job for all of those three years. He has been in the job and has failed to get on top of it. As I said, at least he was honest today. He threw his hands up and said, 'I've had to get in outsiders. I've had to hand over to Senator Minchin.' That must have really galled him—having to hand over to his old factional enemy Senator Minchin because he has got the job now of sorting it out. Senator Minchin has been called in because, quite frankly, Senator Hill cannot manage it. I can see Senator Ferguson smiling. Senator Ferguson, you would smile. There is a delicious irony in all this that you and I both understand.

Senator Minchin has been given the job of sorting out the mess that Senator Hill has made of Defence's financial systems. Senator Hill has had three years. Clearly, the Prime Minister and others have said: 'Enough's enough. If the Auditor-General won't sign off on this stuff we've got to get somebody else in.' So they have got a two-pronged attack. They have got Ernst and Young coming in—I would be interested to know how much that is going to cost us; in addition to all the other costs of Defence, we are now paying for Ernst and Young to sort out the problems—for what the minister describes in delightful terms as a 'remedial program'. A remedial program has been applied to Senator Hill's management. Quite frankly, Senator Hill ought to go. He is not up to the job.

It is nice for Senator Minchin to offer to help out. It is nice for the government to say: 'We'll look after him. We'll put in a remedial program. The bloke's struggling a bit so we'll have a remedial program. We'll have a little literacy program, a remedial program, a little bit of accounting literacy because, quite frankly, he ain't up to the job. So we'll use taxpayers' money to do the job that this bloke can't do. We'll get in Ernst and Young

and we'll pay them a fortune, and we'll get his old mate Senator Minchin, his old comrade from South Australia, who's always been one of his biggest fans, to come in and lend him a hand!'

I do not know if Senator Hill is all that comfortable with Senator Minchin but he has run up the white flag. He has got to get someone else to run the department because he cannot do the job. In a private company if you cannot do the job you resign. The head of Telstra resigned today. He could not manage the job. He has gone. Senator Hill ought to take the same advice. The payout is probably larger in his case. I know he missed out on the London job. Senator Alston beat him to the punch. But if you cannot do your job you ought to go. Quite frankly, three years in a row Senator Hill has proved he is not up to it. The government has got Senator Minchin in. They have got Ernst and Young in. But it is not good enough. This is \$8 billion of taxpayers' money that he cannot manage. (*Time expired*)

Senator FERGUSON (South Australia) (3.11 p.m.)—I am sure the comedians around Australia are not shaking in their shoes because there is no danger that Senator Evans is going to steal their jobs as one of Australia's great comedians. He is no stand-up comic. Senator Evans started off by saying that this was a very unusual question time. I have to tell you, Mr Deputy President, there was nothing unusual about this question time. We had exactly the same sorts of questions and comments coming from the opposition that we hear every day. This is a soundly defeated opposition that has found itself in the same spot asking very tired old questions. The people of Australia made the decision on who runs the defence forces in this country. They passed their judgment on this defence minister. He was returned with a resounding majority, along with many of his colleagues.

As Senator Minchin said in his answers during question time, the defence minister over the past three years has done an outstanding job in what has been a very busy and hectic time for the defence forces of Australia. Outside the first and second world wars, there probably has not been a busier time for our defence forces, who have found themselves involved in operations all around the world. I think they are currently involved in some 10 or 11 operations with varying numbers of personnel. But when you consider the effort that has been put in by our defence forces over that period of time, you see that they have done an outstanding job. The minister himself, for those three years that he has been in charge of our defence forces, has done an outstanding job, which has enabled our defence forces to maintain the efforts they are putting in, in the interests of our neighbours and countries around the world.

This government has a proud record in improving the quality of financial management and reporting across the public sector through a range of reforms, which have included, of course, the introduction of accrual accounting. It is accrual accounting that has highlighted the issues that have been raised by the Auditor-General because it imposes rigorous requirements on agencies—far more rigorous requirements than were ever placed on agencies by previous governments—to ensure that their assets and their liabilities are adequately valued. That is where the difficulty has come in over the past three years because far more rigorous requirements have been placed on agencies than have ever been placed on agencies before. We should never forget that.

We take the issues that have been raised by the Australian National Audit Office, ANAO, in relation to the Department of Defence very seriously because they prove that, in relation to accrual accounting, there are

still many things that have to be put in place and got right. Accrual accounting was a bold move by this government. It is something that had been asked for for a long time. It is only understandable that, in a very complex department like the Department of Defence, with so many different arms and with such large numbers of people, once these rigorous requirements were placed on those agencies, the ANAO has had to make sure that everything is up to the very high standard that we expect.

The problems that exist within the defence department go primarily to the adequacy of record keeping, which was not as rigorous in previous days as it is required to be today. The defence forces themselves over a period of time will be working very hard to make sure that that record keeping is kept up to date. One of the things that accrual accounting and rigorous record keeping have highlighted is that it has created some uncertainties, particularly in relation to leave entitlements and inventories. So if we have this rigorous requirement which ensures that agencies have their assets and liabilities adequately valued, it is understandable that it takes some time before they get it exactly right. In the initial stages of accrual accounting and as we have gone through the auditing process some years after accrual accounting was set up initially—which has taken some time—it is understandable that it should take some time to get it exactly right. It needs to be emphasised that the problems raised by the Audit Office do not impact at all on the integrity of the government's key budget aggregates. It has no impact on that whatsoever, like the underlying cash surplus, the revenue and the cash outlays or the net debt. (*Time expired*)

Senator MARK BISHOP (Western Australia) (3.16 p.m.)—At the outset I must say that this qualification by the Auditor-General in respect of his report on the management of

finances in the Department of Defence is about as serious as it is possible to get. It is exactly why we do have an Auditor-General to advise the parliament. As the custodian of the public purse he advises the parliament about financial mismanagement, financial management, financial irregularities, the valuation of assets and the extent of liabilities. It is not just the size of the black hole, although \$8 billion is a huge amount of money in anyone's language. It is a figure that is incomprehensible. Yet the government is not aware of where \$8 billion of various assets might be located—somewhere or anywhere around Australia. That figure of \$8 billion is the equivalent of two-thirds of Defence's annual budget. The Auditor-General's report is simply about incompetent management of the Department of Defence in the past and in the present. And one suspects, on the basis of past and current performance, that well into the future that incompetence in the area of management will continue.

The government, through Senator Hill and Senator Minchin, have responded by saying that this is just an accounting issue, an issue of assets and liabilities, an issue of whether the left-hand side of the column balances the right-hand side of the column. They say, 'Don't you worry about it, boys over there, it's just a matter of simple arithmetic.' But that is not what the Auditor-General said in his report. The Auditor-General said the opposite is the case. Fundamentally, the government cannot account for \$8 billion of assets and liabilities. What does that amount to? It includes general stores, I am told, ammunition, property and the cost of accrued leave. There is \$2.03 billion for the general stores inventory and \$845 million of explosive ordnance. They do not know what its value is or in what warehouse, if any, it is located and they do not know in what part of Australia that explosive ordnance might be

found. There is \$2.86 billion of repairable items and \$1.39 billion in land, building and infrastructure. They do not know where it is so they cannot value it. How can you not know where land and buildings are? How can you not have a valuation of the joint down the road? Without those sorts of details we have no idea where taxpayers' money has been spent for the last 10 to 15 years in this department.

Nor, of course, do we know about the true state of all existing assets and liabilities within the Australian Defence Force. If this were a private company the obvious thing would have happened: the board of directors would have resigned en masse; senior management would have been asked to leave; the regulatory agencies would have been invited to come in, to look at the books and find out where the mess was; and maybe some sort of report might be made to the shareholders of the company. The board of directors would have been sacked and some of them would probably go to jail for their gross mismanagement. What we have here is the government's own public sector ADF HIH. In the simplest terms it is nothing other than a gross public outrage.

From another point of view, what sort of confidence does this give Australians about the capacity of the Australian Defence Force and the management and administration of the Department of Defence? We do not know what stocks of ammunition we have. We do not know what general stores we have. And to brush this off as a simple accounting problem, a simple arithmetic problem, a simple matter of maintenance of records, is simply too trite, too simple and too glib. The worrying point is that it is more than five years since accrual accounting was implemented across government agencies. Why hasn't this problem been identified before? If records were inadequate last year, the year before and the year before that, why haven't the

necessary system changes been put in place to correct those errors and deficiencies? Here we have (1) ignorance of the problem and (2) an accumulating problem year in, year out in the Department of Defence. Moreover, it is a management problem. On top of that we have had the same minister with responsibility for the Department of Defence for three years. Why hasn't he taken issue with the secretary of his department and with the Chief of the Defence Force? Why hasn't the riot act been read to all of those persons at a senior level? (*Time expired*)

Senator JOHNSTON (Western Australia) (3.21 p.m.)—It never ceases to amaze me! Two speakers, two predominant performers on the other side with absolutely no knowledge of two subjects. Firstly, they have no knowledge of how to read an audit report—no knowledge and no understanding. I am giving Senator Evans the benefit of the doubt, because I am saying either he has not read the report, or the press coverage of the report, or he does not understand it. The fact is that the anomaly referred to is an error rate giving rise to a qualified Auditor-General's report. The \$8 billion alleged to be misplaced or unavailable or accounted for is an error rate. It is not a real figure.

Senator Evans says that the tanks have been misplaced and the weapons are unaccounted for. When Senator Evans was shadow minister he made no bones of the fact that he had no real interest in the subject matter of this portfolio. This minister has done more than all his predecessors and contemporaries to fix Labor's appalling record of the administration of defence. Let us pause for a moment to address the issue of the real money—in excess of \$1 billion—that senators on the other side, when they were in power in the early 1990s, simply could not account for in the Collins class submarine project. This was real money in providing one of the most important force

element group's weapons systems, and it was presented to this government with no weapons system capacity. That was the length and breadth of the former government's ability to manage a project. I am talking about an idea, a concept, which is very good. The Collins class submarine—thanks to this minister—is now one of the most formidable weapons forces this country possesses, and I am extremely proud of it. But that is no thanks to the Labor ministers who administered the project. It was a shambles when we picked it up—real money gone, real money not accounted for and weapons systems not delivered with the project—all because Labor ministers were incapable of understanding what had gone on.

There are no tanks unaccounted for. There are no explosives or ordnances missing. Whilst it is disturbing that we do not have an accurate assets account, the facts are these: Defence has over 90,000 service men and women under its umbrella and in excess of \$50 billion worth of assets, a \$16 billion annual project, and \$40 billion worth of projects currently being undertaken. That is due to the expertise of this government. Under Labor, defence was left to rot and when East Timor came along and it was our duty to do the right thing and engage our forces there, the Defence Force was stretched. That was largely because of Labor's 13 years of abject neglect.

There are over 315,000 individual classification items, in 500,000 different locations, in 21 warehouses just like Moorebank. Over 400,000 leave applications are processed every year—an enormous undertaking. Operationally, our service men and women have performed magnificently. The Labor Party, and the opposition in this place, should spend more valuable time acknowledging the exceptional performance of our Australian defence forces and the logistics that have been supplied to them. (*Time expired*)

Senator HUTCHINS (New South Wales) (3.26 p.m.)—I rise to take note of the answers to questions asked today of Ministers Hill and Minchin in regard to defence. Listening to Senator Johnston, I was surprised at his comments because the figure I had read about how many people are entitled to leave in the defence forces was over 70,000—not the 90,000 that Senator Johnston referred to. But we will never know whether it is 70,000 or 90,000 because at the moment almost half of the budget for Defence cannot be accounted for. This matter has been raised in the last few weeks. I suppose you would not have seen this, Senator Ferguson, but we could see from this side that when a question was directed at Senator Minchin about this farce in Defence Force accounting and we asked about this situation, old Senator Minchin had a wry smile on his face. As Senator Evans outlined to the Senate, it was interesting to hear Senator Minchin jumping to the defence of his old factional warrior, old Senator Hill—

Senator Ferris interjecting—

Senator HUTCHINS—And you there, of course. It is a lovely picture, the three of you there together: Senator Ferris, Senator Ferguson and Senator Hill, all happy chappies. Today, by virtue of the Westminster system, we are able to pin down Senator Hill about this appalling situation. When this matter was first raised a few weeks ago one of the newspapers said they could not get hold of the minister. Normally when there is a troop deployment leaving, or an aircraft or a ship to be launched, there is Senator Hill. There is a photograph of Senator Hill with almost every bit of military equipment we have in this country. From ship to helicopter to aeroplane to troops marching off to God knows where, there is Senator Hill. But we could not find him a few weeks ago. He was MIA—missing in action. Where was the \$8.35 billion? It was AWOL. I allude to these

military terms because that is exactly what has happened. At the moment \$2 billion worth of boots, uniforms, hats and rations cannot be accounted for, \$845 million worth of bombs, explosives and ammunition cannot be accounted for and, depending on which figure you choose, mine or Senator Johnston's, \$1.22 billion worth of leave entitlements is owed to our military personnel and staff. How has it got to this?

We know from reports that in the last three years the minister has been castigated and taken to task by the Minister for Finance and Administration and the Treasurer about this appalling situation that has been deteriorating in the Department of Defence. What has occurred? It has got to the stage now where an outside firm, a respected accounting firm, has been brought in to try to identify the problems that the minister has presided over. As Senator Bishop said, if this were a private firm, the company directors would be sacked, the chief executive officer would be sacked, there would be a significant investigation into this and people's heads would be rolling. So we have this situation in the Department of Defence where I say that over half the money that is spent cannot be accounted for.

The reports say that we are talking about centuries-old practices that have not been changed. The Department of Defence and the minister have been alerted to this fact for the last five years, but what has the department or the government done about it? Nothing. For all we know, this major warehouse at Moorebank in Sydney may have ordnance that goes back to the Boer War. I understand in this one warehouse in Sydney—the largest one, at Moorebank—there are something like 315,000 types of items stored in over half a million distinct locations. This situation has been highlighted to the government for over five years, and during the last three years the Minister for Finance and Administration and

the Treasurer have been on the minister's back to fix it up. (*Time expired*)

Question agreed to.

Iraq

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.31 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Bartlett today relating to health conditions in Iraq.

The simple fact of the matter is that there is more and more independent, wide-ranging evidence that the conditions faced by the civilian population in Iraq are, in most respects, continuing to deteriorate and worse than those faced prior to the war. It is difficult to separate out the arguments about whether we should or should not have participated in this invasion of Iraq from the arguments about what should happen now. The Democrats' position is clear and indisputable: we believe the invasion of Iraq was a serious mistake. But we need to try to separate out that argument from the present situation. Regardless of what your view is about whether or not the invasion should have happened, the fact is that it did. We have to look at what the best current approach should be rather than continue a *de facto* argument about a question that has already been resolved—for better or for worse.

The big challenge for all of us, whatever our position was originally on the war in Iraq, is to make sure that we all do whatever we can so that the situation does end up being for better and not for worse. The evidence is continuing to mount that for the Iraqi people, who were meant to be, accordingly to the government's rationale, the key beneficiaries of this invasion, the situation is for the worse—and getting worse. What is most frustrating about that is not just that it is happening but that there is a refusal on the

part of this government and other governments around the world to acknowledge that basic fact because they see it as some admission of failure or of a mistake. The fact is the situation is getting worse, and we have to look at the information that is now coming to light.

The minister disputed some of the estimates of 100,000 civilian deaths since the war. Let us leave that one to one side. That was an estimate released a month or so ago. Reports released in the last day or two and detailed today by the Australian Medical Association for the Prevention of War outline the health situation facing ordinary Iraqis. Let us just look at the situation facing children and at a simple measure like malnutrition. According to studies conducted by the current Iraqi health ministry, in cooperation with Norway's Institute for Applied International Studies and the United Nations Development Program, the rate of malnutrition in young children under five has almost doubled since the invasion of Iraq, which was around 20 months ago. That equates to around 400,000 Iraqi children suffering from chronic diarrhoea, dangerous deficiencies of protein, and malnutrition. As we all should know, if that condition is maintained for any length of time it will lead to permanent damage for those children's physical and mental wellbeing and dramatically eliminate opportunities for their entire lives. We are talking about the future of Iraq—their children. There are hundreds and thousands of them—double the number than before the war—facing serious malnutrition as a direct result of the current situation and the consequences of the invasion. Unless those sorts of basic facts are recognised then they certainly will not be able to be addressed.

We have a dramatic increase in the incidence of typhoid and other diseases such as measles and mumps. There is not enough action being taken to address those problems

and the impact they are having on the children, the civilians, the families of Iraq. Until those problems are acknowledged, there will never be action taken to address them. And unless we do, there is no way that we could ever say that this terrible action that is continuing will be anything other than for the worse for the Iraqi people. Quite clearly, if it is for the worse for them, it will be for the worse for the broader world as well. We must act to address this situation now. The Democrats continue to criticise this government, and we urge them to lift the blinkers from their eyes and do far more to turn the situation around. (*Time expired*)

Question agreed to.

NOTICES

Presentation

Senator Lees to move on the next day of sitting:

That the Senate—

- (a) acknowledges the threats facing the endangered Asian elephant throughout its natural range, including live trade, human-elephant conflict and poaching for ivory tusks, hide and meat;
- (b) notes that:
 - (i) the Asian elephant is listed as an Appendix I species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES),
 - (ii) Appendix I species are those whose trade must be subject to particularly strict regulation, and only authorised in exceptional circumstances,
 - (iii) Australia has been a party to CITES since 1976,
 - (iv) implementation of the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* serves as Australia's way of meeting its international obligations as a CITES party,
 - (v) under the Act, CITES Appendix I species cannot be imported for the purpose

of exhibition, and zoos must prove that they are able to meet the biological and behavioural needs of the animals if importation is for reasons such as conservation breeding,

- (vi) Australian zoos have requested permission from the Australian Government to import nine Asian elephants from Thailand as part of a captive breeding program,
- (vii) research undertaken by Oxford University in 2002 and supported by peers has identified that zoos are unable to meet the biological and behavioural needs of elephants in captivity, as elephants in captivity suffer from stress and boredom leading to abnormal behaviours and have a greater incidence of infant mortality and early death, and
- (viii) the proposed captive breeding program offers no conservation benefit to the Asian elephant species as no offspring will ever be returned to the wild and elephants do not breed successfully in captivity; and
- (c) calls on the Government to:
 - (i) reject the proposal that would allow the impending and any future importation of elephants from Thailand to Australian zoos,
 - (ii) work with the zoo association and non-government organisations to undertake an assessment of welfare conditions for elephants currently held in Australian zoos, and
 - (iii) earmark funding from the Regional Natural Heritage Programme addressing biodiversity hotspots in the Asia Pacific region, for in situ conservation projects that will help to address the threats facing the Asian elephant in Thailand and other range states.

Senator Greig to move on the next day of sitting:

That the Senate—

- (a) notes that Friday, 3 December 2004, is International Day of People with a Disability;
- (b) further notes:
 - (i) the valuable and willing contribution made by people with disabilities to the development, strength and diversity of the Australian community,
 - (ii) that people with disabilities continue to experience barriers to employment, education, premises, technology, transport, accommodation, support and services that diminish their access to full participation in the community, and
 - (iii) that many people with disabilities and their carers live in poverty with increasing concern about the adequacy of future income and social support; and
- (c) calls on the Government to address barriers to participation by leading an active response to unmet need, reviewing funding arrangements through the Commonwealth-State/Territory Disability Agreement, providing increased access to education, employment and training options, reinstating a permanent Disability Discrimination Commissioner, and expediting the completion of standards under the *Disability Discrimination Act 1992*.

Senator Allison to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for Employment and Workplace Relations, no later than 5 pm on 6 December 2004, any determinations made by the Minister under subsections 22(1) and (2) of the *Air Passenger Ticket Levy (Collection) Act 2001*.

Senator Allison to move on the next day of sitting:

That the Senate—

- (a) notes the release of the report *The enduring effects of war: health in Iraq 2004*;
- (b) notes that the report finds:
 - (i) that the risk of death from violence in the 18 months after the invasion was 58 times higher than in the 15 months be-

fore the invasion, while the risk of death from all causes was 2.5 times higher,

- (ii) 32 per cent of children are chronically malnourished and 17 per cent are underweight,
 - (iii) since April 2003, at least 400 women and girls, some as young as eight, have been raped during or after the war, and
 - (iv) in 2003 over a quarter of primary care centres closed, over half of primary care facilities no longer provide family planning services and between 30 per cent and 40 per cent of women deliver their babies without qualified help; and
- (c) calls on the Government to:
- (i) support a comprehensive, independent investigation of casualties and the state of health in Iraq, and
 - (ii) increase humanitarian aid to Iraq to address health needs, in particular the re-establishment of safe, accessible primary health facilities.

Senator Nettle to move on the next day of sitting:

That the Senate—

- (a) notes:
 - (i) ongoing concern about the political situation in Burma,
 - (ii) the continued detention of Daw Aung San Suu Kyi and reports that this detention has been extended by the military regime in Burma, and
 - (iii) the recent release of student leader Minko Naing and his call for urgent action to pursue democratic reform and national reconciliation; and
- (b) calls on the Government:
 - (i) to urge the Burmese junta to fully engage with the United Nations (UN) Secretary General Kofi Annan and the UN Special Envoy Tan Sri Razali Ismail in their work to find a political solution to Burma's problems,
 - (ii) to reiterate Australian demands for the release of the National League for De-

mocracy's Vice-Chairman, U Tin Oo, and all the remaining political prisoners, and for the immediate and unconditional release of Daw Aung San Suu Kyi,

- (iii) to support the Committee Representing People's Parliament mandate as the legitimate body to convene a democratic Parliament in Burma, according to the 1990 election result, and
- (iv) support the Burmese National League for Democracy's call for the UN Security Council to convene a special session to consider what further measures the UN can take to encourage democratic reform and respect for human rights in Burma.

Senator Chapman to move on the next day of sitting:

That the Senate—

- (a) notes that:
 - (i) international observers, including the International Election Monitoring Mission of the Organisation of Security and Cooperation in Europe have reported that the recent presidential election in Ukraine has fallen well short of international standards,
 - (ii) reported irregularities include suspiciously high voter turnout in several regions, the fraudulent use of absentee voting, intimidation of voters at some polling stations, abuse of state resources and overt media bias,
 - (iii) in such circumstances the officially declared results of the election cannot be taken to properly represent the will of the Ukrainian people, and
 - (iv) a resolution to the current political crisis in Ukraine can only be achieved through a new election, which is conducted in a transparent manner that meets international standards;
- (b) calls on the Government of Ukraine to:
 - (i) ensure the safety and welfare of all its citizens, including those taking part in

peaceful demonstrations as part of the exercise of their democratic rights,

- (ii) hold a new presidential election based on democratic principles that:
 - (A) ensures absentee ballots are cast in a free and democratic manner, and are not subject to abuse,
 - (B) allows both presidential candidates equal and unbiased access to the mass media of Ukraine in the period leading up to the new election date, and
 - (C) ensures that international observers participate at all levels of the election process to achieve a result that is acceptable to all parties;
- (c) requests the President of the Senate to transmit this resolution to the outgoing President of Ukraine, Leonid Kuchma, the Parliament of Ukraine and the Ukrainian Ambassador to Australia; and
- (d) urges the Australian Government to make further representations to the above effect.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (3.39 p.m.)—I, and also on behalf of Senators Bartlett, Brown and Lees, give notice that, on the next day of sitting, I shall move:

That the following matters be referred to the Finance and Public Administration References Committee for inquiry and report by 15 August 2005:

- (1) The administration of the Regional Partnerships program and the Sustainable Regions program, with particular reference to the process by which projects are proposed, considered and approved for funding, including:
 - (a) decisions to fund or not to fund particular projects;
 - (b) the recommendations of area consultative committees;
 - (c) the recommendations of departmental officers and recommendations from

- any other sources including from other agencies or other levels of government;
- (d) the nature and extent of the respective roles of the administering department, minister and parliamentary secretary, other ministers and parliamentary secretaries, other senators or members and their advisers and staff in the process of selection of successful applications;
 - (e) the criteria used to take the decision to fund projects;
 - (f) the transparency and accountability of the process and outcomes;
 - (g) the mechanism for authorising the funding of projects;
 - (h) the constitutionality, legality and propriety of any practices whereby any members of either House of Parliament are excluded from committees, boards or other bodies involved in the consideration of proposed projects, or coerced or threatened in an effort to prevent them from freely communicating with their constituents; and
 - (i) whether the operation of the program is consistent with the Auditor-General's 'Better Practice Guide for the Administration of Grants', and is subject to sufficient independent audit.
- (2) With respect to the future administration of similar programs, any safeguards or guidelines which might be put in place to ensure proper accountability for the expenditure of public money, particularly the appropriate arrangements for independent audit of the funding of projects.
- (3) Any related matters.

Senator Brown to move on 7 December 2004:

That the Senate—

- (a) notes that Colombian Greens' politician and former presidential candidate, Ingrid Betancourt, together with her campaign manager, Clara Rojas, were kidnapped by Revolutionary Armed Forces of Colombia (FARC) guerrillas in February 2002 and remain in captivity in the jungle;
 - (b) considers that political violence in Colombia will only be stopped if real negotiations take place and all hostages, including Ms Betancourt and Ms Rojas, are freed; and
 - (c) calls on the Government to pressure the Uribe Government and FARC to negotiate now for a humanitarian agreement to release the hostages.
- Senator Crossin** to move on the next day of sitting:
- That the Senate—
- (a) congratulates the Alice Springs Aboriginal Housing Organisation, Tangentyere Council, on celebrating 25 years since its incorporation;
 - (b) notes that Tangentyere Council is one of the largest Aboriginal organisations in Central Australia, incorporating 18 Aboriginal housing associations;
 - (c) acknowledges the organisation was formed in the 1970s by Aboriginal people like Geoff Shaw and Eli and Wenten Rubuntja;
 - (d) recognises that Tangentyere Council has played a key role in providing basic services, such as running water and shelter, to Aboriginal people living on the fringes of Alice Springs and has ensured that there are now special purpose leases and permanent housing for their members; and
 - (e) congratulates the members and executive of Tangentyere Council, its Executive Director, William Tilmouth, and staff for their ongoing commitment, dedication and work.
- Senator Nettle** to move on the next day of sitting:
- That there be laid on the table by the Minister representing the Minister for Trade, no later than 4 pm on Tuesday, 7 December 2004, the final letters and any attachments and annexures exchanged between the governments of Australia and the United States (US) of America to finalise the free trade agreement between the Australia and the US.

Senator Brown to move on 6 December 2004:

That the Senate—

- (a) notes that:
 - (i) the Murray River is in crisis and urgently needs water to prevent irreversible loss of red gums, waterbirds and wetlands, and
 - (ii) disagreement between the Commonwealth and state governments has stymied implementation of their November 2003 commitment to return 500 gigalitres of water to the Murray River within 5 years;
- (b) urges the Commonwealth and state governments to act immediately to break the impasse; and
- (c) requests the Government to report to the Senate, on or before 8 December 2004, on when water will actually be returned to the Murray River.

Senator NETTLE (New South Wales) (3.44 p.m.)—I, and also on behalf of Senator Brown, give notice that on the next day of sitting, I shall move:

That the Senate—

- (a) notes the report of the International Red Cross into the treatment of prisoners at Guantanamo Bay, Cuba, and the report's conclusion that interrogation techniques amounted to torture;
- (b) expresses concern that such techniques, which contravene international standards, may have been used on Australian prisoners, David Hicks and Mamdouh Habib, who are being held at Guantanamo Bay; and
- (c) calls on the Government to act immediately to return David Hicks and Mamdouh Habib to Australia.

Senator Brown to move on the next day of sitting:

That the Senate—

- (a) notes that 1 December 2004 was West Papuan National Day, the 43rd anniver-

sary of the 1961 West Papuan Declaration of Independence from Dutch colonial rule; and

- (b) calls on the Australian Government to urge the Indonesian Government to lift the ban on the flying of the Papuans' morning star flag.

Senator Nettle to move on the next day of sitting:

That the Private Health Insurance Incentives Amendment Bill 2004 be referred to the Community Affairs Legislation Committee for inquiry and report by 9 February 2005.

COMMITTEES

Selection of Bills Committee

Report

Senator FERRIS (South Australia) (3.45 p.m.)—I present the 12th report of 2004 of the Selection of Bills Committee.

Ordered that the report be adopted.

Senator FERRIS—I seek leave to have the report incorporated in *Hansard*.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 12 OF 2004

1. The committee met on Tuesday, 30 November 2004.
2. The committee resolved to recommend—That—
 - (a) the Administrative Appeals Tribunal Amendment Bill 2004 be ***referred immediately*** to the Legal and Constitutional Legislation Committee for inquiry and report by 10 March 2005 (see appendix 1 for statement of reasons for referral);
 - (b) the Disability Discrimination Amendment (Education Standards) Bill 2004 be ***referred immediately*** to the Legal and Constitutional Legislation Committee for inquiry and report by 7 December 2004 (see appendix 2 for statement of reasons for referral);

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- (c) the *provisions* of the National Water Commission Bill 2004 be *referred immediately* to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report by 7 December 2004 (see appendix 3 for statement of reasons for referral);
- (d) the *provisions* of the Private Health Insurance Incentives Amendment Bill 2004 be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report by 8 February 2005 (see appendix 4 for statement of reasons for referral); and
- (e) the *provisions* of the Tax Laws Amendment (Superannuation Reporting) Bill 2004 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 7 December 2004 (see appendix 5 for statement of reasons for referral).
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
- Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 2) 2004
 - Aviation Security Amendment Bill 2004
 - Bankruptcy and Family Law Legislation Amendment Bill 2004
 - Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 2004
 - Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Bill 2004
 - Family Assistance Legislation Amendment (Adjustment of Certain FTB Child Rates) Bill 2004
 - Health Insurance Amendment (100% Medicare Rebate and Other Measures) Bill 2004
 - Higher Education Legislation Amendment Bill (No. 3) 2004
 - Indigenous Education (Targeted Assistance) Amendment Bill 2004
 - Legislative Instruments (Technical Amendment) Bill 2004
 - New International Tax Arrangements (Managed Funds and Other Measures) Bill 2004
 - Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Bill 2004
 - States Grants (Primary and Secondary Education Assistance) Legislation Amendment Bill 2004
 - Sex Discrimination Amendment (Teaching Profession) Bill 2004
 - Superannuation Legislation Amendment Bill 2004
 - Tax Laws Amendment (2004 Measures No. 6) Bill 2004
 - Tax Laws Amendment (Small Business Measures) Bill 2004
 - Textile, Clothing and Footwear Strategic Investment Program Amendment (Post-2005 Scheme) Bill 2004
 - Customs Tariff Amendment (Textile, Clothing and Footwear Post-2005 Arrangements) Bill 2004
 - Vocational Education and Training Funding Amendment Bill 2004.
- The committee recommends accordingly.*
4. The committee *deferred* consideration of the following bills to the next meeting:
- Bills deferred from meeting of 30 November 2004*
- Australian Security Intelligence Organisation Amendment Bill 2004
 - National Security Information (Criminal Proceedings) Bill 2004
 - National Security Information (Criminal Proceedings) (Consequential Amendments) Bill 2004
 - Postal Industry Ombudsman Bill 2004
 - Tax Laws Amendment (Retirement Villages) Bill 2004.
-

(Jeannie Ferris)

Chair

1 December 2004

Appendix 1

Proposal to refer a bill to a committee

Name of bill(s):

Administrative Appeals Tribunal Amendment Bill 2004

Reasons for referral/principal issues for consideration

1. concerns regarding the downgrading and potential loss of independence of the tribunal.
2. concerns relating to the potential downgrading of AAT as an accountability mechanism.
3. concerns about the impact of procedural changes to AAT processes

Possible submissions or evidence from:

Law Council of Australia, ACOSS, veterans groups, welfare rights groups

Committee to which bill is referred:

Legal and Constitutional Legislation Committee

Possible hearing date:

Possible reporting date(s): 10 March 2005

Appendix 2

Proposal to refer a bill to a committee

Name of bill(s):

Disability Discrimination Amendment (Education Standards) Bill 2004

Reasons for referral/principal issues for consideration

To investigate the adequacy of Commonwealth support to States/Territories for transitional costs associated with the Standard's implementation particularly relating to professional development; to examine the Standard's implementation strategy, and to facilitate the Standard's expeditious tabling.

Possible submissions or evidence from:

Australian Federation of Disability (member) Organisations

Ms Jenny Shaw, President, Australian Learning Disability Association

Blind Citizens Australia

State/Territory Departments of Education and Training

Australian Learning Disability Association

Australia Parents Council

Royal Institute for Deaf and Blind Children

Royal Blind Society

Isolated Children's Parents Association of Australia

Australian Federation of SPELD Associations

National Independent Special Schools Association

Australian Associations of Christian Schools

Australian Association of Special Education

Independent Education Union of Australia

Australian Education Union

Australian Council of State School Organisations

Australian Council of Deans of Education

Committee to which bill is referred:

Legal and Constitutional Legislation Committee

Possible hearing date:

Possible reporting date(s): 7 December 2004

Appendix 3

Proposal to refer a bill to a committee

Name of bill(s):

National Water Commission Bill 2004

Reasons for referral/principal issues for consideration

To assess the appropriateness of establishing a Federal body, namely the National Water Commission, to administer funds through the Australian Water Fund and to examine further both the appointment and reporting processes associated with the Commission's operations

Possible submissions or evidence from:

State governments and bodies charged with regional management of water resources, including Western Australia and Tasmania which have yet to sign on to the National Water Initiative

Bodies representing farmers and private landholders, such as the National Farmers Federation

Environment groups and parties with interest in land-care and water-care including the Australian Conservation Foundation and Worldwide Fund for Nature.

Committee to which bill is referred:

Environment, Communications Information Technology and the Arts Legislation Committee

Possible hearing date:

Possible reporting date(s): 7 December 2004

Appendix 4

Proposal to refer a bill to a committee

Name of bill(s):

Private Health Insurance Incentives Amendment Bill 2004

Reasons for referral/principal issues for consideration

To examine the provisions of the bill relating to increases in the private health insurance rebate to ascertain if the bill will increase the affordability of private health insurance for all older Australians, regardless of whether they currently hold private health insurance or not, and to examine if there are any inequity implications relating to the affordability of private health insurance for other Australians arising from the changes proposed in the bill.

Possible submissions or evidence from:

Australian Health Insurance Association (AHIA)

Australian Consumers Association

Private Health Insurance Ombudsman

Australian Private Hospitals Association

Medibank Private

Medical Benefits Fund of Australia Limited

Jeremy Temple, Australian National University

Professor Jane Hall; Director Centre for Health Economics Research and Evaluation, Sydney

Public Health Association of Australia

Professor Stephen Duckett, Professor of Health Policy, Dean of the Faculty of Health Sciences

John Deeble

Committee to which bill is referred:

Community Affairs Legislation Committee

Possible hearing date:

Possible reporting date(s): 8 February 2005

Appendix 5

Proposal to refer a bill to a committee

Name of bill(s):

Tax Laws Amendment (Superannuation Reporting) Bill 2004

Reasons for referral/principal issues for consideration

Dangers to workers' payment if insufficient reporting to enable monitoring of payments by employers to funds

Possible submissions or evidence from:

ACTU, ASFA, Conference of Major Superannuation Funds, FPA

Committee to which bill is referred:

Economics Legislation Committee

Possible hearing date:

Possible reporting date(s): 7 December 2004

LEAVE OF ABSENCE

Senator FERRIS (South Australia) (3.46 p.m.)—by leave—At the request of Senator Harradine, I move:

That leave of absence be granted to Senator Harradine on 29 November 2004, on account of family illness.

Question agreed to.

NOTICES

Postponement

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Stott Despoja for today, proposing the reference of matters to the Legal and Constitutional References Committee, postponed till 6 December 2004.

Business of the Senate notice of motion no. 2 standing in the name of Senator Brown for today, proposing the reference of matters to the Finance and Public Administration References Committee, postponed till 2 December 2004.

BUSINESS

Consideration of Legislation

Senator BROWN (Tasmania) (3.47 p.m.)—I move:

- (1) That so much of standing orders be suspended as would prevent this resolution having effect.
- (2) That the Constitution Alteration (Right to Stand for Parliament—Qualification of Members and Candidates) 1998 (No. 2) [2002] be recommitted, and that consideration of the bill in committee of the whole be an order of the day for the next day of sitting.
- (3) That the committee consider the bill as reported by the committee of the whole on 15 May 2003.

Question agreed to.

ENVIRONMENT: NAVAL SONAR

Senator ALLISON (Victoria) (3.47 p.m.)—I move:

That the Senate—

- (a) notes:
 - (i) the resolution on 28 October 2004 by the European Parliament which calls on its 25 member states to stop deploying high-intensity active naval sonar until more is known about the harm it inflicts on whales and other marine life,
 - (ii) the call for the establishment of a multinational task force for developing international agreements on sonar and other sources of intense ocean noise and to exclude and seek alternatives to the harmful sonars used today, and
 - (iii) the July 2004 report of the Scientific Committee of the International Whaling Commission which found compelling evidence that entire populations of

whales and other marine mammals are potentially threatened by increasingly intense man-made underwater noise both regionally and ocean-wide; and

- (b) calls on the Government to:
 - (i) support the proposed multinational task force,
 - (ii) encourage the United States of America to do likewise, and
 - (iii) review future use of sonar in light of the findings.

Question agreed to.

WORLD AIDS DAY

Senator ALLISON (Victoria) (3.49 p.m.)—I, and also on behalf of Senator Greig, move:

That the Senate—

- (a) notes that Wednesday, 1 December 2004 is World AIDS Day;
- (b) notes that:
 - (i) the Government has abrogated its leadership role in the area of domestic HIV/AIDS prevention by continuing to pursue a flawed process for developing the new HIV Strategy and continually delaying the development and release of the 5th National HIV Strategy,
 - (ii) in 2 decades the AIDS pandemic has claimed more than 20 million lives, 3 million of them in 2003, with little hope for improvement in 2004, as the pandemic continues to accelerate,
 - (iii) more than 38 million people are currently living with HIV/AIDS,
 - (iv) less than 20 per cent of people at high risk of HIV infection have access to proven prevention interventions which, if increased, could avert an estimated 29 million to 45 million new infections by 2010,
 - (v) in 2003 there were 5 million new HIV infections, of which women accounted for nearly half of all infected adults and nearly three-fifths of those in sub-Saharan Africa, and

- (vi) half of all new HIV infections are among young people—four infections every minute—with young people particularly at risk, especially in Africa, where the infection rates for young women are two to three times those of young men; and
- (c) calls on the Government to:
 - (i) expedite the conclusion of the 5th National HIV Strategy,
 - (ii) fulfil the agreed target of 0.7 per cent of gross national product for official development assistance, and
 - (iii) support the expansion of HIV/AIDS prevention activities both locally and internationally and ensure that they are integrated into comprehensive sexual and reproductive health programs.

Senator GEORGE CAMPBELL (New South Wales) (3.49 p.m.)—by leave—I move:

Omit subparagraph (c)(ii).

Question negatived.

Original question agreed to.

INDIGENOUS AFFAIRS: PALM ISLAND

Senator BROWN (Tasmania) (3.50 p.m.)—I, and also on behalf of Senator Ridgeway and Senator Carr, move:

That the Senate, alarmed by the death in custody of an Aboriginal citizen on Palm Island and the destruction of property consequent on his death, and the operations of riot police involving men, women and children on Palm Island and responding to the unacceptable status and life outcomes of Indigenous Australians on Palm Island and throughout the nation:

- (a) expresses to the Palm Island community its deepest regret and concern; and
- (b) calls on the Federal and Queensland Governments to intervene, using all available powers and persuasion, to end hostilities, investigate the events and put in place tangible measures to improve Indigenous affairs on Palm Island.

Question agreed to.

COMMITTEES

Select Committee on the Scrafton Evidence

Extension of Time

Senator GEORGE CAMPBELL (New South Wales) (3.51 p.m.)—At the request of Senator Collins, I move:

That the time for the presentation of the report of the Select Committee on the Scrafton Evidence be extended to 9 December 2004.

Question agreed to.

NUCLEAR ENERGY: LUCAS HEIGHTS

Senator NETTLE (New South Wales) (3.52 p.m.)—I move:

That the Senate—

(a) notes that:

- (i) research and development of laser enrichment technology is being pursued at Lucas Heights, by private company Silex Systems Ltd,
- (ii) this project is protected by a bi-lateral agreement with the Government of the United States of America which was signed to enable the transfer of restricted enrichment technology and equipment for the research and development,
- (iii) Silex Systems Ltd has imported uranium for enrichment as part of this project, and
- (iv) the Australian Nuclear Science and Technology Organisation has processed radioactive waste produced as a result of these activities; and

(b) calls on the Government to:

- (i) recognise that the technology being developed by Silex Systems Ltd could constitute a threat to internationally agreed goals of nuclear non-proliferation, and

- (ii) legislate to ban the development of uranium enrichment technologies in Australia.

Question put.

The Senate divided. [3.57 p.m.]

(The Deputy President—Senator J.J. Hogg)

Ayes.....	8
Noes.....	<u>42</u>
Majority.....	34

AYES

Allison, L.F. *	Bartlett, A.J.J.
Brown, B.J.	Cherry, J.C.
Greig, B.	Murray, A.J.M.
Nettle, K.	Ridgeway, A.D.

NOES

Barnett, G.	Bishop, T.M.
Brandis, G.H.	Buckland, G.
Campbell, G.	Carr, K.J.
Chapman, H.G.P.	Colbeck, R.
Crossin, P.M.	Denman, K.J.
Eggleston, A.	Ellison, C.M.
Faulkner, J.P.	Ferguson, A.B.
Ferris, J.M. *	Fifield, M.P.
Forshaw, M.G.	Hogg, J.J.
Humphries, G.	Hutchins, S.P.
Johnston, D.	Kirk, L.
Knowles, S.C.	Ludwig, J.W.
Lundy, K.A.	Macdonald, J.A.L.
Mackay, S.M.	Marshall, G.
Mason, B.J.	McGauran, J.J.J.
McLucas, J.E.	Moore, C.
O'Brien, K.W.K.	Payne, M.A.
Ray, R.F.	Scullion, N.G.
Sherry, N.J.	Stephens, U.
Tchen, T.	Troeth, J.M.
Webber, R.	Wong, P.

* denotes teller

Question negatived.

WORLD AIDS DAY

Senator GEORGE CAMPBELL (New South Wales) (4.01 p.m.)—I seek leave to revisit general business notice of motion No. 25 on World AIDS Day and to recommit for a vote my amendment to that motion.

Leave granted.

The DEPUTY PRESIDENT—The question before the chamber is that the amendment moved by Senator George Campbell to Senator Allison's motion be agreed to.

Question agreed to.

The DEPUTY PRESIDENT—The question now is that Senator Allison's motion, as amended, be agreed to.

Question agreed to.

MATTERS OF URGENCY

Indigenous Affairs: Deaths in Custody

The ACTING DEPUTY PRESIDENT (Senator Chapman)—I inform the Senate that the President has received the following letter, dated 1 December, from Senator Ridgeway:

Dear Mr President,

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

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

The need for the Commonwealth government to take responsibility for leadership at a national level to reduce incarceration rates of Indigenous Australians and address the continuing problem of Indigenous deaths in custody—made especially visible by the Redfern and Palm Island race riots in 2004—in particular, the need for the Commonwealth Government to re-institute the requirements of the first recommendation of the Royal Commission into Aboriginal Deaths in Custody, including annual reporting by state, territory and federal governments on the implementation of the recommendations of the Royal Commission."

Yours sincerely,

Senator Aden Ridgeway

Australian Democrats Senator for NSW

Is the proposal supported?

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

The ACTING DEPUTY PRESIDENT— I understand that informal arrangements have been made to allocate specific times to each of the speakers in today's debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator RIDGEWAY (New South Wales) (4.04 p.m.)—I move:

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

The need for the Commonwealth government to take responsibility for leadership at a national level to reduce incarceration rates of Indigenous Australians and address the continuing problem of Indigenous deaths in custody—made especially visible by the Redfern and Palm Island race riots in 2004—in particular, the need for the Commonwealth Government to re-institute the requirements of the first recommendation of the Royal Commission into Aboriginal Deaths in Custody, including annual reporting by state, territory and federal governments on the implementation of the recommendations of the Royal Commission.

This is a particularly important matter and one I think needs to be debated in this chamber—most of all because it almost went by without being noticed. The context of this urgency debate, as we all know, is that on Friday, 19 November yet another Indigenous Australian died in custody on Palm Island. The community has requested that we refer to him as Kumanjayi Doomadgee out of respect for family mourning after his death. The day after, on 20 November, another Indigenous man died in police custody in hospital at Normanton in the Gulf of Carpentaria. It is for these reasons and for the many deaths that have occurred over long years that I believe there is a growing indifference to the great Australian silence about the increasing rates of imprisonment and deaths in custody of Indigenous people and the lack of fair treatment under the criminal justice system.

I will talk more about Palm Island, but it is important to emphasise the broader context: Indigenous people are 15 times more likely to be imprisoned than anyone else in Australian society. Indeed, last year 75 per cent of deaths in custody of prisoners who were detained for no more than public order offences were Indigenous Australians. In 1991 we spent enormous amounts of money on a royal commission to address these issues and deal with the 99 deaths that had occurred in the preceding decade. Yet, despite the 339 recommendations, since that time the number of deaths has continued to increase parallel with the increasing rates of imprisonment of Indigenous people in this country. We have to do something to address this problem because the way it is being played out is unsustainable.

Most of all, recommendation 1 was that all governments at federal, state and territory levels should report annually on how they are implementing these recommendations. You might recall that on Monday I asked the Minister for Justice and Customs, Senator Ellison, about this issue. He said he did not know that annual reporting on the implementation of the recommendations no longer occurs and that, in the government's massive surpluses, they cannot find the funding to properly implement and monitor a national strategy to deal with the problem of overrepresentation and deaths of Indigenous people in custody. The Commonwealth funding to report on the implementation of the recommendations ended in 1997—a decision by this government—and no decision was made to renew it.

In the last eight years we have seen little if any improvement in conditions in Indigenous communities and there is much unfinished business. We saw race relations boil over on numerous occasions earlier this year in Redfern and more recently on Palm Island—these poor relations are often reflected at the

coalface between the local police and local community members. The riot on Palm Island on Friday, 26 November 2004 was a reaction to the news that an autopsy revealed that Kumanjayi Doomadgee died with four broken ribs and a punctured spleen and liver. Police statements reported by the *Australian* on 22 November 2004 said:

... a check on the man shortly after he was placed in the cell revealed he was asleep ... A subsequent check showed he appeared pale and had a weak pulse. Although an ambulance was called, paramedics were unable to revive him.

Is it any wonder, given the circumstances of finding out about the tragic loss of life, that the community was upset? A young man, drunk and singing in the street, is detained by police for causing a public nuisance and an hour later he is dead. Two other prisoners have made statements saying that they witnessed him being beaten by a police officer, and I am told by the Palm Island Council that they have confirmed that the accused officer was removed from other Indigenous communities, namely Doomadgee and Burke-town, because of similar violent incidents.

It gets worse. The Queensland government knew about the possibility of local unrest and they sent in additional police to retain law and order. Later, as we all know, a state of emergency was declared. The tactical response police were in full gear—riot shields, balaclavas, helmets with face masks, a Glock pistol at the hip and a shotgun or semiautomatic rifle—walking the streets and arresting unarmed and unresisting Aborigines. I ask: how is it that all of us can read about Palm Island in the papers, see the pictures of children standing next to members of the riot squad, pictures comparable to those that we see on our television news daily about Iraq, and not be shocked and spurred to action? Why is it that Australians have become so indifferent to the misery of fellow

Australians? How is it that we can dismiss this in such a light way?

I believe there has been a massive overreaction by the Queensland government and certainly by the local police. Comments made by Premier Beattie and the Police Union are inflammatory and sensationalist. How can we know, outside official inquiries, that excessive force was not used and why is it that the Police Union are calling for charges of attempted murder? Do they not already see that there has been a death in the community and that that person had a name—Kumanjayi Doomadgee?

While police are allegedly too frightened to return to Palm Island, it is encouraging that all Palm Island teachers have returned to the island. They are working with the children to help them deal with this horrific situation and have no fears for their safety. It seems to me we do have problems with the state of race relations in this country. For the Commonwealth government to watch over two major race riots in the space of 10 months and not see an urgent national problem beggars belief. This country has major race relations problems that are escalating under the reign of the Howard government.

It is true that the state governments also bear responsibility. Indeed, criminal matters and corrective service issues, as we all know, fall under state jurisdiction, as do health and education, but all of those institutions are failing Indigenous people right across Australia and all Australian governments are failing Indigenous people. It is not so much that the responses are slow: they are inadequate because we refuse to use the power we have in a better way, we refuse to empower Indigenous Australians—for example, by abolishing ATSIC, we have no idea what is going to happen with regional councils come 30 June—and then we play the game in a small way. You only have to ask the Palm

Island Council, which has no power and no say over what happened in the Palm Island community last week.

All we hear about from the government is blame, not their own governance, their lack of leadership or lack of understanding. We hear of Indigenous people who continue to struggle with living conditions that most Australians could not imagine. Why do Australian Aborigines now have a life expectancy that is 20 years lower than the rest of the nation? Why is it that, if you were living on the streets of Nepal, Bangladesh or Vietnam, you could expect to live longer? These facts alone ought to ring alarm bells about the need for a proper response.

I ask again why Australians have become indifferent. It is because it now seems to be acceptable to blame Aboriginal people for their own circumstances. Yet, if this were happening in any other community in this country, there would be a major outcry. Is it any wonder then that Aboriginal people have this perception and belief that there is one rule for some and another rule for the rest? Many strong Indigenous people across this country are struggling with deaths in custody. They are doing so under very difficult circumstances. I highlight the fact that, while we wait for the second autopsy report, none of the 18 rioters arrested for being a public nuisance have been released on bail. They are all still locked up in Townsville, mostly because there is no local police station on Palm Island. If you were a member of the community charged with rape, robbery or something like that, so long as you had the means and your solicitor argued in your favour, you would roam free, but that is not the case for these rioters. We ought to look to the law to be more fair and equal and to be applied to these people in the way it should be applied. The Beattie government and certainly the federal government ought to show more leadership. (*Time expired*)

Senator JOHNSTON (Western Australia) (4.13 p.m.)—May I say in response to this motion that the Commonwealth does assume and accept a responsibility to show national leadership to reduce rates of incarceration of Aboriginal people and has delivered substantial outcomes in that regard since being elected in 1996. The government continues to be focused on this issue. Sadly, the same cannot be said for the states, particularly state Labor governments in Queensland and Western Australia. In those states there has been complete lethargy with respect to a whole host of Aboriginal matters. Deaths in custody have been approached in a half-hearted, lackadaisical manner. Indeed, broad reports dealing with Aboriginal domestic violence and child abuse in Western Australia have been approached in a very untimely fashion. These are matters of great concern to the Commonwealth government and to the Minister for Immigration and Multicultural and Indigenous Affairs, the Hon. Senator Amanda Vanstone.

The government does not support this motion. The motion is simplistic in its response and unrealistic in terms of what is actually happening in Aboriginal communities throughout Australia. With the greatest respect to Senator Ridgeway, I ask: has he actually been to Palm Island? I have been to Palm Island, Senator. I have met with the people and I have seen the infrastructure. I have experienced the difficulties that they experience in accessing services and in their capacity to make some meaning of their lives on Palm Island. I was there last year in October observing the work being carried out there by the Australian Army engineering corps.

Palm Island, as many in this chamber would know, is some 65 kilometres north-east of Townsville. It is home to approximately 3,000 Aboriginal residents. The Palm group of islands is the traditional country of

the Manbarra and the Bwngcolman people. The settlement was established in 1918 to replace the Hull River Mission near Tully in north-east Queensland. There are 40 distinct clan groupings on this island, so it is a grouping of disparate, dispossessed people. That is one of the roots of the problem on Palm Island.

I was there observing the performance of the Australian Army. They had constructed some 20 new homes and assisted in repairing the hospital and the roads, including the airport access road. It had been a most successful program. They had spent some \$10 million making a substantial contribution to the lives of the people and their ability to gain employment. I saw the 20 purpose-built homes and I met the people who were going to live in them. I saw the upgrade and repair of the island's water treatment plant. I saw the upgrade, repair and installation of adequate drainage to Wallaby Point and Butler Bay; the provision of ablution facilities at the youth centre and the sports centre; the repair and upgrade of the access road; the beautification and installation of pathways at the children's playground adjacent to the main town site; and the refurbishment of the island's aged care facilities. Over 140 patients were being treated by the Royal Australian Navy dental team when I was there. I sat down with these people and I asked them: what is the principal overriding concern of people living on Palm Island? Their answer was, as one, very simple: 'We do not have a job. We are looking for employment. We are desperate to find a meaningful job so that we can support our families.'

The fact is the Queensland government has been sitting on its hands with Palm Island for far too long and this problem has been waiting to happen. I call upon the Premier of that state to conduct a meaningful inquiry that these people can relate to with respect to the death of the man in question.

When you have 40 disparate tribal groups dispossessed and placed on an island for as long as they have been, and who are utterly dependent upon welfare, this is the nub of the problem. They have got no self-esteem, no motivation and no desire to branch out and do anything meaningful given the dependency that they have been subjected to for such a long time. I call upon the Queensland government to not simply say that this is a matter of law and order; it is not. It is a much deeper problem, one which it, sadly, has been neglectful of. These people, as I say, are very keen to find jobs.

In many of the Army projects, the attendance record of the 40-odd Palm Islanders who were training and acquiring proper TAFE certificates was invariably 100 per cent. That sends the clear message to me as an observer that these people are wanting to get on with their lives and do something purposeful, and they cannot. The island has very limited opportunities. There are a host of proposals—indeed, I put some ideas in the minds of the ATSIC people who provide services to that island. Nothing much has happened, obviously, and it is of great concern to me.

I am convinced that, with a very small amount of lateral thinking and effort on the part of the Queensland government, things can be changed on Palm Island, but there needs to be some political will. I observed both in native title in Queensland and on Palm Island no political will whatsoever from the Queensland government to engage these people and put them on the right path. It has been left to the Commonwealth government through this plan and AACAP for the Australian Army to go there with the Navy to attempt to provide some form of assistance and support to these people.

I come back to the wider problem, and this motion talks of race riots in Redfern and

on Palm Island. On my part, the beginning point to addressing Aboriginal issues is compassion. We must have compassion for Aboriginal and Indigenous people in this country, but it is not a one-way street. There must be a reciprocal discipline disclosed in each community in each part of Aboriginal culture that says, 'We are unhappy about spending the rest of our days utterly dependent upon government handouts.'

I celebrate Noel Pearson's and so many of his fellow travellers' attitude to that in this area. It is time. The minister, to her great credit, has bitten the bullet and said, 'If you do not send your kids to school, you will not go to the swimming pool. If you do not get a uniform and if you do not participate and enrol your children in education and start assuming some responsibility then there will be no government support.' This, I must say, is long overdue. Senator Ridgeway, I share many of your sentiments with respect to what has happened on Palm Island—be in no doubt, I share them—but it is not a one-way street and some responsibility and leadership—that good old word—as you have enunciated today, has to come forward.

The dependency and the frustration that flows from that requires leadership from Aboriginal people. 'Self-determination' has simply been a euphemism for the strongest dominating the weakest in Aboriginal communities. The levels of domestic violence, criminal violence and unemployment in Aboriginal communities are unrivalled and unparalleled around Australia. When we say that in order to receive government largess you have to get up off the ground and do something to earn it, you have to work for the dole, so many people are up in arms saying 'This is not right.' Let me tell you, Mr Acting Deputy President, it is right. The government has come to the conclusion that the ATSIC fantasy of spending money and living high on the hog while the people at the

bottom of the ladder get nothing is coming to an end. (*Time expired*)

Senator CARR (Victoria) (4.23 p.m.)—The opposition will be supporting this timely urgency motion moved by Senator Ridgeway, and I take this opportunity to congratulate him on the speech that he has just given. I am particularly concerned that it is necessary for this chamber to actually bring forward a motion of this type, effectively condemning the government for its failure of leadership on the issue of deaths in custody and, of course, on the broader question of its failure to implement the recommendations of the royal commission on the same matter.

I am frankly appalled by the death of Kumanjayi Doomadgee. According to the newspaper reports that I have read, Mr Doomadgee suffered several broken ribs and a ruptured liver and spleen as a result of attacks on him while he was in police custody. He was left alone, quite contrary to all police procedures and what we understand to be public knowledge of these matters. He died in police custody in circumstances which can clearly only be described as shameful and shocking, and yet we have been told that this was a relatively minor matter and that the actions of the police were entirely appropriate. As far as I am concerned, I welcome the statement by the Queensland Premier that there will be a rigorous and immediate inquiry into the actions of the police in this matter. Frankly, there ought to be.

The issue of Aboriginal deaths in custody was a matter of major public debate at the time of the royal commission back in 1991. The number of Indigenous people that were being incarcerated and the number of people dying in custody was generally acknowledged as a matter of great shame to this nation as a whole. However, since the election of this government we have seen a deliberate policy by this government to try to remove

this issue from public debate and from public consciousness. In fact, the government sees its role in leadership as one of removing the question of reconciliation from the national consciousness. If it was a disgrace 10 years ago, it is a disgrace now to have so many Indigenous people being incarcerated and to have so many people dying while in custody. The truth of the matter is that Indigenous deaths in police custody in 2003 stood at 1.9 per 100,000. For other Australians, the figure was 0.1 per 100,000. It is quite clear that in many areas of public policy the treatment of Indigenous people is so completely different from the treatment of other Australians.

In 2001, Dr Bill Jonas, who was then Aboriginal and Torres Strait Islander Social Justice Commissioner at HREOC, spoke publicly about the sorry situation that we find ourselves in. He also spoke of the underlying causes of that situation. I am sure that when you hear a few of the remarks that Dr Jonas made you will not be surprised to hear that Dr Jonas is no longer in the position of social justice commissioner. Dr Jonas said in 2001 that the year 2001 marked the 10th anniversary of the final report of the Royal Commission on Aboriginal Deaths in Custody and that also recently commemorated was the 10th anniversary of the Mabo decision, which 'rejected terra nullius and recognised the continued existence of native title. It is also the fifth anniversary of the *Bringing them home* report'. He also said that Indigenous affairs seems to have become a series of anniversaries, operating as an annual reminder of the unfulfilled promises and commitments of governments.

Dr Jonas acknowledged that there have been some genuine efforts made on the part of some governments—and I would include the Queensland government in this—to address this issue and its underlying causes. But he said that, 10 years on, there seems to be hardly a 'murmur of discontent, let alone

outrage among the community about the situation'. Dr Jonas points out the Howard government's failure to commit to a genuine and explicit process of reconciliation as crucial to this situation and to the appalling living conditions faced by so many of Australia's Indigenous people.

This is a country where Indigenous people have the worst health outcomes of any people in many of the world's poorest countries. We have the world's highest rate of trachoma. We are, of course, the only developed country where blinding trachoma remains. Other countries where trachoma is prevalent include Ethiopia, Afghanistan, Iraq and Vietnam. Death rates of Indigenous Australians from cardiovascular disease are five times higher than for others within our community.

Dr Jonas said in 2001 that the Howard government's 'practical reconciliation' approach was flawed and doomed to failure. He said:

The impoverished notion of practical reconciliation will not in and of itself lead to meaningful reconciliation between Indigenous and non-Indigenous peoples. It is simply not enough to assert that what is needed is for Indigenous people to assimilate to mainstream society or that reconciliation will be the product of a country that is relaxed and comfortable with itself.

We know that this government has now gone further and is seeking to force behavioural change on Indigenous people in return for basic services and financial support that are their right as citizens. We have just heard a senator from the government side talk about 'government largesse' in return for these changes in behaviour. There seems to be a presumption on the government side that shared responsibility policies mean that only some people will be able to access government largesse when we would regard that access as a basic right and entitlement. A fundamental change is being proposed by

this government in a most paternalistic and authoritarian manner.

The government policies we have seen have not resulted in much improvement in any of the social indicators. That simply is the case. In the case of Palm Island, the Queensland government may well be criticised for not acting quickly or decisively enough to improve the conditions of the people on Palm Island. However, the Queensland government has taken quite extensive steps and has developed far-reaching plans. The Aboriginal and Torres Strait Islander Justice Agreement, signed between Indigenous leaders and the state government in 2000, is central to this process. A progress report on the agreement notes with regret, however, that it will take many years to achieve a significant reduction in Indigenous incarceration rates. It goes on to say:

Importantly ... a long-term reduction in over-representation—

of Indigenous imprisonment—

cannot be achieved without also addressing the underlying social, cultural and economic issues that contribute to this over-representation.

It is a pity that this government does not understand that basic principle. The nub of the issue is as simple as this: until the economic and related circumstances of Indigenous people in this country are significantly improved there will be no improvement in their lives and overall wellbeing. As a nation, as governments, we have to face the challenge squarely and work in genuine partnership with Indigenous communities and their leaders. We have to be able to provide opportunities that create employment. We have to build industries in local communities. We have to provide meaningful and appropriate training opportunities. We have to lift our performance in delivering education to Indigenous communities.

Specifically on Palm Island we certainly have to implement an alcohol management strategy, but we also need an economic management strategy. Alongside employment in industries like tourism, aquaculture and service delivery, we need an economic plan for local government on the island. This plan must ensure that local councils do not have to have an undue reliance on alcohol sales to maintain an independent source of income. One of the deepest core problems on the island is its local government's economic dependence, and that has to be addressed squarely by all governments concerned. That is the collective responsibility of all Australians. It is the role of the Commonwealth government to show leadership and to put in place policies of its own that will increase the economic independence and self-reliance of Indigenous citizens. As Bill Jonas said, practical reconciliation is an 'impoverished notion'. It has contributed substantially to the continued and worsening impoverishment of Indigenous people in this country. The opposition supports the motion and calls on the government to do likewise. (*Time expired*)

Senator NETTLE (New South Wales) (4.33 p.m.)—The Greens support the urgency motion moved by Senator Ridgeway. The ongoing tragedy of Indigenous deaths in custody is compounded by this government's refusal to take action to reduce the entirely unacceptable rates of Indigenous incarceration and disadvantage. Indigenous people are imprisoned at between 15 and 16 times the rate of non-Indigenous Australians. In 1991 the Royal Commission into Aboriginal Deaths in Custody identified the massive overrepresentation of Indigenous people in our prisons as a key factor in the disproportionate number of Indigenous Australians who die in custody. It is wholly unacceptable that, while Indigenous people represent only two per cent of the total Australian population, in the 13 years since the royal commis-

sion the Indigenous proportion of our prison population has risen from around 14 per cent to 20 per cent.

Since the royal commission, the greatest relative increase in incarceration has been for Indigenous women. The Indigenous female prison population increased by 262 per cent between 1991 and 1999. In June 2003, Indigenous women were incarcerated at a rate 19.3 times that of non-Indigenous women. Indigenous women were 24.4 per cent of women prisoners in 1991 and 32.8 per cent in 2003. The Royal Commission into Aboriginal Deaths in Custody identified many causes for this overrepresentation, including past colonial practices of government, inappropriate police behaviour, the criminalisation of public order offences, socioeconomic factors including poverty and high unemployment, and a focus on law and order rather than the more modern and appropriate approach of community policing.

The Greens fully support the implementation of all the 339 recommendations of the Aboriginal deaths in custody royal commission. We must seek to massively reduce rates of Indigenous incarceration if we are serious about eliminating Aboriginal deaths in custody. This is essential if we are to prevent the sorts of events we have seen recently in Palm Island and Redfern. But we must go further than this: we must address the disadvantage, the poverty and the appalling health, employment and housing conditions that plague Indigenous communities across the country. We must address this disadvantage by recognising a history of injustice and neglect that generations of Indigenous Australians have suffered at the hands of white Australians and white governments. We must also support Indigenous self-determination and Indigenous representation at all levels of decision making in the community and in the national parliament rather than abolish the only national elected Indigenous voice.

It is heartening to see that, where the government has failed to respond to engage with reconciliation, land rights issues, a treaty or an apology to the stolen generation, the community has taken up these issues wholeheartedly. I hope to join Michael Long tomorrow, as he walks into Canberra on his long walk, to show the support of the Greens for the Indigenous issues he is raising. I hope other senators and MPs will join him in that walk tomorrow morning. We have seen this sort of support—for Michael and for the people of Palm Island and the Redfern community—coming from the community, but we often fail to see it coming from government.

Senator SCULLION (Northern Territory) (4.37 p.m.)—First of all I would like to thank Senator Ridgeway for this urgency motion. I know that he has brought this motion forward to encourage debate on a matter that he is very passionate about, and I commend him for his continued leadership in this area. It is unfortunate, though, I have to say, that I am unable to support the motion. The reason is that the premise on which this motion is brought is that the government has failed to provide any leadership on these issues. Because that is false, I simply cannot accept it and for that reason I cannot accept the motion.

It is without doubt that the circumstances in which Aboriginal people find themselves, as has been well articulated in this place and is well known to the public, are of concern to every Australian, including the fact that Aborigines live on average 20 years less than mainstream Australia. We heard today in this place the shocking statistic that an Aboriginal woman has 11 times the chance of being murdered than any other Australian. I share with the senator, and I am sure with all Australians, my shock and horror at the circumstances recently in Palm Island with the death of Kumanjayi Doomadgee and with

the subsequent burning, riots, violence and horror that everybody in that community must have felt.

As I said, I cannot support the motion because since it has been elected this government has been committed to improving the lot of Indigenous Australians. We have recognised that their lot is not the same as other Australians. I will cite the reasons I feel this—it is not just a view; it is actually a fact. You can look at any of the indicators across a broad range of areas. There has been an increase of 22 per cent in employment, 25,000 extra people have access to accredited training and new apprenticeships have risen by more than 50 per cent. In the area of health, Aboriginal deaths from respiratory illnesses are still four times the rate for other Australians, but they have been reduced by half, so we are heading in the right direction. I accept that that is not quick enough, and that is why we are here today. Ten per cent of kids are staying at school. That needs to be higher, but it is improving. Well over 10,000 more homes are now owned or are being purchased by Indigenous people since we came to government. Sixteen per cent of the Australian continent is now owned and controlled by Indigenous people. That leads to a great change in how people feel about themselves, particularly with regard to their connection to the land. Aboriginal deaths in custody have been reduced by 50 per cent.

With those statistics we could say that the situation is better. My government accepts that it is still not good enough. We could claim that some \$2.9 billion has been spent on Indigenous affairs and looking after the benefit of one particular aspect of Australians, but it really means nothing unless we look at the way we spend it. This government's vision to ensure that Indigenous Australians share equitably in opportunities, in both an economic and a social sense, has to

be underwritten by a change in the way we do things.

There is a bit of a saying that the definition of lunacy is to keep doing the same thing and expect a different outcome. I have to say that I was a bit disappointed with Senator Carr saying, 'Look, you guys over there, you can't possibly be patronising, you can't possibly come up with dramatic, draconian answers; just potter along doing the same thing and no-one will notice.' The message to Senator Carr is that, if you do that, nothing will change, and this government is absolutely determined to change the lot of Indigenous people.

We have had so much criticism over the abolition of ATSIC. Let me tell you: as part of a committee I travelled around this country and the only people who gave evidence to me were people who either were directly employed or had a direct association with that organisation. In the communities, from the people who are receiving those services, there was overwhelming silence with regard to ATSIC disappearing. Most of the people I talked to in those communities were very much looking forward to ensuring that the arrangements that are put in place after ATSIC are of great benefit to them.

I also heard in Senator Carr's dissertation some reference to the processes of the regional councils going by the by. The very first task that we gave the regional councils was to ensure that the consultative processes to be put in place to follow them were put in place by them, with recommendations. The principal changes we have now put in place are not necessarily about houses and infrastructure; they are about the process. We have brought about a structure that now contains the most powerful people in Australia. We have brought together the minds of people and said, 'We need to look very carefully at what we're not doing right and how we

can change this.' All the ministers across government who have anything to do with program delivery in Indigenous affairs now make up the ministerial task force, and the secretaries and the CEOs at those very high levels make up the secretariat group that supports them.

We also now have the National Indigenous Council, which is going to be able to give us advice. Those are people who have some experience with program delivery in a lot of the social and economic outcomes we are talking about. It is very sad that the National Indigenous Council is already being debunked by all these people who know so much better than those fine Aboriginal people who now make up that body. Many of them have been shamed by people saying, 'No, you can't make a contribution; you can't be part of the solution.' I think that is an absolute outrage.

In the Northern Territory, as a part of this process we have had the COAG trials, which have trialled a new way of doing business. We are making sure that we are improving the lot of Indigenous people on the ground, because we know the close association between the levels of disadvantage and the number of people who are appearing before the courts. That is the issue that we are talking about today. I am very proud of this government's record in ensuring that we make those changes. I think at the moment that we are ready for the next step forward in ensuring that we change the processes to actually deliver some improvements to the lot of Aboriginal people.

There was reference to the reporting process. I know that in 1997 the reporting process of Indigenous deaths in custody changed and were no longer adhered to, but it is not right to say that this government did nothing then. In 1997 we held a ministerial summit into Indigenous deaths in custody. We knew that

the best delivery was a partnership delivery—that is the way of this government—and we have ensured now that every state and territory has some sort of a partnership, either an Aboriginal justice strategy or some sort of Aboriginal justice amelioration challenge. That is what we did. We did not just stop writing it down. I do not think there would be many Indigenous deaths in custody that this nation does not know about and is not concerned about. I repeat: I thank the senator for his motion and I know it continues his leadership role on this issue, but I cannot support the motion on the basis that it is crafted on an incorrect premise.

Senator CHERRY (Queensland) (4.45 p.m.)—This is a very important motion, and I congratulate my colleague Senator Ridge-way on bringing it forward. It is important that we debate in this place the status of Aboriginal deaths in custody and the best way forward. I was disappointed by Senator Scullion's contribution that the government cannot support this motion, because this motion calls only for:

... annual reporting by State, Territory and Federal governments on the implementation of the recommendations of the Royal Commission.

What is wrong with that? What is wrong with acknowledging it is a Commonwealth responsibility to coordinate these areas, report annually and make sure that this issue is not lost and just swept under the carpet?

As a senator for Queensland, I have been deeply disturbed by the events on Palm Island. Queensland has had a very poor record on race relations for many years, and it seems old lessons are dying very hard. Premier Beattie keeps telling the people of Palm Island to wait for the Crime and Misconduct Commission investigation and to 'show some leadership'. Yet the Premier and the police commissioner have prejudged the inquiry by declaring the police innocent of any

wrongdoing, even before any witnesses are interviewed.

Mr Doomadgee died of intra-abdominal haemorrhage caused by a ruptured liver and portal vein after being taken into police custody—but the Queensland government is yet to treat the death as a death in custody. While the Aboriginals involved with the subsequent riot have been arrested and incarcerated, the police involved with this death in custody are yet to be suspended. Sympathy or understanding for the family and the community have been absent. I do not condone violence but, in the face of such governmental and official indifference, I can understand why the community of Palm Island has erupted. As Madonna King in yesterday's *Courier-Mail* said:

The way the Beattie Government and Police Commissioner Bob Atkinson have handled the riot, prompted by the death in police custody, raises many questions. And, unless those questions are answered fully and openly, the same suspicion that fuelled the fury and the rage that led to last week's riot will continue to grow.

I visited Palm Island some three months ago and met with local councillors, teachers and the CDEP program organisers. There is some very positive, very constructive work being done on the island to build a vibrant, positive community, yet they face many serious problems. The community want to achieve more, and they want the government to work with them to do so. But reverting to the age-old race relations tactic of blaming victims will do no good.

I wish to extend my sympathies to the family of Mr Doomadgee and to the community of Palm Island. I wish to call on the Queensland police and the government to show due respect to the family's grief in the lead-up to the funeral and to treat with full seriousness this death as an Aboriginal death in custody. Finally, I seek leave to incorporate into *Hansard* an open letter from Mayor

Erykah Kyle of the Palm Island Aboriginal Council to the Premier, which was released on Sunday—an eloquent plea to the government, the community and the media for better understanding of the circumstances of this dreadful incident.

Leave granted.

The document read as follows—

Sunday 28 November 2004

Open Letter from Palm Island Aboriginal Council to the Premier

This letter was presented to the Premier and other recipients at the Palm Island Council today.

cc Aboriginal & Torres Strait Islander Policy Minister Liddy Clark, Police Minister Judy Spence, Police Commissioner Bob Atkinson & Media

Dear Mr Beattie

The Palm Island Aboriginal Council, with the support of the Aboriginal Local Government Association of Queensland, would like to express their deep disappointment at the criticisms which have been levelled at our Councillors and community over the past 24 hours.

As you may be aware the Council has sent a response to your statement, 'Premier calls for Palm Island Council to show leadership', to the media late yesterday.

The Council has been frustrated you have not seen fit to communicate with us directly on these matters before now.

Our hands have been tied for these past few days by the 'State of Emergency' imposed upon us and our people are feeling under siege after seeing the various—and some incorrectly reported—media items yesterday on radio, television and print news.

A man has died in police custody. Our people are angry. We are all affected by this, including our Council members.

The following issues need to be resolved immediately:

1. The removal of these services from the island has been extreme and unnecessary.

There has been a mass exodus of services from the island. Of immediate concern is the lack of medical staff at the hospital. Negotiations to re-staff and restore full medical services to the island are of utmost priority.

For reasons it is difficult to understand teachers from our schools have also been evacuated from the island and we are concerned that our children will miss schooling as a result of this evacuation. What arrangements will be put in place to cater for our children between now and the end of the school year?

No fresh bread or milk has been delivered to the island since Friday morning which has been of great concern to parents on the island—when will these deliveries be restored?

2. The police have been more than heavy-handed in their dealings with the community and community people, including our children, are feeling terrorised. The heavily armed presence of 80 police is not necessary at this time and those extra police should leave the island as soon as possible so real order can be restored by the Council and the people they serve.

To date 13 people, including a minor, have been removed from the island and taken into police custody. Late last night three of those people were on suicide prevention watch. Yesterday the police systematically raided the homes of those they believe to be suspect over yesterday's events—we have had many reports of both children and old people being unnecessarily frightened and mistreated by the police while these raids have taken place.

We have had one report of a man who already had a broken bone being thrown to the ground in front of children and stomped on by police officers—this is terrorising our community people. Council has also had reports that Task Force officers are 'running the streets' in full armoured uniform including balaclavas, and fully armed in some areas of our community. The island is otherwise calm, and has been for the past 24 hours, other than where these raids have taken place. The raids are scaring our people and adding to feelings of fear and uncertainty.

At no time have these heavily armed and numerous police ever had need to 'fear for their lives',

as reported by one media outlet. Police Commissioner Bob Atkinson should clarify and retract his statements to the contrary as soon as possible.

Despite the numbers of police currently on the island, the police have drawn Council's attention to a weapon missing from the police station and asked the Council to investigate this matter themselves. The only description they have offered is that the missing weapon is 'high powered'. No explanation has been offered as to how or why this weapon was able to be removed from the police station by a member of our community.

The Council would like a guarantee there will be no police presence, or evidence of a police presence, at the funeral service of the young man who died when it occurs.

3. Alcohol has not played a role in any of the events of the past three days after the Palm Island Canteen was closed by the Palm Island Council on Tuesday. Statements by the Police Minister to the contrary should be retracted.

4. The declared State of Emergency has prevented our Council from taking up a leadership role.

Three members of our Council have not been able to return to the island as a result of the State of Emergency declared on the island. Council also understands more than 50 people were left stranded in Townsville on Friday evening after ferry services to the island were unnecessarily suspended and further concern has been caused by the inability of people to either get to or leave the island since then. When will our normal transportation services be resumed and what compensation will the government offer the innocent people who were affected by the suspension?

why were the police told to evacuate all white people and 'any decent blacks' from the island?

The current status of the State of Emergency has not been communicated to the Council—no officer in charge has been identified and no certificate, as per the Public Safety Preservation Act (1986), has been issued.

5. The inability of Council to communicate directly with yourselves and/or the people able to make decisions about the issues outlined here has prevented us from taking on the leadership role you have accused us of lacking.

There were published (Townsville Bulletin, 23 Nov) calls for police and government representatives to come to the island to allay the concerns of our community about the death in custody as early as Tuesday this week which were ignored. Had the government heeded these calls and accepted the leadership of those who made these calls the events of later in the week would have been averted.

In regards to the bigger issues—the reasons for these current events—Council would like to make the following statements:

1. The young man this community has lost was known to be reliable and jovial, although generally of a quietly spoken and calm disposition. This young man was a hunter for the community and had never been in trouble with the law or the community. He was a fine example for our young people and admired for his character by our elders. His loss will be felt keenly by many of our people, particularly his family. Our people feel strongly that a grave injustice has occurred.

2. Deaths in Custody have been an issue in all our communities for many years—two deaths have occurred on DOGIT communities in the past two years and the systems in place for preventing these preventable deaths are inadequate. For 13 years there have been 297 recommendations for preventing deaths in custody, not nearly enough of them have been implemented.

Regardless of the causes of those injuries to the young man it is inexcusable that he was left unattended in the watch house until it was too late—the government and the police must accept blame for the current situation.

The Palm Island Council and community and all the Aboriginal people of Queensland call on the government yet again to re-visit the recommendations and implement all of them as soon as possible so the events of the past week never happen again.

3. Council has received reports that this is not the first time Police Sergeant Chris Hurley has had to be removed from a community because a similar series of incidents. If this is the case Council would like to know why Officer Hurley was re-assigned to another Aboriginal community without consideration.

3. There were no deaths or injuries as a result of events on Friday.

4. The Council is in no way to blame for the events of the past week.

In terms of a way forward Council would like to state that the people who make the decisions need to be coordinating with the Council to put processes in place to resolve these issues.

The way forward over the coming weeks and months will be difficult. Trust has been broken and needs to be restored. The people of Palm Island must be able to live in peace and with confidence there will be never be a repeat of the events of past week.

The way the government and authorities deal with the Council and the community in future should be respectful and on equal terms so all parties are able to take on their appropriate responsibilities with all lines of communication remaining open regardless of circumstance.

Erykah Kyle

Palm Island Mayor

Vince Mundraby

Interim President

Aboriginal Local Government Association of Qld

Senator MOORE (Queensland) (4.48 p.m.)—I also wish to thank Senator Ridge-way for putting this very important issue back on our agenda—and I say ‘back on the agenda’ because these issues have come again to our Parliament House. Once again, the issues of Indigenous disadvantage—and, in particular, the high number of Indigenous people who are caught up in the justice system and, in many cases, the lack of justice system—have been brought to this place based on a personal crisis. This issue probably would not have come back in this way to this chamber if there had not been the horrific incidents on Palm Island in Queensland.

Again we are gathered around to talk about issues and again there is so much agreement. I keep saying that in this place. There is so much agreement on what should and could be done, but this motion is trying

to achieve more than words—some genuine action. When the original Royal Commission into Aboriginal Deaths in Custody report was brought down—the entire five volumes and 339 recommendations—many people read it because it was a threshold document in Australian history. At the time, there were numerous statements made about what was going to happen in the future and how the crisis of the number of Indigenous people who had been killed in custody brought forward the royal commission. After that, we went into a process which was supposed to include all levels of government—not one level or the other, because increasingly what seems to happen when we have these important and very personal issues before us is that it turns into a ‘pass the issue’ game. Whose responsibility is it? It is the states’; it is the federal government’s. It does not belong to any single level; it belongs to all of us. Until that lesson is learnt, these debates will continue. There has already been a great amount of work and so many words on this issue.

In the 1997 conference to which Senator Scullion referred, the National Ministerial Summit on Deaths in Custody—a one-off meeting—there was an expectation of some people that that review would continue and that it would continue to look at the real issues and the people. We have heard the stats. These issues consistently degenerate into an argument about statistics. Numbers are thrown around and what we end up with is a fight. That is not what we want. We want to have some commitment to action. In 1997 the National Ministerial Summit on Deaths in Custody had all the relevant ministers at the Commonwealth, state and territory level—except, at that stage, the Northern Territory. A good thing that has occurred is that, if there are any future actions, the Northern Territory will be there. Ministers made a wonderful statement—we make lots of wonderful statements—and they said they:

(a) agree that the primary issue of concern is the significant over-representation of Indigenous people at all stages of the criminal justice system ...

... ..

(c) acknowledge that addressing the underlying issues is fundamental to the achievement of any real, long-term solutions to the issue of Indigenous incarceration and deaths in custody; and

(d) recognize that it will take the combined effort of Commonwealth, State and Territory Governments and Indigenous peoples and the wider community to effectively address Indigenous over-representation.

We all agreed, we all felt good and we all went home—and the problems continued.

The ministers went on and resolved—also something that we can all agree to—to address the overrepresentation of Indigenous people in the criminal justice system in partnership with Indigenous people. They also resolved:

... to ‘develop strategic plans for the coordination of Commonwealth, State and Territory funding and service delivery for Indigenous programs and services, including working towards the development of multi-lateral agreements between Commonwealth, State and Territory Governments and Indigenous peoples and organizations ...

The statement then referred to all the things that could be brought together in this process. Once again, we all agreed. We have been saying the same things this afternoon about what should happen, about having partnerships and about setting up plans.

But, even in 1997, the then social justice commissioner and the Aboriginal and Torres Strait Islander Commissioner, who were at the summit because they are Indigenous people, refused to be signatory to that wonderful resolution. People questioned why they would not sign up. The reason they did not sign up in 1997 was that they were ‘concerned that the summit outcomes unfortunately replicate the vague, generalised ap-

proaches of the past, which have been marked by refusal to commit to achieving specific, measurable outcomes within specific time frames’.

In 2004 that sends us a really clear message. What more does Senator Ridgeway’s motion want? We have the agreement. We want exactly what the Indigenous people were asking for then. We have the theory, we have the goodwill—they are there. We want some clear action. It is important that leadership is shown, and it is important that the levels of government, particularly at the state and federal level, will accept that it is not some kind of contest. It is more important than scoring political points; it is about people’s lives. In this case, as we have all agreed through volumes of statistics, they are people who suffer significant disadvantage. No-one questions that. What we seem to question is how we will address it.

In terms of the roles of the different levels of government, we need to have some understanding that Indigenous people must have a voice in the process. I was pleased to hear Minister Vanstone’s response in question time this afternoon. She acknowledged that there have been ‘decades and decades of disadvantage’, and that it is not good enough to ‘replace one set of representative structure with another’. There is no disagreement with that. We want to know how it will work and what will be done. Standing up in this place quoting stats, talking about how much money went where and how many houses have been built does not address the problem. We know where there has been some advance. But we also see the tragedy that occurs in places like Palm Island. The basic reason for that is that we have not achieved any trust. There is no trust and no hope amongst some of those communities. For me, that is certainly the overwhelming tragedy of Palm Island.

In an area where there has been state, federal and local government involvement, we still have simmering anger and an overwhelming lack of trust. When the tragedy of a loss of life occurred—and no-one can disagree that it was a tragedy—the response was so violent and so overwhelming. It is a good thing that Premier Beattie went to Palm Island, and I am pleased that there is a five-point plan. I am fascinated, though, how that five-point plan will be entrenched in the community—not imposed and no more rules put on people. I hear about the kinds of programs that seemingly are going to engage Indigenous people, by telling them, ‘No school, no pool.’ That is so sad. It is also without any future. Communities have every right to make the decisions. But to have that kind of simplistic program imposed on top does not address the key issue. We need to put these great words into practice. The way to do that is certainly not by talking at Indigenous people. We need to have the voices of Indigenous people heard. We always seem to trip up over that bit.

With this process, there needs to be some genuine action, some cross-government co-operation and also, as Senator Ridgeway has asked for, some regular review. We do not want glossy little leaflets talking about who has visited where and what photographic opportunity has occurred. We need to have some understanding of what real change has been planned and have that measured. It may come down to some communities wanting a process that links their welfare payments or their entitlements. It is not largesse; it is an entitlement as a citizen of this country to a payment that any of us could get if we were in the same circumstances. If there is a decision that is agreed at the local level to implement some of those programs, so be it. But to have some centralised group determine that one set of rules will apply to one group of the community—one group that we

have already agreed at every level suffers from extreme disadvantage—just continues the pain and the tragedy. If there is going to be a positive outcome out of the tragedy of Palm Island, let it be that we can achieve some genuine change. Let us not have more pages of high-sounding rhetoric. Let us see what genuine changes can be made and maybe then the five-point plan can have a five-point result.

Senator HEFFERNAN (New South Wales) (4.58 p.m.)—Thank you, Aden, for your motion today. I do not know why we do not have reporting—which is referred to in the latter part of your motion—but I bloody well intend to find out. I guess the danger might be that it is just another bureaucratic process that produces no outcomes. I rang Michael Long today. He was walking through Yass. There was a cool change. He said he had sore feet, but the weather had cooled down. He is to meet the Prime Minister on Friday morning. I said, ‘Why don’t you come up to parliament tomorrow afternoon?’ I have invited him up here tomorrow afternoon to meet a lot of people who are very sincere and committed to making things better for our Indigenous people.

I think there is a lot of goodwill in Australia, but I am sick of all the political rhetoric and a lot of the garbage that comes through this place at times in terms of long-winded speeches when it is only these walls that are listening. I do not think national days of recognition are the solution to any of this. Could someone explain to me how national days of recognition for our kids have done anything to solve the plight of 1½ million kids in South-East Asia and a million kids in South America who are tourism products for sex? Good-o, we will have a national day of recognition; it does not do much for them. On the night of the day people walked over the Sydney Harbour Bridge, Margaret Valadian posed the question: now that the Western

Australian government has apologised, how are the Indigenous people of Western Australia any better off? It is not a bad question. We have got to give our Indigenous people education. If we give them education, we can get some health outcomes through employment. We have got to give our Indigenous people a reason to get out of bed in the morning.

I would like to tell a little story. I went to Redfern a couple of years ago and there had been a drug raid there. I pulled up in my car and the mob said, ‘Gee, mate, don’t leave your car there. It’ll get knocked off or turned over.’ I said, ‘No, I’ve just come out here to say g’day to the mob.’ When I had finished with Mick Mundine and one or two others, I came out to the car and there was a bloke sitting in the gutter opposite my car. I got in the car and I thought, ‘I’ll go and say g’day to him.’ I got out of the car, went over and said to him, ‘How are you, mate? What are you doing?’ He said, ‘I’m just sitting here.’ I said, ‘What do you do?’ He said, ‘Every day I just come and sit here.’ He thought I was a policeman. Anyhow, I said, ‘Where’ve you been?’ He said, ‘I’ve been in jail.’ I said, ‘What were you in jail for? Did you stick someone up?’ He said, ‘I did.’ I said, ‘Were you hungry and short of money?’ He said, ‘I was, so I stuck someone up.’ I said, ‘Why didn’t you go and fill out a form and get the dole?’ He said, ‘I can’t read or write.’ I said, ‘Mate, do you want a job?’ He said, ‘Mate, I’d love a job.’ So I went about that process. I will not bore you with the rest of it.

Go out to Yuendumu and you will see that there are 450 kids at Yuendumu who should be going to school. The last time I was there I think 100-odd of them were going to school. What hope have they got? Half the adult population, who have got no reason to get out of bed in the morning, entertain themselves all night and sleep all day. The kids do not get tucker before they go to school and no-one gets the kids to school.

What hope have these kids got? If you go out to Mount Theo, you will see that these are distressing times for our Indigenous people. It does not matter how many speeches we make in this place; it is not going to make any difference. We have got to actually get things done. Things are being done, and positions have improved, but I do not think this should become a political contest of ideas. I think it should become a contest of goodwill.

For all sorts of reasons I think Michael Long is a really good example of triggering a new horizon. I think Michael Long ought to join the National Indigenous Council. There are a lot of good people with a lot of goodwill on that council. There are lots of people who say it is just a waste of time because we do not know how it is going to operate. There is now an inquiry in this Senate which has got an inevitable outcome because ATSIC is being closed down. I would appeal to Michael Long to become part of the brains trust. Michael Long is a person who is a doer. He has improved his lot in life, he has taken advantage of the will to improve his position and he is a shining example of what you can do. If I were a little kid out at Yuen-dumu who got up in the morning and Mum and Dad were not there, and it was time to go to school, and there was no lunch, and things were tough, and I turned on the telly and saw Michael Long, I reckon I would be interested.

While I commend the intent behind today's motion, Aden, and I think you are doing a good job by putting it before the Senate, I am not too sure that that bloke sitting in the gutter in Redfern would get any benefit out of anything we say here today, because he has no education. Redfern has been destroyed by people who plait their armpits and sell drugs. If you go to the tent embassy down here in Canberra, you will see a lot of well-intentioned people who feel that they have been bypassed by the system. They feel

that they have not had their first bite of the cherry while a lot of other people have got fat and rich. (*Time expired*)

Question agreed to.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator DENMAN (Tasmania) (5.05 p.m.)—On behalf of Senator Ray, I present the 11th report of 2004 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills *Alert Digest* No. 11 of 2004, dated 1 December 2004.

Ordered that the report be printed.

Senator MARSHALL (Victoria) (5.05 p.m.)—I seek leave to move a motion in relation to the report.

Leave granted.

Senator MARSHALL—I move:

That the Senate take note of the report.

I want to draw the Senate's attention to the Workplace Relations Amendment (Agreement Validation) Bill 2004. This bill amends the Workplace Relations Act 1996 to ensure the validity of agreements which were certified, approved or varied under the Workplace Relations Act on or before 2 September 2004, prior to the decision of the High Court in *Electrolux Home Products Pty Ltd v. the Australian Workers Union and Others*. The bill was the subject of an inquiry and report by the Senate Employment, Workplace Relations and Education Legislation Committee. The report was tabled in the Senate on 29 November 2004. The proposed new sections 170NHA, 170NHB and 170WEA of the Workplace Relations Act 1996, to be inserted by items 1 and 2 of schedule 1 of this bill, would retrospectively validate various types of agreements made under the act before 2 September 2004. As a matter of practice, the Scrutiny of Bills Committee draws atten-

tion to any bill which seeks to have retrospective impact and will comment adversely where such a bill has a detrimental effect on people. This is in fact one of those bills.

In this case, the explanatory memorandum observes that the purpose of the bill is to ensure the continued validity of various agreements, the validity which was put in doubt by the decision of the High Court in the Electrolux Home Products case. The minister notes in his second reading speech that the bill 'will put parties to an agreement in the position they would have been in if they complied with the Electrolux decision when they made or varied their agreement', prior to the making of their agreements.

The provisions operate to validate agreements only in so far as they 'pertain to the employment relationship'. It is possible that the provisions will be to the detriment of some individuals who have entered into workplace agreements which are retrospectively varied by the legislation. This is where the serious problem of 'trespass unduly' on people's rights takes place. When people make agreements under the Workplace Relations Act, they negotiate between the employer and the employees and they strike a bargain, and the bargain is a 'whole' bargain. There are many provisions in the agreement and employers or employees do not have the ability to cherry pick individual clauses of such agreements and say, 'I agree with that one' or, 'I don't agree with the other one.' They agree to an entire package. Once they have agreed to the entire package the agreement is certified.

What this bill seeks to do is vary those agreements retrospectively after the fact to give those employees and employers a lesser bargain. Clearly, as I understand it, the Scrutiny of Bills Committee considers that these provisions may trespass on personal rights. The question of whether they do so unduly is

a matter for the Senate as a whole. It is worth noting and I bring to the Senate's attention the view of the committee, as follows:

The Committee draws Senators' attention to the provisions, as they may be considered to trespass unduly on personal rights and liberties, in breach of principle 1(a)(i) of the Committee's terms of reference.

Question agreed to.

Legislation and References Committees Reports

Senator EGGLESTON (Western Australia) (5.09 p.m.)—On behalf of the respective chairs of the Community Affairs References Committee, the Environment, Communications, Information Technology and the Arts References Committee and the Rural and Regional Affairs and Transport Legislation Committee, I present reports on matters referred to these committees during the previous parliament. I seek leave to move a motion in relation to the three reports.

Leave granted.

Senator EGGLESTON—I move:

That the reports be adopted.

Question agreed to.

BUDGET

Consideration by Legislation Committees Additional Information

Senator EGGLESTON (Western Australia) (5.10 p.m.)—On behalf of the Acting Chair of the Employment, Workplace Relations and Education Legislation Committee, Senator Barnett, I present additional information received by the committee relating to hearings and supplementary hearings on the budget estimates for 2002-03, 2003-04 and 2004-05. There are eight volumes.

DELEGATION REPORTS**Parliamentary Delegation to the 50th Commonwealth Parliamentary Conference in Canada, and to the United States of America**

Senator HOGG (Queensland) (5.11 p.m.)—by leave—I present the report of the Australian parliamentary delegation to the 50th Commonwealth Parliamentary Conference in Canada, and to the United States of America, which took place in September 2004. I seek leave to move a motion to take note of the document.

Leave granted.

Senator HOGG—I move:

That the Senate take note of the document.

It gives me great pleasure to present the report of the Australian parliamentary delegation that attended the 50th Conference of the Commonwealth Parliamentary Association in Canada and then made a bilateral visit to the United States. The delegation, which was away for the first half of September this year, consisted of Senator Buckland, Senator Tchen and me. While in Canada at the conference, we represented the Australian parliamentary branch of the CPA. The theme for the CPA conference was 'Responsibilities and Rights of People and Parliamentarians in a Global Community'.

The conference brought together parliamentarians from across the Commonwealth to discuss issues. The conference also afforded delegates an opportunity to talk informally together, share experiences and build the friendships that can form the basis for future international cooperation. I had the honour of delivering a paper at the conference, on the topic of gender, democracy, peace and conflict. In the paper I noted the tremendous work done by Australia's women peacekeepers in our region. I should mention that the delegation came away from the ple-

nary conference concerned at its scale. If these conferences were held once every two years instead of every year, then more resources may be available for the CPA's activities at the regional and local level. It is, after all, at these levels that the real work and benefit of the CPA is felt. Having said that, the conference was very well organised by our Canadian colleagues and the delegation left Canada with memories of our hosts' warm hospitality.

Given Canada's proximity to the United States, the delegation continued the tradition of biennial contacts between Australian and American parliamentarians during the second half of its time abroad. The political, security, economic and social ties between Australia and the United States bind our two countries together closely. The bilateral visit allowed the delegation an opportunity to explore the depth of those ties. The delegation met members of Congress and public administrators; toured a defense plant; spoke to a number of Australian business people working in the United States; and met political commentators and experts in their various fields.

We also used the visit to present an Australian perspective on issues and to gain an insight into American thinking. The war on terror and the US-Australia free trade agreement provided a backdrop to many of the discussions held by the delegation, particularly in Washington. In fact, the delegation was in Washington on the third anniversary of the September 11 2001 terrorist attacks on the United States. We attended a very moving memorial service, principally for those who perished in the attack on the Pentagon building, and laid a wreath at the memorial to those who died so tragically. The delegation was very conscious of the heightened security at US border crossings and airports, and particularly in the streets and around the public buildings of Washington. The omni-

present security provided a sombre note to the delegation's discussions about US foreign policy and the war on terror.

As with the CPA conference, the visit to the United States allowed the delegation members to talk informally with members of another legislature and build on the already strong rapport between the two parliaments. The value of the visit was that it gave the delegation an opportunity to see issues of importance to Australia from the perspective of another country.

Before I conclude I would like to thank the President of the Senate, Senator the Hon. Paul Calvert, for allowing me to represent him at the CPA conference and also to lead the delegation. I also wish to thank my colleagues who travelled with me—Senator Tchen, who was the deputy leader of the delegation, and Senator Buckland—for making the delegation such a tight-knit and harmonious group. The delegation was enriched by the company of Senator Tchen's wife, Pauline, and my own wife, Sue.

I also wish to thank the many officials—Australian, Canadian and American—who helped the delegation at various stages of its trip. Further, I wish to record my thanks to the delegation secretary, Mr James Catchpole, who was ever vigilant in ensuring that we reached our appointments on time and that our meetings were conducted in a very businesslike manner. His professional approach to the whole trip was highly commendable, and I know it was appreciated by my colleagues. I commend the report to the Senate.

Senator TCHEN (Victoria) (5.16 p.m.)—I rise to support the comments made by Senator Hogg regarding the report, just tabled, of the parliamentary delegation to the 50th Commonwealth Parliamentary Conference in Canada, and subsequently to the United States. I join with him in recording

our thanks to the many people who contributed to the success—and the comfort—of the delegation.

I would also like to take this opportunity to thank Senator Hogg, Mrs Sue Hogg and Senator Buckland for the fellowship they showed my wife and me during our visit to Canada and the United States. Of course, our thanks go to James Catchpole, the secretary to the delegation and an excellent minder. I must also thank Senator Ferris for insisting that I should take part in this delegation—I think for the purpose of broadening my mind. I regret to say that so far there is no evidence that this has happened, but it might.

The report just tabled provides a summary of the delegation's participation in the Commonwealth Parliamentary Conference in Canada, which Senator Hogg has also succinctly referred to in his speech. I have no need to embellish his account. Suffice it to say that, while this conference serves the very worthwhile purpose of promoting the strengthening of democratic practices in all member nations of the Commonwealth, the participation of parliamentarians from countries with a well-established tradition of parliamentary democracy and a strong economy—countries such as the UK, Canada, Australia and New Zealand—should be restricted, indeed self-consciously restricted, to providing an interested and supportive presence to the process of exchange rather than seeking to bring matters, which might seem important in their domestic politics but which are mere trifles on the global scale, to the discussion or evaluating everything on the basis of our own practices—tried and tested though they may be.

The United States leg of the delegation was again comprehensively covered in the delegation report just tabled. However, I would like to add a few comments in the following areas. The first concerns a visit to

the United States Library of Congress. On Tuesday, 14 September, following the delegation's round of meetings with members of the US Congress and Senate, I visited the office of the Congressional Research Service, a branch of the Library of Congress, which is approximately the counterpart of our Parliamentary Library. The Library of Congress is, of course, a much larger organisation, comprising, in addition to its congressional service unit, the national copyright office, a law library, the national archive, and a public access library. The visit was arranged at very short notice—and I thank Miss Tanya Smith from the Australian embassy for arranging it—to enable me to find out how the US provides its legislators with research support, in comparison with the excellent support senators and members receive from the Parliamentary Library. If there is an opportunity at some future date, I would like to speak on that topic.

The next visit was to the Office of Family Assistance. On Monday, 13 September the delegation visited a number of US federal offices, and among them was the Office of Family Assistance. The office is responsible for administering the Temporary Assistance for Needy Families program, worth \$US16.5 billion in the current year. The program is designed to promote employment amongst welfare recipients, on the basis that employment is the most effective way to help people rise out of poverty. This is in contrast to the conventional wisdom that increasing the level of education is the pathway out of poverty and welfare dependency. The approach is firmly based on the idea of mutual obligation. The Personal Responsibility and Work Opportunity Reconciliation Act requires minimum levels of work participation in exchange for time-limited social security benefits. These benefits are often in kind—that is, food vouchers rather than cash.

At paragraph 3.85 of the report the delegation noted that its discussions with Dr Wade Horn, Assistant Secretary for the Administration for Children and Family of the Department of Health and Human Services, and Mr Grant Collins, Chief of Staff of the Office of Family Assistance, were 'most thought provoking, particularly as elements of TANF'—the Temporary Assistance for Needy Families program—'contrasted sharply with the Australian welfare system'. This contrast is true only insofar as the Australian system exists in its present form.

It is a matter of fact that since 1966 the Howard government has introduced a number of programs to assist welfare recipients to rejoin employment—often in the face of strident attacks by the opposition, especially over the concept of mutual obligation. I note also that the government has flagged necessary major reforms in the Australian welfare system, precisely in the direction indicated by the TANF program, again with strident criticism by the opposition. I am therefore particularly pleased with the reaction of my colleagues to Dr Horn's briefing, and hopeful that the Howard government's welfare reform program, when it is in due course introduced, will receive positive response from the opposition. It should be of particular interest to the opposition that the TANF program was an initiative of the Clinton administration.

The third issue I wish to comment on is the Australian diaspora. The large number of Australians working and living overseas has been much discussed recently, largely in the context, it seems to me, of this being a sad thing and the need for these lost children of Australia to be brought home—as the emotive tone of the word 'diaspora' suggests. During the delegation's visit to San Francisco on Thursday, 16 September, through the good office of Mr Peter Frank, Australian Consul-General and Senior Trade Commis-

sioner in that city, we had a number of opportunities to meet with Australians living and working in the United States. As the delegation's report notes in paragraph 3.47, we were extremely impressed and pleased by the enterprise and knowledge of these Australians and the success they have achieved in the United States. Indeed, these expatriates do credit to Australia and their achievements and acceptance by the United States community bode well for Australia's increased participation in the United States economy under the Australia-US free trade agreement. They are not just part of an Australian diaspora; they are Australia's colonisers.

I would like to conclude with the observation that now that I have visited the United States I can say that I was indeed impressed by the size, the variety, the energy, and indeed the greatness of that country. However, it is not the best country in the world. The best country in the world is the one I came home to. I commend the report to the Senate.

Senator BUCKLAND (South Australia) (5.24 p.m.)—Being a participant in the visit, I would like to add some comments. I concur with all the things said by Senator Tchen and Senator Hogg. I begin by thanking the parliament for giving me the opportunity to participate in the 50th Conference of the Commonwealth Parliamentary Association. This conference gave me and my colleagues Senator John Hogg and Senator Tsebin Tchen the ability to meet with many fellow parliamentarians from around the Commonwealth.

I do not want to address this part of our visit in any great detail but I refer senators and members in the other place to the comments at the end of chapter 2 of the report. I will just mention two aspects that have been dealt with today but which I would like to deal with again. These matters have also been considered by previous delegations.

They are the need for an agenda and a format that encourages more constructive dialogue between parliamentarians and secretariat staff from the different countries, and a greater emphasis on the work done by the regional and local levels of the CPA. Apart from that I would just like to pay tribute to the organisers and host cities of Quebec and Toronto for their hospitality and the work they did to ensure that the needs of all delegates were catered for.

The substantive part of what I want to speak about is the bilateral visit to the United States following the CPA conference. Clearly, Australia and America being in election mode gave us an easy starting point for many of our meetings, both formal and informal. At Dallas-Fort Worth we visited the Lockheed Martin Aeronautics Co., where we inspected the production facilities and discussed the Joint Strike Fighter. It was pleasing to note that no fewer than nine small to medium Australian companies had won contracts for this project. Lockheed Martin also indicated it had identified a further \$US369 million worth of contracts that Australian companies can bid for.

Our discussions with ExxonMobil, the Australian subsidiary of which is one of our largest companies, gave us the opportunity to talk about their Australian operations, including those on the North West Shelf and in Papua New Guinea. We were also given an overview of their operations on a global scale. ExxonMobil sounded a warning that global economic growth will be compromised unless energy supply and demand challenges are met. They also said that energy conservation initiatives will assist demand to match supply. This sounded a bit like a motherhood statement and it shows that people in all quarters are talking about the problem but far too few are doing anything about it.

On Saturday, 11 September the delegation attended the Patriot Day observance memorial wreath laying at Arlington National Cemetery. We had the honour of having our delegation leader, Senator John Hogg, lay a wreath at the conclusion of the ceremony. This was a very moving yet very simple ceremony that really gave those attending the opportunity to focus on those souls who lost their lives on that tragic day in 2001, particularly those who died in the attack on the Pentagon. We were privileged to be seated among the survivors and relatives of the victims and we spoke with some of them following the memorial ceremony.

The other part of the visit I want to make reference to is the time we spent in San Francisco, and I will just mention a few of the things that were important to me. We had a working breakfast with the Australian-American Chamber of Commerce. This was an informal affair but it gave us a great opportunity to talk to Australians working in the San Francisco area and the local businesses they are working with. Some of those business people were taking advantage of the opportunities that have opened up for them in Australia from the other side of the Pacific as a result of their association with Australian companies and Australian members of the chamber.

A number of members from both sides of the Pacific spoke highly of Austrade and the services available through that body. That was particularly pleasing to me as I have been a great fan of Austrade for some years now, having had dealings with it prior to entering the Senate, through my membership of the Upper Spencer Gulf Common Purpose Group in my home state of South Australia. Austrade is clearly established and highly respected in San Francisco. My experience with it in that city was most rewarding, and this might have had something to do with Austrade's enthusiastic representative in San

Francisco Mr Peter Frank. Some at the breakfast seemed pretty keen to talk about the forthcoming elections in both Australia and America, and I have to say I was more interested in the trading opportunities that are clearly there for Australian companies to take advantage of.

We also met a group of Australian business representatives at the offices of Australian law firm Minter Ellison, which is well established in San Francisco. While I have tried to avoid mentioning any companies or individuals by name so as not to offend those I leave out, I particularly want to mention one who is involved in the agricultural industry—Mr Peter Moller of Agri-link International, a South Australian company that manufactures soil moisture sensors. Again, the entire group spoke highly of Austrade's services and the mentoring they provide. I also have to mention our visit to the Napa-Sonoma wine region and the exceptional contribution to the American wine industry that Australian winemakers Southcorp wines and Beringer Blass Wine Estates are making, but let me just say—and hope it does not get back to America—that our wines are still a bit better than theirs.

I want to close by thanking my fellow travellers—Senator John Hogg and Senator Tsebin Tchen—for their company and counsel during both sections of our visit. I especially thank Mr James Catchpole, who was I think our secretarial staffer but more importantly a great friend and travelling companion. Being without the company of my wife, and James being the same, we understood that we were worse off than Senator Tchen and Senator Hogg, but we did our best! I thank too those behind-the-scenes people here at Parliament House, who assisted in making our visit to Canada and the United States both memorable and worth while. Let me close by saying that during our visit I saw the other side of Austrade's work and it

really did delight me. I am only sorry that I could not spend more of our visit talking with the representatives of that wonderful organisation. I commend them to the Senate.

Question agreed to.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Cherry)—The President has received letters from party leaders nominating senators to be members of various committees.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.33 p.m.)—by leave—I move:

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

ASIO, ASIS and DSD—Joint Statutory Committee

Appointed—Senator Ray

Australian Crime Commission—Joint Statutory Committee

Appointed—Senators Denman and Hutchins

Broadcasting of Parliamentary Proceedings—Joint Statutory Committee

Appointed—Senator Faulkner

Community Affairs Legislation Committee—

Discharged—Senator Marshall

Appointed—Senator Moore

Corporations and Financial Services—Joint Statutory Committee

Appointed—Senators Lundy and Wong

Electoral Matters—Joint Standing Committee—

Appointed—Senators Carr and Forshaw

Employment, Workplace Relations and Education Legislation Committee—

Appointed—Substitute member: Senator Crossin to replace Senator Wong for

matters relating to the Industrial Relations portfolio

Employment, Workplace Relations and Education References Committee—

Discharged—Substitute member: Senator Carr

Appointed—Participating member: Senator Hutchins

Foreign Affairs, Defence and Trade—Joint Standing Committee—

Appointed—Senators Bolkus, Crossin, Hutchins, Kirk and Lundy

Foreign Affairs, Defence and Trade Legislation Committee—

Discharged—Substitute member: Senator Hogg

Migration—Joint Standing Committee—

Appointed—Senator Kirk

National Capital and External Territories—Joint Standing Committee—

Appointed—Senators Crossin and Lundy

Native Title and the Aboriginal and Torres Strait Islander Land Fund—Joint Statutory Committee—

Appointed—Senators Carr and Crossin

Public Accounts and Audit—Joint Statutory Committee—

Appointed—Senators Hogg and Moore

Public Works—Joint Statutory Committee—

Appointed—Senator Forshaw

Treaties—Joint Standing Committee—

Appointed—Senators Collins, Mackay and Stephens.

Question agreed to.

**HEALTH INSURANCE AMENDMENT
(100% MEDICARE REBATE AND
OTHER MEASURES) BILL 2004
VOCATIONAL EDUCATION AND
TRAINING FUNDING AMENDMENT
BILL 2004**

First Reading

Bills received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.34 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 shall move 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 COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.34 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—

**HEALTH INSURANCE AMENDMENT (100%
MEDICARE REBATE AND OTHER
MEASURES) BILL 2004**

This Government is committed to protecting and strengthening Medicare and delivering high quality, affordable health care to all Australians.

The measures in the Health Insurance Amendment (100% Medicare Rebate and Other Meas-

ures) Bill 2004 will make medical services more affordable in two ways.

Firstly, the Medicare benefit (or Medicare rebate) for general practitioner (GP) services will be increased from 85% to 100% of the Medicare schedule fee. This increase will take effect from 1 January 2005.

All patients will benefit from this measure. While bulk billing remains the choice of individual doctors, GPs will be supported to bulk bill more of their patients. Where GPs decide not to bulk bill, patients will have lower out-of-pocket costs after they receive the higher Medicare rebate. For a standard GP surgery consultation, this will mean an increase in the Medicare rebate of \$4.60 for each patient visit.

Through this measure, the Government is investing more than \$1.7 billion over four years to make GP services more affordable to all Australians.

The measure will be complemented by an increase in the fees paid by the Department of Veterans' Affairs for GP services provided to eligible veterans and war widows. The Government has announced that the fees paid to Local Medical Officers will be increased from 100% to 115% of the equivalent Medicare fee plus the Veterans Access Payment. This will maintain the relationships between the Medicare and Department of Veterans' Affairs fee scales.

The measure also builds on other recent Government initiatives aimed at making GP services more affordable, such as the bulk billing incentives targeted at Commonwealth concession card holders and children aged under 16.

Secondly, eligibility for the extended Medicare safety net at the \$300 threshold will be confirmed for all families that are eligible for Family Tax Benefit Part A (FTB(A)). The extended Medicare safety net covers 80% of the out-of-pocket costs for Medicare services provided outside hospital, once an annual threshold is met. The Health Insurance Act currently specifies that, for the purposes of the extended Medicare safety net, a \$300 safety net threshold applies to concession card holders and FTB(A) families.

It has become apparent that there are some families who are eligible for FTB(A), who do not fall

within the definition of FTB(A) family. These families are not recognised as eligible for the lower safety net threshold of \$300 under the current legislation (unless they are also concessional).

The Government's original policy intention was that all families who are eligible for FTB(A) payments, would also be eligible for the lower safety net threshold. This amendment will allow the Minister to determine that additional families are FTB(A) families and will ensure that all families who are eligible for FTB(A) are eligible for the lower safety net threshold.

Australia has one of the best health systems in the world. For the past 20 years, Medicare has provided Australians with essential protection through affordable access to medical, pharmaceutical and hospital services. Through the measures in this Bill, the Government is making a further substantial investment to strengthen Medicare and support affordable access to high-quality health care.

VOCATIONAL EDUCATION AND TRAINING FUNDING AMENDMENT BILL 2004

The Vocational Education and Training Funding Amendment Bill would appropriate a total of \$1.15 billion as the Australian Government's contribution to the States and Territories for vocational education and training in 2005.

Vocational education and training underpins the competitiveness of our industries in an increasingly global market and it is vital to ensure Australia's continued economic growth.

The Howard Government's commitment to vocational education and training is illustrated by the significant funding provided through this Bill and the new initiatives announced this year, particularly addressing skills shortages.

In 2004-05 this Government will spend a total of \$2.1 billion on vocational education and training, of which more than \$725 million will go to supporting New Apprenticeships through programmes including New Apprenticeships Incentives.

We have also announced new measures in our election commitments to a total value of \$1.06

billion over 4 years. This is one of the most significant boosts to vocational education and training ever undertaken by any government.

The Government's integrated and comprehensive suite of policies will ensure that the value of the trades is enhanced as a career path. We will:

- establish 24 Australian Technical Colleges in regions suffering serious skill shortages and high rates of youth unemployment. These will provide expanded opportunities for students wanting a career in the trades;
- set-up an Australian Network of Industry Careers Advisers to provide better advice on career opportunities;
- provide greater financial assistance for New Apprentices through the Commonwealth Trade Learning Scholarship, Tool Kits and Residential Support for New Apprentices; and
- develop new industry initiatives to build our skills base for the future.

My appointment as Minister for Vocational and Technical Education to oversee the implementation of these policies, demonstrates the high priority that this Government places on meeting the skills needs of industry.

The Australian Government's strong economic management over the past nine years and the resulting record levels of employment, have resulted in an increased demand by industry for skilled workers.

We are working directly with industry on tailoring strategies to address areas of skills shortages, particularly in traditional trades, and emerging skills needs. In April 2004, the Government launched its National Skills Shortages Strategy, committing up to \$4 million for this financial year. In addition, the Government provides more than \$510 million in incentives each year to employers opening up opportunities for training-related employment through New Apprenticeships.

Too often a message is sent to young Australians and others in the workforce that a career in a trade is not as valued as a university qualification. The Australian Government rejects this view and, since 1996, has invigorated vocational education

and training—with record numbers in training, record numbers in New Apprenticeships and significant progress made towards developing a high quality, truly national system.

The latest figures show that in 2003 there were more than 1.7 million students in VET. This represents more than 12% of Australia's working age population.

We are also seeing record numbers of people completing New Apprenticeships. There were 132,400 completions in the twelve months to March 2004, up 12% from the previous year. Today New Apprenticeships are available in more than 500 occupations, including emerging industries such as aeroskills, electrotechnology, information technology and telecommunications.

Australians of all ages are benefiting from the Government's successful vocational education and training policies. Last year, more than 200,000 senior secondary students enrolled in a VET course, reflecting the outstanding success of VET-in-schools programmes, which are now available in more than 95% of Australia's secondary schools.

At the same time, older people are very well represented in vocational education and training. In 2003, 30% of all vocational education and training students were 40 years and over.

The Prime Minister has announced that from July 2005 the responsibilities of the Australian National Training Authority (ANTA) will be taken into the Department of Education, Science and Training. ANTA was established in 1992 to coordinate the levels of government in establishing a truly national vocational education and training system. Today, this national system, with industry leadership, is in place.

After 12 years of successful national work, we want to ensure a smooth transition of arrangements that builds on the work of ANTA and the collaboration of Australian, State and Territory governments, with industry, and training providers.

The Government will establish a Ministerial Council on Vocational Education to ensure the continued harmonisation of a national system of standards, assessment and accreditation, with its

goals to be recognised through a Commonwealth-State Funding Agreement.

While administrative arrangements will change from July 2005, as ANTA functions are moved to my Department, this Bill will provide the Commonwealth funding required to support Australia's world class vocational education and training system in 2005.

I commend the Bill to the Senate.

Debate (on motion by **Senator Buckland**) adjourned.

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

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

**FAMILY AND COMMUNITY
SERVICES AND VETERANS' AFFAIRS
LEGISLATION AMENDMENT (2004
ELECTION COMMITMENTS) BILL
2004**

Second Reading

Debate resumed.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (5.35 p.m.)—As I was saying before I was rudely interrupted, the government has stated that these election measures are to be funded by savings achieved primarily by changes to the Pharmaceutical Benefits Scheme pricing arrangements. Indeed, the policy document entitled 'Recognising senior Australians—their needs and their carers' includes so-called savings worth \$830.6 million as a result of the PBS changes. I have already referred to the Department of Finance and Administration's analysis of the government's costing of this proposal and have found a shortfall of \$130 million.

There are two other things though that must be said. When Labor approached the government last year to look at savings that could be made to the PBS through the introduction of generic brand pharmaceuticals,

therefore ensuring the sustainability of the PBS, the government condemned us. We saw the likes of Senator Minchin lecturing Labor about the uncertainty of the impact of generics on the PBS. He said that he would:

... consider that it would be inappropriate to make any form of speculative provision in the forward estimates for the effects of generic drugs coming onto the PBS.

But now a few months later the government is using exactly this measure to fund this bill and it is relying on it to the tune of hundreds of millions of dollars. What is more, Mr Abbott was trumpeting that same inappropriate PBS listing and pricing regime—condemned by Senator Minchin—in a press release on 1 October saying that the measures would apply from 1 January. Well, where are they and where is the legislation to implement the new listing and pricing arrangements? Where is the economic modelling that he relied upon to promise cheaper pharmaceuticals from next month? Is the government going to amend the PBS? There appears to be no plan to do so. Is this the first non-core promise of the 2004 election? The government has the spending, but it does not have the savings to pay for it.

Labor will be supporting the new measures that were promised by the government during the election campaign in order to provide some compensation for the problems created by the government's earlier policy mistakes. The measures outlined in this bill were promises made to the Australian people and Labor intends to facilitate the government's delivery of those promises.

I will conclude with some observations on the difference between Labor's and the coalition's attitude to, and management of, social welfare. Unlike the government, Labor are committed to a fairer social security system which offers the necessary level of income support for Australians when they need it.

We also believe that the social security system should supplement Australians on low incomes, particularly families who face additional costs in providing for children, people with disabilities and people who make sacrifices to care for others. Labor believes we should support Australians but also provide incentives to help people make the transition from welfare to work. The social security system is most effective when it rewards hard work and increases people's access to opportunities and skills so that they can improve their standard of living. To achieve these objectives, our social security system should be an integrated structure of income support measures. Real social security reform would seek to make the system simpler and more accessible to those Australians who access social welfare payments every year.

As I have said, in this bill the government has failed to fix the long-term problems in our social security system. It has failed to fix the problems and it has failed to do the right thing by more than six million Australians. Labor will pass this bill but will continue to argue for a fairer, simpler and better system of social welfare to service all Australians.

Senator GREIG (Western Australia) (5.39 p.m.)—As its name suggests, the Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Bill 2004 puts into place a series of election promises made by the Howard government. These are all welcome, albeit somewhat inconsistently and unfairly applied—I will expand on that later. Of more concern, however, are the election promises not made by the Howard government to pensioners that, while not in this bill, are nonetheless imminent.

The government did not promise to target disability support pensioners with the clear intent of getting them off DSP, forcing them to compete with non-disabled job seekers in

the open job market. It did not promise that they would be targeted for no other reason than that there are too many of them. I could find no such promise in any of the election material, but since the election the government has clearly indicated that DSP recipients are in its sights.

I return to the election promises in this bill. The seniors concession allowance provided by this bill is, I believe, a cover-up of a 2001 unfulfilled promise by the Howard government to self-funded retirees that it would provide them with the same concessions for which pensioners are eligible. Many self-funded seniors have low incomes, but do not benefit from the concessions in energy, rates, water, sewerage and motor vehicle registration costs as do pension recipients. These services are everyday items that form a major part of the household budgets for older Australians.

The Australian Democrats recognise that many self-funded retirees are on low incomes and would benefit by the same concessions offered to pensioners. But when the Howard government made that promise to self-funded retirees—not surprisingly in an election year three years ago—they did not have the agreement of the states, which the government expected to fund 40 per cent of the costs. It is very easy to make a sweeping promise in an election year and then expect someone else to pay for it. It is not surprising that the states and territories did not subsequently all agree. The government blame the states for not paying something they had not agreed to and cover their inability to deliver on a promise by a payment to self-funded retirees. The Democrats support the introduction of seniors allowance of \$200 a year for each holder of a seniors health card, but in the end it does not provide self-funded retirees with any concessions and the government have not fulfilled their now three-year-old promise.

The bill provides for a utilities allowance for pensioners and veterans of age pension age. The explanatory memorandum informs us that older Australians can experience difficulties in saving to pay regular household bills such as gas and electricity and that this payment is introduced to provide assistance in paying for those. The Democrats are at a loss to understand why the government would think that only older Australians on income support would have difficulty paying for energy bills. Energy tariff increases have placed a significant burden on all low-income Australians. Over the last 12 months electricity prices in some states have risen by 30 per cent. The average quarterly household electricity bill in some states is now close to \$1,000. Privatisation of energy supply together with high fixed charges, including service to property charges, mean that low consumption customers—predominantly low-income customers—shoulder disproportionate costs. This utilities allowance is totally inadequate in its amount and also it is given only to age pensioners.

Has the government not read the recent report of the Carers Association which states that energy costs are a significant burden for carers who provide care in the home for family members with chronic illness or disabilities or for family members who are frail aged, and that over the last 12 months carers have experienced electricity price increases of 32 per cent or \$80.96 a quarter? The answer is not to blame excess use. Low-income Australians are, in some cases, already going without heating, cooling, lighting and appliances in a desperate effort to offset energy price increases. Centrepay arrangements do not make bills cheaper; they simply spread the financial difficulty. Disconnections are increasing at an alarming rate. Children do homework by candlelight, go without hot meals and are unable to bathe. This bill ig-

nores the need of sole parents, people with a disability, carers and the unemployed.

In the media last week it was reported that key welfare agencies will band together to force action on crippling power bills, which they blame for the death of at least three elderly people, and the disconnection of several thousand needy households. We Democrats believe that the government must take greater responsibility for the welfare of its disadvantaged citizens. The utilities allowance must be extended to all disadvantaged Australians.

While the government is prepared to pay each member of a self-funded retiree couple \$200 per year concession allowance—that is, \$400 per couple—it has decided that this is not the case for married pensioner couples. They will only receive the single rate of utilities allowance for a couple. That directly discriminates against those whose disability, health, education or other disadvantage has prevented them from accumulating wealth.

In a further example of discrimination against the disadvantaged the government has decided that, while self-funded retirees can receive their first instalment in December of this year, pensioners and veterans must wait until March of next year. The Democrats call on the government to be consistent in its approach and to treat members of a couple the same, regardless of whether they are self-funded retirees or pensioners. It is unacceptable for the government to determine that self-funded retirees, who may have incomes of up to \$80,000 annually, need concession allowances at a higher rate and sooner than age and service pensioners and veterans need the utilities allowance paid to them.

We Democrats welcome the increased flexibility for carers brought by this bill in increasing the number of hours that a carer may spend in work, training or study without

losing qualification for payment. Indeed, it is something we have called for over a long time. We commend that. It will not lessen their carer obligations or responsibility—many will still struggle to fit in the extra study or work and to cope with the daily task of caring for a disabled or frail person. But it is a start, and we welcome it.

Most grandparents did not expect to, and certainly did not plan to, raise their grandchildren. For many it just happened and there was no time for decisions. It happened because the children's parents died, were sick, are in jail, used drugs or for any number of reasons were unable to parent the children. Grandparents are robbed of the future they planned but they do not say it too loudly. They mourn the loss of their role as grandparents. Caring brings obstacles, legal woes, financial troubles and emotional issues. They take on the role because they will not stand aside and watch their grandchildren head into foster care.

This bill provides that grandparents on income support payments can access a special rate of child-care benefit, which will effectively mean they will not have to pay the gap child-care payments. Unfortunately, it does not provide additional child-care places, particularly in rural, regional and remote Australia where there are few child-care places. This bill limits the child care to approved care. This excludes relatives, friends or nannies even if they are registered with the Family Assistance Office. For many grandparents this bill will not ease their load because formal child care is simply not available.

We Democrats note that there were some 18 pages of explanatory memorandum detailing the rules and qualifications relating to the special child-care benefit rate. It is not an allowance paid to grandparents and, while we recognise that any benefit must be administered, we ask the government to be aware

that these grandparents are a new class of disadvantaged Australians who no longer have spare time in retirement. We do not want compliance with 18 pages of obligations to present an additional burden for older Australians already burdened while caring for young children.

Finally, we Democrats also welcome the increase in bereavement payments. Bereavement payments enable the survivor of a veteran couple to adjust to the single rate over a 12-week period at a time when expenses are high for funerals. It now recognises the above general rate having been received by the deceased veteran or member and is calculated in the rate of bereavement allowance. Regrettably, it does not apply to same-sex partners, who after the death of the veteran experience the same grief and loss and the same financial disadvantages as those of heterosexual couples. We Democrats will be moving amendments to the bill in the committee stage to address what we see as deficiencies and make it fairer for more disadvantaged Australians.

Senator MARK BISHOP (Western Australia) (5.49 p.m.)—The Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Bill 2004 amends current legislation, implementing government promises made during the last election campaign. It involves amendments to the Social Security Act and the Veterans' Entitlements Act. It must be said at the outset that these promises are of no great moment nor of any particular outstanding merit. In large part they are simply election bribes—passing money out to sectors of the community—dressed up in a rather flimsy policy pretext. As policy initiatives they are minor—also indicating a poverty of policy with respect to social security and to veterans affairs.

The allowances paid are not large sums of money. Those in financial stress will appreciate the assistance, as they would any small windfall. However, we recognise the government was elected in part on the basis of these promises, and tradition demands we recognise that obligation. We note the government is clearly implementing core promises with early start dates. This is a refreshing change from the sheer dishonesty shown after the last election.

With respect to the carers payments, including the child-care benefits for grandparents, we accept there has been a growing element of unfairness. But it should be added that, with respect to the assistance to grandparents, we do not believe this amendment goes far enough. There are benefits in these measures which recognise shortcomings in the current policy mix. Minor though they are, we support them.

We do not oppose the fifth amendment, and I will put this into context. This proposal provides for the extension of bereavement payments for surviving partners of veterans paid at a rate in excess of 100 per cent of the general rate. The government makes bereavement payments as a standard practice to survivors of deceased pensioners both in our social welfare and veteran client groups. The policy was originally based on an assertion that it was intended to allow the bereaved some time to adjust to new and harsher financial circumstances. Indeed, it is axiomatic that two can live more cheaply than one. Hence passing from the married rate to the single rate can involve a degree of financial stress. We recognise that it is difficult to accurately adjust administrative systems to cater for the precise date of death, that it is inevitable in the payment of pensions that on the death of one partner overpayments can occur and that recovery from a deceased estate and the deceased's partner is often

stressful and difficult. Hence it is easier to provide some leeway.

To that extent, claiming generosity for this policy is somewhat ingenuous. It is also ingenuous with respect to veterans' policy. The provision of bereavement payments has always been a foil for the argument that the current funeral benefit of \$1,000 is inadequate—\$1,000 clearly does not equate to the cost of a funeral in modern times. There is little or no connection between the funeral allowance and bereavement payments. It is convenient spin, but entirely false and inappropriate. For age and service pensions, surviving partners are paid seven fortnightly payments of the rate applying to a couple prior to death. After seven fortnights, pensions switch to the single rate. Seven payments of the married rate of age service pension currently would be \$5,502. Seven payments at the single rate would be \$3,294. That is a difference of \$2,207.

In the case of veterans, there is also a payment consisting of six fortnightly pays of disability pension. This is at the rate paid, but to a maximum of 100 per cent of the general rate. For veterans, there are approximately 160,000 people currently receiving some percentage of the disability pension for service related injuries from DVA. This tax-free, CPI indexed pension ranges from \$29.64 per fortnight at the rate of 10 per cent to \$296.40 at 100 per cent. At 100 per cent, six payments total \$1,778. To this can be added seven payments of service or age pension at the married rate referred to previously in this address. Of these 160,000 veteran disability pensions, 45,500 receive payments above the 100 per cent general rate. This includes 28,500 who receive the special rate, which contains an additional \$492.80 tax free per fortnight. It also includes 15,000 who receive the extremely disabled allowance, which is an extra \$150 tax free per fortnight. This bill extends the six bereave-

ment pays to include those whose additional payments are over the 100 per cent rate. For future partners of deceased special rate people, this will be an extra \$2,956.80. For the partners of future deceased EDAs it will be around \$900. These benefits are not means tested.

While it might seem logical to expand the bereavement pay to include the whole amount of disability compensation, it is not a matter of need. It barely received a mention in the Clarke report. Again, this confirms that most of the Clarke report content was a waste of time. It also shows the minor nature of this matter. Sadly, though, for political reasons this issue became important to the government as a substitution for serious policy. It simply begs the question about all of the other recommendations made by Justice Clarke in his report. They were in large part based on good policy and the views of the veteran community. No sooner was Clarke despatched to history than the government reverted to its prior ad hoc approach. But Clarke's terms of reference had little to do with deriving better policy. The inquiry was little but a sorting process of competing claims. Justice Clarke and his committee responded according to the merits, either on the grounds of equity or review of factual information. The government rejected most recommendations for change to policy earlier this year. Then it selected which new benefits, if any, it would dispense. Most of Clarke's recommendations were killed at birth.

Veterans might have expected that at least the government might have returned to Clarke's recommendations for future policy initiatives but, no, the process was cynically intended as a stall, and this is further evidence of that. The government did not need this \$1.7 million inquiry to help it determine its priorities. The \$1.7 million simply brought two years of peace whereby every

veteran and widow with a case to put could be fobbed off—and fobbed off they were. This particular matter was raised by submissions to Clarke but was not the subject of any of his 109 recommendations. It has simply been picked out as something of low cost, without flow-on risks and without any policy basis such as need.

This highlights one important difference between the government and the ALP with respect to policy. By contrast, our approach has been to establish a policy basis of need and then see how it can be best addressed. That is why we focused on veterans' children, their education and their health. That is why when it came to bereavement payments we looked at the fate of those whose entitlements are inadequate—that is, the fate of those single veterans who die in indigent circumstances. Their estates receive little by way of bereavement payments.

Clarke also identified this issue but overlooked the need for any sensible solution, as has the government. This shows quite clearly the lack of any policy focus. For those who will benefit from this bill, the limitation of 100 per cent has been removed as an apparent anomaly. Whether it is really an anomaly or not is a moot point now. It simply means that the higher the disability pension, the higher the bereavement payment, regardless of means. It is also regardless of the degree of incapacity. Actual pension payments do not reflect comparative disability. No doubt the extremely disabled community will see this as a further instance whereby they are discriminated against when compared with the TPIs over the age of 65. Their widows will get far less, despite the fact that they may be more disabled. I would simply say to them that this is a government policy initiative, and it is flawed. I have no doubt they will be making that point to the minister most vociferously—as they should. Again,

this is another policy shortcoming derived in an election campaign.

As Senator Chris Evans indicated earlier, we support this bill. As a matter of practice, we will not oppose legislation which gives added benefits to veterans, even when the policy is flawed. I would only comment that it is a pity that this seems to be a very frequent process. The basic issue, though, despite the few merits of this proposal, is that there are many ways of spending \$12.8 million. Without wanting to deny the intended beneficiaries, it is valid to ask whether this money might have benefited others in need—for example, the large number of veterans' children struggling to get an education. Provision of more bursaries for these children would have made far greater impact on improving the lot of many veterans' families. The money, for example, would have provided 640 new bursaries every year. It would also have gone a long way to better addressing the health needs of those children.

It would also have been more meaningful to have looked at the whole picture of war widows on the basis of need. In short, this giveaway policy does not focus on need. Yes, it will obviously help, but it is a one-off. What many widows really need is ongoing income support into the future. That is why the ALP, in the last election, focused on those war widows under the age of 57½. These widows struggle to make ends meet because they are not eligible for the income support supplement. I am sure if you asked them whether they would prefer a one-off payment of \$2,956 or a pension of \$135 per fortnight for the rest of their lives, their answer would be for the latter, without doubt. However, we do not seek to deny the war widows who benefit from their good fortune.

The fact remains, though, that 20 per cent of war widows do not qualify for the income support supplement simply because they are

ruled out by the means test. In other words, their needs are relatively less and so this added payment will be a true windfall. In the meantime, though, others will continue to do it tough. This is an excellent example of the poverty of this proposal. The priorities are wrong. It is about a limited amount of popularity, not better policy for veterans. As I have said, we support this bill, but because of its cheap election giveaway philosophy it does not advance veterans at all. I referred to the futility and waste of the Clarke report, so we should not be surprised. I want to make some brief remarks on the Democrat second reading amendment, which I presume has been moved.

Senator Bartlett—I will be moving it.

Senator MARK BISHOP—I will speak to it while I have a few minutes left. There is a considerable history behind this Democrat amendment. In a nutshell, it concerns the appropriate means of indexation of the TPI special rate pension. The government's response was to change the index from CPI to MTAWÉ only with respect to those pensions paid above 100 per cent of the general rate. The rationale for that was never very clear. It was assumed that the portion above the general rate was regarded as economic in nature—that is, a form of income support—and therefore it should be treated in the same way as age and service pensions. However, as we know, many others are paid more than 100 per cent of the general rate, including the blind, some amputees and the extremely disabled. These payments cannot be defined as economic, so that rationale, one thinks, is destroyed. Put simply, the government has indexed all pensions paid in excess of the general rate by MTAWÉ. That includes the extremely disabled allowance, which is 150 per cent of the general rate. By the government definition, this is non-economic compensation normally indexed by CPI only. So,

again, policy on indexation has gone out the window.

The government policy is to index the general rate by MTAWÉ, as it has where it exceeds 100 per cent. So it is a simple extension of that policy to extend it to all of the general rate. It is now, as a matter of logic, only an arbitrary matter about money, no longer about policy at all. That means that 160,000 people in receipt of the disability pension have a precedent in policy. That includes all 28,500 TPIs. This is a problem of the government's own making. It is the simple logic contained in the facts. It is for that reason we support the amendment, as we did last time, contrary to the Democrats' false assertion during the election campaign.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.03 p.m.)—As the name of the Family and Community Services and Veterans' Affairs Legislation Amendment (2004 Election Commitments) Bill 2004 suggests, this legislation puts into place a series of election promises made by the Howard government. It is always welcome when a government keeps its promises, although when those promises fulfil a commitment that is somewhat inconsistent and unfairly applied, as my colleague Senator Greig has always outlined, it is perhaps unfortunate that the government has not seen a little more wisdom along the way and refined those promises to achieve a fairer and more effective result.

Not surprisingly, as my colleague Senator Greig has also outlined, the payment of the seniors concession allowance to self-funded retirees as provided by this bill is simply a cover-up of the failure to implement a promise made long ago. The government promised to provide concessions to self-funded retirees and they failed. Instead, they offer a payment which is of no relevance to concessions.

As part of my comments I want to address the government's continuing failure to implement other promises. The Clarke report into the review of veterans' entitlements was released in January of last year. It was a disgrace that it took the government more than a year to respond to its recommendations, as it finally did earlier this year. As I have said many times, we have a minister who is quite happy to exploit service men and women for his political gain. He is quick to send young Australians to war but is slow to properly recognise the debt this incurs on behalf of the nation and even slower to address some of the legitimate concerns of veterans. The Democrats do not support the Prime Minister in sending troops to Iraq without the endorsement of the Australian parliament, but we do support the right of those veterans when they do return from that or any other conflict to be properly compensated and treated fairly when they can no longer serve.

Whatever our views are on the Iraq war, all of us would like all wars to cease so that we no longer need to have veterans, and people do not have to pay the price and make the sacrifice that they do. But whilst ever we have troops who will put their lives 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 back, give them a nice medal and provide a photo opportunity for the Prime Minister, the minister or perhaps a local member. We have a responsibility to continue to support veterans in the many years ahead where often they have direct consequences to deal with as a result of their service.

For many years now the Democrats have been calling for a reversal in the erosion in the value of veterans compensation and for the TPI to be fully and properly benchmarked to try to turn around the decline in its value. While the Clarke review bill earlier this year addressed the erosion, regrettably it

only did so by half. The TPI payment has long been known as a special rate, and this is what TPI recipients believed they were receiving. Not surprisingly, the majority did not know of it as, or ever refer to it as, 'general rate plus above general rate'. But the perception of 'general rate plus above general rate' is what the government decided to rely on earlier this year when it indexed only the above general rate to both the consumer price index and the 25 per cent of male total average weekly earnings benchmark. In my view that constituted a broken promise to veterans.

The Democrats believe that the 'special rate' is aptly named. It is paid to a veteran whose employability is affected by their war- or defence-caused disabilities where the veteran is further assessed as being unable to undertake remunerative work for more than eight hours a week as a result of their service related incapacity. TPI veterans paid a very high price in many respects—a direct, personal price to their health and their ability to work due to their service to our country.

The government failed to link the whole of the special TPI rate to MTAW and the CPI as veterans had been led to believe they would. As a consequence, only the rate paid above the general rate TPI is linked to those benchmarks. The general base rate remains indexed only to CPI and, as we have seen over many years now, that will mean it will continue to erode in its real value.

In short, this group of veterans were short-changed because the government decided that only what amounts to 62 per cent of that payment will be linked to the MTAW benchmark. The overall TPI is currently around 45 per cent of the average weekly wage, and this proportion has been reducing for many years. It was, in my view, a slap in the face to TPI veterans and their families that this decline in value was only half ad-

dressed and that therefore the problem will be ongoing. In the words of one TPI organisation, war veteran TPIs have been thrown a bone; however, it was a bone pretty much devoid of meat. I suppose, as a vegetarian, in one sense I should find a more appropriate analogy, but the message is pretty clear. The Democrat policy, which is reflected in our second reading amendment, is that the whole TPI payment should be indexed to the male total average weekly earnings and CPI, whichever is the greater.

The Democrats welcome the remainder of this bill, which provides assistance to older veterans to meet significantly increased energy bills. We are at a loss to understand why the government would believe that younger veterans do not face the same financial struggle, and some of our amendments will address that. We are also at a loss as to why the government creates an anomaly between veteran couples and self-funded retiree couples, and our amendments will also address that.

I close by noting that almost two years after the release of the Clarke report there are still recommendations that have not been accepted by this government. It is unfortunately not uncommon to see this government cherry pick from reports, picking some of the recommendations and ignoring others. Reviews relating to veterans unfortunately have that as a common occurrence, despite them being commissioned by the government.

In moving our second reading amendment today the Democrats give notice that the unfinished business from the Clarke report is not a closed issue. We will continue to agitate the government for further action in these and other areas that still need to be addressed for the veteran community in Australia, including the greater health care measures, gold card entitlement and definition of 'service'. As Senator Bishop has said, this

issue has been raised before in this chamber. There will be an ongoing effort by the Democrats. As Senator Bishop correctly said when this amendment was moved on a previous occasion, the Labor Party did support it. That was something I made a mistaken statement on during the campaign, although I did put out a further statement correcting that. I am quite happy to correct the record here and say that it was supported by Labor at that time, and we are pleased that they are also supporting it now.

We have seen in other areas in relation to the needs of the veteran community that it can take many years of persistent, repeated efforts in advocating, both in this chamber and in the community, for concerns to be addressed. I can think of one example in relation to the treatment of compensation payments as income by the Department of Social Security. There were about seven or eight years between when this government came to office with a promise to address that anomaly and when it finally acted on it. There were far too many more years than there should have been, but nonetheless it was acted upon and the Democrats praised the government when that happened. We are always willing to praise positive actions, and there are some positive components of this bill. But history shows that oftentimes you have to keep raising issues over and over again to get them addressed. You have to continue not just to pressure the government but to encourage the opposition, and indeed ourselves and other organisations, to keep pushing those issues. This is one issue that we will keep pushing, and I am pleased that the opposition will be doing the same.

I emphasise the valuable role that service organisations broadly play. These are people who have already done their bit by being service men and women for our country and who then continue to work, almost always in an unpaid capacity, not for themselves in

many cases but for fellow veterans who are in need of help. Those groups often have differences in opinion, but they do a lot of work continually pressuring all of us from all parties to recognise our responsibility to ensure that veterans are properly recognised. It is one group in the community that I think all of us would acknowledge we have a special obligation to, and it is one that unfortunately can often get left to one side in amongst all the competing demands, priorities and lobbying that takes place in the parliamentary arena and in the political world more broadly. It is because of the tireless work of a whole range of ex-service organisations that the veterans' voices are not forgotten and that their issues continue to be raised and pursued by people across the political spectrum. I pay tribute to their work and encourage them to keep doing so. I can indicate, certainly from my point of view, that we are quite willing to continue to support the large proportion of the issues that they raise, which we believe are worthy of implementation or consideration. I move the Democrat amendment as previously circulated:

At the end of the motion add:

“but the Senate

- (a) is of the view that the harsh and unsatisfactory indexation arrangements for totally and permanently incapacitated veterans require immediate adjustment so that these veterans obtain the full benefits of indexation to all components of their pension; and
- (b) condemns the Government for missing this opportunity of settling fair index arrangements for those veterans who are totally and permanently incapacitated”.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women's Issues) (6.14 p.m.)—I am

not going to go over the measures in this bill, because they were very clearly outlined in the second reading speech. I know that we tend to get a bit slower at this time of the year but, this time next week, we will be jamming bills through, so I hope that we can be a little efficient this afternoon so that we can get this bill on the way and deliver these benefits to people and have some more time for some of the other bills later.

Senator Chris Evans interjecting—

Senator PATTERSON—I am just saying it would be very nice if we could get this bill through this evening. I want to comment on a couple of things that were said. Senator Evans and, I think, Senator Greig both made the comment that we had failed to deliver on our offer of core concessions to the states. I have to disagree with that. We offered the states in, I think, the 2001 budget an amount of money which would have enabled Commonwealth seniors health care card holders to have about 60 per cent of their concessions paid for by the Commonwealth. We were asking for the states to come up with a 40 per cent contribution for self-funded retirees. Many of them are people who have been frugal throughout their lives, who have provided for themselves, who do not get the pension but who argue—and I think rightly so—that, because they have in fact provided for themselves, they should get some of the benefits that pensioners get. I then increased the offer to about \$75 million last year. I got two nibbles from two states; I got a rejection from some states. In fact, there was very little interest on the whole. We were not going to wait any longer and made a commitment during the election to give self-funded retirees with health care cards a \$200 contribution towards their utilities, rates and car registration and to give pensioners a \$100 utilities supplement in order to assist them.

It has to be understood that pensioners receive from the states and territories concessions ranging from—I cannot remember the exact figure—about \$450 at the lowest right through to over \$900 in one of the other jurisdictions. So pensioners now receive between \$450 and over \$900 in concessions across the jurisdictions. That will be added to by the \$100 supplement to a pensioner couple. What we have done is offer \$200 to each Commonwealth seniors health care card holder to recognise the contribution they have made.

Senator Evans said that we failed on the original offer. I met with the ministers last week and said that there was still \$19 million difference between what we had given to the Commonwealth seniors health care card holders and the original offer. I think in one state our contribution for a self-funded retiree couple exceeds or just matches the benefits that a pensioner gets, so there is no need for that state to even contribute. But some states, where there are larger concessions, could have their proportion of that \$19 million and then put in their 40 per cent—so the offer is still there. The states could step up to the plate and assist these people who have looked after themselves all their lives. That is to put paid to Senator Evans's proposition that we had not met the commitment; we have, but we were not going to wait any longer. This has been sitting on the table since the 2001 budget. That is how long it has been there—and I have increased it in accordance with the change in numbers of Commonwealth seniors health care card holders—and the states failed to respond. There were a couple of nibbles, as I said.

Senator Mark Bishop—Do you want to get the bill through or not?

Senator PATTERSON—It is there. I would like to get the bill through, so I commend the bill to the chamber.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator GREIG (Western Australia) (6.20 p.m.)—For the Senate's information, the reason that the Democrats' amendments as revised have just been circulated a second time is simply that there was a technical glitch in the process. Because the amendments deal with the production of increased moneys, there is a constitutional hiccup, so they have simply been rephrased as requests rather than amendments, but the intent remains the same and the process remains largely the same. I seek leave to move together the Democrat requests for amendments (1), (2), (3), (7), (8) (9) and (10) on sheet 4431 revised.

Leave granted.

Senator GREIG—I move:

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

- (1) Schedule 1, item 4, page 4 (line 22), omit paragraph 1061T(a).
- (2) Schedule 1, item 4, page 6 (cell at table items 1 to 4, column 3), omit "\$100", substitute "\$200".
- (3) Schedule 1, item 4, page 6 (cell at table item 5, column 3), omit "half".
- (7) Schedule 1, item 22, page 12 (lines 11 and 12), omit paragraph 118OA(1)(a).
- (8) Schedule 1, item 22, page 12 (lines 19 to 24), omit subsection 118OA(2).
- (9) Schedule 1, item 22, page 13 (cell at table items 1 to 3, column 3), omit "\$100", substitute "\$200".
- (10) Schedule 1, item 22, page 13 (cell at table item 4, column 3), omit "half".

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

The effect of the amendments will be to allow an increase in the number of people eligible for the utilities allowance provided for by the bill, and the amount of the utility allowance payable under the bill.

These increases will have the effect of increasing expenditure from standing appropriations and the amendments are therefore presented as requests.

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

The Senate has long accepted that an amendment should take the form of a request if it would have the effect of increasing expenditure under a standing appropriation. These requests are therefore in accordance with the precedents of the Senate.

These requests for amendments go to the qualification for and payability of utilities allowance for pensioners and veterans. We Democrats cannot understand why the government would consider that only older Australians are having financial difficulties with increased energy bills or why the government would think that carers and disability support pensioners, for example, as well as disabled veterans, somehow have a greater capacity to save for these difficult bills.

The government has only to look at the recent pleas by welfare agencies, including VCOSS and the Salvation Army, which report that income support recipients are coming to them in their thousands seeking urgent assistance to pay electricity bills. For some, their bills have gone up by hundreds of dollars each year, despite careful consumption. Deregulation of the energy market, together with large energy tariff increases, has placed a significant burden on all low-income Australians. Over the last 12 months electricity prices in some states, as I said in my speech in the second reading debate, have increased by some 30 per cent, such that the average quarterly household electricity bill is now

close to \$1,000. The large increase in supply charges, together with higher fixed charges, including service to property charges, means that low-consumption consumers—that is, predominantly low-income customers—shoulder a disproportionate amount of these costs.

Welfare agencies report that the exorbitant cost of energy supply causes low-income Australians to sometimes resort to desperate measures, including going without heating or cooling and so on. Disconnections, as I said, are on the increase. I read recently of a family in which both parents had lost their jobs some time ago and were in receipt of income support, and they were simply unable to find the \$65 a fortnight for energy supply. Their child, a student, was doing homework by candlelight. The utilities allowance is not adequate. Also, it is only given to those of age pension age.

The carers association recently reported that energy costs are a significant burden for family carers, particularly those who provide care in the home for family members with chronic illness or disabilities or for the frail aged. Family carers use some 14.5 per cent more electricity on average than other households. Over the last 12 months carers have experienced electricity price increases of around 30 per cent. There is no more capacity for carers or other social security or veterans' income support recipients, including those unable to work because of a disability or with young children, to save for increased energy bills. The Democrats believe that they are equally deserving of assistance. Nor is the amount of \$100 adequate. Our requests for amendments provide that an annual amount of \$200 per income support recipient is more reasonable. Even that will not pay the energy bill, given that in some states the average quarterly household bill, as I said, is now approaching \$1,000. But it will go some way to minimising the danger to

health and safety for those for whom disconnection may well become the only option.

The Democrats do not object to the seniors concession allowance of \$200 per cardholder per year. We recognise the contribution that self-funded retirees have made to the community and the economy by being in a position to fund their own retirement. Many are on lower incomes than the seniors health card limits of \$50,000 for a single and \$80,000 for a couple. The estimated value of concessions varies with use, but conservative estimates put it at at least \$700 per year. Alarming, however, this bill sets up an inequitable position, where each member of a self-funded retiree couple receives \$200 concession allowance per year. In other words, it pays the single rate to each person. But the utilities allowance that a pensioner couple and a veteran couple receive is only half of the single rate.

Our requests for amendments will not take anything away from self-funded retirees. As I said, we value the very real savings they make to the Australian economy. But we are concerned that, after years of promises by the government, they still do not have concessions. Low-income pensioners are not so by choice, many because of disability, education, location, family heritage and employment disadvantage. Simply because they did not have the opportunity to acquire hundreds of thousands of dollars for their retirement, they are not second-class citizens, and we do not view them as the undeserving poor. Our requests for amendments simply treat pensioners and members of a veteran couple the same as the members of a self-funded retiree couple when it comes to determining the annual rate of allowance, whether it be a utilities allowance or seniors concession allowance.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Sen-

ate) (6.26 p.m.)—I ask the minister to respond to a couple of points made by Senator Greig in moving his amendment. I am interested in the minister's response to one of his key concerns: why is the utilities supplement only payable to pensioners of age pension age? I want to understand the government's rationale as to why other pensioners have not been included—disability carers, sole parents et cetera. I want to understand the government's rationale. It seems, on the face of it, that the utilities costs are equal for each of those groups.

I am interested in a response not only to what the government's rationale is for that but also to the question that Senator Greig posed about why the \$100 utilities payment is not payable to both members of an age pensioner couple. There seems to be a difference between the way the government deals with payment to self-funded retirees and couples and the way it deals with the utilities supplement for pensioners. I want to understand the rationale. These are issues raised by Senator Greig's request for amendments. I want a response to why the utilities supplement is payable to only pensioners of age pension age. Why was the decision made not to make the full \$100 utilities payment to both members of an age pensioner couple?

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women's Issues) (6.28 p.m.)—The government's commitment during the election was to give assistance to seniors. We focused on seniors and that is why this benefit is for seniors. We focused on self-funded retirees in the last second reading speech, not the speech we tabled. We believe that these people, as Senator Greig has said, have contributed throughout their lives. They are not dependent on the pension. We do give them a Commonwealth seniors health care card, which gives them concessions for pharma-

ceutical benefits, access to the relevant Medicare safety net and also the higher bulk-billing rate. Pensioners get benefits, as I said, of \$450 in one jurisdiction to over \$900 in another jurisdiction. One of the reasons that we set the amount at \$200 was that it would bring it fairly close to the commitment that we had made, because we could not get the states to come on board. We were treating all self-funded retirees across the country in the same way. In some states, but not in others, this would bring them somewhere near or fairly close to what the states were giving them by way of concessions.

If you actually want me to say who is responsible, the states ought to be giving these people concessions. If these people had not looked after themselves, if they had not provided for themselves, then they would be on the pension, they would have a Commonwealth seniors health care card and they would be getting concessions. We are giving them concessions on the PBS and we are giving them assistance with the Medicare safety net. The states really ought to come up to the plate and give them the whole of the concessions, but they do not. So we believe it is appropriate for the Commonwealth to step in and assist them.

In order to recognise the contribution that others on age pensions have made, we will give them \$100 per pensioner couple—\$50 each six months—for assistance with their utilities allowance, understanding that they get, as a single or a couple household, between \$450 and over \$900 in concessions. So in that state, with the extra \$100, the contribution is brought up to between \$550 and over \$1,000 in the top one. That is a significant contribution. I was interested that it does vary so much across the states. For Victoria, we are basically replacing the state concession for car registration, which was about \$80 a year, which was ripped from pensioners in the last budget. The decision

was made to recognise the contribution that Commonwealth seniors health care card holders and self-funded retirees with a CSH card made and to assist them in this way. But, whatever way you look at it, pensioners are still getting significantly more concessions across every jurisdiction and, when you take into account the \$100, significantly more than self-funded retirees. That is why that decision was made to have a differential.

We cannot support the Democrat amendments. I have had some quick figures done; I am not saying that they are absolutely final. I am advised that the Democrats' age pensioner measure is about \$444 million and the other income support measure is about \$520 million. That comes to about \$964 million. We have not costed in administrative costs and all the other things that go with it. What I would like Senator Greig to do is to come with me to the ERC and tell us where we are going to find \$1 billion. I have to go to the ERC and say, 'Where am I going to take it from? If you do not want to run up a budget deficit, where am I going to go?' I can tell you that that is not easy. You want to spend \$1 billion tonight. Senator Greig nods his head. No wonder—sorry, Senator Greig—the Democrats are on the decline. You have lost the plot. Former Senator Walsh from Western Australia most probably was right. I used to sit on the other side and hear him talk about some of the Democrats' proposals. I did not quite appreciate why he made some of the derogatory comments he made, but I can see why he would. I would be sorely tempted on this occasion to follow down the path of Senator Walsh and name-call, but I will not.

Senator Chris Evans—To be fair, Senator Greig was in the Labor Party then, so we can't blame him.

Senator PATTERSON—He was in the Labor Party, was he?

Senator Chris Evans—Yes, and Senator Campbell was in the Democrats.

Senator PATTERSON—And former Senator Kernot was in the Democrats as well, before she had a cup of coffee with a few people. As much as I would love to do a lot of the things that the Democrats would love to do, and sometimes I would love to be a Democrat and be as generous as they are, I have got to face up to the ERC and find the money, and I cannot find \$1 billion for this. So, I am sorry, Senator Greig; I cannot support your amendments.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (6.34 p.m.)—I appreciate the minister's answer; it has helped somewhat. I just want to be clear: can the minister confirm that a self-funded retiree payment is payable to both members of a couple provided they both have a Commonwealth health care card?

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women Issues) (6.34 p.m.)—The answer to that is yes.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (6.34 p.m.)—Does that relate to trying to find a balance, an amount that equals what you think is a rough benefit for those persons? Is that the rationale?

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women Issues) (6.34 p.m.)—As I said, being a purist, you would expect the states to offer these benefits to people, because they offer them to pensioners. These people get benefits from us through the Pharmaceutical Benefits Scheme and other medical assistance. Because the states did not do it, we felt that there was a considerable disparity. One jurisdiction is giving over

\$900 in concessions to pensioners, some of whom have quite reasonable assets and income and still qualify for a part pension and therefore qualify for those concessions. Now take a self-funded retiree who does not qualify, who considers that they have contributed all their life. We believe this is a down payment to that commitment we made in 2001. As I said before, it still does not reach, particularly when you add the \$100 per pensioner couple in the supplement. Even a couple receiving two lots of \$200 annually does not exceed the assistance of \$450-odd plus \$100 that pensioners will now get, where the concession of \$100 is as a pensioner couple.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (6.36 p.m.)—I thank the minister for her answer. I think she is making a real problem for herself in this approach. One of the things that strikes me is whether, when you are doing the maths to balance it out, you are also going to take into account local government concessions on rates and things like that. It seems to me that you have embarked on a policy course that leads you into contradictions and complications, and it is going to be very hard to resolve. You mention, for instance, car registrations. My father is a self-funded retiree but does not own a car. How do you work it out for those who do own a car and those who do not, or for those who live in local government authorities that offer rate reductions for people with health care cards or on other bases? It seems to me that the sort of approach you, as a Commonwealth government, are trying to take to balance out concessions that are offered—

Senator Patterson—Tell the states to give them concessions. Then they'll be even.

Senator CHRIS EVANS—The point I am making is that there are also concessions at the local government level which you have not yet attempted to address, and I am sure

you are not going to. All I am suggesting is that, as a policy path, this is fraught, and this is one of my concerns about the approach. The other thing I would like to say is that I am interested in the comment about how expensive the Democrat propositions are, and I think that is probably right. But I am also keen to know how you will pay for yours because, as I understand it, this was to be paid for by the PBS generic drug propositions—which I have not found on my bills list—which were to apply from 1 January. I would be interested to hear the minister explain how the government would fund the cost of these measures, because that is not clear to me. I know what was said during the election campaign but, if the legislation is passed, the costs will apply from 1 January.

In a general sense in response to the Democrat amendments, Labor will not support them. We accept that these measures are largely implementing the government's election promises. We do not support the policy framework that underpins those. We think there are some real difficulties and contradictions with them but, if you like, this is the government delivering on what it said it would deliver, and we are prepared to let it do that. We think the Democrat amendments would add to the adhocery and add to the cost and, quite frankly, would be rejected by the government. So we can have a futile debate now, send the legislation back to the House of Representatives and deal with it in a week's time when we will fold the tent or you will fold the tent, Senator Greig. I think we have to have a realistic appreciation of where we are at in the parliamentary cycle. Our bottom line is that we will not stop the government implementing the promises it made to self-funded retirees and pensioners about these things. We think the policy basis is confused and fraught and that it will lead the government down the wrong path. We do not think it addresses a whole range of ineq-

uities in the system but we will not be supporting the Democrat amendments in that regard. We will support the passage of the bill.

Senator GREIG (Western Australia) (6.39 p.m.)—It is difficult to know, Senator Evans, where to draw the line, though, isn't it? The government also went to the election saying that they wanted to sell Telstra and to progress unfair dismissal laws.

Senator Chris Evans—I never claimed consistency; I never made any claim for consistency.

Senator GREIG—Fair enough. Minister, you asked where I would find this amount of approximately a billion dollars. I recall that only three years ago—it was not the recent election but the election before—when the really hot-button issue of the day was petrol prices, for some reason the Prime Minister felt it necessary to intervene and pour a billion dollars into the economy to bring the price of petrol down by 1c across the nation. I found that obscene and unnecessary, and I note with some curiosity that, although petrol prices have significantly increased around Australia in recent weeks to a level higher than they were three years ago, there is not the same public outcry. I think the politics behind that is fascinating.

Another area where we Democrats would advocate the finding of money is the abolition of the government rebate for private health care coverage. We would be very keenly supportive of that. We would also advocate to the government that it really ought to seriously think about taxing family trusts as it does companies. We find it unacceptable that many wealthy families continue to hide taxable income through those structures. You will find in excess of a billion dollars there, so it is a question of priorities.

We remain committed to the proposals that we have presented. I clearly have not

won the argument on the day but I am pleased that we have had the opportunity to tease them out a bit. I think part of the problem, some of the inconsistencies that Senator Evans spoke of, was more to do with the unseemly haste with which the original legislation went through the parliament when we were perhaps expecting an early election. That raft of bills that went through in a hugely unscrutinised way caused, I think, many of the hiccups that are contained within this legislation.

Question negatived.

Senator GREIG (Western Australia) (6.42 p.m.)—by leave—I move Democrat requests for amendments (4), (5) and (6) together:

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

- (4) Schedule 1, page 11 (after line 15), before item 20, insert:

19A Subsection 5E(1) (after the definition of couple)

Insert:

interdependence relationship means a relationship between 2 persons that is acknowledged by both and that involves:

- (a) living together; and
- (b) being closely interdependent; and
- (c) having a continuing commitment to mutual emotional and financial support.

- (5) Schedule 1, page 11 (after line 15), before item 20, insert:

19B Subparagraphs 5E(2)(b)(i) to (iii)

Repeal the subparagraphs, substitute:

- (i) the person is living with another person (in this paragraph called the *partner*);
- (ii) the person is not legally married to the partner;
- (iii) the person and the partner are, in the Commission's opinion (formed as mentioned in section

11A), in an interdependence relationship;

- (6) Schedule 1, page 11 (after line 15), before item 20, insert:

19C After subsection 5R(3)

Insert:

- (3A) The determinations made under subsection (3) are to be applied to individual cases only and not to classes of persons.

These requests for amendments deal with entitlements to same-sex couples. The bill brings beneficial changes to veterans and their partners in the form of increased bereavement allowance. It recognises the general rate in the payment for 12 weeks which will follow the death of a veteran, and the surviving partner will benefit from this recognition. Of course, not all dependants of veterans will benefit from any of these changes. Partners of many veterans continue to be excluded from benefits rightly due to them because of the definition of 'couple', which does not include same-sex partners. In many ways this is an echo of the debate we have already had on superannuation.

We Democrats have a longstanding commitment to removing discrimination against same-sex couples and people in other family relationships, and that includes veterans. We have continued to do so, without success thus far in a comprehensive way, over a long time because we know that, eventually, the government of the day will have to deal with this issue. It was only after repeated and persistent pressure from the Democrats that we finally dealt with most of the key issues of discrimination within superannuation. But of course we ought not stop there, and today we look to the issue of discrimination within the veterans community.

We propose to insert into section 5E(1) of the Veterans' Entitlements Act a definition of 'interdependent relationship'. The legislation

currently provides that a partner can only be of the opposite sex. Our amendment will remove that requirement. The Democrats are concerned that, notwithstanding that gay and lesbian personnel have legally served in the Australian armed forces since 1992, there are no entitlements for, or even recognition of, their partners. Our position is simple: all defence personnel ought to have the right to have their partner of choice recognised if they wish.

Changes in a number of areas, which recognise the rights of same-sex partners, have been made in federal and, more particularly, state parliaments. The sky has not fallen in and the institution of marriage has not been abolished; indeed the world has gone on much as it did before, except that a significant proportion of the community who were discriminated against socially, financially and legally are not now. That is what this issue is about. It continues to be disappointing to have to keep presenting this argument, which has been raised a number of times previously and spoken against in terms of the degree of fear and misunderstanding that I think still exists in the community. I would ask senators here today to genuinely consider the basic issue that lies at the heart of our amendments, which is simply equal treatment. The degree of antagonism and discrimination against gay and lesbian people is an unsupportable action—I would argue as unsupportable as racism, which is roundly and rightly condemned in the community.

I believe the community is supportive of equal treatment. That has been shown by the general support for legislative changes on same-sex issues in all states and territories, including most recently here in the ACT. It is a great shame that the federal parliament is lagging behind community views. We will continue to try and ensure that we get positive outcomes so that discrimination ceases

to occur and that, in particular, it ceases within federal legislation.

Australian lesbian women and gay men will continue to be part of the defence forces. They are currently serving in Iraq. They will eventually become veterans. They will die and some will leave behind lifelong partners. Our position is simple: all defence personnel and veterans ought to have the right of their partner of choice recognised if they wish. Our government is quite willing to send these people overseas to engage in combat duties and to even have them put their life on the line for their country, yet their partners are in a situation where they are not entitled to the benefits brought about by the Veterans' Entitlements Act.

It is quite relevant at this time to consider the serving personnel in Iraq. Their same-sex partners will have been as concerned for their welfare and safety as any legally married or de facto person for their partner. They will have suffered the same anxiety of separation and unknown dangers; they will have the same hopes of a safe return. A gay or lesbian veteran deserves to expect no less than any other veteran would expect at the end of their service when their partners will get the recognition of the special debt that we owe these personnel who have served their country.

Adding to this view is the relatively recent case of Mr Edward Young, a veteran in that very position. He took his claim of discrimination against our government to the United Nations Human Rights Commission. The commission found against the Commonwealth and has called on the government to respond to it and to remedy it. But, regrettably, to date the government has ignored that and the discrimination continues.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (6.47 p.m.)—It is not likely that consid-

eration of the bill will be completed tonight. I apologise for that, but I want to respond to the issues raised by Senator Greig and outline Labor's general response to the same-sex couple amendment. But before doing so I want to raise with Senator Greig my concern about the definition that has been used in this amendment. I do not understand why the Democrats have limited their amendment to the subset of the bill that deals with a utility allowance rather than dealing with issues more generally.

I do not know whether it is in response to Mr Young's case. It strikes me that the interdependence relationship definition would include a father and son or a mother and daughter who are living together. I note that there is a sort of boxed description underneath the amendment that refers to 'entitlements of same sex couples', but it seems to me that the definition is much broader than same-sex couples. If my father were currently living with me, he and I would meet the definition. I do not think that is your intention. It is a technical question. We will be opposing the amendment, and I will lay out the reasons why. I just want to raise that issue with you, and when we continue the debate you might like to address it.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women Issues) (6.48 p.m.)—I want to make one comment. We are getting towards the end of the debate. I do not want to bring all the advisers back tomorrow morning. I presume my response and Senator Evans's response would be okay. There being no objection I suggest that the committee report progress.

Progress reported.

COMMITTEES

Membership

The DEPUTY PRESIDENT—The President has received letters from party leaders nominating senators to be members of a committee.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women Issues) (6.49 p.m.)—by leave—I move:

That Senators Brandis, Chapman and Murray be appointed to the Parliamentary Joint Committee on Corporations and Financial Services.

Question agreed to.

DOCUMENTS

Consideration

The government document tabled today was called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! There being no consideration of government documents, I propose the question:

That the Senate do now adjourn.

World AIDS Day

Senator PAYNE (New South Wales) (6.50 p.m.)—I rise this evening to mark the occurrence of World AIDS Day. This observation was first declared in 1988, and some 12 or so years ago a red ribbon was chosen as its symbol. I was very pleased to attend an event marking this day this morning, addressed by the Minister for Health and Ageing, the Hon. Tony Abbott, with a number of my parliamentary colleagues present. I want to reiterate and support some of the words of the minister this morning. He observed:

HIV-AIDS is indeed a challenge to our society, a challenge to confront our prejudices as well as our behaviours and to attempt to be more consistently our best selves. AIDS is a health issue; it is

not a moral issue. Diseases are to be treated, not judged. We are certainly entitled to make judgments about behaviour, but we should not be judgmental about people. And people with AIDS are our brothers and sisters, who deserve to be treated with respect and compassion. And if they are diminished, all of us are diminished. AIDS Awareness Week should not be an occasion for moralising. There should be no moralising about personal choices and also no moralising about an allegedly discriminatory society, because in Australia's case it just would not be true.

The minister went on to make further remarks in relation to current government activity on HIV issues.

In 2004 the number of people in the world living with HIV is 37.8 million. The number of new infections in the calendar year 2003 was 4.8 million. The theme of this year's World AIDS Day is 'Women, girls, HIV and AIDS'. It is useful to understand why this theme was chosen. From a global perspective, women and girls comprise an increasing proportion of people living with HIV, rising from 41 per cent in 1997 to almost half—that is 48 per cent—at the end of 2003. This proportion is even more striking for younger women, who represent the majority of young people living with HIV-AIDS globally, at a phenomenal 62 per cent.

Young women and girls are more susceptible to HIV than men and boys, with studies showing that they can be 2½ times more likely to be HIV infected than their male counterparts. The World AIDS Day message on the World AIDS Day web site says:

In the global context, women are twice as likely to contract HIV from a single act of unprotected sex, but they remain dependent on male cooperation to protect themselves from infection. In addition, all over the world women are expected to take the lead in domestic work and provide care to family members. HIV and AIDS have significantly increased the burden of care for many women. Poverty and poor public services have also combined with AIDS to turn the care burden

for women into a crisis with far-reaching social, health, and economic consequences.

The World AIDS Day web site goes on to enumerate the key messages which UNAIDS has been promoting throughout 2004. They are messages which concentrate on education and protection—the protection, most particularly, of young women—and they are very important messages.

I want to refer specifically, momentarily, to women in Africa. In sub-Saharan Africa girls and young women are twice as likely to be infected by HIV as young men, having up to six times the infection rate of their male peers, in certain parts of the subregion. In parts of eastern and southern Africa more than one third of girl teenagers are infected with HIV. In making some observations about the impact of HIV on women, it is fair to say that I have read a lot and listened to a lot of reports but this year for the first time I had the opportunity to visit Africa, in particular Mozambique and Kenya. I would describe the experience, from my perspective, as a reality adjustment. I met positive women, community workers, NGO representatives and medical professionals dealing with the challenge of HIV in Africa—and its impact on women in particular.

I want to refer briefly to two groups with whom we met. The first was in Mozambique in the capital city of Maputo. It was a group called Kindlimuka, which means 'wake up' in the Shangane language. They are the makers of the beaded red ribbon that I wear here in the chamber today. Kindlimuka is an association of people living with HIV-AIDS and their objectives are to support people living with HIV, to support the children of parents who have died of AIDS, to provide some social solidarity amongst those who are infected and affected, and to educate families and communities to reduce infections.

I have had contact with a lot of community organisations that work with HIV in Australia, but now I have seen the extraordinary challenge that faces a group like Kindlimuka in Mozambique and what they are dealing with when there are few resources and such an enormous stigma attached to, and discrimination against, people living with HIV. Their work in counselling, home based care, advocacy, prevention, sustainability of life and support for children is a very challenging undertaking for them and they are extraordinary people.

The second group I want to refer to is a group from Kenya called KENWA. I wanted to describe it as an extraordinary organisation but that does not really say enough. It is supported by AusAID in some of its activities. It received significant support from the former Australian High Commissioner to Kenya, Paul Comfort. KENWA is the Kenya Network of Women with AIDS and their stated purpose is 'fighting stigma and discrimination against people with AIDS'. Their very entertaining journal is called *Give me a Chance*. It is run by a woman called Asunta Wagura, who is possibly one of the most powerful people I have ever met anywhere in the world. She was diagnosed with HIV 16 years ago. She is the mother of a small male child. She was completely rejected by her family and asked to leave her home with her child. It is not an unfamiliar story. I have heard many similar stories of women infected by their husbands and then simply thrown out with their children. And their only option is to fight to survive. When Asunta put KENWA together, she describes it in the journal *Give me a Chance* by saying: "KENWA has grown in leaps and bounds from an organization of just five distraught women slightly over ten years ago, to a force of over 3000 strong ladies and in excess of 1000 orphans. This growth has meant that we have to leave our cribs and stop suckling our thumbs. And with

thousands more looking out for us, and our membership swelling by the hour, we must have our nets ready for a great harvest."

Asunta Wagura is an absolutely phenomenal person. We heard many similar stories of infected women. She took us to some village communities near Nairobi to see first-hand the work of KENWA—their headquarters, the literature they distribute, the education and awareness work they do, the counselling they provide, their drop-in centres in villages, their support for educational activities for children who are infected or are from affected families, and most particularly their individual support programs for women with HIV, which encompass medication, food, shelter and clothing.

We went to the extremely humble homes of some of the HIV-positive women. Their homes are dirt floored. They are bamboo or cane huts and they do not have electricity, running water or sanitation. HIV-positive women are living with their families in the most extraordinary circumstances. They are supported by this extraordinary organisation with basic nutrition and medication, and they are fighting for their lives. It is an extremely challenging and confronting experience.

I want to read one paragraph from *Give me a Chance*. It is a testimony from an HIV-positive woman in part of the magazine called 'Voices'. She was quite young when she was diagnosed but she was already the mother of two and pregnant. After her newborn baby died she went back to her old job of laundering linen because she had to make ends meet. She said:

Then I come across KENWA. One of my friends introduced me to this group and told me all about their activities. Once I became a regular face at the KENWA drop-in point in Soweto, people changed their attitudes towards me. Most of my clothes laundering clients just put two and two together after they saw me associating with KENWA. They rationalized that nothing else

could make me stick out my neck if I wasn't HIV positive. That's when my problems begun.

My clients now severed all ties with me. Nobody wanted me to touch their clothes. These were the same people I was depending on for my livelihood. It's like they were now telling me that I could as well starve to death ...

She goes on to say:

It's not different in church. Sometimes, other church members don't want to fellowship with me because of my HIV status. I've heard some of them whisper behind my back that I am a prostitute. I wish they knew that HIV/AIDS is not a respecter of persons.

That sort of story is pretty much the norm some days—perhaps most days—in places like that, but organisations like KENWA play an extremely important role.

In closing, I want to comment on the impact of the pandemic in our region and the very important commitment of Minister Downer and the Australian government to address this. It is not possible to overstate how important it is for responsible Western democracies and for those who want to take leadership on this issue to stand up and look after the people of this region. (*Time expired*)

Tangentyere Council: 25th Anniversary

Central Land Council: 30th Anniversary

Senator CROSSIN (Northern Territory) (7.00 p.m.)—Tonight I want to pay tribute to two organisations in Alice Springs. Earlier today I gave notice of a motion about one of these organisations—the Tangentyere Council—but tonight in a longer contribution in this chamber I would like to pay tribute to the work of both the Tangentyere Council and the Central Land Council. These two organisations were formed in Alice Springs in the 1970s to address Aboriginal people's needs.

I congratulate the Alice Springs Aboriginal housing organisation known as Tangentyere Council on its 25 years of operation.

Tangentyere is one of the largest Aboriginal organisations in Central Australia and it celebrated the 25th anniversary of its incorporation on 11 November. In the Arrernte language, Tangentyere means 'working together'. It was formed by Aboriginal people like Geoff Shaw and Eli and Wenten Rubuntja, who is of course a famous artist, to provide basic services such as running water and shelter to Aboriginal people living on the fringes of Alice Springs—what is commonly known today as the 'town camps'.

Over the years, 18 Aboriginal housing associations were formed in Alice Springs and have come together under the banner of Tangentyere Council. Most now have special purpose leases or town camps, as I said, which provide permanent housing for their members. Tangentyere's services range from regular garbage collection to repairs and maintenance on houses. Tangentyere Council operates one of the most successful community development employment programs as well as other community development programs.

I congratulate the members and the executive of Tangentyere Council, its executive director William Tilmouth and its staff for keeping the passion alive. I was privileged to be at the anniversary celebrations in Alice Springs and to witness the pride that people rightly have in Tangentyere's achievements. It was great to listen to some elders, such as Eli and Wenten and Geoff Shaw, tell tales of the struggles back in the seventies, how it came together and how much they feel they have progressed in providing a service for their people.

Today a quarter of the Aboriginal population of Alice Springs lives on the special purpose leases that are scattered in and around Alice Springs. I am sure people who have been to Alice Springs would have noticed them. Some are quite central and others

are on the fringes of the town. People from a range of Central Australian language groups live on the leases, including members of the Arrernte clan groups, who are the traditional owners of the land that Alice Springs was built on. The traditional owners won recognition of their native title rights in Alice Springs in 2000. And they have recently begun the development of a new Alice Springs urban subdivision, following negotiations with the Northern Territory government—an area known as Larapinta.

Arrernte elder and lawman Wenten Rubuntja, whom I mentioned earlier, was Tangentyere Council's first president. He is much loved in Alice Springs and nationally and he played a prominent part in the celebrations. Wenten is a renowned artist and a former member of the Council for Aboriginal Reconciliation. He is also closely associated with the struggle for land rights in Central Australia. In fact he wrote a fabulous book, which was launched by Ray Martin, called *The town grew up dancing*, about his story and the land rights struggle of Alice Springs. As a former Chairman of the Central Land Council, he also played an important part in the celebrations of their 30th anniversary in Alice Springs on 8 October. The Central Land Council is the second organisation I want to pay tribute to tonight for its 30 years of operations in Alice Springs. Unfortunately, I could not be at the celebrations on 8 October to congratulate people personally, as I was out mobile polling and it was the day before the federal election. However, the member for Lingiari was there and conveyed to me that the celebrations at Blatherskite Park were inspiring.

The Central Land Council held its first meeting in 1974 following recommendations from Justice Woodward's report into land rights in the Northern Territory. Aboriginal people had gone from believing they owned all of the land to legally owning none of it

according to the British Crown. The Aboriginal Land Rights (Northern Territory) Act, drafted by the Whitlam government and introduced with modifications by the Fraser government, was an attempt to redress this dispossession. The Northern Land Council and the Central Land Council were given the statutory role of advocating and fighting for Aboriginal people's rights to their traditional lands in the Northern Territory.

The birth of the Northern Territory Aboriginal land councils and the Aboriginal Land Rights (Northern Territory) Act also saw the birth of the Northern Territory's Country Liberal Party. It was formed predominantly in Alice Springs and was largely formed, of course, to fight the move to establish Aboriginal land rights. True to its roots, the CLP tried to block every land claim during its reign, wasting millions of dollars in court processes to frustrate the process. As a result, most land hand-back ceremonies have been bittersweet events for claimants, as they remember the elders who have passed away since the claim was lodged.

Many people have contributed to the success of the Central Land Council over the years, including many impressive regional delegates, executive members and chairs such as Maxie Stuart, Bruce Braedon and the current chair, William Brown Jampijinpa. The CLC's long-serving David Ross, or 'Rossie' as he is known, also deserves recognition for his responsibilities and professional management of the council's work. Land councils often wear criticisms for problems such as poor health and education outcomes for people on the lands, problems that are not within the land councils' statutory roles concerning land ownership. They are rightly matters between Indigenous people, their communities and the responsible government partners—who are actually willing to work with Aboriginal people rather than

dictate to them what the government partners believe would be the best outcomes.

The Northern Territory Land Council and the Northern Territory Labor government have worked together since 2001 on a range of possible amendments to the Aboriginal Land Rights Act to make it more workable. These amendments include measures to streamline the mining application process. They will work with the outcomes of the current review of the Northern Territory Mining Act. How the federal government gaining control of the Senate next year will affect Aboriginal people's rights to their land in the Northern Territory is unclear at present. We do not yet have the government's proposed changes to the Aboriginal Land Rights Act before us, although we know that there has been an agreed document between the Northern Territory government and the northern and central land councils to improve and strengthen that act. Hopefully, the federal government will not listen to the most extremist rhetoric about the land councils and the Aboriginal Land Rights Act and a realistic look at the act will find sensible improvements that can be made with the support of all parties involved. It will also find many achievements of the land councils worth celebrating.

So again I congratulate the Central Land Council on its 30th anniversary and for 30 years of speaking up for people's country and keeping the culture strong. Despite what this government might think, there are Aboriginal organisations out there doing some great work while facing extreme pressure and uncertainties. It seems that, since the election, this government has adopted the attitude of blaming the victim and taken the carrot and stick approach and has not really taken the time to celebrate or even recognise the wonderful achievements occurring with Indigenous people. The Executive Director of Tangentyere Council, Willy Tilmouth said:

Alice Springs is traditional Aboriginal Land. It is Aboriginal country. With the advent of colonisation, we were displaced on to the fringe of society. From that time on, there has been a contest for space—space to live, to strengthen culture and to be Aboriginal. Through the formation of Tangentyere Council, the endeavour to share this space has taken on a united voice in the struggle for equality.

That struggle has continued through the work of the Central Land Council. Tonight I want to convey my tributes to two organisations in the Northern Territory that I believe are doing an outstanding job in standing up for, and protecting and defending the rights of, Aboriginal people, ensuring that they will be there for all time. I congratulate past members and current members who are involved and work with the Tangentyere Council and the Central Land Council in Alice Springs.

Community Affairs References Committee: Report

Senator HUMPHRIES (Australian Capital Territory) (7.10 p.m.)—I rise to comment on the Senate Community Affairs References Committee report *Forgotten Australians: a report on Australians who experienced institutional or out-of-home care as children*. The report was tabled on 30 August 2004, the last sitting day before the federal election. As it was not possible for all the members of the committee to speak on that occasion, I would now like to put some remarks on the record. Honourable senators are aware that, as a rule, we put aside our political differences when working on references like this one and we focus very much on public interest in the work that goes on in these inquiries. We attempt to discern what is in the broader community interest in reaching conclusions and making recommendations.

Occasionally one is aware that both public and private needs are addressed by committee processes such as this. This is very much

the case in this inquiry into the circumstances of children lodged in institutions and out-of-home settings in Australia, particularly over the last 50 years. This much was evident from many deeply personal submissions and deeply personal live testimony before the committee over many months. Members of the committee were acutely aware of the pain underlying the submissions and hence of the enormous courage that underpinned so many of the care leavers. We were conscious that the mere penning of a submission by a care leaver, and even more so an actual appearance before the committee, was frequently a seminal moment for that person. Despite the obvious pain for many, we were also aware that the experience was sometimes cathartic, a major watershed in the lives of so many engaging in the process.

I personally felt a deep sense of privilege in being able to hear stories from people who had never before given those accounts, even to members of their own families, much less to a parliamentary inquiry. The committee heard evidence of the grossest assaults on the dignity and wellbeing of inmates—I think that is the best word to use—of a variety of institutions, made all the more horrifying because those inmates were children, even very young children, who deserved love and protection, not the kind of treatment they received.

The cruelty devised for these children is difficult to understand in contemporary Australia. Residents of these institutions were routinely depersonalised, separated from toys and objects of comfort, kept in isolation, beaten, forced to work long hours and often undernourished—to say nothing of the activities of sadists and sexual predators who lived among them. Many snippets of evidence lodge in the memory and are tellingly poignant—the story of a girl struggling desperately to be the strength and comfort for

her younger siblings, yet deliberately separated from them in the same institution as a means of breaking her will. Indifference and neglect would have been bad enough, had it not so frequently been interspersed with callous manipulation and calculated torment.

There are many accounts from the evidence which are worth quoting. The conditions that these young people lived in were quite horrifying. One springs to mind:

The home resembled a work house; we were made to work everyday and all day in dreadful conditions. The house laundered sheets for the local hospital. From early morning to late evening we laundered or ironed dirty soiled hospital sheets. Some of the home girls were intellectually disabled. They were forced to wash soiled sheets in large machines like coppers ... The only time we were allowed to break was for meal times ... I remember the hunger, the work and the attitude of contempt for the staff. They made us feel worthless ... I was 15 years old when I went to the Salvation Army home. We had not committed any crime. But we were locked away like criminals.

Punishment was severe. Again, the report says:

As a bedwetter, I used to be beaten daily. They used to throw me under a cold shower and belt me really hard with a large strap where I was wet. This was extremely painful—especially in winter—and left big red marks on my body. They also used to rub my face in the wet sheets and then my brother had to wash them.

It goes on to say:

They taught me bitterness, hatred, an abiding repugnance for their brand of religion, distrust and suspicion of most adults, contempt for authority in all its forms and intolerance of others. I gained an inheritance of moral confusion, abiding anger, psychological scars and a determination to never again allow anyone to treat me as they had; no matter what. Hence I carried a “chip on my shoulder” of incredible proportions. It almost bore me down.

Some questions arose at points at this inquiry about how many children suffered in such

circumstances; what proportion were criminally mistreated and how many were not. The evidence on this score is ambiguous; it is also arguably irrelevant. What matters is that abuse and maltreatment occurred on a large scale and little or nothing was ever done about it in many cases. This is the legacy we must now face; this is the private agony that public policy must now come to terms with.

Above all, we must understand that the issues that arose in these settings resonate still with countless thousands of our citizens. Each of them has one thing in common: when these acts of callousness and depravity occurred each was under the nominal protection of government, a duty which so often was spectacularly dishonoured. That is why this report must spur action, put in place services and support for the survivors of these institutions, open archives and records that have been locked away, and demand from the institutions and their successors that they fully and candidly acknowledge their role in this suffering and make proper amends for it.

In the time since this report was tabled, a great deal of private agony has been opened up in Australian society by people who have been through those institutions, have read accounts of what occurred and had painful memories resurface about what happened to them. There is only one organisation in Australia at the present time at the national level providing support and advocacy for care leavers—that is, the Care Leavers of Australia Network, CLAN. It is run by care leavers, not by professional counsellors. It has been inundated with Australians who have had memories revived and who have a desire to tell their harrowing stories and get support and care. This has simply become overwhelming for the two care leavers who constitute the telephone service offered by CLAN. They have their own histories to deal with as well as listening to the life stories of

others. What is clear is that organisations like CLAN, and particularly CLAN, need to have access to assistance and to professional and specialised counsellors.

The committee recommends that those services be provided by state governments and funded by institutions who have had some responsibility in the delivery of a poor quality of care to these people. The federal government may have a role to play in that. I believe, as a matter of urgency, consideration needs to be given to what help can be provided federally to assist in resolving the problems of organisations like CLAN. The report also recommends that there be a conference at the national level of service providers and advocacy and support groups with the aim of establishing a national professional support and advocacy body for care leavers and that this be funded by Commonwealth and state governments. I recommend that those issues be examined quickly and with some urgency.

Despite a wide variety of experiences unified only by the completely unconscionable nature of the treatment each of these care leavers received, they exhibited throughout one powerful human quality: courage. I saw time and again fellow Australians, their faces contorted in the effort of what they were struggling to do, putting on the public record a shameful episode in our national story at great personal cost to themselves. These were no ordinary witnesses pushing their politicians for some self-serving purpose; these were people bringing to light a dark chapter in the life of our community and serving a vital community interest in the process. They deserve our support in facing the future.

Eureka Stockade: 150th Anniversary

Senator MARSHALL (Victoria) (7.20 p.m.)—I rise tonight to commemorate the 150th anniversary of the Eureka Stockade,

which took place in Ballarat in my home state of Victoria on 3 December 1854. The battle at the Eureka Stockade was a defining moment in Australia's development as a nation. It was a revolution, a struggle for principle and a stand against injustice and oppression. It established the principle that persons have a right to free expression, to protest, to mobilise and to struggle collectively without fear of punishment from the state. It was a monumental event that shaped our democracy. Indeed, some say it was the birth of Australian democracy.

Eureka was Australia's first multicultural community. There were over 20 nations represented on the goldfields and at least 16 at Eureka. Some of the nations represented included Canada, China, England, Germany, Holland, Ireland, Italy, Jamaica, Spain and the United States. Indeed, only two of the miners at Eureka are believed to have actually been born in Australia. In 1854 anyone wishing to mine on the goldfields in Victoria was required to pay a licence fee of £2 every three months for the privilege of doing so—a flat tax. It did not matter whether one was mining day in, day out or once every now and then or whether one's mine shaft was five metres deep or 50 metres deep, everyone was required to pay the same flat tax rate every three months. No consideration was given to one's capacity to pay or the amount of gold found. Everyone paid the same fee.

John Molony, the author of *Eureka*, noted that many miners queued up in the early days to pay the licence fee, expecting improvements in roads, health facilities and education facilities. However, these improvements were not forthcoming. State enforcement of the licence fee was excessive and unjust. Miners would be forced to stop work twice a week to show officers of the state's gold commission their licences. If the licence, printed on a flimsy piece of paper, had been damaged, fines would be issued to the miner.

If someone was found mining without a licence they would be chained to a tree overnight to await the hearing of their case.

Unrest grew on the Ballarat goldfields for a number of months. The issue of taxation without the basic democratic right of representation led to a number of meetings of miners, where concerns were expressed about licence fees and the policing of the licence fees. The most significant of these meetings were the meeting of the Ballarat Reform League on 11 November and the 'monster meeting', as it became known, at Bakery Hill on 29 November, where over 10,000 people gathered—which was about one-third of Ballarat's population in those days. Molony wrote:

With a veritable bonfire of licence-burning, the meeting broke. No shot was fired by or upon the diggers; few words were spoken in anger, much less in sedition. All had pledged themselves to stand united in the event that the law should be determined to enforce its sanctions on licence-lacking diggers. How they would so stand—even where—had not been decided.

The diggers then marched from Bakery Hill to the area chosen to establish the Eureka Stockade. Tensions came to a head during a predawn raid on Sunday, 3 December, when police and soldiers joined forces against the miners. The violent battle that ensued was brief but remains a significant and powerful event in Australian history. Although the exact figure remains unknown to this day, it is believed around 28 people died at the Eureka Stockade, including six troopers. Many others remained unaccounted for.

What occurred was not just about taxation; it was about the right of people to have a say in how they were governed. And it worked. The Eureka Stockade worked. The authorities backed down. The licence fee was abolished and in its place a fairer export duty was introduced. Miners gained representation in the legislative council and a say in the

democratic processes of the land. A court to deal with miners' disputes was established and land was opened up to miners in a fairer manner. But it was not the victory that mattered. Rather, it was the struggle and the spirit of dissent that defined the battle at the Eureka Stockade. Indeed, that is what we commemorate today.

I am pleased the Senate has agreed to celebrate the 150th anniversary of the Eureka rebellion by flying the symbol of the spirit of it, the Eureka flag, in the Senate entrance foyer from dawn to dusk on Friday. This is an appropriate mark of respect for a truly historic Victorian and Australian event, and I wish to take this opportunity to thank senators for passing my general business motion yesterday and allowing this to occur. The Eureka flag is embedded in Australian history. Also known as the flag of the Southern Cross, the starry banner or the Ballarat Reform League flag, the Eureka flag was first flown at the 'monster meeting' of miners on Bakery Hill on 29 November 1854. It is thought to have been designed by a Canadian goldminer by the name of 'Lieutenant' Ross and sewn by a number of the women of Eureka. According to Frank Cayley's book *Flag of Stars*, the flag's five stars represent the Southern Cross, and the white cross joining the stars represents unity in defiance. The blue background is believed to represent the blue shirts worn by many of the diggers rather than the sky, as is commonly thought.

The flag was also flown at the Eureka Stockade prior to and at the time of the attack by soldiers and police on Sunday, 3 December 1854. It is recorded that the flag was removed from its pole by Police Constable John King on the morning of the miners' uprising. The flag was presented as evidence at the Eureka trials in Melbourne during February and March 1855. The following extract from *The Eureka Flag: Our Starry Banner*

expresses a view concerning the significance of the flag:

The Eureka Flag although flown for only five short days has become indelibly etched into many hearts and souls. It is only a flimsy piece of fabric, but because it commemorates courage, and vindicates human rights it has become a lasting and respected symbol. The miners at Eureka were not committed of treason, and although the Starry Banner is a rebel flag, and "sang the rebel chorus", it is not perceived as disloyal to the crown but rather as a sign of triumph, of common rights succeeding over excessive force and unjust laws. The Eureka Flag commemorates victory, although the miners were not victorious in battle!

Because it began in the hands of the people, of the common mass, it is recognised, commemorated and identified as a flag of the people.

And don't the flags look fantastic as you drive up to Parliament House this week. The ACT government ought to be congratulated for organising them—they look just great. So too the parliaments of all Australian states and territories will be flying the Eureka flag on Friday to mark the occasion. As I mentioned before, the Senate will be flying the flag from a flagstaff in the Senate entrance lobby on Friday. It is unfortunate that the flag will not be flown from actual flagpoles within the federal parliamentary precinct, but at least it will be flying here on Friday in one shape or another.

I am looking forward to travelling to Ballarat to attend a number of Eureka 150 events planned for Friday and the weekend. The Bracks government in Victoria must be congratulated for its commitment to the commemoration of the 150th anniversary of Eureka. The many events which have taken place over the past few weeks and those planned for the next few days have been—and I am sure will be—a great credit to the organisers and the Victorian government. The Eureka 150 program has been a fitting commemoration of the battle which took place at the Eureka Stockade and a great

celebration of democracy, dissent and diversity.

In conclusion, can I just dispel a misnomer out there that in some way Eureka is a story and an event in Australian history owned by or solely associated with the Australian Labor Party and the wider labour movement. I concede that point to Senator Mason. While it is true that Labor and the wider labour movement do feel a strong connection with the story of Eureka, the reality is Eureka is a profoundly Australian story that we should all embrace. It is a shame the Prime Minister and the federal government have chosen to boycott the Eureka 150 commemoration and have refused to fly the flag in the parliamentary precinct. However, we come to expect that from a government that is conservative first and Australian second. Eureka is a story for everyone. It remains a defining moment not only for Ballarat and Victoria but for Australia as a nation.

Senate adjourned at 7.30 p.m.

DOCUMENTS

Tabling

The following government document was tabled:

Alcohol Education and Rehabilitation Foundation Ltd—Report for 2003-04.

The following documents were tabled by the Clerk:

Defence Act—Determinations under section 58H—Defence Force Remuneration Tribunal—Determinations Nos 12 and 14 of 2004.

Export Control Act—Export Control (Orders) Regulations—

Export Control (Animals) Order 2004.

Prescribed Goods (General) Amendment Orders 2004 (No. 4).

Financial Management and Accountability Act—Statement under subsection 55(3) relating to the delay in provision of the 2003-

04 Consolidated Financial Statements to the Auditor-General.

Higher Education Funding Act—Determination under section 27A—Determination No. T57-2004.

Higher Education Support Act—

Determination under section 36-15, dated 19 August 2004.

Funding agreement under section 30-25, dated—

2 September 2004—University of Canberra.

7 September 2004—University of Queensland.

9 September 2004—University of Sunshine Coast.

17 September 2004—Australian Catholic University Limited.

18 October 2004—University of Southern Queensland.

22 October 2004—Edith Cowan University.

25 October 2004—

Australian Maritime College.

University of Ballarat.

University of Tasmania.

26 October 2004—

Charles Sturt University.

Griffith University.

Royal Melbourne Institute of Technology.

Southern Cross University.

Swinburne University of Technology.

University of New England.

1 November 2004—

Monash University.

Murdoch University.

Victoria University of Technology.

11 November 2004—

Charles Darwin University.

Curtin University of Technology.

Deakin University.

Flinders University of South Australia.

Queensland University of Technology.

Notice of approval of a higher education provider under section 16-50—Sydney College of Divinity Ltd, dated 26 November 2004.