THIRTY-SEVENTH PARLIAMENT
FIRST SESSION—FIFTH PERIOD

Governor-General

His Excellency the Hon. William George Hayden, Companion of the Order of Australia, Governor-General of the Commonwealth of Australia

House of Representatives Officeholders

Speaker—The Hon. Stephen Paul Martin
Deputy Speaker—Mr Harry Alfred Jenkins
Second Deputy Speaker—Mr Allan Charles Rocher

Speaker's Panel—Mr John Neil Andrew, the Hon. James Donald Mathieson Dobie, Mr Eric John Fitzgibbon, Mr Colin Hollis, Mr Garry Barr Nehl, Mr Neville Joseph Newell, the Hon. Nicholas Bruce Reid, Mr Leslie James Scott, Mr James Henry Snow and Mr Warren Errol Truss

Leader of the House—The Hon. Kim Christian Beazley
Leader of the Opposition—Mr Alexander John Gosse Downer
Deputy Leader of the Opposition—Mr Peter Howard Costello
Manager of Opposition Business—The Hon. John Winston Howard

House of Representatives Party Leaders

Leader of the Australian Labor Party—The Hon. Paul John Keating
Deputy Leader of the Australian Labor Party—The Hon. Brian Leslie Howe
Leader of the Liberal Party of Australia—Mr Alexander John Gosse Downer
Deputy Leader of the Liberal Party of Australia—Mr Peter Howard Costello
Leader of the National Party of Australia—Mr Timothy Andrew Fischer
Deputy Leader of the National Party of Australia—Mr John Duncan Anderson
## Members of the House of Representatives

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### PARTY ABBREVIATIONS
- ALP—Australian Labor Party
- LP—Liberal Party of Australia
- NP—National Party of Australia
- Ind.—Independent

### Heads of Parliamentary Departments

- **Clerk of the Senate**—H. Evans
- **Clerk of the House of Representatives**—L. M. Barlin
- **Parliamentary Librarian**
- **Principal Parliamentary Reporter**—J. W. Templeton
- **Secretary, Joint House Department**—M. W. Bolton

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**Division**
- Burke, Vic
- Chifley, NSW
- Forrest, WA
- Barton, NSW
- Sturt, SA
- Franklin, Tas
- Bendigo, Vic
- Flinders, Vic
- Curtin, WA
- Ballarat, Vic
- Berowra, NSW
- Port Adelaide, SA
- Bowman, Qld
- Maranoa, Qld
- Oxley, Qld
- Hume, NSW
- Calare, NSW
- New England, NSW
- Fisher, Qld
- Bass, Tas
- Perth, WA
- Eden-Monaro, NSW
- Northern Territory
- Fairfax, Qld
- Jagajaga, Vic
- Moncrieff, Qld
- Lilley, Qld
- Melbourne, Vic
- Groom, Qld
- Calwell, Vic
- Hughes, NSW
- Wide Bay, Qld
- O'Connor, WA
- Lyne, NSW
- Grey, SA
- Robertson, NSW
- Tangney, WA
- Gellibrand, Vic
- Page, NSW
- Chisholm, Vic
- Adelaide, SA
SECOND KEATING MINISTRY

Prime Minister
Deputy Prime Minister and Minister for Housing and Regional Development
Leader of the Government in the Senate and Minister for Foreign Affairs
Deputy Leader of the Government in the Senate and Minister for Defence
Treasurer
Minister for Finance and Leader of the House
Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science
Minister for Immigration and Ethnic Affairs and Minister Assisting the Prime Minister for Multicultural Affairs
Minister for Employment, Education and Training
Minister for Primary Industries and Energy
Minister for Social Security
Minister for Trade
Minister for Industrial Relations and Minister for Transport
Attorney-General
Minister for Communications and the Arts and Minister for Tourism
Minister for the Environment, Sport and Territories and Manager of Government Business in the Senate
Minister for Human Services and Health and Minister Assisting the Prime Minister for the Status of Women

The Hon. Paul John Keating
The Hon. Brian Leslie Howe
Senator the Hon. Gareth John Evans QC
Senator the Hon. Robert Francis Ray
The Hon. Ralph Willis
The Hon. Kim Christian Beazley
Senator the Hon. Peter Francis Salmon Cook
Senator the Hon. Nick Bolkus
The Hon. Simon Findlay Crean
Senator the Hon. Robert Lindsay Collins
The Hon. Peter Jeremy Baldwin
Senator the Hon. Robert Francis McMullan
The Hon. Laurence John Brereton
The Hon. Michael Hugh Lavarch
The Hon. Michael John Lee
Senator the Hon. John Philip Faulkner
The Hon. Carmen Mary Lawrence

(The above ministers constitute the cabinet)
Second Keating Ministry—continued

Minister for Resources
Minister for Development Cooperation and Pacific Island Affairs
Minister for Aboriginal and Torres Strait Islander Affairs
Minister for Schools, Vocational Education and Training
Minister for Consumer Affairs
Minister for Family Services
Assistant Treasurer
Minister for Justice
Minister for Small Business, Customs and Construction
Minister for Administrative Services
Special Minister of State, Vice-President of the Executive Council, Assistant Minister for Industrial Relations and Minister Assisting the Prime Minister for Public Service Matters
Minister for Veterans’ Affairs
Minister for Defence Science and Personnel
Parliamentary Secretary to the Attorney-General
Parliamentary Secretary to the Minister for Employment, Education and Training and Parliamentary Secretary to the Minister for the Environment, Sport and Territories
Parliamentary Secretary to the Minister for Social Security
Parliamentary Secretary to the Minister for Industry, Science and Technology
Parliamentary Secretary to the Minister for Transport
Parliamentary Secretary to the Minister for Primary Industries and Energy
Parliamentary Secretary to the Prime Minister and Parliamentary Secretary to the Minister for Human Services and Health
Parliamentary Secretary to the Treasurer
Parliamentary Secretary to the Minister for Housing and Regional Development
Parliamentary Secretary to the Minister for Defence

The Hon. David Peter Beddall
The Hon. Gordon Neil Bilney
The Hon. Robert Edward Tickner
The Hon. Ross Vincent Free
The Hon. Jeannette McHugh
Senator the Hon. Rosemary Anne Crowley
The Hon. George Gear
The Hon. Duncan James Colquhoun Kerr
Senator the Hon. Christopher Cleland Schacht

The Hon. Francis John Walker QC
The Hon. Gary Thomas Johns
The Hon. Concetto Antonio Sciacca
The Hon. Gary Francis Punch
The Hon. Peter Duncan
The Hon. Warren Edward Snowdon
The Hon. Janice Ann Crosio MBE
The Hon. Eamon John Lindsay RFD
The Hon. Neil Patrick O’Keefe
Senator the Hon. Nicholas John Sherry
The Hon. Andrew Charles Theophanous

The Hon. Robert Paul Elliott
The Hon. Mary Catherine Crawford
The Hon. Archibald Ronald Bevis
THE COMMITTEES OF THE SESSION

FIRST SESSION: FIFTH PERIOD

STANDING COMMITTEES

ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS—Mr Gibson (Chair), Mr Brown, Mr Cleeland, Mr Dodd, Mr R. D. C. Evans, Ms Henzell, Mr Nehl, Mr Nugent, Mr L. J. Scott, Mr Wakelin.

BANKING, FINANCE AND PUBLIC ADMINISTRATION—Mr Simmons (Chair), Mr Abbott, Mr Bradford, Mr Braithwaite, Mr Cunningham, Mr M. J. Evans, Mr Jull, Mr Latham, Mr Price, Mr S. F. Smith, Mr Somlyay, Mr Woods.

COMMUNITY AFFAIRS—Mr A. A. Morris (Chair), Ms Deahm, Mr Dobie, Mr R. D. C. Evans, Ms Fatin, Mr Haviland, Mr Newell, Mr Quick, Mr Ruddock, Mr B. C. Scott, Mrs S. J. Smith, Ms Worth.

EMPLOYMENT, EDUCATION AND TRAINING—Mr Fitzgibbon (Chair), Mr Adams, Mr Bradford, Mr Charles, Mr Chynoweth, Mr Griffin, Mr Neville, Mr Quick, Mr Ronaldson, Mr Sawford, Mrs S. J. Smith, Mr Wakelin.

ENVIRONMENT, RECREATION AND THE ARTS—Mr Langmore (Chair), Mr Cameron, Mr Chynoweth, Mr R. D. C. Evans, Mr Grace, Mr Horne, Mr Jenkins, Mr Lloyd, Mr McLeay, Mr Newell, Mr Truss, Mr Wakelin.

HOUSE—The Speaker, Mr Beale, Ms Crawford, Mr Fitzgibbon, Mr Hollis, Mr Nehl, Mrs Sullivan.

INDUSTRY, SCIENCE AND TECHNOLOGY—Mr Griffiths (Chair), Mr Charles, Mr Cleary, Mr Cobb, Mr Cunningham, Mrs Easson, Mr M. J. Evans, Mr Ferguson, Mr Lieberman, Mr A. A. Morris, Mr O’Connor, Mr Reid.

LEGAL AND CONSTITUTIONAL AFFAIRS—Mr Melham (Chair), Mr Cadman, Mr Duffy, Ms Fatin, Mr Holding, Mr Latham, Mr Pyne, Mr Sinclair, Mr Slipper, Mr Staples, Mr Tanner, Mr Williams.

LIBRARY—The Speaker, Mr Ferguson, Mr Filing, Mr Fitzgibbon, Mr Forrest, Mr Jones, Mr Ronaldson.

MEMBERS’ INTERESTS—Mr Grace (Chair), Ms Deahm, Mr Dobie, Mr Elliott, Mr Lloyd, Mr Reid, Mr Sawford.

PRIVILEGES—Mr Sawford (Chair), Mr K. J. Andrews, Mr Brown, Mr Cleeland, Mr Holding (nominee of Leader of the House), Mr Lieberman, Mr McGauran, Mr McLeay, Mr Simmons, Mr Somlyay (nominee of Deputy Leader of the Opposition).

PROCEDURE—Mr Brown (Chair), Mr Filing, Mr McLeay, Mr Melham, Mr Nehl, Mr Price, Mr L. J. Scott, Mrs Sullivan.

PUBLICATIONS—Mr Horne (Chair), Mr Fitzgibbon, Mr Forrest, Mr Griffin, Mr Hall, Mr Haviland, Mr Slipper.

SELECTION—Mr Jenkins (Chair), Mr Filing, Mr Grace, Mr Halverson, Mr Hawker, Mr Hicks, Mr McLeay, Mr Nehl, Mr Sawford, Mr Snow, Mr Tanner.

TRANSPORT, COMMUNICATIONS AND INFRASTRUCTURE—Mr P. F. Morris (Chair), Mr Adams, Mr Cameron, Mr Campbell, Mr Hollis, Mr Knott, Mr McArthur, Mr Mack, Mr O’Connor, Mr Pyne, Mr Sharp, Mr Swan.

Pursuant to resolution

LONG TERM STRATEGIES (Formed 13 May 1993): Mr Jones (Chair), Mr Adams, Mr Dobie, Mr R. D. C. Evans, Mr Haviland, Ms Henzell, Mr McArthur, Mr O’Connor, Mr Snow, Mr Staples, Mr Truss, Mr Wakelin.

TELEVISING OF THE HOUSE OF REPRESENTATIVES (Formed 4 May 1993): The Speaker (Chair), Mr Cameron, Mr M. J. Evans, Mr Hicks, Mr Knott, Mr Price.
JOINT STATUTORY COMMITTEES

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION—Mr Gorman (Presiding Member), Mr Campbell, Mr Dodd, Mr B. C. Scott, Senator Coulter, Senator Minchin, Senator Zakharov.

BROADCASTING OF PARLIAMENTARY PROCEEDINGS—The Speaker (Chair), the President, Mr Cameron, Mr M. J. Evans, Mr Hicks, Mr Knott, Mr Price, Senator Coates, Senator Knowles.

CORPORATIONS AND SECURITIES—Mr S. F. Smith (Chair), Mr Beale, Mr Humphreys, Mr Sinclair, Mr Tanner, Senator Cooney, Senator Gibson, Senator McGauran, Senator Neal, Senator Spindler.

NATIONAL CRIME AUTHORITY—Mr Cleeland (Chair), Mr Duffy, Mr Filing, Mr Quick, Mr Vaile, Senator Jones, Senator Loosley, Senator Spindler, Senator Troeth, Senator Vanstone.

NATIVE TITLE—Senator C. V. Evans (Chair), Mrs Gallus, Mr Knott, Mr Latham, Mr Nehl, Mr Quick, Senator Campbell, Senator Chamarette, Senator Ellisson, Senator Reynolds.

PUBLIC ACCOUNTS—Mr L. J. Scott (Chair), Mr Beale, Mr Brown, Mrs Easson, Mr Fitzgibbon, Mr Griffin, Mr Haviland, Mr Somlyay, Mr Taylor, Mr Vaile, Senator Cooney, Senator Forshaw, Senator Gibson, Senator Neal, Senator Woods.

PUBLIC WORKS—Mr Hollis (Chair), Mr J. N. Andrew, Mr Braithwaite, Mr Gorman, Mr Halverson, Mr Humphreys, Senator Burns, Senator Calvert, Senator Devereux.

JOINT COMMITTEES

ELECTORAL MATTERS (Formed 18 May 1993)—Senator Foreman (Chair), Mr Cobb, Mr Connolly, Mr Griffin, Mr Melham, Mr S. F. Smith, Mr Swan, Senator Chamarette, Senator C. V. Evans, Senator Lees, Senator Minchin, Senator Tierney.

FOREIGN AFFAIRS, DEFENCE AND TRADE (Formed 18 May 1993): Senator Loosley (Chair), Mr Atkinson, Mr Campbell, Mr Duffy, Mr Ferguson, Mr Fitzgibbon, Mr Gibson, Mr Grace, Mr Halverson, Mr Hawker, Mr Hicks, Mr Hollis, Mr Jull, Mrs Kelly, Mr Langmore, Mr Lieberman, Mr Price, Mr Simmons, Mr Sinclair, Mr Taylor, Senator Bourne, Senator Brownhill, Senator Chapman, Senator Childs, Senator Crichton-Browne, Senator Denman, Senator Harradine, Senator Jones, Senator Margetts, Senator Reynolds, Senator Teague.

MIGRATION (Formed 18 May 1993)—Senator McKiernan (Chair), Mr Ferguson, Mr Holding, Mr Ruddock, Mr Sinclair, Mrs Sullivan, Mr Woods, Senator Cooney, Senator Short.

NATIONAL CAPITAL AND EXTERNAL TERRITORIES (Formed 27 May 1993)—Mr Chynoweth (Chair), Mr Cameron, Mr Jenkins, Mr Langmore, Mr McLeay, Mr Sharp, Senator Bell, Senator Coates, Senator Colston, Senator Crichton-Browne, Senator Macdonald, Senator Reid.

JOINT SELECT COMMITTEES

CERTAIN FAMILY LAW ISSUES (Formed 18 May 1993)—Mr Price (Chair), Mr K. J. Andrews, Ms Henzell, Mr L. J. Scott, Mr Williams, Senator Brownhill, Senator Carr, Senator Neal, Senator Reid, Senator Spindler. (To report by 30 June 1995.)
PARLIAMENTARY DEPARTMENTS

SENATE

Clerk of the Senate—H. Evans
Deputy Clerk of the Senate—A. Lynch
Clerk-Assistant (Table)—C. J. C. Elliott
Clerk-Assistant (Corporate Management)—J. Vander Wyk
Clerk-Assistant (Procedure)—P. O'Keefe
Clerk-Assistant (Committees)—R. Laing
Usher of the Black Rod—R. Alison

HOUSE OF REPRESENTATIVES

Clerk of the House—L. M. Barlin
Deputy Clerk of the House—I. C. Harris
First Clerk Assistant—B. C. Wright
Clerk Assistant (Procedure)—I. C. Cochran
First Assistant Secretary (Committees and Corporate Services)—M. W. Salkeld
Clerk Assistant (Table)—J. W. Pender
Serjeant-at-Arms—D. Elder

PARLIAMENTARY REPORTING STAFF

Principal Parliamentary Reporter—J. W. Templeton
Chief Hansard Reporter—B. A. Harris
Assistant Chief Reporter (House of Representatives)—V. M. Barrett
Assistant Chief Reporter (Senate)—M. A. R. McGregor

LIBRARY

Parliamentary Librarian—

JOINT HOUSE

Secretary—M. W. Bolton
Mr SPEAKER (Hon. Stephen Martin) took the chair at 9.30 a.m., and read prayers.

HUMAN RIGHTS (SEXUAL CONDUCT) BILL 1994

Second Reading

Debate resumed from 12 October, on motion by Mr Lavarch:

That the bill be now read a second time.

upon which Mr Ruddock moved by way of amendment:

That all words after "That" be omitted with a view to substituting the following words: "whilst not declining to give the Bill a second reading, the House calls on the Federal Government to reform the treaty making process so that the Commonwealth Parliament, the State and Territory governments, and the community are properly consulted on the content and implications of treaties".

Mr BRUCE SCOTT (Maranoa) (9.31 a.m.) —The Human Rights (Sexual Conduct) Bill is euphemistically described on the front page of the bill as 'An Act to implement Australia's international obligations under Article 17 of the International Covenant on Civil and Political Rights'. Right from the beginning, this bill strikes a fundamental discord with me and with the majority of my fellow Australians.

Over the past month I have been contacted by many people all over my electorate—private individuals, families and church groups.

I would like to name a few of the church groups that have contacted my office: the parishioners of the Goondiwindi Presbyterian Church; Pastor Bob Spence of Roma, who indicated that over 300 people in his congregation have fundamental problems with the bill; and Archdeacon John Thompson of Roma, who wanted to record his feelings on this bill. These people and many others are concerned about the enormous threat which this legislation poses to our sovereignty, but time does not permit me to put them all on the record.

We are debating a bill whose subject matter is completely unrelated to the responsibilities of the Commonwealth government as defined in our constitution. The only justification for the presence of this bill in the chamber today is a distorted interpretation of the constitution. Why is this legislation based upon the International Covenant on Civil and Political Rights? It is due to the fact that, without an oblique reference to the external affairs powers of the Commonwealth, this legislation has no rightful place in the Commonwealth houses of parliament. The subject that it deals with is clearly and unequivocally the responsibility of the state governments and one which they have rightly exercised for some 93 years.

This encroachment on the responsibilities of the various state and territory governments sends a collective shiver up the spines of all thinking Australians. To be blunt, we do not want the Commonwealth interfering in areas which are the natural province of state administrations. Equally importantly, we do not want the Commonwealth interfering on the grounds of a treaty prepared and negotiated by faceless diplomats in Geneva.

The Commonwealth has developed a disturbing predilection for the signing of international treaties. As Senator Gareth Evans, a member of the government, told a Senate estimates committee this year, such treaties are not necessarily subject to so much as cabinet approval. They generally require only the approval of the relevant minister and the Executive Council. This attitude is not only anachronistic but also wholly at odds with the spirit of our federation. There is currently no formal provision for consultation to precede the signing of treaties and apparently little, if any, informal discussion.

The ignorant attitude of the federal government stands in stark contrast to the attitude of one of the great statesmen of this nation, Sir Robert Menzies, and his government. Back in 1961 the Commonwealth decided that treaties would not generally be ratified unless they had lain before both houses of parliament for at least 12 sitting days or, by some other means, had been brought to the parliament's notice. It is a great shame that this government is not prepared to embrace a similar degree of openness. It is my sincere hope that it will reform its ways and support the amend-
ment moved by the coalition which seeks a greater degree of community and state and territory consultation with regard to the implications of international treaties.

The question I have pondered since this legislation was introduced is: why has the federal government exercised the heavy hand of the external affairs powers to intervene in an area of state responsibility over which there is no significant dispute? Why has it sought out an international treaty on this and on many other occasions to justify its legislation? The answer is simple: the Labor government has no genuine mandate upon which to govern. Its 11 years of power—and I use that term very loosely—have been predicated on lies, distortions of the truth, policy backflips and backdowns and deals with the thugs and bullies who control the union movement, and characterised by bitter internal feuds. There is no more damning evidence or conclusive evidence than the article in the Financial Review today where the heavy hand of Bill Ludwig demands industrial action to ban the mining company CRA. I think the article in the Financial Review today confirms the comments I have made.

The government is led by a Prime Minister so devoid of integrity and pride that every word he utters must be assumed to be untruthful or at best mischievous. Today's papers confirm that. Former Prime Minister Bob Hawke says that the Prime Minister (Mr Keating) is lying over the comments made in relation to Australia's involvement in Desert Storm. This has been confirmed by the former Prime Minister whose capacity for selective memory is surpassed only by that of the current Prime Minister.

This government represents a party whose internal processes are so corrupt, so incompetent and so racked by bitter paybacks and dirty deals it needs a quota system to ensure professional and competent women can win seats. It is not surprising, then, that this government should turn to the United Nations for its policy inspiration. It is not surprising, then, that this government should have no respect for the institutions and conventions which distinguish the Australian federation as one of the finest democracies in the world. That is why this government has no compunction about latching onto some well meaning but essentially irrelevant international treaty to override legislation prepared by a democratically elected state government.

The people of Australia do not want their laws derived from a treaty emanating from the diplomatic bunker of Geneva. Australians want to develop their own laws right here in Australia in the relevant parliament. There are three legitimate tiers of government in this country—federal government, state government and local government. The government would do well to heed the message from this side of the House and take guiding wisdom from our constitution.

The Premier of Queensland, Wayne Goss—a factional colleague of the Prime Minister, no less—has expressed grave concern about the Commonwealth's aggregation of powers through the external affairs provision of the constitution. His doomsday prediction was that the state governments would be abolished by the turn of the century as a result of the Labor Party's oppressive and obsessive drive for more centralised power in Canberra. This prediction has come from a Labor premier of Queensland, no less.

I am happy to assure Wayne Goss that this will not happen. This Labor government has only a few months to live. Fortunately for Mr Goss, I can assure him that there will be no further erosion of state government responsibility by a coalition government. The Minister for Aboriginal and Torres Strait Islander Affairs (Mr Tickner) may laugh, but it is a very serious matter. I think he understands that the Prime Minister's actions that we have seen over the last few days mean that his days are very much numbered. Perhaps he is looking forward to moving to Queen Street, Woollahra, sooner rather than later. I think the knives will be out for the Prime Minister very shortly. No doubt he has bought himself a house in a leafy suburb in Sydney in preparation for an early retirement.

Local governments are also concerned about the Labor government's preoccupation with obtaining centralised power through various grubby and devious means. They see, for example, the United Nations desertification
treaty—which the federal government is poised to sign—as having devastating consequences for rural councils that face the possibility of radical alterations to the activity base of their municipalities. The federal government does not, of course, have any responsibility for land management. That is rightly the responsibility of state governments and, in turn, local governments. But will that observation so much as dampen the federal government's enthusiasm for signing the desertification treaty and the multitude of other treaties which are under consideration and which the government is so eager to sign? Unfortunately, no. The Labor Party wants more power at all costs and those costs will be at the expense of the sovereignty of state governments and of the responsibility of local governments in this nation.

One could be forgiven for imagining that there is some sort of United Nations competition for the number of treaty signatories. Perhaps the title of 'most eager to sign' is one which Senator Gareth Evans and the Prime Minister are vying for. The harsh reality for the Labor government is that if it has to draw on the external affairs power to enforce legislation in a particular area, it has no business being there in the first place.

There is no fooling the people of Australia. The people of Australia know that this enthusiasm for signing treaties is driven only by a desire to centralise greater power in the burrows of Canberra, and they do not like it. They know about this government's inability to govern with any sense of rationality, vision or fairness. It is not more power which the Commonwealth requires; it is less. It is local communities that need more power; local people at a local level who know best what their community requirements are.

The Labor government would do well to remember, before it next attempts to interfere in the business of the states on the flimsy pretext of external powers, that if there is one thing which the people of Australia can rely on, one thing which has stood the test of time and one thing which has ensured our enviable stability and freedom, it is our constitution. Our constitution has survived world wars, it has survived recessions. I hope it can survive a Labor government. The Labor government's careless disregard for all that the Australian constitution stands for is a sad commentary on the degree to which it is completely out of touch with the needs and concerns of Australian citizens. I thank the House.

Mr TANNER (Melbourne) (9.46 a.m.)—The Human Rights (Sexual Conduct) Bill is landmark legislation, as I am sure the opposition will concede, because it establishes for the first time in this country a genuine right to privacy. The courts have dealt with the issue of privacy in many respects over many years in this country. Perhaps just one example is the landmark Victoria Park case which the High Court dealt with in 1937. But the courts have never been quite able to stretch the common law sufficiently far to ensure that privacy is genuinely protected in this country. There have been a number of developments in the common law which relate to the issue of privacy but still it has been very difficult for the judiciary to ensure proper and full protection for the privacy of individuals in Australia.

Privacy in this country is under continuous threat on a number of fronts. It is not only the question of sexual behaviour between consenting adults in private that is an issue of privacy in this country, even though that area of privacy is the focus of this legislation and this debate. The ever increasing sophistication of electronic equipment and the ability to spy on individuals and their private behaviour and private conversations through bugging and the use of telephoto lenses and a variety of other sophisticated equipment is one example of the ever increasing intrusion on privacy both in this country and in others.

We even have a situation where a member of parliament in New South Wales was allegedly engaged in using equipment of this nature to impinge upon private discussions relevant to business transactions. We have an ever intrusive media which is always interested in finding out details about private transactions, private behaviour and the like, particularly the more prurient sections of the media. We have intrusive laws which, for example, prohibit individuals from consuming certain
substances even though the consumption of those substances does no harm to anybody else and in many instances does no harm to them. We have ever increasing demands for increased police powers and increasing police powers in areas like compulsory fingerprinting, detention of suspects and the right to demand information. So we have threats to privacy in this country on a number of issues. The stand of the coalition on the issue of privacy tends to vary somewhat according to the nature of the issue. There is not a consistent pattern of strong support for the right to privacy.

This law renders a state law invalid if it involves arbitrary interference with consenting private sexual conduct engaged in by people over the age of 18. It is not directly and specifically related to the Tasmanian law, although that clearly is the primary target of the proposal that is before the House. It is clearly the issue that has triggered the legislation. It could also be brought to play with respect to the Western Australian age of consent for homosexual conduct, which is currently 21, although it will be a matter for potential legal action and decision by the courts to determine whether or not that constitutes an arbitrary interference with the right to privacy of individuals in sexual matters.

It is also worth pointing out that the legislation covers conduct only in private places and does not cover conduct in, for example, commercial premises or public places. It covers arbitrary interference only. Hence, there is a mechanism for reflecting community standards which, of course, change from time to time. The honourable member for Cowan (Mr Richard Evans) keeps shaking his head. It will probably drop off at some stage, but we may not be so lucky.

I would like to now refer to the matter of states rights. Coalition members claim that, in considering this legislation and in dealing with the difficult issues that it contains, they are torn between two very powerful principles which the Liberal Party and the National Party have had a deep and abiding commitment to—states rights and individual rights. I am probably doing members of the National Party a disservice by suggesting that they have ever been committed to individual rights, but we will give them the benefit of the doubt for the next five or 10 minutes.

There is certainly plenty of evidence to suggest that the coalition parties have been strong supporters of states rights. By way of illustration, I need only hark back to a speech that I well remember was made by Sir James Killen—the then member for Moreton—in 1974 in the joint sitting debate relating to proposed legislation to establish Senate representation for the territories. The coalition parties then opposed people in the Australian Capital Territory and the Northern Territory getting representation in the Senate on the basis that the ACT and the Northern Territory were not states and the Senate was purely a states house. The fact that a substantial and growing number of Australians were being denied any representation in one of the two houses of parliament in Australia—one with powers that are only slightly less than the powers of the people's house—was of no consequence to members of the coalition parties. There is no question that members of the coalition parties have a long and strong record on states rights. Whether their positions have been correct or not is another matter.

But their claim to any great credit or strength on the question of individual rights is far more dubious. Members of the Liberal Party in particular are very much captives of individual state branches. Their vision of Australia is essentially that of a place which has not changed since the 1950s. Very fortunately for the Labor Party, they remain obsessed with Sir Robert Menzies. They have not been able to outgrow the spectre of Sir Robert Menzies. They all sit around debating ways to reinvent and recreate Sir Robert Menzies, and debate who can be more like the Menzies legend than anybody else. Long may they continue to see Australian politics in that framework because, while they do, the Labor Party will keep winning.

Mr Tickner—Back to the fifties.

Mr TANNER—That is exactly right. It has been widely said—and it is a position I endorse—that states do not have rights;
people do. States rights are essentially a cover for reactionary resistance to change and a desire to entrench privilege in various parts of this country. They are often based on undemocratic electoral arrangements, such as we see in Western Australia and the upper house in Tasmania, such as we have previously seen in Queensland, and such as we saw in Victoria prior to the election of the Cain Labor government in 1992 and the introduction of genuine equal representation in both houses of parliament in Victoria following the election of that government.

The constitution makes no reference to states rights; it simply specifies Commonwealth powers. It is a matter for this parliament, the people who elect this parliament and the High Court as to how those powers go and as to how they may be employed. The range of areas where the Commonwealth laws impinge on those of the states has been steadily increasing since Federation and will continue to increase.

Initially, we had the gradual move for genuine independence from Britain. The external affairs powers, for example, were not used greatly in the first 10 or 20 years of the history of this country for the obvious reason that, in effect and in reality, Australia was still under the dominion of Britain. Then we had a major wave of economic and technological change—which has brought forth a whole range of human, economic and social activities in this country that simply were not contemplated when the constitution was drafted, particularly in the areas of transport and communication—and now we have internationalisation of economic, social and political activity, of which we are probably seeing only the first phase now.

The Liberals seem to want the Commonwealth to have the same legislative reach it had in the 1950s, even though a vastly greater proportion of our social, economic and political life is now genuinely national or international in character. If we wish to pursue issues of human rights internationally, as I am sure with varying degrees of emphasis and varying views of detail all members of this House would, then I suggest that we would look pretty silly if we said that, with respect to our own internal domestic matters, states rights take precedence over human rights. While we are seeking to prevent infringements of human rights in other countries by a variety of international means in our own backyard, we say, ‘Yes, we the national parliament, the national government of Australia, do not like what is going on in a particular state, but that is an area of states rights and we cannot do anything about it.’ Internationally, I think that position is ridiculous.

We have seen today and many times in debate in this place in recent years an incredible amount of hysteria about international conventions. The honourable member for Maranoa (Mr Bruce Scott) gave us another burst this morning. We hear the usual lines—I would be surprised if the honourable member for Cowan does not also give them a run straight after I am finished—about faceless bureaucrats, foreign interference and all sorts of xenophobic nonsense.

Mr Richard Evans—You are going to be surprised.

Mr TANNER—I am pleased to hear it.

Mr Richard Evans—I always have a laugh every morning.

Mr TANNER—You are always laughing. I would be, too, if I were you. In fact, the international convention we are dealing with here, the International Convention on Civil and Political Rights, was ratified in 1980 by the Fraser government, a Liberal-National government. I suppose the implication of the point of view of the conservative forces is that it is okay to ratify provided you do not actually do anything about it.

It is fine to put your signature to something provided you do not get serious and say, ‘We are going to implement the convention in our country.’ That seems to be the implication of some of the positions the opposition parties have put.

There have also been a lot of comments about the composition of the human rights committee of the United Nations that oversees the implementation of this convention. There have been very unjustified slurs on the members who make up that committee, who are in fact quite distinguished judges, professors of
law and people of that calibre. This is perhaps best illustrated by the Australian representative, Justice Elizabeth Evatt. If we look at the substance of the situation we are dealing with, some of the scary rhetoric we have heard about international conventions starts to fade.

The most critical point, the suggestion that we are ceding sovereignty to foreign organisations, is simply untrue. At all times the Australian parliament remains in control. It has to legislate in order to give effect to any international convention and it is capable of amending and repealing legislation. So at all times this parliament remains in control. If this parliament chooses through legislation to render itself subject to a particular international framework, as it does in many areas—aviation, post, communications and the like—then it still is making that choice and continues to be able to make that choice.

The sovereignty the conservative forces are worried about is not Australian sovereignty; it is state sovereignty. That is what they are worried about. Anything that impinges on the powers of reactionary state governments to do whatever they like will whip them up into a lather. It is perhaps worth pointing out for the benefit of the member for Maranoa, even though he is not here anymore, that the organisation we are talking about is based in New York, not Geneva. He might do his homework in that regard and at least work out which foreigners we are talking about.

The fact is that the internationalisation of social and economic activity throughout the world is inevitably producing an increase in the degree of international regulation and arrangements to deal with the ever increasing complexity of human interaction—social, economic and political—that is emerging. It is a logical consequence, in the same way that the growing national character of transactions and human interaction in this country have led to more power and more activity in the national parliament. It is a natural consequence.

Yes, there are many issues associated with how we should deal with that. There are issues relating to the question of what is the role of the nation, but they are matters for a debate at another time. It is clear that we are starting a period of history where the absolute sovereignty of the nation state is starting to alter. If we look at the peace treaty arrangements in Palestine, or what has flowed from the disintegration of the Soviet Union, or potential developments that may unfold with respect to areas such as the former Yugoslavia, or the emergence of growing integration in the European Union, we can see a development of new arrangements emerging. The institution of complete, absolute national sovereignty, which reached an absolute dominance only in the 16th to 17th centuries and lasted for two or three centuries, is starting to be eroded. I am not advocating that view or opposing it; I am just indicating that, in my view, that phenomenon is helping to fuel some of these occurrences.

I now turn to the question of the alleged gay agenda, another part of the hysteria that has been whipped up by some of the conservative forces in this country. We have heard some more conservative Liberals formulate about the alleged gay agenda and that in some way this legislation is perhaps one step forward to some sort of gay totalitarian state where we all have to wear pink and high heels. That is the sort of weird fantasy that tends to float around some of the more reactionary minds that have permeated this debate. These sorts of attitudes are thinly disguised bigotry. Homosexuality is not something that individuals pick up, or acquire, or choose in some sort of offhand way, like buying a new car. Its effective origin is genetic. The notion of an army of gay teachers or missionaries converting innocent children from heterosexuality to homosexuality is absolutely fanciful.

Gays and lesbians in our society suffer from a very wide range of discrimination in many areas. Ordinary entitlements that heterosexual couples take for granted are often denied to them. Issues that I have been involved in in the past include entitlements for spouses relating to employment considerations—for example, employees in airlines. Issues that I am involved in currently include the ability to claim death benefits from a superannuation fund when a spouse dies. There was a very moving situation in Victoria recently with two gay partners, both of whom had AIDS. One
of them died. The partner who survived was unable to claim the death benefits from his partner's superannuation fund, even though he was named in his partner's form as the beneficiary in the event of death. That is just one example of how gay people suffer discrimination.

I do not know whether there is a gay agenda, but there is a humanitarian agenda to which I and many people in this community are committed to allow people to lead normal lives, free from harassment, free from being beaten up and attacked simply because of their sexuality, free from being discriminated against simply because of their sexuality, and particularly free from facing the threat of criminal prosecution and gaol for engaging in sexual behaviour in private between consenting adults. That is a humanitarian agenda, and it is part of a broader humanitarian agenda. If some of the bigots around the place, particularly those who have come to the fore in parts of Tasmania on this issue, want to have a fight on that, then I look forward to it.

Finally, I want to refer to the suggestion that the Liberal Party has been the great defender of human rights and individual freedom. This is a quite preposterous suggestion. History shows that the Liberal Party has consistently supported only one form of human rights or individual rights, and that is economic rights—the freedom to exploit, the freedom to become wealthy, irrespective of what happens to anybody else.

A minority strand in the Liberal Party, proudly led by people like former Senator Missen and former Senator Puplick, has had a very strong commitment to civil liberties and individual freedoms, but the dominant tendency has always been socially authoritarian. We can go back to conscription, 1916 and 1917, and Menzies' attempt to ban the Communist Party. It was contemplated that people would be put in gaol by the government, would be declared as communists with no judicial process and would then have to prove that they were not communists—a great example of civil liberties.

In the 1960s we had issues like censorship, the little red school book and capital punishment. There was a clear division within the Liberal Party. The minority, led by people like former Senator Don Chipp, consistently failed to win the day and, ultimately, those issues led to the establishment of the Australian Democrats. In the vast majority of cases in debates on civil liberties in this community, including this debate which is occurring now, the Liberals take the side which offers more powers to the states, fewer civil liberties, more oppression and more social authoritarianism. (Time expired)

Mr RICHARD EVANS (Cowan) (10.06 a.m.)—I do not normally comment on the speeches of my colleagues on the other side, but I suggest that the honourable member for Melbourne (Mr Tanner) read article 2 of the particular international treaty that we are talking about. Article 2 states that legislation which protects the privacy of individuals should be brought forward. The only legislation protecting the privacy of individuals that has been brought forward so far is this bill, the Human Rights (Sexual Conduct) Bill, which does not handle the other privacy issues.

According to the press gallery, this bill has the potential to split the coalition, to destroy our leader's standing within the community and to wreak havoc on the coalition within the community. Yet the bill does none of that. Our party, the Liberal Party, is one of free thinking. We are the ones who come in here with free thought, who express the views of our community and who represent our community in this place. It is a party of courage. We are the only ones who are prepared to stand up in this place and represent the views of the community. Unfortunately, people on the other side have to toe the party line and cannot express the point of view of their own constituents.

Much of the debate on this bill has been very heterophobic rather than homophobic. It is more like Mills and Boon. Let us reflect on what the honourable member for Gilmore (Mr Knott) said last night when you, Mr Deputy Speaker, were in the chair. He said:

... where I put what, where or why—is no-one's business ...

He also said:
... that I may in fact describe in detail the acts that take place in the privacy of my bedroom is what this bill is all about.

I do not think the bill is about that, but obviously the honourable member for Gilmore has a real Mills and Boon mentality when it comes to these sorts of issues.

In preparation for the debate on this bill, I have taken the liberty—unlike my colleagues opposite, it would seem—of going to the community and asking for its opinion. I have sought advice from a variety of community groups within my electorate. I have had individual representations from electors of Cowan. I have convened a public meeting of church leaders to discuss the matter. I have also sought comment from youth within the electorate. I would be absolutely negligent in my duty to my electorate if I did not express their views and debate this bill in this place, unlike those opposite who are toeing the party line rather than representing the views of the community.

There are differing views in the community, and there is no reason why those views cannot be expressed in this place. It must be remembered by the community that the coalition is not bringing this bill into parliament; the Labor Party is. It is not the coalition that is threatening state sovereignty over criminal codes by bringing this bill into the House; it is the Labor Party. It is not the coalition which is attempting to legislate morals; it is again the Labor Party, the thought police of Australia. The Labor Party has been motivated to bring this bill into the House, yet it has not expressed a good enough reason for having done so.

The Attorney-General (Mr Lavarch) stated yesterday on the ABC AM program that he has had extensive consultation with the states on this matter. He clearly said that he has had discussions with the states on this matter. I spoke to a few people from the Western Australian government yesterday and I can say that any discussion that the Attorney-General might have had been very minimal. I am disappointed to learn that, because it adds to the perception that the motive of this government is one of politics rather than one of human rights.

It is very clear that the coalition puts a high priority on the right to privacy, especially the right to privacy from government. However, this principle should be balanced against our commitment towards state sovereignty and the continued use of the external affairs power within our constitution. It is my view that the introduction of the bill is a political stunt. Evidence of this assertion can be seen through a closer examination of the bill.

The essence of the bill is in clause 4. This clause basically says that, in accordance with article 17 of the International Covenant on Civil and Political Rights, whatever consenting adults do in the privacy of their own home is, in fact, their business. It does not address the wider implications of privacy that exist under article 17 and refers only to sexual conduct. The member for Melbourne said, 'This is a landmark bill; it's dealing with privacy.' It is not dealing with privacy; it is only dealing with privacy as to sexual conduct.

Under article 2 of the ICCPR, there is a clear obligation to take legislative action so that the rights, as described within the ICCPR, are recognised. However, there is no express legislative right to freedom of speech, privacy, equality before the law or many of the rights recognised in the ICCPR. Accordingly, there is no effective domestic remedy for Australians when their rights under the ICCPR are breached, which is contrary to the requirements of article 2. Surely this is an example of confused priorities of the Attorney-General (Mr Lavarch) when it comes to privacy matters and perhaps confirms that the bill is a political opportunity, rather than a humanitarian issue, as he constantly tells us.

To again place doubt as to the motivation of the government on this particular matter, we can consider the legal opinion of Mr David Barnett QC, who makes the point: The bill would not effect the regulation of sexual conduct provided that such regulation is not arbitrary interference with privacy.

We then are required to identify definitions of 'arbitrary' and 'privacy', which then means...
that the government is abdicating its responsibility on this matter and passing it solely to the High Court to decide. Why bring in a bill if it is not going to give any results? If people then have to go to the High Court, why bring in the bill in the first place? If this bill only gives rise to further rulings, why bring it in?

It would appear that the Attorney-General has brought a lightweight bill into the public domain to try to divide and cause mischief within the community. We have witnessed much discussion in the community on this issue and, unfortunately—and I must say unfortunately—a lot of bigotry is being displayed within the community over this issue; it is causing a lot of mischief. But this will always happen when we try to legislate on morals. We will always get differing opinions when we discuss morals, and, unfortunately, no-one wins such debates. On issues of morals we will always see some very disappointing human characteristics of crass prejudice.

The community of Cowan is very clear on this issue, and our discussions have developed this particular position: attempts to change behaviour through legislation are fundamentally flawed, and we must respect privacy between consenting adults. However, the overriding community concern is not sexual activity; rather, it is the use of international instruments to influence Australian domestic laws.

So why are we debating this bill? We are debating the bill because of this particular issue in Tasmania. As we all know, it relates to the archaic—and I repeat ‘archaic’—Tasmanian criminal code. Section 122 of the code deals with heterosexual conduct and section 123 deals with homosexual conduct. These sections fundamentally restrict an individual’s liberty. We may consider it to be wrong, but who are we in Canberra, Sydney and Melbourne to say it is wrong for Tasmania?

This attitude of judging others reeks of paternalism, which we avoid in other social issues that affect us. The Minister for Aboriginal and Torres Strait Islander Affairs (Mr Tickner), who is at the table, and the member for Capricornia (Ms Henzell), who is in the House, would agree that we do not want to encourage paternalistic attitudes on other issues of social importance in Australia. Yet here is a selective case where we are being paternalistic. People from sunny New South Wales or Western Australia think we know better than Tasmanians about Tasmanian issues. Surely that is the wrong attitude to adopt. It is for Tasmanians; let them sort it out.

However, those championing the so-called states rights on this issue should acknowledge that with rights come an equal amount of responsibility. It is my view that it is inappropriate for parliaments to be condemning or condoning moral behaviour that does not infringe upon other people’s liberties. Who are we to say and legislate that one particular thought of morals is right compared with someone else’s thinking? Who are we to say, ‘Do it this way rather than that way’? We should not be condemning or condoning one way or the other. Morals should be left to the community and to our own conscience to decide. The coalition’s position on privacy is quite clear. The Liberal Party platform contains many references to these beliefs. According to the platform:

... the civil liberties of the individual in society, including the recognition of civil, political and social rights according to international conventions be adopted by Australia.

In The Things That Matter document it was stated:

The truth is that the global trend to democracy, freedom and respect for human rights must be nurtured with long term commitment.

The coalition law and justice policy at the last election stated:

We support the principles laid down in the international human rights conventions such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The Coalition will respect these rights in its legislation and administration.

It went on to say:

The Coalition puts a high priority on the right to privacy, especially the right to privacy against government.

The coalition has always taken stands against invasion of privacy by governments. Does everyone remember the Hawke government’s
intention to bring in an Australia Card? That was a real privacy matter that the Labor Party ducked for cover on very quickly. I can remember back in 1973 when Bob Ellicott, the Attorney-General at the time, brought in the decriminalisation of homosexual activity in the ACT. In 1973 a notice of motion was moved by former Prime Minister John Gorton rejecting criminal sanctions for homosexual activity. It was supported by three members who are still in the House: two from the National Party and one from the Liberal Party. It is interesting to note that the current Prime Minister (Mr Keating) voted against the motion. Yet here we are some years later in parliament doing the direct opposite.

For those in the media to suggest that we are confused within our party suggests that they are too often doing the bidding of the government. The coalition speakers on this issue have given strong reasons for critically reviewing the motivation for the introduction of this bill, yet we do not see any sign of this within the media. There is only the suggestion that there is going to be major trouble within our party when, in fact, there is not because it is a party of free speech.

The honourable member for Melbourne Ports (Mr Holding) yesterday spoke of votes of conscience. That is a great furphy when it is said in relation to the Labor Party because I cannot remember Labor Party members ever voting on a vote of conscience. They always vote along the party line; if they do not they lose their preselection. Let us forget about the furphy of votes of conscience.

The thought police of the Labor Party are now attempting to again legislate morals. Morals are for the community to decide. They are not for governments to legislate on. Morals are a matter of conscience. Any attempt to legislate will only cause division within the community, as this particular bill has done. Any attempt to legislate for morals demands community consultation, yet we are not seeing the community’s views being represented by those opposite; we are seeing only a party line view.

In conclusion, the Tasmanian law is wrong. The issue of individual liberty is greater than states responsibilities on any issue. But I strongly believe the Labor Party’s method of overturning this law is heavy-handed, paternalistic, politically motivated and wrong.

Ms HENZELL (Capricornia) (10.19 a.m.)—I am pleased to follow my colleague the honourable member for Cowan (Mr Richard Evans). I am interested to note the long list of speakers on the Human Rights (Sexual Conduct) Bill. It is obviously generating a great deal of interest. Unfortunately, I have not had an opportunity to read the Hansard containing speeches from the previous speakers, but I suspect that when I do I will find another sad and sorry tale of contorted logic from those opposite as they struggle to find a policy position.

The comments of the member for Cowan reflect the statement of the Leader of the Opposition (Mr Downer) issued on 22 September about where the coalition parties would stand on this bill. The Leader of the Opposition, I suspect, found himself between a rock and a hard place as he struggled to bring together the hard Right in his party and the true Liberals—those few left in the party who would espouse the rights of individuals, as they were described by the member for Cowan. The press release stated:

The Bill raises important principles of privacy and individual freedom.

We also recognise that the Bill raises issues concerning the delineation of State Government responsibilities.

Both issues are of vital concern to the Coalition.

The Coalition is fundamentally committed to ensuring the autonomy of State governments in their areas of constitutional responsibilities. The view we take of the Federal-State balance also allows for the consideration of exceptional issues on a case-by-case basis.

This is the sort of policy flim-flam that has led the opposition leader into the parlous state in which he enjoys a level of popular support which is below the undecided vote. The Bulletin of October 18 shows that, in the preferred Prime Minister stakes, the opposition leader rates 23 per cent and the uncommitted vote is 30 per cent. There are more people undecided about who should be the Prime Minister than there are people who support the Leader of the Opposition. This is
precisely because on major social justice issues of the day—land rights, Mabo—

Mr Taylor—Why don’t you address the issues of the day rather than playing the man?

Ms HENZELL—I certainly will. I am looking forward to addressing these issues because they go straight to the heart of human rights and social justice in this country. Once again it is the Labor Party which is making a commitment to human rights in this country, and it is the opposition which is moving backwards towards the foundation of the Liberal Party 50 years ago, moving against all the principles it once stood for, to secure the support of the hard Right and a constituency that is grey headed or balding in most cases—but perhaps not in the case of the member for Groom (Mr Taylor), who is in the House at the moment.

It is very important for the opposition to realise that its political fortunes are turning on its inadequate attempts to deal with social justice and real small ‘l’ liberal issues that confront this country. It is the government, which has been at the forefront of dealing with social justice issues, that is making the difference. As an example, the Minister for Aboriginal and Torres Strait Islander Affairs (Mr Tickner), who is at the table, has been at the forefront of dealing with Aboriginal issues.

The issue the opposition is attempting to raise is, in the opposition’s terms, that once again the government is using its external affairs powers under the constitution to bludgeon the states. The fact is that the opposition conveniently forgets that our commitment to international conventions is a vital part of our role in the international community, which is creating considerable benefits for this country. Our involvement in the GATT Uruguay Round and related conventions is a case in point.

We as a small nation have a very important role to play in making sure that our views, our social democratic institutions, are mirrored in the legislation that affects us as a member of the international community and that our rights are also the rights of other communities. It is not a case of international standards being imposed on Australia but of Australia as a small democratic nation negotiating international conventions which further not only our economic and political rights but the rights of other nations. We have quite clear powers to legislate in this case, which was reaffirmed in the Tasmanian dams case. Perhaps it goes back to that because that was about Tasmania.

The member for Cowan also raised the notion that Tasmanians have a right to decide how people should behave and that those of us who live in other places might do things differently. I do not think matters of sexual privacy in Tasmania are all that different from what they are in my electorate of Capricornia, or anywhere else for that matter.

It is the federal Labor government’s clear position that, where there is a dispute or conflict between human rights and states rights, human rights are more important. That is the difference between our position and the vacillations of the opposition. As I have said before, this is another reason why a lack of clear policy will take the opposition further down in the polls.

There are many instances where our involvement in and agreement with international treaties is rendering very important benefits to Australia. One could list a number of conventions, apart from the GATT treaty, which we had a considerable role in bringing to fruition, which are rendering benefits to Australia. The UN Convention on the Law of the Sea 1982, the Timor Gap Zone of Cooperation Treaty 1989, various seabed treaties and the intellectual property rights part of the GATT agreement 1994 render Australia important benefits. Human rights is an important area where we have been able to forward social justice policy.

The Convention on the Elimination of All Forms of Racial Discrimination 1966 was the basis of our Racial Discrimination Act 1975. The International Covenant on Civil and Political Rights 1966 was the basis of the development of our Human Rights and Equal Opportunity Commission, which looks at sexual, racial and disability discrimination in this country. The Convention on the Elimination of All Forms of Discrimination against Women 1974 was the basis of our Sex Discri-

It should be noted that in most cases it has been Labor governments that have agreed to these conventions and then brought in the appropriate national legislation. But in this case the International Covenant on Civil and Political Rights was adopted by the Fraser government in 1980. It was a Liberal government that adopted this very important convention. The important point to note is that the international committee dealing with this convention has clearly indicated that the Tasmanian rights are in contravention of our commitment to this international covenant. In this case it is the federal government's responsibility to make sure that, if state legislation is in conflict with the covenant, national legislation is required. Our legislation makes redundant the offending parts of the Tasmanian criminal code.

There is certainly some concern by gay rights groups in Tasmania and elsewhere that this legislation will not necessarily protect the human rights of Tasmanian citizens and may require a High Court challenge. However, the government has made it clear that it is concerned to protect across this country the rights of adult people to conduct their sexual relationships in private, as long as those relationships are with consenting adults.

Together with the states, we have produced a number of pieces of legislation to make sure that abusive relationships and relationships where incest or offences against children are involved are still illegal and not affected by this bill. I think it is very important that the national government take a leading role in this issue. This is what this legislation will do. I believe there is widespread support for the government's position, because it is about securing the human rights of individuals.

I want to refer to a speech last night by my colleague the member for Gilmore (Mr Knott). I was not able to hear the speech as he gave it but, looking at the Hansard, I wish I had been able to view him make it. He began to describe to the House what happens in his personal domestic life. He did not get very far; in fact, he only got as far as saying:

Upon closing the door, hopefully we will fall into each other's arms in an embrace.

That caused great concern amongst the opposition. The honourable member for McPherson (Mr Bradford) said, 'My goodness!' The honourable member for Mackellar (Mrs Bishop) said, 'Talk about privacy! Can't we have some?' Of course that was the point that my colleague was making. Then the honourable member for Braddon (Mr Miles)—that great protector of human rights in Tasmania; I think he is the 'say no to sodomy' person—said, 'We don't want to know. Why are you telling us?' Goodness, he had not said much at all. There is more on prime time television than the innocent and loving remarks that the member for Gilmore was making about a very conventional domestic relationship, one that hopefully is mirrored in many bedrooms across the nation.

It is obvious by those three responses that there is a great aversion to having the private intimate details of people's personal relationships made public. Perhaps those three members would be most strident in wanting to interfere with the personal rights of certain citizens of this country—I look forward to reading their speeches on this bill—and would not wish to allow others the same right of privacy that they wish to confer on the member for Gilmore and presumably on themselves. This bill seeks to protect people from exactly that sort of discrimination and harassment.

It is time that it was said that, with the way time has moved on, Tasmania's criminal code is out of step. I hope we certainly have moved on from the times of Oscar Wilde and E.M. Forster when people were put in gaol for conducting private sexual relationships. I think it is very sad that we are still faced with this sort of hard-core view. Nobody is wanting to force people to engage in sexual activity that is not to their liking. Indeed, I think it is vital that that point be made. It is very often the conservatives who want to stop other people having their right to sexual expression as if in some sense it is going to
impinge on their rights. Nothing could be further from the truth.

It is interesting to see that Australia has moved on in this regard. It is not all that long ago that Dudley Moore, I think, was taken off the ABC for saying, shock horror, 'masturbation'. Heavens, you could not say that in public. You could not even say it in private. I must refer to a wonderful writer in this country, Alan Marshall, author of *I Can Jump Puddles*—who, apart from his wonderful writing and knowledge of human behaviour, was one of those few people who, as I was growing up, could talk about these issues in a very positive way.

I want to remind the House that more recently the ABC showed Armistead Maupin's *Tales of the City*. In my view, it would have been unthinkable even five years ago to not have had an absolute furore about such an excellent television series which depicts various lifestyles, both heterosexual and homosexual, in San Francisco in the 1970s. It is a very fascinating portrayal of life and the dilemmas of human relationships.

But we should not forget that only last year there was a great furore in this House about the endorsement or otherwise of the gay mardi gras. I think it was one of the less commendable situations, I am disappointed to say; members on both sides of the House signed some sort of complaint about the ABC televising the gay mardi gras, yet the gay mardi gras brings in millions of dollars to the city of Sydney and brings hundreds of thousands of people out onto the streets. The success of the movie *Priscilla*, which I think the honourable member for Kennedy (Mr Katter) was slating in his public comments the other day, indicates the fascination that people have with human sexuality.

Mr Deputy Speaker Snow, I must inform you of something that I think you would know, being an educated, erudite person. The bottom line is that genetically, biologically, we are all bisexual. I will not go into the fascinating embryonic details of the matter. So human sexuality both fascinates us and of course repels us. Once again, I know that Mr Deputy Speaker will be very aware, having come to my International Year of the Family breakfast on human lactation, that we still have a society where if a woman chooses to feed her baby in public she may be ostracised—the breast being this fascinating sexual icon. I think we have a long way to go to mature and come of age so that we can accept the fascinating diversity of human sexuality in all its manifestations.

As a mature, democratic society we need to concentrate on encouraging all adult individuals, and training our own children, to be aware that the important issue in human relationships is that people take responsibility for their behaviour; that in all their relationships, whether those relationships pertain to their sexual activity or any other activity, they respect each other’s rights, do not impinge on those rights, and respect the way people express themselves. That is the bottom line that will make us a truly mature social democracy.

This bill goes a long way to not only conform to our international obligations but also make sure that as a nation we can hold our heads up and say that on this issue we are ahead of the pack; we are prepared to protect the rights of our citizens—as we have done with the support of the opposition on issues such as female genital mutilation. The opposition is very selective about these issues on a case by case basis.

I think it is high time the opposition had a very close look at its own policy on this issue. Once again, unfortunately, the opposition has found itself scurrying around trying to find a legitimate policy position to unify the disparate elements. I hope there will be a division on this matter so that people will have to stand up and be counted on where they stand on a very important issue of human rights in this country. Then we will see who has the real liberal tradition in this country and whether the current Liberal Party is prepared to support the Fraser government initiative in adopting this important convention.

Mr Taylor (Groom) (10.39 a.m.)—Let me make one thing clear at the outset of my contribution to this debate. While I will not be opposing the Human Rights (Sexual Conduct) Bill 1994, I most certainly will not
be supporting it. That is not just an exercise in verbiage but a very important technical difference in terms of tactical politics and ethical values. Why? Because this bill is unnecessary and, as my Liberal colleagues the Honourable Member for Tangney (Mr Williams) in Western Australia and the Honourable Member for Braddon (Mr Miles) in Tasmania said in hitting the philosophical nail on the head in this debate yesterday, it is a cynical, transparent push for further centralisation of power in Canberra and a political stunt principally aimed at dividing the coalition.

State governments argue that criminal laws are a state matter, and that the federal government cannot legitimately use its external affairs power to override them. However, the boundary line between the responsibilities of the state and the responsibilities of the Commonwealth is more complex than this. There are no simple rules in the Australian constitution, or anywhere else, that neatly divide state and federal responsibilities. There will be many issues on which it will be important for Australia to act rapidly and flexibly as a nation, and which will require the cooperation of the Commonwealth and the states.

However, the federal government’s increasing strategy of routinely imposing its policies and priorities on the states is poisoning federal-state relations. It is also undermining some important strengths of the federal system—its scope for innovation, its competition of ideas and its diversity of choice for Australian voters.

Efficient federalism does not deny the possibility of federal intervention in areas traditionally regarded as state affairs. As social attitudes, technology and international circumstances change so will the definition of those issues that are genuinely of national concern. However, there is a requirement that the federal government be very discriminating in its decisions to intervene. As the list of intervention grows, and as the cost to the federal system grows with it, the federal government should be more reluctant to intrude further in the states’ affairs.

The Tasmanian and Western Australian criminal laws concerning homosexual acts directly affect only the residents of those states, which is the basis for the Tasmanians and the Western Australians saying that they are purely state matters. However, the laws also raise issues of human rights—which have always been a legitimate concern of the federal government. The question, therefore, is one of degree. Do the present homosexual laws represent a sufficient threat to human rights to warrant federal intervention? In the case of Western Australia, where the issue is about the age of consent, the answer is certainly no.

In the case of Tasmania, the answer might be yes if the Tasmanian government were pursuing a policy of prosecuting and imprisoning homosexuals. But while the Tasmanian law arguably remains nothing more than a piece of window-dressing, the argument for intervention by the federal government is very weak indeed. A better policy for the government would have been to keep intervention as an option if the Tasmanian government changed its policy and used the law to persecute homosexuals.

As John Hyde said in part in the Australian newspaper a couple of weeks ago:

If Labor gave a damn about homosexuals or for the electoral prospects of Labor in Tasmania, it would have not introduced a bill that gives people who practise sodomy a very uncertain defence against Tasmanian law but much reduces their chances of its repeal. What Keating and co. cared about was splitting the opposition.

He went on:

If the homosexual activists gave a damn about the liberty and health of the people they claim to represent, they would not have baited the police to prosecute or tried to organise the boycott of Tasmanian goods. Nor would they have encouraged Keating to make Tasmanian law, yet again, into a constitutional issue.

The coalition has not indulged in some sort of simple gut reaction in evaluating this bill, but has done so against valued parameters and considerations spelt out clearly by the Leader of the Opposition (Mr Downer) a couple of months ago.

Firstly, we are very concerned about the constant attempts by the Prime Minister (Mr
Keating) to centralise power in his politically grubby hands. Secondly, we believe in an effective federation where power is shared between the Commonwealth and the states. Any intervention in the area of state responsibility which undermines the fundamental responsibilities of state governments must have serious implications for the future of the Australian federation. The whole notion of the division of power and ensuring that state parliaments are able to reflect the diversity of local views on a range of social and economic issues is fundamental to a successful democracy.

Thirdly, Labor has made a habit over the last 11 years of using the external powers of the Commonwealth to override the traditional responsibilities of state governments. It clearly believes this backdoor method of changing the constitution is easier than through referendums—asking the Australian people. We have constantly objected to this. Finally, we do not want Australian law to be determined by UN bodies comprising representatives from undemocratic regimes and where the judicial procedures of the United Nations committees do not meet the high Australian standards.

As my Liberal senatorial colleague from Victoria, Rod Kemp, said in a newspaper article in April this year, and again I quote in part:

The ALP has discovered an easy way to change the constitution. Don't worry about a referendum—that involves too much effort and the people may not agree with the government's decision. No. The easiest way is to involve the United Nations. First, sign a UN convention (no parliamentary approval needed). Second, allow Australians to take complaints to the United Nations Human Rights Committee. This committee will then determine whether Australian laws are in breach of the convention. Third, use the external affairs power (as interpreted by our adventurous High Court) and legislate to override state powers. In effect, this is what is likely to happen now that the UN Human Rights Committee has decided to uphold the complaint against the Tasmanian homosexual laws.

I agree also with the views of one of my constituents who wrote to me recently about the impropriety of any decision of an international body being applied to Australian legislation merely because of Australia's membership of that body without due consideration of the needs of the Australian community.

Many people reasonably would ask how we have reached this nonsensical and emotive situation. In 1980 Australia ratified the International Covenant on Civil and Political Rights, which contains many basic human rights, such as the right to life, liberty and freedom from torture, the right to freedom of expression, thought and conscience, the right to privacy and the right to equality before the law.

Article 2 provides that parties to the covenant undertake to respect and to ensure to all individuals within their territories the rights recognised in the covenant without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 2 also obliges parties to take legislative or other necessary measures to give effect to the rights in the covenant where they are not already provided for by existing legislative or other measures. Finally, it obliges parties to provide any person whose rights under the covenant have been violated with an effective remedy.

When Australia ratified the covenant it did not implement its terms in legislation on the basis that existing Australian law provides sufficient protection for individuals. However, in 1991 this government acceded to the first optional protocol to the covenant. This means that Australians can now complain directly to the United Nations Human Rights Committee if they consider that their rights under the covenant have been breached, but only after they have exhausted all domestic remedies.

On the day the first optional protocol came into effect, the now famous Toonen case in Tasmania came into being and, as there was no Australian law implementing his right to privacy under the covenant, there was no legal domestic remedy available. Therefore, Mr Toonen's communication went directly to the UN Human Rights Committee without having to be considered by an Australian court.

In April of this year that committee published its views upholding his complaint and
finding that Australia was in breach of its obligations under article 17. The committee also found that Mr Toonen was entitled to an effective remedy according to article 2 and that an effective remedy would be the repeal of sections 122(a), (c) and 123 of the Tasmanian criminal code. The Tasmanian government has declined to repeal the relevant sections so the Commonwealth government has now introduced this bill, arguably providing a remedy for the specific circumstances of Mr Toonen rather than general implementation of article 17.

I have found a very interesting paper by Ann Twomey from the Parliamentary Research Service. She says in part:

The Commonwealth Parliament has no direct power to legislate in relation to privacy. In this case the Commonwealth is relying on its external affairs power under section 51(xxix) of the constitution to support the legislation. It is well established that a law which implements an international treaty to which Australia is a party, is a law in relation to external affairs. The Bill, however, does not fully implement the whole of the covenant or even the whole of article 17. The question then arises whether its partial implementation of article 17 is sufficient to attract the support of the external affairs power.

Then she talks about the Franklin dam case and goes on to say that, although clause 4 of the bill before us is much narrower than article 17 of the covenant, it does not detract from the obligations under the article or from the overall purpose of the convention and that therefore it is most unlikely that any challenge to its constitutional validity on this basis would succeed.

As a layman in terms of the law, it seems to me that there are persistent question marks about the efficacy of the action of the Attorney-General (Mr Lavarch) in framing this legislation in the way he has, a point that did not go unnoticed by the respected columnist Paddy McGuiness in several of his regular contributions to the print media in recent months.

For the coalition's part, this bill raises the difficult balance of judgment between, on the one hand, personal privacy and individual freedom and, on the other, states rights and responsibilities. For me and for many others in the coalition, as has been indicated earlier in this debate, the right balance has been a very difficult one to strike.

However, all things considered in this specific legislation, I am persuaded to come down on the side of privacy and freedom arguments, as both are important ingredients of the aims and objectives and values of both the Liberal and the National parties. This appears to have escaped the ALP and undoubtedly would have escaped the parliamentary secretary at the table, the honourable member for Calwell (Dr Theophanous). We need go no further than back to the draconian legislation proposed in respect of the Australia Card. In making that judgment, I have run the gamut of argument on both sides of the fence, such as:

Call a loud and clear nay at the critical time on the anti-Tasmanian, anti-Christian, anti-states, antidemocracy bill. Do you want the public to see this secular, humanist, sodomist policy completely dominate the coalition?

While I understand the convictions that drive such strong and extreme views, I remain convinced that we have struck the right balance in not opposing, as distinct from supporting, this legislation. The Leader of the Opposition gave the rationale for this on 22 September, when he said in part:

The bill raises important principles of privacy and individual freedom. We also recognise that the bill raises issues concerning the delineation of state government responsibilities. Both issues are of vital concern to the coalition. Our approach to this bill requires a balancing of these two principles. The coalition is fundamentally committed to ensuring the autonomy of state governments in their areas of constitutional responsibility. The view we take of the federal-state balance also allows for the consideration of exceptional issues on a case-by-case basis. In this case, we have decided that on balance the issue of individual privacy is of such fundamental importance that the bill should not be opposed.

Irrespective of this bill, mistakenly seen by some as providing the thin end of the social wedge to the deviates, my attitude to homosexuality remains unchanged. In my view, it is unnatural and undeserving of the public profile that it generates. That said, I am not about to take a telescope to the private bedrooms of Australians, who should be free to exercise the full extent of their privacy. That
is not the view of a redneck, ultra-conservative, religious zealot, but the view of someone who is Australian, unashamedly a traditionalist, someone who is a firm believer in the family, someone who believes in a higher being, someone who believes that family values have been eroded by governments and societal pressures over the last two decades and are in need of redress and someone who believes that, while Australia has to play its fullest part in the international family of nations, that should not be at the expense of our national sovereignty and our indigenous values.

I therefore support the amending motion by the honourable member for Berowra (Mr Ruddock) that this House calls on the federal government to reform the treaty-making process so that the Commonwealth parliament, the state and territory governments, and the community are properly consulted on the content and implications of treaties. As Piers Akerman said in the Daily Telegraph earlier this year:

Let's face it, we don't even know what we have signed up for, and yet we're standing still for a bunch of people from nations we're advised not to visit while they lay down the law to us, law which 99 per cent of our population will regard as a complete anathema.

Mr Lavarch and Mr Keating, we are old enough and mature enough to govern ourselves without recourse to dubious committees run by doubtful characters on the international cocktail circuit. Tell the UN, thanks but no thanks, we can take care of ourselves. And do it soon, before you further split the nation with this divisive submissive tomfoolery.

I thank the House.

Mr Griffin (Corinella) (10.55 a.m.)—Laws which say what kind of sex adults may agree to have and with whom in the privacy of their homes are no longer acceptable to most reasonable minded Australians. The Human Rights (Sexual Conduct) Bill will ensure that no-one will be charged with a criminal offence for sexual activity in private which involves only consenting adults. The bill will not affect laws dealing with public acts or acts involving children.

The government's action addresses the recent findings of the United Nations Human Rights Committee that sections 122(a), 122(c) and 123 of the Tasmanian criminal code unreasonably interfere with privacy. These sections make certain sexual activities between consenting adults in private, particularly between consenting adult men in private, a criminal offence. The committee examined those laws against the standards set out in the International Covenant on Civil and Political Rights and found that they did not meet our international obligations under the covenant. Australia's efforts to promote observance of human rights internationally will be undermined if we fail to apply fair and consistent standards here.

As I said, the basis for the action of the government relates to the International Covenant on Civil and Political Rights. In 1947, the United Nations Commission on Human Rights decided to draft a treaty which would cast the principles recognised by the Universal Declaration of Human Rights in a form binding in international law on countries which became parties to it. The ICCPR was presented to the United Nations General Assembly in 1954 and was finally adopted in 1966. The ICCPR did not come into operation internationally until March 1976.

The ICCPR is now the major human rights document in the international community. It covers fundamental rights, such as the right to life, liberty, freedom of conscience and thought, freedom of assembly and association, freedom of speech, and privacy. It also covers political rights such as the right to vote, and legal rights such as the right to equity before the law. The ICCPR is an international treaty which binds the countries that are party to it. It is a fundamental principle in international law that, when a country becomes a party to a treaty, it agrees to comply with the obligations imposed by that treaty. As international law deals only with sovereign countries, the treaty does not recognise internal governing jurisdictions, such as the Australian states.

On the day the first optional protocol came into effect in Australia, Mr Nick Toonen communicated a complaint to the UN Human Rights Committee, claiming that sections 122 and 123 of the Tasmanian criminal code breach his right to privacy under article 17 of the ICCPR and his right to equality before the
law under article 26. The relevant parts of section 122 and 123 provide:

Any person who—

(a) has sexual intercourse with any person against the order of nature; . . . or

(c) consents to a male person having sexual intercourse with him or her against the order of nature,

is guilty of a crime.

Any male person who, whether in public or private, commits any indecent act upon, or other act of gross indecency with, any male person, or procures another male person to commit any act of gross indecency with himself or any other male person, is guilty of a crime.

As there was no Australian law implementing his right to privacy under the ICCPR, there was no legal domestic remedy available. Therefore, Mr Toonen's communication went directly to the UN Human Rights Committee without having to be considered by an Australian court. On 8 April 1994, the Human Rights Committee published its view, upholding his complaint and finding that Australia is in breach of its obligations under article 17. Article 17 provides:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful acts on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

The committee also found that Mr Toonen was entitled to an effective remedy according to article 2, and that an effective remedy would be the repeal of sections 122(a), 122(c) and 123 of the Tasmanian criminal code. The Tasmanian government has declined to repeal the relevant sections, so the Commonwealth government has introduced this bill with the intention of providing a remedy.

Members of the opposition have raised the issue of the use of external affairs powers. They see that that is beyond the scope of this government and beyond the scope of any Australian government, and that it is an unfair interference in relation to Australian society, particularly on the question of states rights. On the radio program Daybreak on 7 September 1994, the Attorney-General (Mr Lavarch) had this to say on the issue:

All Australian human rights legislation is based on our international obligations implemented through the external affairs powers. So, to this extent, it’s no different from the Sex Discrimination Act or the Disability Discrimination Act, Racial Discrimination Act for that measure. So it’s exactly that same well-established power which the Commonwealth has to enact legislation in the area of human rights.

But the Liberal Party has itself enacted legislation relying on the external affairs power. I mean, it's the power given to the Commonwealth Government at federation. Understandably enough, you want the national government to be the government in Australia responsible for Australia’s international relations. I mean, that’s a basic responsibility of a national government. I mean, there might be a lot of gnashing of teeth and beating your chest about it now, but it's all a bit false when one looks at the history of the use of this power by the Federal Government.

The clearest indication of that in this case is that this international treaty was signed by the Fraser government in 1980. The then Attorney-General, Senator Peter Durack, said this on 25 September 1978:

The International Covenant represents a significant achievement of the international community. Our support for it will mean that internationally we are of good standing in the field of human rights and can exercise a voice in support of steadily improving practice.

The fact that we are here today relates particularly to the fact that the Tasmanian government has continued to greet that decision by the international committee with disdain and has refused to act on what was a reasonable suggestion by the international committee. I wish to again quote what Michael Lavarch said on Meet the Press in May this year.

Mr DEPUTY SPEAKER (Hon. J.D.M. Dobie)—Excuse me. The member will refer to members by their titles.

Mr GRIFFIN—I wish to quote the Attorney-General. He said:

I met with Mr Groom and the Tasmanian Attorney-General during the week, and they've made it quite plain that the Tasmanian Government's stand on it won't change, that they won't be changing the laws to either amend them in such a way that actions in the privacy of one's home would be free from scrutiny of the police or in some other way repeal them with, say, a strongly worded preamble which would enable the Tasman-
ian Government to still maintain that strong stance in terms of an educative role, which they say the laws play. In those circumstances, there seems very little alternative but for the Commonwealth to look at its own powers in this matter.

Clearly, it's far preferable for the Tasmanian Parliament to pass a law overturning these rules. However, if they won't do that, then there is an overriding responsibility on behalf of the Commonwealth to make sure that basic human rights are enjoyed equally around Australia and that Australians living in Tasmania aren't denied those rights.

I am a particular fan of Tasmania. I have spent quite a bit of time there over the years. I think it is a lovely state with beautiful countryside and lots of very good people. I have a lot of friends in Tasmania and I always enjoy visiting them and dealing with them. What is really sad about the way this has developed is the sort of hysteria that has built up on this issue from elements of the Tasmanian community. Attempts are being made to really whip it up and to create a situation which divides the Tasmanian community on lines which are essentially unfair and undemocratic and which affect people's basic human rights.

I would like to go through a chronology of important events that have occurred in Tasmania over the last few years. This will give the House some idea of what has occurred in Tasmania. The situation produces grave dangers in relation to continuing social cohesion in that society, and that situation can be slated straight back on to some conservative and reactionary elements within Tasmanian society. In April 1988, the Tasmanian Gay and Lesbian Rights Group formed in Hobart and Launceston to campaign for decriminalisation and anti-discrimination legislation. The members used low-key lobbying. In September 1988, the Hobart City Council banned the TGLRG Salamanca market stall because it was inappropriate in a family market. The function of the stall was to gather petition signatures and distribute information.

In October to December 1988, the Hobart City Council called in police to arrest all gay and lesbian activists in Salamanca market. Those staffing stalls were banned from the market for life. Anyone with a gay law reform petition or found displaying the words 'gay' or 'lesbian' or a pink triangle were arrested. Gay and lesbian activists faced police intimidation. Hundreds protested the ban at the market and there were large protest rallies at Salamanca. In December 1988 the Hobart City Council ban was revoked after 130 arrests, large-scale protests and national and international coverage.

In February 1989, the Anglican bishop of Tasmania supported gay law reform. In May to June 1989 there was a state election in which gay law reform figured as an election issue. Labor and the Greens committed themselves to a legislative program, the accord, which included gay law reform. June 1989 saw the formation of anti-gay groups For a Caring Tasmania, FACT, in Launceston, and Concerned Residents Against Moral Pollution, CRAMP—quite appropriate—in Devonport.

In June to November 1989 there was a series of large anti-gay rallies around Tasmania, particularly in northern towns, designed to whip up anti-gay prejudice in an attempt to destabilise the Labor-Greens accord. The slogans being used were 'Labor homos ruin Tasmania' and 'Are the Greens for nature or against it?'. Busloads of gays and lesbians went to rallies to distribute gay law reform info in the streets of rally towns and to protest at rallies. The slogan was 'Talk to us, not about us'.

In December 1990, Labor introduced gay law reform in the state parliament. It passed through the lower house. In June 1991, gay law reform was rejected by the upper house by 15 votes to four in a vitriolic anti-gay debate. Members called for forceful removal of gays and lesbians from Tasmania and the reimposition of the death penalty for homosexuality. In July 1991, the Hobart City Council would allow gay and lesbian participation in the Hobart city Christmas pageant with signs. The council moved to ban gay and lesbian participation in the Christmas pageant.
In November of 1991, the sexual anti-discrimination and anti-vilification legislation passed through the lower house. The debate was adjourned in the upper house after the bill was opposed and attacked by a majority of members. In December 1991, the government’s gay law reform legislation was again thrown out by the upper house. Again in December 1991, the complaint about gay law reform to the United Nations Human Rights Committee was initiated.

February 1992 saw the election of the Liberal government opposed to gay and lesbian rights. Again in February 1992, the new government banned distribution of pamphlets for teachers and youth workers on lesbian and gay issues. In July 1992, Liberal backbenchers questioned the government’s opposition to gay law reform and anti-discrimination. A Liberal committee proposed the sexual anti-discrimination and anti-vilification laws. The police agreed to gay and lesbian and police liaison.

In September 1992, Australia went against Tasmanian government advice and put up no argument against the admissibility of the UN case. In October and November 1992, the Liberals dumped anti-discrimination legislation. Opinion polls showed 75 per cent support for sexual anti-discrimination and anti-vilification legislation. In November 1992, the UN Human Rights Committee declared the gay law reform case admissible and investigation of the case began.

What I am trying to get at there is the fact that over quite a long period of time, in the build-up during the late 1980s, this issue has been part of Tasmania’s political culture. The circumstances are that it has been greeted by some sections of Tasmanian society with hysteria, with very unfair political tactics and in a situation where there is certainly a case that this law and its actions and implications have gone beyond the question of the basic wording of the law.

One of the principal arguments often raised relates to states rights versus human rights on the question of privacy. The Attorney-General of Tasmania, Mr Cornish, stated on 14 June 1994 that the Tasmanian government had stated explicitly that it does not intend to repeal the offending section of its criminal code, claiming that as a duly elected government it is its constitutional right to formulate the criminal law to which its people are to be subjected.

Further, the Tasmanian government has claimed that these sections of the criminal code are justified on public health grounds—that is, such laws serve to protect the state from the spread of HIV and AIDS—and that they serve to uphold moral standards within the state. The Western Australian government has also voiced its intention to lodge an appeal against federal legislation if such legislation serves to lower the age of consent laws relating to homosexual sex within that state.

On the question of federal intervention in these circumstances, it is not just that an international committee has said that this is a basic case of human rights. In a report to the federal government the federal Human Rights Commissioner, Brian Burdekin, concluded that sections 122(a) and (c) and 123 of the Tasmanian criminal code violated the right to privacy, the right to non-discrimination in the exercise of the right to privacy, and the right to equality before the law and equal protection of the law as contained within the International Covenant of Civil and Political Rights. Consequently, on the failure of the Tasmanian government to repeal those sections of its criminal code of its own accord, he concluded that the federal government not only had the right but also the moral responsibility to uphold its international treaty obligations through appropriate federal legislation.

I think the question of states rights versus human rights has been canvassed pretty well today and yesterday in the chamber. Basically, it is a fact that I think many people on both sides recognise. Certainly in this case there is no doubt that the question of human rights overrides the question of states rights. I would argue that in practically any case, but most certainly it is agreed by most reasonable observers that in this case there is no argument.

The detrimental effects of anti-gay legislation on public health programs promoting safe sex as a means of reducing HIV transmission,
by deterring gay men from presenting for testing, counselling, support and treatment, have been recognised within the national HIV-AIDS strategy. The strategy, ratified by all state governments, concludes that anti-discrimination legislation should be enacted in all areas of all jurisdictions to prohibit discrimination on the basis of sexual orientation or imputed sexual orientation.

The situation faced in Tasmania is that even if the law is not acted upon it still impacts on the activities of a section of the population. To argue that that law's being there discourages these acts and therefore discourages people from engaging in homosexual activities is just farcical. What it does is force people underground. It creates fear. It creates a situation where people are unable to act as they wish and are unable to gain the counselling and support they may need in the circumstances they could face.

I think the government could go further with this bill. I also note that in the circumstances this is an appropriate remedy, from the government's point of view, for this very basic issue. There are then questions of why people who happen to be gay or lesbian should be discouraged from public displays of affection when I would not be so discouraged if I were in the same circumstance with my wife or, before I was married, with someone else. Other people can actually make those displays of affection in public without ridicule or scorn. The fundamental issue here is that of rights for gays and lesbians equal to those of everyone else. This is a necessary step towards equal rights, but the battle for gays and lesbians will continue.

I finish with a quote and a comment which relate to the question of the effects of these laws. It has been argued by some in this place and also some elsewhere that these laws really have no effect and effectively have had no effect. The quote I have is from the Launceston Examiner of 13 March 1976. It relates to a particular case brought under this legislation many years ago. I think it highlights what can happen under this legislation and the sort of social stigma that can be attached to it. It states:

'If there had been reform in 1958 I would have been saved from the worst period of my life. I was 21 and living with another man of the same age. The police came to the house and asked who lived there. When we said we did, they asked where we slept and we pointed to the only bed in the house. We were taken to the police station, interviewed and charged with gross indecency. In the Supreme Court I pleaded guilty. I had no legal representation. The case was over in 10 minutes. I got three years.'

That occurred under this criminal code. The article was entitled 'Why Noel shot himself and Bert went to gaol'. The code is archaic and wrong. It remains a loaded gun pointed at every decent, law-abiding Tasmanian. It is out of step with Australian society and the attitudes of many Tasmanians. It deserves to be condemned. (Time expired)

Mr NUGENT (Aston) (11.15 a.m.)—The Human Rights (Sexual Conduct) Bill has received a great degree of publicity. Given that we have debated the bill for several hours now, it might be useful to establish some of the facts of the matter up-front. I think the first thing that a lot of people probably do not appreciate is just how short the bill is. In essence, the bill states:

Arbitrary interferences with privacy

4(1) Sexual conduct involving only consenting adults acting in private is not to be subject, by or under any law of the Commonwealth, a State or a Territory, to any arbitrary interference with privacy within the meaning of Article 17 of the International Covenant on Civil and Political Rights.

4(2) For the purposes of this section, an adult is a person who is 18 years old or more.

That is what we are talking about. With the bill comes the explanatory memorandum, which makes a couple of additional basic points. The bill does not cover conduct involving children or non-consensual conduct or conduct which results, for example, in physical harm to which the individuals involved did not or could not validly consent.

The bill only protects activity which is conducted in private. The bill will not affect the regulation of sexual conduct, provided that such regulation is not an arbitrary interference with privacy. The term 'arbitrary' guarantees that even interference provided for by law should be justified and reasonable in the circumstances. The UN Human Rights Com-
mittee interprets reasonableness as requiring that any interference with privacy must be proportional to the end sought and be necessary in the circumstances of any given case.

Accordingly, the bill will not affect laws such as those dealing with incest, sexual conduct involving a person with an intellectual disability, sexual conduct involving animals, regulation of the sex industry, sexual conduct amounting to professional misconduct, the possession and use of child pornography, and sexual conduct in prisons where the interference with privacy is justifiable and reasonable. I think it important to remind the House of some of those fundamentals in the legislation. It seems to me that during this debate we have gone off into a lot of other country on matters that are not so relevant.

During the lead-up to the coalition making its decision on its position on this bill, I contributed an article to the *Australian*. I would like to cover some of the ground that I mentioned in that article because I think it is still relevant today. When considering the Tasmanian law, it seems to me that the term 'antiquated' is apt, not only because the Tasmanian government itself, though it has had ample opportunity, refuses to enforce it, but also because it would appear to be completely out of touch with life's realities.

Most people believe that in 1994 consenting behaviour between adults in the privacy of their own home is acceptable. The behaviour in question is not only between homosexuals; it also touches on certain acts between a husband and wife—in essence, what we are talking about here is oral sex and sodomy—acts which are not regarded as criminal in other parts of Australia and in most other parts of the western world. Consequently, Mr and Mrs average Australian can behave in Tasmania in exactly the same way that they might do at home on the mainland, but when they do so in Tasmania they are committing a criminal act.

It would be interesting to see how Tasmania's tourist trade might react if that Mr and Mrs average Australian couple were warned of their potential status before they travelled to Tasmania. To me it seems this is clearly a nonsensical situation, particularly when we consider that the last prosecution was, as I understand it, more than a decade ago. In the only case involving consenting adults, a $50 fine was imposed. There is some dispute about the various prosecutions under this legislation, but I think most agree that it has not been enforced of recent times. While not personally necessarily condoning particular behaviour, we come to the question of what we should do in this situation and who should do it.

Governments are elected by the people and should at all times strive to ensure that their laws are responsive and relevant to the people. Tasmanians who genuinely believe that states rights are paramount and must override all other considerations cannot demonstrate, it seems to me, that their anti-sodomy laws are what the majority of Tasmanians support, for the law has not been put to the test. Perhaps the Tasmanian government should test its credentials in this regard by holding a referendum on whether its population wants to retain the laws.

As several speakers have said, the obvious way out of the dilemma for the Tasmanian government is to change its own legislation. It chooses not to do this, even though it refuses to enforce its own laws. The federal government says that, because we have been criticised by the United Nations on this matter on the grounds of individual rights, it has no option but to pass overriding federal legislation. This raises the thorny question of whether the federal government has the duty, or even the right, to act in such a way.

It seems to me that, on my side of politics, the Liberal Party and many others are very much committed to supporting the principle of states rights, but should this be the case in all situations? Are there not occasions where the rights of the individual should be paramount? If they are not looked after by the relevant state government, does the federal government not have a responsibility to act?

The federal government is elected by all Australians as its national government, and it has been empowered to ratify, under our federal system, international instruments. This is the parliament of the nation state. It is for
all Australians. If we do not like the way that it works in terms of ratifying international instruments, perhaps we should change that system or, if necessary, the government. Maybe through such action we would be able to ensure that no treaty or UN convention could be ratified without the approval of the parliament. Given that an elected national government exercises its right to ratify external instruments, such as UN conventions, we would look ridiculous in the international community if we then failed to take action when that convention was breached by one of our own internal states.

We are all proud of our respective states, but it could be argued today that most people in this country regard themselves as Australians first and foremost. That is not to say that everything must be centralised in Canberra, but on occasions it is appropriate that a national perspective prevails. There are a number of issues where this argument might apply, but let us stick to the issue of the right of individuals to pursue in private their own activities without big brother, in the form of the state, watching over their shoulders or peering into the bedroom.

Not all activities, particularly those that affect others, are sanctioned so long as they are conducted in private. Clearly, criminal activities such as drug producing, or manufacturing weapons, or other things that are designed for use outside of the house cannot be accepted. However, somebody must look after the individual’s interests when we are talking about consenting adult action in private. I believe that an Australian government, acting in accordance with a treaty or convention that we have signed, is entitled to take that action. This government has done that, and the coalition has stated that it will not oppose the legislation. But we will move an amendment in respect of the way and manner in which we ratify international treaties and conventions.

There are a few other points that I would like to raise on this occasion. First of all, the bill protects ‘sexual conduct involving only consenting adults in private’ from any arbitrary interference with privacy within the meaning of article 17 of the International Covenant on Civil and Political Rights—a covenant that was signed after full consultation with the states by a coalition government. If a prosecution were launched in either of the states that may be mainly affected by this legislation—in other words, Tasmania and Western Australia—the person charged would move to have the information or the complaint by which they were charged quashed.

That person would claim that the activity complained of was protected because the relevant state law is an arbitrary interference with his or her privacy. The court would then need to decide whether the relevant law was in fact an arbitrary interference with privacy. In reality, such a matter would probably be referred directly to the High Court. The High Court would have to take into account the decision of the United Nations Human Rights Committee in the so-called Toonen case, for example. However, unlike the HRC, which refused to hear Tasmania directly because it is not recognised as a state internationally, the High Court would hear the relevant state.

That state, Tasmania, would presumably argue that its law was not an arbitrary interference. Whilst in layman’s terms this may be seen as a defence to a prosecution technically, it is simply a law protecting the privacy of private consensual sexual activity for 18-year-olds and above. The question of whether any state law is inconsistent with the maintenance of that privacy and thus invalidated is upon the courts. The relevant state law would be invalidated only to the extent that it was decided by an Australian court to be an arbitrary interference with privacy. The coalition in its direction statement The Things That Matter has said:

... the truth is the global trend to democracy, freedom and respect for human rights must be nurtured with long term commitment.

The coalition’s law and justice policy at the last election stated:

... the Coalition puts a high priority on the right to privacy especially the right to privacy against government.

It is hard to find a subject more private to the individual than consensual sexual activity. We have a long history federally in relation to this matter. In 1973 a motion was moved by
former Prime Minister John Gorton rejecting criminal sanctions for homosexuality, with the support of many people on our side including a number of existing sitting members. Obviously a number of prominent former members were in support of that as well. I am not going to go through all the names, but it is interesting to note as a sideline that ‘PJ. Keating’ voted against the motion. In 1976 Ellicott QC, the then Attorney-General, effectively decriminalised homosexual activity in the ACT, saying:

I think it is time we acknowledged that this conduct ought not be the subject of the criminal law.

That was 18 years ago. So the coalition has a long federal history of support for these matters. Human rights are an international issue and are necessarily the subject of international treaties alongside tariff agreements and criminal law enforcement matters, to name but two. While we have always said the states should have primary rights in traditional state areas, we cannot overlook the fact that federally we have international obligations. We cannot opt out of living up to them because one or other of the states does not like it. We are not merely empty vessels for the states.

The bill is properly characterised as dealing with privacy rather than criminal law. It operates to protect individuals in relation to intrusion on consensual sexual activity in private. The bill does not directly repeal state laws; the state provisions remain on the statute books and may serve an educative role.

The weight of opinion and evidence suggests that laws penalising homosexual activity impede public health programs. It has been asserted that, because Tasmania has the lowest incidence of HIV infection per head of population, criminalising homosexual acts lowers the instance of HIV. But the argument simply does not hold water, because South Australia, the first state to decriminalise homosexual activity, has a similarly low level of HIV infection, indicating that criminal sanctions have little effect in that sense. Tasmania also has the lowest level of HIV testing per head of population.

In respect of our amendment, which suggests that international conventions must come before the parliament, it should also be borne in mind that this is the world’s leading human rights instrument, which was ratified by the Fraser government after consultation with the states. Whilst we put state reservations on it, which were subsequently withdrawn, this in no way takes away from the fact that with Australia-wide consultation we agreed to these rights and that they should be protected.

The government has not been totally consistent in its own human rights record. Some of the cries of hypocrisy from the other side rang a little hollow. It seems to me that both the Keating and Hawke governments have performed with indifferent consistency in some respects. We have, for example, a migration bill currently before the parliament that retrospectively seeks to validate what was an unlawful detention. This bill is a clear assault on the principles of the operation of the rule of law to protect civil liberties and it violates individual rights.

In acting to prevent states allowing voluntary student unionism, the government may be acting in breach of the freedom of association provisions of the ICCPR. The attempt of the Hawke government to introduce an Australia Card indicates a complete double standard when it comes to the concept of privacy. So the government’s inconsistent approach on some of these issues needs to be drawn to the attention of the Australian people.

Personally, homosexuality is not my preference and the lifestyle often attaching to it is not my preference. However, I accept as a fact of life that it happens in our community today, and it is accepted in most Western countries. I also accept that, in many areas, states clearly do have rights. However, I put the individual’s rights to privacy ahead of states rights, whether we are talking about states as in Tasmania or Victoria or states as in Australia or any other country.

It is also important we respect international conventions that we as a nation have signed. If we do not like the way we are going about the signing process then we need to change the system—hence, the coalition’s amend-
ment. Notwithstanding that, on this particular occasion a Liberal government signed that treaty with the support of the states. So how can we now when it is called into question not back up the action that has been taken? Australian courts will decide the outcome of any individual case. Ultimately, we are talking about privacy, a human being’s right to privacy, whether that privacy involves homosexual or heterosexual contact or just drinking or playing cards. We are talking about privacy for acts between consenting adults in private provided it does not do anybody else any harm.

Whilst I believe that the timing of the government in introducing this bill does have some slightly mischievous political purpose, nevertheless, I have to say that I would have preferred to have supported the legislation. I certainly support wholeheartedly the coalition’s position not to oppose the bill, and I trust the House will pass the legislation in support of privacy of the individual.

Mr BRADFORD (McPherson) (11.32 a.m.)—I congratulate my colleague the honourable member for Aston (Mr Nugent) on his excellent speech. I make the observation that this has been one of the true and most interesting debates that we have had in this House for a very long time. In many respects the Human Rights (Sexual Conduct) Bill is one of the most provocative bills to have been introduced into this parliament in many years. As my colleague observed in his concluding remarks, one can no doubt conclude that that is part of the government’s intention, and we on this side of the House have had the view all along that its intention in this matter was purely to make mischief and to create difficulty for the opposition.

As we observed the television program last night, perhaps it became clearer to those of us who have been members of the party for many years that the foundations of the Liberal Party were just that—liberal. Many of us who have regarded this party—as I have and do—as a conservative party perhaps were last night made more aware than ever before that we belong to a liberal party even though many of us would claim to be conservatives.

In that sense this has been a very good debate. It has been a very difficult debate for many of us, and I include myself in that category. While giving thought to the sorts of remarks and the contribution I should make here this morning, I was uncertain as to how I should summarise my feelings. I need to come to a credible position. I need to come to a defensible position for the sake of my constituency, my own electorate, and for my broader constituency. After all, I stand here and speak—I guess it is well known—as the Secretary of the Australian Parliamentary Christian Fellowship. I have taken a fairly strong pro-family stance in this place. Therefore, the remarks I make here this morning need to be made in that context.

We all have standards we want to see maintained. We all, I think, come to this place with a value system of some sort. Very few people do not have a frame of reference in which to consider the legislation that has been placed before us. In that sense, it is not difficult to come to a position about most legislation. But this legislation has been very difficult for a number of us for many reasons.

I think there are many people on the other side, in the Labor Party, who might not support this legislation if they had a choice about it—or at least a choice which did not threaten them with political oblivion. I am pleased to be a member of a party, the Liberal Party, which is much more tolerant; it understands and respects the rights of individual members in these particular sorts of matters.

I, like my colleague the honourable member for Aston who spoke before me, accept that the opposition will not oppose this bill. That is our position. I have come to the view that that is a position with which I can feel comfortable, despite the many difficulties many of us have had in arriving even at that position. It is a well-known fact that I and the member for Wide Bay (Mr Truss), who is coming into the House at the moment, and many others, have expressed publicly, and in the debate that has gone on within our own ranks, considerable concerns about this legislation.

In many respects, as some others have observed, despite the fact that this is controversial, the point of view of many people out
in the community may be that this is a debate which we should not be having, or a debate which should not be the longest debate, as far as the speakers list is concerned, that we have had here for a very long time. Many people think there are other more important issues with which we should be concerned. I am sure that in a lot of respects that is so.

We have, in the country, very severe economic problems. There are many people unemployed—many more than the 800,000 or 900,000 who are officially unemployed. We all know that the definition of ‘unemployment’ is such that at the moment there are close to two million unemployed in this country. We have an horrific national debt that has been thrust upon us by 10 years of Labor government. They are issues that we should be talking about. At the moment in this country we have an horrific drought with which we should be concerning ourselves.

However, I think in the end this bill does, in fact, focus attention on matters which are fundamentally important to all Australians, even if superficially it may appear as fairly innocuous—and it has been portrayed to appear so, particularly by members of the Labor Party who want to say, ‘Well, how can you argue about this proposition? It is very simple; it is about what people do in the privacy of their own bedrooms.’ But it does, in fact, focus attention on issues that are of concern to many Australians.

Most Australians I speak to are concerned about the state of our nation. They are concerned about the moral decay which surrounds and pervades this nation. They are concerned about the state of the family. They are concerned that annual divorce rates have almost trebled since 1971. They are concerned about the alarming increase in the rate of teenage pregnancy and abortion. They are concerned about the extent of drug and alcohol abuse. They are concerned about lawlessness, violence and the proliferation of pornography. They are concerned that the suicide rate for young males has trebled in the last four years, and that the adolescent suicide rate is second to car accidents as the most frequent cause of adolescent death. They are concerned about the spread of AIDS.

In that broad context some in this place would tell us that some of these things are the price we have to pay for progress, enlightenment, modernity or whatever. Yet people are concerned about this. When these sorts of issues come up, many people come forward and say—and the many that have been in contact with me have come forward and said—‘You’ve got to keep drawing the line; you must draw the line somewhere.’

The Tasmanian government has a law on its books which draws the line; it sets a standard for behaviour in that community. In this debate so far, of course, a lot of attention has been focused on those aspects of the debate which question whether the federal government ought to be able to intervene, and about the rights of people within states to democratically elect their governments to make laws for themselves within areas of responsibility.

Further, I believe very genuine concern has been expressed at the fact that an unelected United Nations committee representing a number of demonstrably undemocratic states can undermine our sovereignty as a nation. The Minister for Consumer Affairs (Ms McHugh), who is at the table, does not really like that suggestion, but that is the fact—and that, of course, is the point of our amendment, which I strongly support; it makes that point very clear indeed.

Ultimately, this bill is about homosexual rights. I will not go through the details about how it was arrived at. I think it has been clearly spelt out that this bill has come about as a result of a submission to the United Nations committee. That submission—I think I remember the member for Braddon (Mr Miles) in his speech yesterday making this clear—was ultimately and completely flawed in that the Tasmanian government, which in a sense was the defendant, never even had the right to put its point of view and the Australian government, which effectively was going along with it anyway, did not make any strident defence. So it was flawed. That point has been made very strongly in this debate so far.

Ultimately, the bill is intended, to quote some of the government speakers, ‘to ensure
the human rights of Tasmanian homosexuals'. The clear perception in the community at large is that that is the intention of the legislation. It is the government's stated intention. Those who oppose this are vilified or described as 'homophobic'; we have heard that word used consistently in this debate so far. Those who are concerned about it are labelled as the ones who have the problem. That, of course, is a tactic which militant homosexuals—and I underline the word 'militant'—have used with some effect.

I do not want to speak for too long, but I do say that I believe homosexuals are as capable of being decent human beings as is any other one of us. I respect their human rights, but I cannot personally condone their behaviour. I think that probably has been a fairly consistent line, to one extent or another, here in this place. I believe that their behaviour, by definition, is inherently anti-family. As I said at the outset, I believe personally that homosexual acts are wrong. I believe that sodomy is wrong; Tasmanian law says it is wrong in fact. So it would be entirely hypocritical for me to support this legislation. I cannot support this legislation and walk out of this place and be consistent or be regarded other than as totally hypocritical in the stands that I have taken in the time that I have been here.

I do not believe that it is part of my role here to attempt to impose my views on this parliament or, indeed, upon the people of Australia. I do believe, however, that I have the right and responsibility to express a point of view, particularly a point of view which is widely held or one that is particularly held—and not necessarily in this case—within my electorate. This has been a very difficult issue because of its moral dimension. As I said, many people are concerned about what is going on in our country and expect us, in governments and parliaments, to draw a line. In fact, they expect us and are demanding of us that we push back some of these so-called reforms that are having the effect on our nation that they are so obviously having.

It is no good for government members to try to portray this as progress of some sort, when it is always the thin end of the wedge; it is always the moving of the line a little further across. The results of this are absolutely clear, and I listed some of them a little while ago. I do not, either, believe that I can luxuriate or indulge myself by using this place for any purpose other than to engage in debate or to attempt to persuade. I am not here to preach and—as the member for Gilmore (Mr Knott) yesterday suggested of some of us—I am not here to judge. It is not my role to judge. People will ultimately be responsible for their own actions. As I said earlier, all of us have some sort of a frame of reference for the decisions and the positions we take on issues.

Ultimately, I do not believe that I am responsible for every individual's actions. I do, however, have a responsibility to the future of our society; indeed, I have a unique responsibility and opportunity to influence the direction in which our society is heading.

This debate has been a true debate; I have not come in here with a speech that I was going to make anyway, it is not a speech that I wrote two weeks or a month ago. I have listened to the debate. I accept that the right to privacy is important, and I believe it is a right which is under threat by this government. That has clearly been the case, as others have said, with the government's attempts to introduce Australia cards and all sorts of other things. In that sense, this legislation is quite peculiar and even inconsistent, as has been pointed out.

This law is essentially a bad law and it fails many tests. Ultimately, it founders on the rock of political expediency. It is an indication of how far this government will go to score a few points at the expense of the best interests of the nation. I am quite sure that, in the end, we as individuals and as a nation will reap what we sow. History has shown that to be the case, and I believe it will be the case again.

In coming to my decision here today, I make clear that I do not condone homosexuality. I do not believe that, in the end, I should accept the responsibility for what individuals do in the privacy of their own bedrooms. I prefer to take the view that I should do everything I can in this place to...
draw the line. In that sense, I support the Tasmanian law but in the end—this is a difficult balance, the difficulty we have all had—I respect the right to privacy. I will stand up in this place at every opportunity I get to defend my right to speak on behalf of many people who share my views. I believe strongly that we as parliamentarians have a right and a responsibility to set standards for behaviour in our community.

Mr TRUSS (Wide Bay) (11.47 a.m.)—The Human Rights (Sexual Conduct) Bill is not fundamentally about freedom, nor is it about guaranteeing privacy. This bill is before the Australian parliament to further Labor's objectives of introducing a bill of rights by stealth; subjecting Australia's sovereignty to the direction of United Nations conventions; diminishing the power of the states and centralising power in Canberra; and eliminating standards of morals and decency.

The federal government is using the Tasmanian homosexual lobby and this bill as an instrument to further its much more extensive agenda to fundamentally change our country and its federal system of government. This legislation demonstrates that the Labor government is always willing to subject Australia's law making procedures to the whims of any United Nations committee, no matter how corrupt its decision making processes may be, no matter how inappropriate its rulings. This bill, in its long title, claims 'to implement Australia's international obligations under article 17 of the International Covenant on Civil and Political Rights', but it does not even address significant elements of those obligations. When Australia ratified the covenant, it did so subject to a general reservation that, where a matter falls within the constitutional authority of the states, it is up to the states as to how they respond to the requirements of the covenant. In 1984 the Labor government removed this reservation—a clear warning that it intended to more aggressively exercise its foreign affairs power, so obscenely extended by the High Court Franklin Dam decision, to override the properly made decisions of state governments.

The Commonwealth government is now able to interfere in virtually every aspect of the powers which were intended to be exercised by the states, and this must cease. To quote the Leader of the Opposition (Mr Downer) when speaking on this bill on 24 August:

... the whole notion of the division of power and ensuring that State Parliaments are able to reflect the diversity of local views on a range of social and economic issues is fundamental to a successful democracy.

Australia is a federation of states. The Commonwealth was established as the child of the states and given specific powers. Over recent years the Commonwealth has made a habit of using the external affairs power to override traditional responsibilities of state governments and to extend its own influence.

I am told that Australia is now a signatory to over 2,000 conventions and international agreements—five times more than the United States. It is beyond dispute that the vast majority of the treaties to which Australia is a party are beneficial and essential to the good order and government of our nation and the peace of the world. When we post letters in Australia, they can be delivered in another country only as a result of an international treaty for one country to honour another's postage stamps. If Qantas is to fly safely over other countries, it can only do so if there are international air agreements in place. The vast majority of treaties to which Australia has become a signatory fall within these sorts of categories.

Over recent times, the federal Labor government has become a far too willing signatory to United Nations conventions, many of which have little or no benefit to Australia other than to change the balance of powers between federal and state governments. There has also been a growing tendency for these treaties to be much more comprehensive in scope and far-reaching in their consequences. What is worse, the federal government has developed a practice of committing Australia to these conventions without first ensuring that the convention has the support of the Australian people. There is little or no attempt to secure approval for the treaty from parties likely to be affected in Australia, and the federal parliament is not even consulted.
In the past, it had been the practice of the government, in cases where a treaty would have a significant impact on domestic circumstances, to seek the approval of the parliament before ratifying a treaty. Between 1919 and 1963 there were at least 55 cases in which parliamentary approval was sought before treaties were ratified. In 1961, former Prime Minister Menzies introduced a procedure to allow treaties to lie on the table of the parliament for at least 12 days before government ratification. Under the Labor government, these processes have been discontinued.

I believe that all treaties and conventions should be exposed to parliamentary scrutiny and approval before their signature. These conventions sometimes have a greater impact on Australian law than the legislation passed by this House. It is therefore a travesty of the democratic process that the effects of conventions drafted by other countries and signed in faraway capitals can be entrenched in this country without any reference to our own democratic process. This bill is a further example of the abuse of foreign affairs powers, extending their scope way beyond what was intended by the founding fathers when our constitution was formed.

The Tasmanian criminal code of 1924 contains provisions relating to sodomy and indecent practices between male persons. No one—not the homosexual lobby, not the federal government, not the United Nations Human Rights Committee—has questioned that this legislation was properly made and remains lawful. Indeed, all other states had similar laws for many years until they were gradually repealed—generally by Labor governments. Presumably, if there were any doubts about the code's legality, its detractor would have challenged it in the Australian courts.

There can also be no doubt that these laws are supported by the majority of the Tasmanian people. This view is reinforced not only by public opinion polls but by the ultimate test in a democracy: the result of the 1992 Tasmanian state election. At that election, the impasse that had developed in the Tasmanian parliament over the repeal of the legislation was resolved by electing a lower house which was publicly committed to the retention of the current laws.

The Tasmanian government has argued that its laws are not only lawful and approved by the people but also necessary to control the spread of AIDS and other sexually transmitted diseases. AIDS is an appalling, incurable disease with enormous social and personal consequences. It is beyond doubt that AIDS is very largely a disease of the homosexual community. It is also beyond doubt that Tasmania has the lowest incidence of HIV infection per head of population of any Australian state. Tasmania had 15.1 positive cases per 100,000 head of population compared with the average of the other Australian states and territories of 100.4 cases per 100,000.

Tasmania's comparative success in dealing with the spread of AIDS should not be lightly discounted. It seems its results are better than the results in those states where governments have spent millions of dollars of taxpayers' money on advertising campaigns, allegedly designed to counter the spread of AIDS but which, in reality, were in many instances glossy promotional campaigns promoting homosexuality to the young. Even former Minister for Health Graham Richardson was moved to speak out against some of the AIDS advertisements, particularly those prepared by the Victorian AIDS Council, though sadly he did nothing to stop this abuse of taxpayers' money.

In Western Australia the laws on homosexuality provide for a higher age of consent, again as a result of the specific legislation of the Western Australian parliament and with the approval of the people of that state. This legislation also overrules Western Australia's lawful actions in legislating according to the wishes of the people of that state. But this bill could well directly affect other states too as many observers believe that, depending on future High Court decisions, it could also overrule other laws such as those prohibiting incest and the regulation of prostitution between consenting adults.

In 1991 Australia acceded to the first optional protocol of the International Covenant on Civil and Political Rights, which meant
that Australians could complain directly to the UN Human Rights Committee if they considered that their rights under the covenant had been breached. In so doing, the federal government established an external review process which exposed Australian law and judicial processes to judgment by overseas agencies. It is ironic that this same Labor government, which abolished appeals to the Privy Council on the grounds that Australia should assert its sovereignty and be responsible for its own legal processes, has now subjected this country to examination by unelected, unrepresentative, unqualified, unaccountable and un-Australian foreign committees. You can no longer appeal a High Court decision to any higher legal authority but you can go to a second-rate defective hearing by the Human Rights Committee.

Immediately Australia ratified the first optional protocol, a Tasmanian homosexual, Mr Nick Toonen, lodged a complaint with the Human Rights Committee claiming Tasmanian laws, which make homosexual acts an offence, breached Australia's obligations under the international covenant. The United Nations Human Rights Committee operates in a manner totally inconsistent with the principles of natural justice, fairness and the presumption of innocence. The committee's hearings are held in secret. No opportunity is provided to cross-examine witnesses or to contest the evidence presented and there is no right of appeal.

In the Toonen case, the defence—the Tasmanian government—was not even allowed to present a case, nor even allowed to make a timely response to the many false statements made by the complainant. Finally, when the committee makes its recommendations, no voting figures or reasons are provided for the decision.

It is interesting to note that almost half of the countries which have signed the International Covenant on Civil and Political Rights have not ratified the first optional protocol. In many instances, their reluctance is associated with concerns about the unacceptable processes of the HRC. Those 69 countries presumably believe that their own legal systems are capable of fulfilling their obligations under the covenant. Many other signatories to the UN conventions simply never have any intention of fulfilling obligations contained in the convention.

The Human Rights Committee hearing the complaints against Tasmania comprised four countries which were not themselves signatories to the protocol, the United Kingdom, Jordan, Japan and Egypt. The United States of America has also not ratified this protocol. Five of the 18 members of the UN Human Rights Committee come from countries which have been assessed by the independent human rights organisation, Freedom House, as being not fully democratic. Those countries are Egypt, Jordan, Senegal, Yugoslavia and Venezuela. Five of the members of the committee come from countries which themselves have laws against homosexuality. Yet these are the people whom Australia has invited to pass judgment on our own laws. These are the people who have the audacity to criticise Australian laws when their own record is infinitely worse.

This bill gives undeserved credibility to the judgments of a kangaroo court conducted without proper process and in denial of the right to a fair trial. The decision of the committee was illogical and should not be the basis for any legislation before this House.

Mr Toonen's complaint probably should never have even been considered by the Human Rights Committee. He had never been prosecuted under the Tasmanian law and was, therefore, not a victim of any restriction of his human rights. No policeman had ever invaded the privacy of his home, nor did he allege any unlawful attacks on his honour and reputation. Therefore, to consider the complaint, the Human Rights Committee came to the very tenuous conclusion that 'the pervasive impact of the continued existence of these provisions on administrative practice and public opinion had affected him and continued to affect him personally'.

The committee seemed to contradict its own statement in its later judgment when it placed importance on the fact that these sections of the Tasmanian criminal code had not been enforced since 1984 and, therefore, were not very significant. Mr Toonen complained that
sections 122 and 123 of the Tasmanian criminal code are a breach of article 17 of the International Covenant on Civil and Political Rights, which provides:

No one shall be subject to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

The committee quite correctly concluded that Tasmania's laws were not an unlawful interference with privacy but decided that it was an arbitrary interference. The definition of the term 'arbitrary' is, of course, highly subjective and open to interpretation. The committee said that 'the introduction of the concept of arbitrariness is intended to guarantee that even interference provided for by the law should be ... reasonable in the circumstances'. The Tasmanian government argued that its law was necessary to protect public health and morals and, therefore, was not arbitrary or unreasonable.

This bill also revolves around the same word 'arbitrary'. What is actually legalised by this legislation will not be clear till there are more High Court cases. So, once again, it will be the High Court determining the laws of the country and not the elected parliament.

I certainly support the concept that everyone is entitled to privacy, just as they are entitled to other human rights, freedoms and opportunities. However, no right is ever absolute—and that includes privacy. Governments make many laws which restrict privacy. Try suggesting to the Taxation Office that your financial affairs should be private or try suggesting to the government that the information provided in the census is none of its business. This bill does not even seek to make privacy an absolute right. This bill is only about privacy in sexual conduct, even though article 17, which this bill purports to give effect to, speaks about privacy in relation to correspondence, family and home, and unlawful attacks on honour and reputation.

The second part of Mr Toonen's case was that, as a homosexual, his rights were not equal with others. In this regard, he cited articles 2 and 26 of the international covenant, both of which prohibit discrimination on grounds such as race, colour, sex, language, religion, political or other opinion, et cetera.

In an extraordinary action, the Human Rights Committee redefined the meaning of the word 'sex', which in this context has always been understood to mean gender. Clearly, this covenant was seeking to prohibit discrimination against women. The committee has, however, redefined the meaning of the word to include 'sexual orientation'. It is a matter of serious concern, and a dangerous precedent, that a UN committee would extend the meaning of a treaty in such a controversial way after 145 nations have already become signatories. Is the United Nations again in the future likely to alter the intent and meaning of the conventions after countries are committed to its contents?

The committee did not explain why it decided that 'sex' also meant 'sexual orientation', but perhaps some light can be shed on the issue by the separate opinion given by the Swedish member of the committee, Mr Bertil Wennergren. He said:

The common denominator for the grounds, race, colour and sex are biological or genetic factors. This would seem to indicate that the committee included sexual orientation within the term 'sex' because it considers sexual orientation to be invariably determined by biological or genetic factors. This is obviously an unscientific assumption and would be rejected even by many homosexuals. It detracts from the view that sexual orientation is frequently a matter of choice.

It is important to note that the views of the Human Rights Committee are not of themselves binding. It is a matter for the country concerned to respond to any of the views expressed by the Human Rights Committee. When the covenant was signed, Australia indicated that its laws were in conformity with the convention and no legislative changes would be required. Now that the Human Rights Committee has decided that homosexual conduct is protected by the convention, a score of countries are in breach of the covenant.

None of these other countries are seeking to change their laws in response to the Toonen decision—not the United States, which has 23
states with similar laws to Tasmania and a further eight states which outlaw sodomy between people of the same sex, and not the countries that are members of the committee which handed down this view but have similar laws of their own such as Cyprus, Ecuador, Jamaica and Mauritius. Only the Australian Labor government, with its long tradition of overriding the legitimate law making functions of the states, is choosing to act on this decision.

Labor is committed to a bill of rights and this legislation is a part of Labor's determination to introduce a bill of rights by stealth. It has tried and failed on several occasions to enact a bill through the Australian parliament and it has been rejected by the overwhelming will of the Australian people. Senator Evans, amongst others, has now acknowledged that it is the government's intention to introduce a de facto bill of rights through the use of international covenants and the foreign affairs power.

More than one High Court judge has indicated the court's willingness to be a party to this process. The government is seeking to use UN conventions and a compliant High Court to circumvent the clearly expressed wishes of the Australian people and to entrench a bill of rights. When the federal government relies as a legislative base on an advisory opinion of an international body which is basically flawed and where that opinion was handed down without observing the rules of natural justice, the legislation inherits the same fundamental flaws of its origins.

This bill is not soundly motivated nor is it a reasonable exercise of Commonwealth power. At its federal conference only last month, the National Party without dissent declared its opposition to the bill. All the correspondence I have received from my constituents on this issue has also been in opposition to the bill.

The amendment proposed by the coalition clearly states our commitment to reforming Australia's treaty making processes, and I support it fully. I am disappointed that many of my colleagues are not choosing to give expression to that principle by voting against this bill. I share many of the concerns raised by my constituents and oppose the bill. When the opportunity arises, I will be voting against it.

Ms DEAHM (Macquarie) (12.07 p.m.)—In preparing myself for this speech on the Human Rights (Sexual Conduct) Bill, I could not help wondering why we were here. In this enlightened age, should we have to pass legislation that gives adult human beings the right to behave in the way they wish, with consent, in their own homes and in their own bedrooms? Surely this is something which is fundamental and should be accepted by all of us as part of life.

It has been very interesting to listen to some of the speeches, particularly from those on the other side of the chamber. I have not had the privilege to hear all of them or to read yesterday's Hansard in full, but the bits I did catch were quite interesting. Like my colleague the honourable member for Charlton (Mr Robert Brown), I congratulate the honourable member for Adelaide (Ms Worth) on her excellent speech. There were one or two things in her speech that I will take issue with later, but by and large she did support the bill.

The speech of the honourable member for Tangney (Mr Williams) was very interesting. He said that this bill had been brought in 'to try to divide the opposition'. What an astounding thing to say. We do not need to do that; those opposite are doing a great job all by themselves. Anyone who watched the first program on the history of the Liberal Party on television last night—I managed to watch only the first 10 minutes—would have seen two elderly people, a woman and a man, who were both around when the Liberal Party was created. Both of them said that the modern Liberal Party today showed a great resemblance to the UAP in the days when it was falling apart. So much for us dividing the opposition. As I said, it is doing a great job all by itself.

The honourable member for Parkes (Mr Cobb) accused us of trying to centralise power. That is something we always hear from the opposition. Every time the federal government tries to do something which will
affect the whole of Australia—all of its citizens—we are accused of grabbing power from the states and taking away their so-called rights, rights which I would dispute. He also said that this legislation is designed to attack the Tasmanian government. Far from it; it is an attack on a particular law which has been enacted by the Tasmanian government.

The member for Parkes said that we were bringing in this legislation to get the gay votes—I would like to think that we have them already, thanks; I know I have—and to cause mischief amongst the coalition. Once again, I go back to the member for Tangney’s speech where he said that the government is trying to divide the opposition and to create mischief. The opposition can create its own mischief without our help.

The wonderful old furphy that comes up every time the opposition is opposing something is that it is detracting from far more important issues such as unemployment and the drought. Those issues certainly are important and we are not ignoring them. The Prime Minister (Mr Keating) said recently that we are capable of handling more than one issue at a time. I think he put it more colourfully by saying, ‘We can have more than two balls in the air at the one time.’ So that sort of argument is totally spurious.

The honourable member for Curtin (Mr Rocher) in his speech said that we were handing over power to foreign bodies. This is the great scare campaign. He is forgetting that it was his side of the House that signed this treaty in full consultation with the states. That is one of the arguments that has been put out by the homophobic people in Tasmania. I will say more about that later.

The most interesting thing that the member for Curtin said was that we did not need this legislation because police do not prosecute people under it. What an astonishing thing to say. If that is the case, why not do away with the law? It is a discredited law and discredited laws bring discredit on the parliaments that pass them. Why have the law if we are not going to enact it? We all know that every parliament in the world occasionally looks back and finds some ancient statute on its books that is no longer applicable and dates back to before the Magna Carta and gets rid of it. If this law is not being enacted, then we should get rid of it.

The honourable member for Wide Bay (Mr Truss) has said that this is a bill of rights by stealth. As many speakers have said, this is a very short bill. It is very explicit, very plain and says exactly what it means. We do not need to do things by stealth; if we want to do them we do them up front.

Unfortunately, I did not get everything that the honourable member for Braddon (Mr Miles) said, but he is a man in trouble. I had the privilege of being in Hobart for a couple of days last week and I read the Mercury. As we all know, the member for Braddon has been the mouthpiece of Tas Alert—the homophobic group that has been spreading a scare campaign around Tasmania. He has been distributing its literature around this place without reading it, which is very dangerous. I read in the Mercury that Tas Alert had confronted the member for Braddon and asked him why he was not going to oppose this bill. We all know why he is not going to oppose it—he will lose his position on the front bench.

Mr Gibson—Gutless.

Ms DEAHM—Yes, it is gutless, as my colleague has just said. Tas Alert has said that it is not happy with that explanation. It is not happy with him saying that he simply will not support it; he will also not oppose it. Tas Alert has said that it will actively campaign against him at the next election. It will have to find somebody further to the right in order to do that, unless there is a conversion and the person concerned comes over to our side.

This bill is about privacy. We all know that privacy is extremely important, but what is it? I am reminded of an old expression that has been around for a long time, ‘It’s okay, as long as you don’t frighten the horses.’ I guess that expression comes from an age when horses, when frightened, could cause a lot of chaos in the streets. I am greatly attracted to this expression. It basically means that people can do what they want to do as long as they are not harming other people and causing
undue distress. This is why the privacy part of this bill is important.

What you are doing in your own home does not offend people, unless there are peeping Toms looking through the window. This reminds me of what has become an urban myth. People call in the police or the local council and say, 'There is a man who is parading in the nude' or 'I can see topless people on the beach.' And then we find out that they can see that only if they stand on a table and lean out the window. The peeping Toms are very important here too.

That reminds me of another old expression from my school days, 'Don't be a nosy parker.' Nosey parkers want to know what other people are doing. Many members on the other side of the House are curious about what other people are doing. They delight in wallowing in shock-horror when they find out that people are doing something that they do not approve of.

That brings me to the wording of the Tasmanian legislation. My colleague the member for Charlton expressed it beautifully yesterday. He said that the acts, which are 'against the order of nature', are forbidden. He then said, 'How quaint.' I repeat: how quaint.

What is the 'order of nature'? Nature is quoted to us on a lot of occasions and, when we look at it in the broader sense, nature is out there in the wild. If you look at what happens among various species out in the wild, you will see some rather random mating. You will see insects that eat their partner after copulating. So what is nature? It seems to me that, in this sense, nature is what people with a particular moral view, a particular moral attitude, want it to be. That attitude has evolved over the years. I am reminded of a relative of mine, a much younger brother of my father, whose wedding I went to. We considered him and his wife to be very modern when we found out that they showered together. Some older people in the family thought that was despicable—fancy showering together!

Mr Gibson—It saves water.

Ms DEAHM—Of course. A few years later, in the water saving campaign, we had posters saying, 'Save water—shower with a friend'. So then it became an economic issue. Anyway, I thought, 'Isn't this exciting?' It was a little titillating to me as a child. People may have disapproved, but I thought, 'It's really none of their business.' Those who did disapprove probably did not take too many clothes off when they had sex. I can remember a person not that much older than I was saying that, despite the fact that he was married and had two teenage children, he had never seen a woman in the nude. Those morals, those attitudes, change with time.

This morning one of my staff reminded me of an Edna Everage sketch. When a researcher knocked on Edna's door and asked about social norms, she said, 'Well, Norm's not well today.' When the researcher then asked Edna what she thought about nudity, she said, 'I think it's unnecessary.' I fear that those sorts of attitudes still prevail very much in Tasmania. Those sorts of attitudes have given rise to this awful statement 'Against the order of nature'. So let us do away with that.

What people do in their own bedrooms is their own business. People do things in their own bedrooms that a lot of us probably would not do. I am sure there are things in this bill that some of us would do and enjoy, but there are other things in the bill that I certainly would not enjoy. If people get their kicks from being tied to the bed before they make love, from using particular implements, from taking photos of each other or from anything like that, it is their business; it is none of our business whatsoever, as long as they are not frightening the horses.

The most awful scare campaign has been launched in Tasmania. The honourable member for Wide Bay alluded to HIV-AIDS. Frankly, as a person with a lot of homosexual friends and a lot of friends who have known others who have suffered from AIDS due to other causes, I think this awful smear on the gay community over HIV and AIDS is deplorable. The fact that it was brought into this argument at all is positively evil.

It has been stated that there is a low incidence of HIV and AIDS in Tasmania, and
that is probably due to a lot of things. One is that homosexuals are getting out, as my gay friends down there have done, and are going somewhere that is more tolerant of them. What frightens me is that this criminal sanction is encouraging people who are at risk of HIV-AIDS to not 'come out', as it were—to not go to a doctor or a clinic to talk about their situation and to have a test—because of the condemnation they may face and the risk of legal sanction against them. The people who push for this law should have on their consciences the fact that they are stopping those people from seeking advice.

The other side of the argument is the safe sex campaign. The safe sex campaign has also given rise to a lot of condemnation in other states, particularly when it is taken into schools. If we tell young people, 'If you're going to have sex, for heaven's sake use a condom to keep yourself safe,' we are accused of encouraging those young people to have sex. Along with the safe sex aspect of the campaign goes a campaign about responsibility, how to handle relationships and all of those sorts of things. Once again we have that homophobic, narrow-minded, moralistic attitude.

The people in Tasmania, particularly the Tas Alert people—I do not include all Tasmanians—need to know that homosexuality is not catching, nor is it compulsory. The honourable member for Kennedy (Mr Katter)—and I am so sorry that he is not speaking before me; I would have loved to have picked up on some of his comments—says, 'If homosexuality gets any more prevalent, I'll start walking backwards.' I think the honourable member for Kennedy is quite safe; I doubt whether any homosexual would come anywhere near him.

We are also told that children will be in danger and that, if this law is relaxed, there will be rampant paedophiles running around assaulting children. Nothing could be further from the truth. Anyone who has quite a lot of involvement with the homosexual community will tell you that the vast majority of homosexuals form lasting relationships, as do the vast majority of heterosexuals. An awful lot of homosexual people are in relationships that have lasted for years, and they have been totally faithful in their relationships. If there has been infidelity, it will have been matched by infidelity in the heterosexual community.

It annoys me when I hear people condemning homosexual male teachers. They feel that their sons will be in danger. They forget that their daughters might be in just as much danger of their heterosexual male teachers. It does not matter whether someone who attacks children is homosexual or heterosexual; they are people with that particular bent. It has no relationship whatsoever to this law.

Probably everything that needs to be said about the international treaty has already been said, so I will not dwell on that at great length. I wish to take up what the honourable member for Wide Bay has said. He talked about our handing over our legal system to an international body. He needs to know that the views of the Human Rights Committee are not binding and its decisions do not have any force of law in Australia. We have chosen to take that up because we feel that it is an important issue. Joining international treaties is something that people on both sides of this House agree with. Members disagree only when it conflicts with some narrow, moralistic views or, on occasions like this, when they feel like challenging it because they do not have a proper answer to legislation that we are bringing forward.

The honourable member for Wide Bay also alluded to the members of the committee. He said that a lot of them came from countries which do not themselves grant basic human rights. The members of the committee are elected on the basis that they are, in the words of the covenant, 'persons of high moral character and recognised competence in the field of human rights'. Those members serve on the committee in their personal capacity as recognised experts and they are not representatives of the countries of which they are nationals. So we need to stop that line of argument right now. Again, it is just an easy way out because those opposite do not have a proper answer to the legislation. The committee did its job in the proper manner, and I do not think that should be disputed.
The question of centralised government and international treaties has been raised by those who believe such arrangements contravene states rights. In my opinion, states do not have rights; they have responsibilities. I have just spoken in the Main Committee on the National Environment Protection Council Bill. This bill will set up a council which will look at minimum standards for the environment. It will look at issues such as air pollution, water pollution and noise. I think they are exceptionally important. If you care to read the Hansard, you will see why those issues are important, particularly in my electorate.

It has taken a long time to get this environment protection bill together, but we still have one state that will not enter into it—Western Australia, on the grounds that it contravenes states rights. What about the people who live in that state? They will be subject to different laws on the environment, which may be less stringent—and knowing the government that is there now, they undoubtedly will be. What about the rivers that run from state to state? What about the air which travels from state to state? If you are not going to use them, or if you have not already used them in your existing legislation. If this is centralist legislation, so be it. If we are responding to international treaties, that is only to the good.

The honourable member for Adelaide, in her otherwise excellent speech, said that she did not oppose international treaties but that she opposed the use of them. Likewise, human rights do not stop at state boundaries. The people in every state have a right to that kind of environmental protection. If this is centralist legislation, so be it. If we are responding to international treaties, that is only to the good.

That was a very sad comment. The point is that treaties are there for us to use. They are not dictated to us. We choose to be party to them because we are part of the world. Just as the states are part of Australia, Australia is part of the world. Australia has played a very admirable role in contributing to the United Nations and the treaties that come from that body. It is extremely important that, if we are to play our part in the world, we support those treaties. We should certainly put our own house in order and ensure that the spirit of those treaties is enacted in our country.

I strongly support this bill. Like my colleague the honourable member for Charlton, I will be interested to see what happens when and if a division is called; whether the people that do not oppose this bill, as opposed to supporting it, will come over to this side of the House or whether they will absent themselves and there will be a few lonely narrow-minded people sitting opposite. I commend the bill to the House. I know that this is certainly a right action.

Mr CONNOLLY (Bradfield) (12.26 p.m.)—Members of the government have referred to this legislation as landmark legislation. It is landmark legislation in the context of its involvement with sexual privacy, but it is not landmark legislation in the context of general issues of privacy. I shall refer to that in greater detail later, because this is only the first chapter in what I fear will be quite a long book.

There are problems in Australian law based upon the fact that, while the constitution gives the Commonwealth power in external affairs under section 51, as originally drafted and carried through by successive governments, it also takes account of the relative responsibilities of the states. In that context, criminal laws and the criminal codes have been constitutionally seen as primarily state responsibilities. However—and this legislation bears out this fact—there is an exception to that principle, and that is the question of human rights and the responsibility of the government to carry out international agreements which, by ratification, commit Australia to change its laws to make them consistent with the conventions.

This legislation is, by nature, very limited. It relates specifically to human rights in the context of the privacy of sexual conduct. The explanatory memorandum tells us:

Paragraph 1 of clause 4 provides that sexual conduct involving only consenting adults acting in private is not to be subject, by or under any law of the Commonwealth, a State or a Territory, to any arbitrary interference with privacy within the meaning of Article 17 of the International Covenant on Civil and Political Rights.
We are also told that the only conduct which is relevant in this legislation is conduct between consenting adults. Therefore, if there is any question of sexual conduct involving a minor and an adult, this law would not apply and the state laws would certainly apply. The explanatory memorandum also states:

The Bill does not, therefore, cover conduct involving children or non consensual conduct or conduct which results, for example, in physical harm to which the individuals involved did not or could not validly consent.

Again, that would remain the total responsibility of the state criminal codes. It also says that the bill protects only activity which is conducted in private. The outcome is that the bill does not affect laws such as those dealing with incest, sexual conduct involving a person with an intellectual disability, sexual conduct involving animals, regulation of the sex industry, sexual conduct amounting to professional misconduct, the possession and use of child pornography and sexual conduct in prisons where the interference with privacy is regarded as being justifiable and reasonable.

As I go back to the case that has been presented to the House, it is very important to note that all speakers in this debate are men and women who firmly believe in what they are saying. There are differences of opinion on this legislation. There is the fundamental question of the right to privacy on one side and the rights of the states on the other.

I would, however, support the view taken by the previous speaker that fundamentally states do not have rights; people have rights. States have responsibilities and duties, and those responsibilities and duties are primarily to protect the rights of individual citizens.

One of the realities facing Australian society today is that we are gradually evolving into a nation. Albeit legally we are a nation of states, nevertheless we are also a nation of people. Whether we see ourselves as a multicultural nation or anything of that nature in this sense is immaterial. Every one of those people, whether they be in Queensland, Tasmania or any state of the Commonwealth, is entitled to believe that as citizens of Australia their rights are protected by law. One of the fundamental problems we have in this situation—it is an issue which will continue to arise, a point I made earlier—is that under the international human rights conventions we do not have at this stage an adequate legal procedure which can guarantee that, having signed these conventions, we do not have to go through this rather tortuous and complex exercise every time we find a potential weakness in a state or a federal law. That is an issue which should be addressed by the parliament, and no doubt will be in due course.

On 8 April 1994 the United Nations Human Rights Committee published its view that Australia was in breach of its human rights obligations under the International Covenant on Civil and Political Rights. This was the first time that the UN Human Rights Committee had ever made a finding or a complaint against Australia. It is important to note that Australia ratified the ICCPR in 1980 and became bound under international law to respect and to ensure the rights and freedoms set out in that convention for all people within its jurisdiction. That means for all Australians, regardless of where they live.

The Australian government asserted that its laws complied with the ICCPR and that therefore there was no need to legislate to expressly protect those rights and to provide remedies when they were breached. Obviously that statement was not totally reliable in the context in which it was said. That is why we have this legislation today. But it was not until Australia ratified the first optional protocol to the ICCPR in 1991 that Australian citizens were able to take complaints about breaches of the convention to the United Nations Human Rights Committee.

As we know—and many speakers on both sides of the House have referred to it—the committee concluded that Tasmanian laws which make sexual intercourse 'against the order of nature' a criminal offence breached the right to privacy under the convention. The committee also concluded that provisions in the convention which prohibit discrimination on the grounds of sex also cover sexual orientation. This is a significant departure from previously accepted views that sex normally means gender. It will also have
important ramifications, for it means that all
deviation—not just the right to privacy—must in future be ensured and
protected without distinction based on sexual

This interpretation has the potential to extend the impact of the decision well beyond the Tasmanian criminal law to domestic law in other states and territories where distinctions are made on the basis of sexual preference. That is the reason why I said in my opening remarks that we are but at chapter one of what is going to be a long and drawn out series of issues of this nature in the future. That is why it is important that the parties in this parliament address these issues in a more fundamental way than the ad hoc criteria that we are currently looking at.

Australia as a nation has ratified the convention and is bound to it. Therefore, Australia as a nation is in breach of its obligations under the treaty. The reason for this simply is that the conventions do not take account of state jurisdictions, even though for federal systems there is provision in the United Nations to be able to make a declaration that laws may not apply directly to the nation but to parts of it.

The committee's view also exemplified the problems caused by the fact that treaties are ratified by the Commonwealth executive and yet they may need to be domestically implemented by the legislatures of the Commonwealth or of its respective states. If a state legislature refuses to pass legislation implementing international obligations to which the executive has committed Australia, there is a risk that Australia will be found to be in breach of international law.

Three basic responses can be considered in the context of the Tasmanian case. The committee's specific recommendation is that the Tasmanian law be repealed. Clearly, that is a unique and absolute responsibility of the Tasmanian parliament. It is the parliament of Tasmania which has passed this legislation. It follows, therefore, that it and it alone is entitled to repeal the relevant legislation. The second option is for the Commonwealth to pass legislation based upon its external affairs power. That is what this legislation is before us. The outcome of that is to upset federal-state political relations because, as I noted earlier, criminal law has been considered to fall within state jurisdiction. Nevertheless, such legislation would appear to be within the legislative power of the Commonwealth, subject to being tested before the High Court.

The third option is for neither the Commonwealth nor the state to take any action. If no action is taken, then Australia would be considered to be in breach of its international obligations. That could damage us in the wider context of the United Nations family and certainly influence attitudes towards our standing, particularly on matters of international human rights.

The Human Rights Committee's decision also notes that Australia is in breach of its obligation to provide effective domestic remedies for breaches of the convention. So if Australia is to fully comply with its general obligation, the Commonwealth and the states will have to guarantee that there are effective judicial or administrative remedies in the future to ensure that any other breaches which are recognised can be changed by Australian law, preferably by domestic state law, as applicable. This legislation, therefore, is of fundamental importance. While there are difficulties which have been identified, nevertheless I believe firmly in the view that every Australian citizen, regardless of where they may live, should be entitled to the same fundamental human rights.

The question has to be asked: is it acceptable for Australian citizens who live in Tasmania or anywhere else to have less freedom than any other Australian because of the right of the government of that state to make laws which reduce the principle of equal rights for all Australians? A federal government which has a vision and a concept of nationhood must be prepared to go beyond state borders on occasions, and certainly in the context of human rights.

Mr McARTHRU (Corangamite) (12.38 p.m.)—If history teaches us anything, it teaches us that central governments can never protect individual freedom. Big governments always take away liberties. They always have and they always will. Rights are protected by
a society which prides itself on democracy, small government and the rule of law. Centralised, interfering, impersonal governments which go beyond their constitutional authority will never provide individual liberties, no matter how much they might wish to pretend to do so.

The Human rights (Sexual Conduct) Bill raises the issue of arbitrary interference. How fitting. If anyone wanted to know what arbitrary interference was, they need look no further than the actions of the Labor government today. This bill is all about arbitrary interference with the wishes expressed by Australian citizens through the ballot box. This bill is allegedly all about privacy. More to the point, this is a bill about the use of laws made by unrepresentative UN bodies which are being used to erode our federal system of government. This legislation further cements the position of the UN as the final arbiter of rights in Australia.

This is a bill of rights by stealth. No-one knows where the provisions of this legislation will lead, what potential application privacy may have above and beyond the intention of the current government, what further erosion of traditional areas of state responsibilities will be made possible by this legislation. This bill is very uncertain in its scope, except to confirm the fixation which has come across this government when it comes to using the ad hoc conventions of the United Nations as a basis for domestic law. It also carries with it the unmistakable character of a backdoor bill of rights—that crafty euphemism for the flagrant violation of the most important of all rights: the rights of citizens to be governed by the laws which they choose for themselves through the ballot box and the ability of the common law to interpret freedoms in the Australian context.

This debate has come about because of the challenge mounted by a Tasmanian gay activist that sections 122 and 123 of the Tasmanian criminal code were contrary to article 17 of the International Covenant on Civil and Political Rights. This provision states that no-one will be subjected to arbitrary or unlawful interference with privacy. Of course, this familiar sounding excerpt is to be found duplicated word for word in clause 4(1) of the Human Rights (Sexual Conduct) Bill 1994, which is under consideration before this House today.

What is privacy, what is arbitrary and what constitutes an interference? A Webster dictionary definition of the word ‘arbitrary’ raises such words as ‘capricious’, ‘uncertain’, ‘unreasonable’ and ‘despotic’. I suggest that such adjectives would be more applicable to the federal government’s actions than to those of Tasmania. What meaning will the courts place on the word ‘arbitrary’? This is anyone’s guess. Power has been removed from the Tasmanian government and has been placed in the hands of the High Court. This is all part of a gradual process by which issues are transferred one by one to fall within the jurisdiction of the courts and not the people through their elected representatives. This is a backdoor bill of rights. A former High Court Chief Justice, Sir Harry Gibbs, had this to say in relation to a bill of rights:

If society is tolerant and rational, it does not need a Bill of Rights. If it is not, no Bill of Rights will preserve it.

The same can be said of this thinly disguised bill of rights now before the House. Australia does not require a UN inspired document to preserve our rights. Our traditions of democracy, individual freedom and liberties—not this two-page piece of ramshackle legislation—are our protection from human rights abuses. Through this legislation, we are seeing a violation of the right of the people to elect governments which they want in order to make laws which they want. As the honourable member for Braddon (Mr Miles) quite rightly pointed out in his speech last night, this bill is a violation of the people’s rights. It takes matters of importance away from the determination of the people of the states and places them in the hands of the High Court.

This all came about because on 8 April 1994 the UN Human Rights Committee brought down in its judgment that Australia was in breach of its commitments under article 17 of the ICCPR by virtue of the anti-sodomy laws of the Tasmanian government. Exactly who is this Human Rights Committee? Apparently, it is this group to which the
federal government looks in determining the appropriateness or otherwise of our laws.

A close examination of the committee in question reveals a very exotic membership indeed. Representatives of the Human Rights Committee include Egypt, Jordan, Senegal and Venezuela—all nations which have been independently assessed as not completely free countries. One can only imagine how appalled these delegates must have been when they uncovered the extent of the human rights abuses taking place in Australia. The representatives from Cyprus, Ecuador, Jamaica and Mauritius have been equally horrified, but for different reasons—in their countries, homosexual acts can constitute a criminal offence. Yet these representatives had no apparent hesitation in heralding the shortcomings of Australia’s human rights regime.

Several other nations that are signatories to the ICCPR, but not on the committee, also have laws similar to those of Tasmania on the subject of sodomy. Some estimates have stated that as many as 48 countries around the world have laws similar to those in Tasmania. Around 70 per cent of the world’s population live in countries where laws of this nature are the norm. Twenty-three states of America have laws which are the equivalent of Tasmania’s. Every southern state in the United States of America has such laws. Even predominantly urban and so-called progressive states like Virginia and New Jersey have seen fit to maintain laws which outlaw acts of sodomy.

At least four of the 18 nations that are represented on the UN Human Rights Committee do not even permit complaints by their own citizens to come before the committee on which they sit. Nations such as Jordan and Egypt—with such pristine and untainted human rights reputations that they place their own governments above scrutiny—sit in judgment on Australian matters. What a complete sham! The federal government has insisted that the opinions of UN committees be accorded the status of established truth. The committee does not conduct its hearings in public.

Also, only individuals may bring complaints before the committee, but only national governments—not state governments—may answer these complaints. So we witnessed the comical situation whereby an individual went to the Human Rights Committee with a gripe about laws devised by the Tasmanian government, but the Tasmanian government could not show up to defend itself. The Tasmanian government had to be requested by the Commonwealth, but this was hardly an adequate representation since the Commonwealth was broadly in agreement with Mr Toonen’s submission.

Furthermore, there is very little by way of a doctrine of precedent for the Human Rights Committee. Members of the committee seem to want to make whatever finding they wish in each individual case and not be too tied down by any application of legal reasoning. There is no cross-examination of witnesses giving evidence before the Human Rights Committee. It is truly astonishing to comprehend what a shabby system of justice we are dealing with. Imagine a system of criminal law where defendants are arrested and tried by a full bench of shady characters with dubious reputations, holding their hearings in the dead of night in a highly secretive and private manner. Imagine that the defendant cannot appear before the courtroom, nor can anyone question the evidence put forward by the prosecution. This is the nature of the Human Rights Committee.

Throughout history, regimes which have operated in such a manner have been synonymous with tyranny, despotism and flagrant human rights abuse. The federal government of Australia passively accepts the competence of this body and salutes its expertise by slavishly enacting legislation to give effect to its slapstick jurisprudence. The Human Rights (Sexual Conduct) Bill elevates the finding of the Human Rights Committee to give it statutory force. This piece of legislation makes use of the Commonwealth’s external affairs power to cut across a traditional area of state government responsibility, namely, criminal law. That is what I call arbitrary interference.

Article 17 of the ICCPR not only forms the statutory basis for this bill but also enshrines that article almost word for word into this
piece of domestic legislation. Clause 4(1) of the bill says that an arbitrary interference with privacy is to be construed in accordance with article 17 of the ICCPR. That is really to say that the words will be construed in accordance with the judgments and opinions of the Human Rights Committee. This just about cements the role of the Human Rights Committee as a new international court of appeal.

The judgments of these unaccountable UN groups are becoming increasingly binding on Australian courts. Why should this be the case? What possible knowledge do these committees, meeting thousands of kilometres away in Geneva, have that the people of Tasmania do not have? Do they really have such a superior grasp of human rights that their opinions should trump the wishes of those who elected the state government of Tasmania? Such a view would be near impossible to justify. The most basic principle of democracy is that governments are called to account by the people whom they represent. Yet now we are witnessing the continual attack on and, sadly, the gradual erosion of democratic principles. This is just the latest example of a whole string of shameful episodes where the wishes of the states have come a distant second to the whimsical desires of Canberra and Geneva.

It has always been the case that, where democracy is eroded, human rights are the first casualty. This bill is one of the greatest violations of rights yet. It carries with it the signs of arbitrary rule—of centralised tyranny. The government has told us that this privacy law will not affect laws which regulate incest, the sex industry and abortion. This may prove to be wishful thinking. The real determination of that question is in the hands of the High Court, acting with one eye on the opinions of the Human Rights Committee in Geneva. Why could this privacy law not apply to prostitution or incest? Why would laws banning these activities not also constitute an arbitrary interference with privacy? However, such laws are claimed to be left untouched, owing to this government’s distorted and highly selective moral prejudices. Nevertheless, there must now be some questioning of how far the agenda of the government extends.

I call on government members to confirm that there is no amendment to the Marriage Act or the Child Care Rebate Act in the pipeline. The government should come clean and reveal its intentions with transparency. Does the government regard same sex couples as families? Does the government believe that they should be able to adopt children? What is the next step? This bill is a backwards step. It represents the placing of more power and confidence in the capacity of unelected Third World delegates to make laws for Australia which are in line with contemporary left wing ideology. It enables the federal government to introduce a pseudo bill of rights, based on its selective notions of morality and its crude political agenda, to contrive a difference of opinion within coalition ranks. In this debate, the key questions that have to be asked—and which everyone seems to be so keen to skirt around and not address—are these: does this bill really improve anyone’s enjoyment of human rights; does it improve anyone’s standard of living; and does it give anyone anything apart from increased power, which it confers on the federal government, the High Court and a wide assortment of UN delegates?

Mr KATTER (Kennedy) (12.50 p.m.)—I do not have with me the cutting from the Canberra Times, but it was very flattering to wake up yesterday and pick up the newspaper. Page 2 of that paper quoted me as saying that we should try to raise our standards because we have the highest juvenile suicide rate in the world, and half of page 3 was taken up by an article with the headline that the suicide rate for young people in Australia was up by 42 per cent.

It is a magnificent achievement for the government of Australia to be able to say, ‘In our term in office, in the last 10 years, we have had a 42 per cent increase in the number of young people killing themselves and we now have the highest juvenile suicide rate in the world.’ Just possibly, the leadership of Australia—which, whether we like it or not, to a very large degree lies on this green carpet that we stand on here today—somehow has
been responsible for that. If this place has not in any way been responsible for what has occurred, then I would like to know who should shoulder the responsibility. Maybe the martians or the eskimos have been responsible for the changing standards in Australia and for what is occurring in Australia today!

We are here today because a man called Mr Toonen applied to an international body, not to Australians. What is happening here today is not Australian. This is about a group called the Human Rights Committee incorporated under paragraph 4 of Article 5 of the Optional Protocol to the International Covenant on Civil and Political Rights, 50th session. I think the 200-odd people who come to this House and are paid very handsomely by the Australian public would be very pleased to know—

An honourable member—Lower your voice.

Mr KATTER—I am not lowering my voice because I am very angry and I feel very strongly about what I am saying. I do not need help from the peanut gallery either, I might add. If we went back and told the people of Australia that we wasted all of today because this body told us we had to enact this legislation, I think we would elicit a certain response. That response is the same reason my speech is not as well prepared as it should have been. All of the speakers are dropping out and cutting back on their speech time because they are getting a huge volume of mail, similar to what I have here. This is the most mail I have ever received on any-thing in my entire life and it is probably the most I ever will receive.

Suicide is up by 42 per cent, but we are not to blame. The eskimos and the martians are! In Germany, the Nazis were not to blame. They were not to blame at the Nuremberg trials. Someone told them to do it! What happened was not their fault. This principle, unfortunately, is inherent in the Australian nation. It is one of the most unfortunate aspects of our cultural heritage.

In World War I we fought a war that we should never have been involved in. I do not know how Australia was involved in that war, yet nearly 100,000 Australians died in the war or from wounds received in that war. In World War II we went into the war with no aeroplanes, no tanks and no conscription. In fact, we had a go-slow in the coalmines throughout the whole of the war. We had three army divisions. Two of them were in Africa and one of them was in Changi prison while the Japanese were knocking on the door of Australia. Half of our pilots were sitting in England while Darwin was being bombed.

Our people served the interests of other countries. If we continue on that pathway and listen to foreigners, we will continue with the destruction that was wrought on our nation in the past. As Henry Lawson said, let Australians speak for their own. In the Great Depression, this parliament chose not to listen to 'Red Ted' Theodore and the government of the day. This place chose to listen to Dr Neimeyer. The net result of that was that while Great Britain had 14 per cent unemployment and the Germans had about two per cent unemployment, Australia had 30 per cent unemployment. While the United States was building the Tennessee Valley Authority projects, the envy of the entire world, and the biggest dam in the world, the Hoover Dam on the Colorado River, and planting two million trees to resuscitate part of its depleted homeland, Australia did absolutely nothing. Australians were shooting rabbits to stay alive because they listened to Dr Neimeyer instead of Australians. And we are doing it here again today!

I do not have time to talk about the collapse of the 1980s or about the people on the international money market who told us that we should deregulate the banks. You can read a book by Trevor Sykes that explains how $28,000 million of Australians' money went astray while we had to apply 25 per cent interest rates to the risk taking and working class of Australia. Their homes, their cars and their jobs were taken off them and nearly three quarters of a million of them were left bankrupt.

In an empty nation, a land far less than half won, we have a policy of zero population growth. In a nation that is virtually empty we are all taken up with abortions, condoms, zero population growth and ecology. By standards anywhere in the world we live in a totally
empty nation. We can get in an aeroplane and fly from here to Weipa and see hardly a single human being, nor any evidence of human habitation.

There has to be some moral judgment passed on us by the rest of the world for that. Not only that, if we accept less population, all of the Australians with great potential have to cease to be Australians. They have to go overseas. There have really only been two breakthroughs in medical science in the history of the world that were really qualitative breakthroughs. One of them was by an Australian, Dr Florey, but he had to live in Britain to pursue his work. He could not attain the resources in Australia to achieve for the world what he did. Whether you are an actor like Mel Gibson or Nicole Kidman, whether you are an artist like Sidney Nolan, whether you are an industrialist like Ralph Sarich, whether you invented refrigeration like James Harrison or whether you are a modern day solar energy expert like Dr Ortobassi, to develop your potential, to have the resources, you have to go overseas and cease to be an Australian. Clearly, our country needs population if for no other reason than to develop the potential of our own people, so that we do not have to lose them to overseas.

There have been two people in this House who, whatever else they were, were Australians making decisions for Australians—Ben Chifley and John McEwen. Under Ben Chifley we instituted the Holden motor car, which I think was one of the finest motor cars in the world in its day. In the McEwen era we built the Snowy Mountains hydro-electricity scheme, which is the envy of the world. Australia was the richest place on earth when John McEwen left this place. That is what Australians running Australia in the interests of Australians can achieve.

It seems now that Australians do not really run Australia. In the field of trade, GATT controls all of our trade decisions. I do not know why we are wasting the money having a trade minister in the parliament. In the field of the economy, the international money changers seem to have taken over. They told us to deregulate the banks, and I will not reiterate what I said before on that particular matter. Now, in the area of social mores, international conventions are once again telling us how we should run our country. Those who suggest that that is a good thing, that we in Australia, with our history, should go down that pathway, should be ashamed of themselves.

I turn to the issues in question here. First, we are not talking about prosecuting or persecuting homosexuals. I was acting police minister in Queensland on a number of occasions and I had one or two people ask me about these things. I said, 'No, we are not in the business of running around torturing people for some aberration or for some particular values that they have that are different from everybody else. What they do is entirely their business.' As Oliver Wendell Holmes said, my right to swing my arms stops where the other person's nose begins.

We are not here to talk about that today. In Queensland in living memory no-one could remember anyone being charged with homosexual behaviour, even though it was illegal. There is a similar situation, I am told, in Tasmania. Whether that is true, I do not know; I cannot speak with such great authority on Tasmania, of course.

There are laws about jaywalking. In fact, most of the states in Australia still have laws on the books which make it illegal not to go to church on Sunday and they impose a fine for that. There are laws about being drunk in a public place. On many occasions friends of mine have been in that state, but I do not notice any police carting them off. There are numerous laws that exist in society not to impose some sort of punitive penalties upon people but to set standards, just as a dotted line in the middle of a road sets a standard, a form of behaviour, which makes it easier for all of us to live together.

So what we are doing here today, if we are not doing anything about changing whether we put homosexuals in gaol or not, is clothing in legitimacy, acceptability and respectability behaviour on which, throughout most of history, almost every country in the world has had laws which have put some sort of sanction, as a number of speakers have rather brilliantly highlighted.
We have moved in the direction of liberalisation in this particular area and of changing our standards in Australia at exactly the same time as the world is beset with an absolutely dreadful plague—curse, if you like. How bad that plague can get can be clearly seen. I was astounded at the remarks by the member for Capricornia (Ms Henzell) in this House when she said that everybody is homosexual and heterosexual. After that she said that it was wonderful to have—and I hope I am quoting her correctly here—the Tales of the City on television. She said that it is all about the lifestyles of San Francisco and that it is wonderful that Australians are being exposed to such varied lifestyles.

Yes, it is wonderful that we are able to see what is happening in San Francisco. I saw half of one of those programs because it is on very late at night, obviously because no-one watches it. It is on the ABC because there is no need to worry about what its ratings are. Apart from being crushingly boring, it portrayed this sort of behaviour as acceptable. Watching it would lead people to think that this is what everybody does; that this is natural, acceptable behaviour.

There is a fairly high price to be paid for it. I asked for the figures on San Francisco. There are 1.6 million people in San Francisco, only one-tenth the population of Australia, and yet that city has five times as many AIDS cases as the whole of Australia. We have 4,500 AIDS cases in Australia, if my memory serves me correctly; there are 20,054 AIDS cases in San Francisco with a population of 1.6 million. Yes, that is a great lifestyle! I think that we should really walk down that pathway. The member for Capricornia portraying it as wonderful that we can see these things on our television is marvellous for our country! We can achieve the same success rate as San Francisco has achieved.

Another interesting factor that comes out of these figures is the fact that 99.1 per cent of the people with AIDS in San Francisco—and they are not ashamed to admit it over there; maybe they are very proud of it—admit that they got it from homosexual conduct or from intravenous drug use. It is hard to look at those figures without concluding that anyone who contracts HIV contracted it through intravenous drug use or homosexual behaviour.

To further strengthen that line on the statistics, I point out that of 4,394 people in Australia with AIDS only 170 claim that they did not get it through homosexual behaviour. However, of that 170, 89 had relationships with the at-risk group, which is a nice name for people of homosexual behaviour. So 89 of them were living with and having sexual contact with people of a homosexual background, the at-risk group. The other 81 refused to specify how in fact they got it. I think that the statistics for San Francisco and the statistics for Australia are persuasive. I most certainly will not go into the details that some other members have gone into on the scientific and medical reasons why the only way that you can contract this disease is through homosexual behaviour; but clearly on the medical and scientific evidence, clearly on the statistical information from our own country and from San Francisco, it is a problem that is confined to that sort of behaviour.

Mr Latham—How are you voting on the bill?

Mr KATTER—My friend, why don’t you shut your mouth? There will be no doubt as to how I am voting on the bill. I will be voting against the bill. How many of your mob of dingoes were supposed to be speaking but are not speaking? How many have cut down their speeches? You have got these attitudes and you are not even game to publicly state them. If members opposite think that the Labor supporters in the electorate of Kennedy are in favour of the rubbish that the other side of the House is perpetrating upon the Australian people, I invite them to come to my electorate and I will introduce them to some of the branch presidents of the ALP in North Queensland. But I am certain that if I went through the ALP branches in Sydney I would get the same sort of reaction. These people here are running uncontrolled. They have no relationship with the Australian public, none whatsoever.

We are brutalising Tasmania today. We are saying that this place knows more than
Tasmania about running things in Tasmania, and we have made sure that the whole of Australia is brought into line with the United Nations, or whoever it is that is imposing this upon us. On the Australian figures, Tasmania should have between 600 and 700 HIV and AIDS cases. It does not have between 600 and 700; it has only 98. It is coming in at one-seventh of the rest of Australia. In fact, its incidence, 0.02 per cent, is considerably less than half the incidence in the nearest other state in Australia. So maybe, just maybe, little Tasmania got it right. Maybe because of the enlightenment of the government and the leadership set by the leaders in Tasmania fewer Tasmanians are going to die a dreadful, cruel death. Maybe a hell of a lot more people in Australia are going to be condemned to a dreadful death because of the unenlightened attitudes of this particular place and the standards that this place is setting for the rest of Australia.

The Australian champion is New South Wales. I thought it might have been a contender for the world championship. It has its gay Mardi Gras and skites about all the people that came out from San Francisco, the city of a million people and 20,000 AIDS cases, presumably to bring their pestilence and plague with them. New South Wales most certainly is making up a lot of ground upon San Francisco. The incidence of AIDS in Tasmania is 0.02 per cent; the incidence in New South Wales is 0.24 per cent, which is quite staggering. For every 10,000 people in New South Wales, there are 24 that are condemned to a terrible and cruel death.

We in this place are changing the standards. We set the standards for Australia, whether we like it or not, and what we do here has an enormous effect on what happens out there. If we are saying to our children, 'There is nothing wrong with this sort of behaviour, so we are taking it all off the board,' then I am afraid we must share the guilt when we pick up the newspaper and see a 42 per cent increase in our suicides and how many people are going to die this year from AIDS in this country.

Let me conclude on that note. I enjoy reading history books. There was a very famous person called Jan Masaryk who, before the Second World War, had half of his country given away to the avaricious Mr Hitler. When that happened, he said in Great Britain, where he was desperately pleading for his country and for the world to make a stand, instead of adopting appeasement—

Mr DEPUTY SPEAKER (Hon. J.D.M. Dobie)—Order! The honourable member’s time has expired.

Mr KATTER—He said, 'If what you are doing is going to save the peace of the world, then I salute you. If not, then may history condemn you.' (Time expired)

Mr DEPUTY SPEAKER—I remind the honourable member for Kennedy that when his time has expired and he is called to order by the chair he should obey and not keep on talking in a loud voice while the Deputy Speaker is speaking.

Mr Katter—My apologies, Mr Deputy Speaker.

Mr DEPUTY SPEAKER—They are accepted.

Mr CADMAN (Mitchell) (110 p.m.)—An unelected UN committee representing a number of undemocratic states strolled into an Australian state where there are free and open democratic elections, made an assessment of that state’s laws and told that state to rectify those laws within 90 days. The Prime Minister (Mr Keating) wants to cut all traditional ties and become part of the United Nations and the world community, yet this is the standard he is setting for Australia.

Australia is one of the freest and most democratic nations on earth, and any scale that can be used will demonstrate that. Even the United Nations own scales will show that only one or two countries in the world are more peaceful and more democratic than Australia. Yet this government is prepared to accept any pick-up team from the United Nations whose members come here and tell us how we can change our laws to be more like theirs. That is not a goal that I want the Australian people to have. That is not a goal I want for the families of Mitchell or for the nation as a whole. We have no obligation to
accept what a pick-up team from the United Nations says we should do.

Why can we not be proud of our achievements? Why can we not be proud of the fact that we are one of the most democratic and freest countries on earth and tell people that? The Prime Minister is so coat-tailing to any international group that he will do whatever they tell him to. I suggest that he look at the ramifications of what he has got Australia into. If in some of the cases that have been taken to the UN committees but not heard yet he follows the same course of action as he has in this case, it will create grave difficulty for the nation. Is he, is the government or is the Attorney-General (Mr Lavarch) going to be selective in the way they take notice of the UN committee of which they seem so enamoured.

I do not know where we are going as a nation if we do not apply rules consistently. Under the first protocol of an international convention we allow a United Nations committee to make an assessment of our laws and our rights. A vast range of freedoms are represented in the United Nations, the average of which is far below what we have in Australia. Despite this the government is prepared to accept the judgment of that group concerning what Australians' freedoms should be. I will not accept that. Only if somebody has greater freedoms or is more democratic or more open do I believe that they have a right to say of Australia, 'You need to change.' The government has not demonstrated that that is the case. Why should Australia take notice of this United Nations committee?

Many nations ignore what the United Nations says, but apparently Australia has to observe what the UN says. I remind the House, as others have done already, that the members of the UN Human Rights Committee that came to Australia and checked out Tasmania were 18 in number and that five or six of them we would not want to contemplate being like. I will read the names of them. Would we like the human rights conditions of Egypt, where people are persecuted and killed for religious belief? It is a fact. That is what is happening in Egypt today.

Mr Katter—Try to get a job over there if you are a Christian.

Mr CADMAN—Yes, exactly, or a Coptic or anything else. Look at human rights of Egypt. Despite this we have members of the government coming into the House saying, 'They have chosen these representatives because of their fine record'. They are nominated by their governments. Come on, get real. Do not come in here with that sort of rubbish and expect us to swallow it. These people that comprise this committee have been nominated by their governments, governments with appalling human rights records.

What about Jordan? People should try to do anything in Jordan other than what the government wants them to do and see how far they get. People should try to work out where Yugoslavia is at this moment and what the human rights are there—and yet it was represented. This was a brilliant team that came to Australia to make an assessment of Tasmania. What about Venezuela? What about Hungary? Hungary at that time was not the Hungary of today. It should be on the list as well. Have honourable members been to Jamaica? That is wide open territory. Television programs and films on Hawaii and South America show nothing compared to what happens in Jamaica.

Mr Katter—No wonder the ALP doesn’t want to speak on this bill.

Mr CADMAN—Yes. Why can members of the ALP not be realistic about what Australia has achieved? If there are things that need to be changed, why can they not rely on our own people to use their judgment to assess the situation and, if necessary, to change the laws of a state? We have a free and open democracy. Why do we have to be carping to some United Nations pick-up team a third of whose members know nothing about human rights or freedom?

People do not understand the full scope of the Human Rights (Sexual Conduct) Bill. It is undefined, basically. When people read it they say, 'It is a simple slip of paper.' That is the problem. Not enough is said. We cannot understand the reach of this law, and nobody in this House or in the courts of Australia understands as yet how far the reach of this
Law extends. The bill will introduce statutory rights over natural rights. As things exist in Australia now, we have a whiteboard that is unmarked. We write laws in this parliament and in the state parliaments. We reduce the freedoms that individuals have in Australia by the laws that we write, but the whiteboard remains. Freedoms are actually reduced by prescribing what freedoms have been lost.

The process proposed basically says that there are no freedoms unless we write a law to tell the people that they have a freedom. That is what is happening with this bill. Time and again it uses the word 'unlawful'. To make something unlawful there must be a law on which that unlawful act rests. Defining what our rights in privacy are has started with the bill that will go through this house and the other place, and that bill will define what the freedoms and the privacy of Australians are.

The Human Rights (Sexual Conduct) Bill will create a process whereby people will say, 'What are my freedoms and my rights in the street?' Perhaps we already know some of the privacy freedoms that will apply in the home because of this bill. However, that will be worked out over a period of time. People should ask, 'I have a right to privacy in my own home, but have I got a right to invite people into my home? What are the rights of invitation and assembly? What are our basic freedoms? What are our rights to meet and to worship in our homes?'

This bill strikes at the root of the real freedoms that we accept. This government will have to introduce laws to tell us what our rights are in areas other than privacy, because the natural consequence of this bill is that there will need to be further bills to define where our rights become statutory rights and not natural rights. The Minister for Foreign Affairs, Senator Gareth Evans, has admitted in the Senate that this is the first step, in his view, towards a bill of rights. Senator Gareth Evans has said that that is his objective and that this is the first part of it. I reject this legislation because of that.

I am bound by my party—and I put myself willingly under that obligation—to follow what we have decided in the party room. I will not vote against this legislation, but I will not endorse it. The bill leaves huge critical areas undefined. It does not define sexual conduct or arbitrary interference or unlawful interference—and there is that 'unlawful' word again. If something is unlawful, there must be a law that makes it unlawful. Therefore, the definition of 'unlawful interference' raises the issue of rights. Honour and reputation are not defined, nor are unlawful attacks.

The bill's explanatory memorandum states that if the court is stuck in solving these problems of definition and application an Australian court—maybe the High Court—must go to the United Nations Human Rights Committee and other international jurisprudence for the answer. Who says we are a free nation if we are going to be put under that mob? Again, in our law, we now operate according to the mean of the UN belief rather than the height of excellence that we have in Australia as we strive to go higher. I think it is deplorable.

In my view, the bill produces selective morality. It imposes a barrier between above 18-year-olds and under 18-year-olds. Why was that arbitrary figure chosen? Western Australia has 21 years as the age of consent while other states have different ages. A 16-year-old girl in New South Wales cannot be dragged back home because she is living with some 30-year-old if she has chosen to live with that person. A 14-year-old cannot be brought back home. So why was 18 chosen? I would like some explanation. There is probably some simple explanation, but it seems to be an arbitrary figure.

The bill also chooses the crime, as it currently exists in Tasmania, of sodomy but not incest. It seems to target homosexual relationships but, in my view, there is still a big question unanswered about whether people over the age of 18 committing incest in private are now freed up by this law because incest is no longer a criminal offence. The abuse of disabled people over the age of 18, for example, is opened up by this bill because it defines only a narrow area with regard to privacy concerning activities between consenting individuals under the age of 18. If they are over the age of 18, consenting and in private, all of these points would seem to me
to be covered by a Commonwealth act that overrides any state acts that relate to the activities mentioned.

Finally, the government sees itself as the champion of one section of the community—in this case, the gay and homosexual community. It is all about winning a few votes there. Why does the government not for once become the champion of the Aboriginal people who are living in Third World conditions? Instead of spending thousands of millions of dollars on a program to buy up spinifex and sandhill and telling the people that they are going to be right, why does it not get stuck into health education and housing programs for those people? Why does it not go to Cabramatta, in a really wonderful Labor electorate, and do something about an unemployment level of 38 to 40 per cent in the Vietnamese community? It is not interested in that; it would rather play games.

This stupid UN committee is made up of a bunch of people who would not understand the rights that every Australian understands. The government will adopt anything that that trumped-up bunch suggests and apply it automatically to the honest, free and dedicated Australians who live in Tasmania. I believe it is shameful.

Mr NEHL (Cowper) (1.24 p.m.)—In speaking on the Human Rights (Sexual Conduct) Bill I understand the difficulty it presents for some people in this place and also in the general community. I must state at the outset that I support the position of the coalition on this legislation, and I totally support the amendment moved by the honourable member for Berowra (Mr Ruddock) on behalf of the coalition.

The government's motives for introducing this bill are more than somewhat duplicitous. First, it is a vote fishing exercise designed to gain electoral support from the gay and lesbian community. I do not believe for one minute that the government is really concerned about the provisions of the Tasmanian criminal code introduced by the Labor Party in 1924. The Tasmanian government has not enforced section 122 or section 123, paragraphs (a) and (c), and demonstrably has no intention of doing so.

Secondly, members of this Labor government, being the gung-ho, ideological centralists that they are, cannot resist any opportunity to try to centralise more power in Canberra. I am convinced that if they really had their way the federation would be abandoned, the states would be abolished and the people on the continent of Australia would be governed by one all-powerful centralised government based in Canberra. They would be just as pleased if they could abolish the Senate at the same time, thus removing any obstacle from the exercise of absolute power while they were in government. That would, of course, make it extremely difficult, if not impossible, to get them thrown out and have a change of government.

I know that some members opposite will scoff at and deny the scenario I have outlined, but I say to them that I am not one who subscribes to conspiracy theories. The moves I have outlined are totally consistent with ALP policy, which for decades has called for abolition of the states and the removal of the Senate. That is fact, not fantasy. This bill is a further step along the path of using section 51 of the constitution, the external affairs section, to override the states and use international conventions as a coat-hanger for introducing legislation for which the government has no other constitutional authority.

Lastly, the government's overwhelming motivation is to try to create division within the opposition and to develop stresses within the coalition. I know that other members, and other people in the electorate, have different views from mine, and I respect their views. However, life is not always a matter of black-and-white issues, and in considering legislation in this place one has to take a reasonable and balanced approach, always weighing the issues in order to arrive at a sensible result. People tend to be fearful of change and of the unknown. Misrepresentations that distort the content of legislation create a high degree of anxiety, which I can understand. I know that there are some people in the electorate who ascribe a variety of outcomes to the Human Rights (Sexual Conduct) Bill that are totally inconsistent with what is in the bill itself. In a great many cases, people have not
had the opportunity of seeing or reading the bill. By all means, let us criticise the legislation, but only for what it is in reality, not for what the rumours say it is.

Essentially the bill is a one-clause piece of legislation. That clause says:

**Arbitrary interferences with privacy**

4.(1) Sexual conduct involving only consenting adults acting in private is not to be subject, by or under any law of the Commonwealth, a state or a Territory, to any arbitrary interference with privacy within the meaning of Article 17 of the International Covenant on Civil and Political Rights.


(2) For the purposes of this section, an adult is a person who is 18 years old or more.

And that is it! This is where the government has tried to set its trap for the opposition. Does anyone in Australia really believe that the police should have the right to come into our bedrooms? But if we oppose the bill that is how the government would brand us. We will not fall into that trap. Does anyone in Australia really believe that our individual privacy should not be protected? Anyone who is concerned about this legislation and who has listened to the rumours circulating in the community should read the legislation and the accompanying explanatory memorandum, think seriously about the legislation and understand that we in the parliament can consider and vote on only what is actually in the legislation.

This legislation is not aimed specifically at homosexuals. It is aimed at protecting the rights of consenting adults to undertake sexual activity in privacy. That means you and your spouse, me and my wife, my sons and their wives, my neighbours—in fact, anyone over the age of 18. Surely protection of individual rights is the cornerstone of our democracy.

We in the National Party are passionately dedicated to the freedom of the individual, the right to privacy and our democratic system. In our basic statement of philosophy we state: We believe that Australians, as individuals and as a nation, should be prepared to oppose at every opportunity social and political ideas that threaten freedom and democracy in Australia and throughout the world.

We also state:

We believe in the family as the basis of a strong and stable society.

I frequently present Australian flags to schools and community organisations in my electorate. When doing so, I never miss the opportunity to bash their ears about the merits of our system of parliamentary democracy, with the freedom and liberty we all enjoy.

To vote against this legislation is to vote against the freedom and privacy of individual Australians. I cannot do that. I am naturally concerned about the other issues inherent in the bill but, when it comes down to the wire, I can never retreat from the defence of freedom.

Some of my colleagues, with the best will in the world, have had to emphasise the issue of states rights. I share their concerns about the future of our federation. There is no greater advocate of the maintenance of the rights of the Australian states than I. I fervently believe that we should have more states, as provided for by chapter VI of the constitution. I spent several years working full time advocating the creation of new states to strengthen our federal system. Nonetheless, when it comes to balancing a potential reduction of states rights against the issue of freedom and the rights of individual Australians, I can make only one choice: I must come down on the side of freedom of the individual.

As I have already indicated, the government has three major political ploys associated with the legislation: to go fishing for votes from the gay and lesbian community, to attack states rights with the further use of external powers and to try to create division within the opposition. The government would have us believe that this bill is about privacy and individual rights, but this is only camouflage for what it is really seeking to achieve.

If this Labor government were truly concerned about privacy, if it were fair dinkum about the rights of the individual, it would introduce legislation to cover all facets of privacy covered by article 17 of the International Covenant on Civil and Political Rights,
which gives people a broad right to the protection of their privacy from arbitrary or unlawful interference. I am sure that most people who are concerned about article 17 have probably not had the opportunity of reading it. It says:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Would any sensible Australian object to the protection of our privacy, our families, our homes, our correspondence, or our honour or reputation? Of course not. It is worth noting that this covenant was agreed to by a coalition government in 1980, but only after widespread consultation with the states. That emphasises the correctness and need for the coalition's present amendment.

I am most concerned about the excessive use of the external affairs power given by section 51(xxix) of the constitution, even more so when this Labor government attempts to misuse that power to enact legislation which otherwise would be the prerogative of the states. Nonetheless, our founding fathers were right to include the external affairs power in the constitution.

There are areas where ratification of international treaties is absolutely essential. Prevention of mining in Antarctica, controlling narcotics, outlawing chemical weapons and protecting the ozone layer are just a few of the areas in which we have domestic legislation endorsing international agreements. In view of the claims floating around about the number of international conventions and treaties to which Australia is a party, it is worth noting the fact—and it is fact—that in total Australia is bound by, or has had applied, 2,223 treaties and conventions. As at 5 July this year, 920 of them were in force.

It is also of interest that, of the 920 still applicable, there are only 33 Commonwealth statutes which rely on the external affairs power and seek to implement, in whole or in part, international treaty obligations which may have domestic effects. I seek leave to have a list of them incorporated in *Hansard*.

Leave granted.

The document read as follows—

Racial Discrimination Act 1975 (the Convention on the Elimination of all forms of Racial Discrimination)

World Heritage Properties Conservation Act 1983 (the Convention for the Protection of the World Cultural and Natural Heritage)

Sex Discrimination Act 1984 (the Convention on the Elimination of all forms of Discrimination against Women)

Human Rights and Equal Opportunity Act 1986 (the International Covenant on Civil and Political Rights, the ILO Discrimination (Employment and Occupation) Convention)

Ozone Protection Act 1989 (the Vienna Convention for the Protection of the Ozone Layer)

Crimes (Hostages) Act 1989 (the International Convention Against the Taking of Hostages)

Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990 (UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances)

Endangered Species Protection Act 1992 (several Conventions and bi-lateral agreements concerning the protection of migratory birds and the conservation of wetlands)

Disability Discrimination Act 1992 (the ILO Discrimination (Employment and Occupation) Convention, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights)

Industrial Relations Reform Act 1993 (ILO Conventions 87, 131, 156, 158 and the International Covenant on Economic, Social and Cultural Rights).

Other Acts which implement parts of international conventions are:


Chemical Weapons (Prohibition) Act 1994 (Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction)

Consular Privileges and Immunities Act 1972 (Vienna Convention on Consular Relations)

Continental Shelf (Living Natural Resources) Act 1968 (Convention on the Continental Shelf)

against the Safety of Civil Aviation, and Convention on Offences and Certain Other Acts Committee on Board Aircraft)

Crimes (Biological Weapons) Act 1976 (Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxic Weapons and their Destruction)

Crimes (Internationally Protected Persons) Act 1976 (Convention on the prevention and Punishment of Crimes against Internationally Protected Persons)


Family Law (Child Abduction Convention) Regulations (Convention on the Civil Aspects of International Child Abduction)

Fisheries Act 1952 (Treaty on Fisheries between the Governments of Certain Pacific Island States and the United States of America)

Foreign Evidence Act 1994 (Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents)

International Arbitration Act 1974 (Convention on the Recognition and Enforcement of Foreign Arbitral Awards)

Petroleum (Australia-Indonesia Zone of Co-operation) Act 1990 (Treaty between Australia and Indonesia on the Zone of Co-operation between East Timor and Northern Australia)

Petroleum (Submerged Lands) Act 1967 (Convention on the Continental Shelf)

Pipeline Authority Act 1973 (Convention on the Continental Shelf)

Plant Variety Rights Act 1987 (International Convention for the Protection of New Varieties of Plants)


Seas and Submerged Lands Act 1973 (Convention on the Law of the Sea)

South Pacific Nuclear Free Zone Treaty Act 1986 (South Pacific Nuclear Free Zone Treaty)

Trusts (Hague Convention) Act 1991 (Convention on the law applicable to trusts and on their recognition)


Mr NEHL—Ultimately, it is the High Court which decides on the constitutional legality of legislation, as it did in 1982 in the Koowarta v. Bjelke-Petersen case on Aboriginal rights and the Franklin dam case in 1983. That was a result of the Labor Party’s misuse of the constitution. The legislation was not imposed by a UN convention; there was a deliberate decision by the Labor government to enact legislation. I believe there is a pressing need for reform of our treaty making process to involve full consultation throughout the community and approval by the Australian Parliament. In supporting the coalition position on this legislation, I am exercising the tolerance and understanding towards my fellow man which I feel is demanded by my Christian beliefs and by my passionate dedication to freedom and democracy.

Mr ABBOTT (Warringah) (1.35 p.m.)—The government has been quite dishonest in its presentation of the Human Rights (Sexual Conduct) Bill. The Attorney-General (Mr Lavarch) told us yesterday that the treaty making power of the Commonwealth had been exercised in consultation with the states. That is quite wrong. The Attorney-General also declared that the treaty making power of the Commonwealth would not bring United Nations influence over Australia’s sovereignty. That is quite wrong again. This bill relies on the International Covenant on Civil and Political Rights. In 1984, the Hawke government declared that the implementation of that treaty would:

... be affected by the Commonwealth, State and Territory authorities having regard to their respective Constitutional powers.

In other words, it said that this treaty would take into consultation the respective governments of this country. But that is not how it has worked in practice. When the government wanted to ratify the first optional protocol to the covenant—the protocol which has prompted all this debate—it consulted with the states and then totally ignored them when they did not want to go ahead with it.

All the Liberal states were against going ahead with the protocol, and even the Western Australian Labor government was against ratifying this protocol, but still the government went ahead with the ratification. In other words, consultation with the states—under this government—means that it will consult
with absolutely everyone and then do exactly what it wants. This government is quite prepared to consult with people, provided that people accept that it will take notice of them only if they actually agree with it.

This bill is the direct result of a finding by the United Nations Human Rights Committee that sections of the Tasmanian criminal code breached the International Covenant on Civil and Political Rights. It is because of this committee's finding that the government says we need this legislation. The whole rationale for this legislation is that Australia was found to be in breach of its obligations under the covenant via the United Nations Human Rights Committee. If the UN Human Rights Committee had not found against us, we would not have needed this bill. As it did find against us, we must have this bill—or so this government says—or else we will be in breach of our international obligations. In other words, we have thrown off the hated yoke of the colonial Privy Council, only to subject ourselves to the yoke of the United Nations Human Rights Committee.

Representatives on that committee come from countries like Egypt, Senegal, Yugoslavia and Cyprus: places which are not exactly paragons of international virtue, places which do not exactly put human rights on a pedestal. In fact, five of the countries represented on this committee themselves have laws against homosexual conduct.

Mr Leo McLeay—I have a point of order, Mr Deputy Speaker. For the honourable member to say that Cyprus does not have a democratic, properly elected and organised government is a disgraceful slur to make on a Commonwealth country that has proper elections and proper due process.

Mr DEPUTY SPEAKER—There is no point of order. The honourable member will resume his chair.

Mr Abbott—I am flattered by the intervention of the government whip. If it was right—as indeed it was—to stop appeals to the Privy Council, why is it then right to begin appeals to the United Nations Human Rights Committee? A former Prime Minister, Mr Whitlam, said: The High Court of Australia must be the final court of appeal for Australians in all matters... It is entirely anomalous and archaic for Australian citizens to litigate their differences in another country before judges appointed by the Government of that other country.

Gough Whitlam was entirely right. The situation that we now have, thanks to this government, is that Australian law is made in Australia by Australia for Australians, at the direction and under the control of the United Nations Human Rights Committee.

I find it absurd that a government which professes horror at the place of the Australian Crown in the Australian constitution should now be placing us under the influence of the United Nations Human Rights Committee in this way. I find it outrageous that a government should not only subject us to the whims of this committee but also overturn our accepted constitutional order in the process. We have a perfectly good system of government in this country. In broad terms, the federal government sets economic policy, conducts foreign policy and sets the parameters of national development. The state governments establish the ordinary criminal law and run the giant government enterprises which are necessary in modern society. Local government administers the community environment. This is a perfectly good system of government, provided each tier minds its own business.

The problem with this legislation is that it is an example of the federal government failing to mind its own business. The problem with this legislation is that it is just another example of creeping centralism. The only redeeming virtue, if I may put it that way, is that just for once, for all the wrong reasons and in all the wrong ways, the federal government's bill might actually do some good.

If this bill sought to establish the moral equivalence of all lifestyles, I would be against it. If this bill simply declared sections of the Tasmanian criminal code null and void, I would be against it. But that is not what it does. It establishes a defence to a prosecution under section 122 or 123 of the Tasmanian criminal code that it would be up to the
Tasmanian courts, in all the circumstances of the particular case, to interpret.

The objection to this bill is not its content, because it is absolutely abhorrent to persecute gays in order to establish society's preference for the family, and a moral police force is the very enemy of a moral society. Our objection to this bill is not the content but the hypocrisy. Here we have the Prime Minister (Mr Keating) and the Labor Party masquerading as the friends of the gay community. As Christopher Pearson, the editor of the Adelaide Review, has said, 'Labor's credibility as a gay-friendly party is very, very thin indeed.'

It was in 1974 that the Prime Minister actually voted to keep homosexuality a criminal offence. That was the same Prime Minister who said on another but related issue that he thought that the most abhorrent thing in modern society was the fact that it did not put the working wife back into the home.

Another objection to this bill is its selective morality. If the government wants to entrench international treaties, if the government wants to make Australia perfectly adhere to all the various international codes on human rights, it cannot be selective. Take the Universal Declaration of Human Rights. Article 20 explicitly provides that people will have the freedom not to belong to an association. Why will the government not implement that particular article? Instead, the sorts of human rights this government is prepared to give us are not universal human rights but Labor's version of what is acceptable to Labor's mates.

The chief objection to this bill is that it relies for its legal validity on the external affairs power of the Commonwealth. That is why we are not opposing the bill but supporting the amendment. Under the Tasmanian dams case, the High Court has held that the Commonwealth government can validly legislate to give effect to any bona fide treaty obligations. As Gareth Evans has said, that means that there are 920 treaties which this government can validly legislate upon. All the federal government must do is find a pertinent clause in a foreign treaty and under the current interpretation of the external affairs power it can virtually do what it likes.

The situation today is that, thanks to section 96 grants and the uniform tax case rationale, the states became the pensioners of the federal government. Under the Tasmanian dams case rationale, the states are virtually tenants at will and can be ejected from their constitutional property at virtually a moment's notice.

The other interesting thing is that our constitutional arrangements can be altered, under the kind of system currently operating, virtually at the behest of faceless bureaucrats. No-one can remember how the first optional protocol to the international covenant actually came to be ratified. No-one can remember how this important piece of international agreement actually found its way into our Australian constitutional set-up. Earlier this year, Senator Rod Kemp asked Gareth Evans in estimates whether this had gone before cabinet, and Gareth Evans said he could not remember. Gareth Evans has had a few problems with his memory over the last couple of days. What Gareth Evans did say is: 'I had an input' and, 'It would have been run past the Prime Minister.' He added: You don't clutter the cabinet agenda with matters about which there is no disagreement.

Anyone who understands how government works in this country would know that that means that the minders in Gareth Evans's office gave it to him; he was too busy to look at it too seriously and to take it off to cabinet; he gave it to the Prime Minister's office, and the minders in that office had a look at it and said that it seemed okay to them. In other words, the protocol on which this whole legislation is essentially based has found its way into our constitutional set-up virtually at the whim of a few faceless bureaucrats.

I support this amendment because it is a step in the right direction. To be perfectly honest, I wonder whether it really goes far enough. I suspect that the time has arrived when we really need to deal with this external affairs power, and that the only way to do that effectively might be through a constitutional amendment to provide that foreign treaties give the federal government no power over the states that it would not otherwise have under the constitution. The amendment is required not because our constitution is
defective but because empire building politicians and lawyers are defective and have hijacked powers in ways which our founders could never have foreseen. Such a constitutional amendment would put Australia’s sovereignty back where it belongs: fairly and squarely in the hands of the Australian people.

Mr NEVILLE (Hinkler) (1.49 p.m.)—From time to time there are events in politics that are watersheds in the direction a country takes. Some seem innocuous enough; others are blatant in their intent. By way of preface I point out that my remarks do not reflect on any member—no matter how opposed he or she might be to my view—who has arrived at a decision on this matter in good conscience. But I find it despicable of those inside and outside this House who have allowed themselves, or indeed participated in, the manipulation of our constitution and our sovereignty for some cheap political advantage.

The Human Rights (Sexual Conduct) Bill 1994 purports to enshrine the propriety of aspects of sexual conduct in a thin veneer of privacy, and in a way that effectively overrides the laws of the sovereign states of the Commonwealth. Dress it up any way you like; that is the effect.

The bill finds its genesis in the actions of a Tasmanian citizen, Mr Toonen, who placed a case before the United Nations Human Rights Committee. The submission was flawed in four different respects: it misquoted data on the history of homosexual acts in Tasmania; it misstated the alleged non-use of sections 122 and 123 of the Tasmania criminal code, which have been exercised, I might add, 46 times in the last 18 years; it falsely claimed that he was deprived of employment with the Tasmanian AIDS council despite the fact that his position was redefined by a federally—I stress ‘federally’—initiated review; and, finally, it gave a skewed view of the attitude of the Tasmanian parliament to this matter.

That is the first basis of my objection—not that an appeal was made by Mr Toonen, which was his right under the first optional protocol to which Australia is a signatory but that the accuracy of the data provided should have been paramount in a decision of this moment. Despite the fact that the Tasmanian government challenged the admissibility of that Tasmanian citizen’s complaint, the Commonwealth said that it did not wish to challenge it.

Further, although to some extent the Tasmanian government’s material was represented by the Commonwealth, the Commonwealth substantially accepted the complainant’s case. In other words, we had Caesar judging Caesar; we had the Commonwealth not being an objective advocate for the state of Tasmania. The state of Tasmania had no rights of appearance, although at the 1982 Premiers Conference that was one of the guarantees that was given.

It was a one-sided affair and, as the member for Tangney (Mr Williams) said yesterday, it was a breach of the rules of natural justice and fairness. That is the second basis of my objection. The third lies in the fact that the committee analysing article 26 of the covenant, which refers to race, colour and sex, placed the interpretation of sexual orientation or preference on the word ‘sex’. I believe any fair reading of this clause would indicate that the intent of the original authors of the covenant was merely to refer to gender, not to sexual preference.

My fourth objection is in the committee’s interpretation of the word ‘privacy’. Article 17 of the covenant says:

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, or unlawful attacks on his honour or reputation.

Given that clauses 122 and 123 of the Tasmanian criminal code were the ones that were the basis of this action and that there were 46 cases since 1976 involving 54 victims, including five women, 48 persons under 18 years and 27 under 12 years of age, it is hard to establish how the application of the law could be described as being used capriciously against consenting adults. Indeed, there were few, if any, actions against consenting adults in private. Therefore, the privacy matter was also very much skewed.

In coming to my fifth objection, let us look at the composition of the 18-person Human
Rights Committee which makes these determinations. Ostensibly, members are elected to the committee on the basis of their skills. However, they require the endorsement of their countries of origin. Hence, given the actions of many of the less than democratic and highly politicised regimes around the world, some of whom were referred to by the member for Mitchell (Mr Cadman), it is fair to assume that at least some of the members must meet standards of political conduct and correctness acceptable to the regimes that they represent on the committee. Five of the countries whose members sit on that committee have homosexual laws similar to or stronger than Tasmania’s.

Further, the first optional protocol, which in effect permits citizens to take their cases directly to the committee, has not been signed by four countries. In other words, four of those judges who sat in judgment on the skewed Tasmanian case came from countries which would not allow their own citizens to appear before the committee. Call it farce, if you like, call it a kangaroo court, if you like, but one thing it is not and that is justice. That the state of Tasmania, or any other state, should be subjected to this is an outrage and is distinctly un-Australian.

In 1901 six sovereign states, after years of exhaustive debate, formed a federation with very clear understandings as to the rights of the states. The criminal codes remained the prerogative of the states. Given that the states had different types of formation, it is not surprising that there would be variations in the approach that they took to social and moral issues and the influences which might have affected their laws, at least at the margins.

The states had different times of formation, different types of self-government. Some had their genesis in penal colonies, others were founded by free men. There was and is a diversity of things such as crops, industries, sports, tourism, cultural events, ethnic backgrounds, decentralisation and the proportionality of various religions. It is not sinister or surprising that there may be some variations in the laws and in their application. Certainly, the Attorneys-General, by free and cooperative association, have agreed that, in matters of common interstate interaction, uniformity is desirable: for example in traffic codes and company law.

We respect the mores, the customs and even the laws of the Aboriginal and ethnic groups in this country. We celebrate and we promote the diversity of multiculturalism, the derivation of people from many lands, and so we should, yet we would have our states a pale reflection of each other. The states, dating back from between 110 to 206 years, have also had rich diversities and these also need to be respected and celebrated.

Without the least offence to more recent Australians, there are within these states traditions of two, three, five, seven and even nine generations of families. These were often families who tamed this wild land, made it productive, lived through droughts and depressions, defended the country at war, nurtured its great institutions and, yes, developed its laws. Indeed, what has made Australia such an attractive place in which to live, safely and securely with a quality of life, and what has brought many of these fine citizens to our shores, have been the traditions, the laws and the mores that those generations in those states developed. They have every right to be respected.

As this country develops, it is for the continuing homogeneous mass of old, not so old and new Australians to develop laws that govern us, not some unrepresentative body using skewed evidence by a manic government that has no respect for the states and for the traditions of those states. But, worse than that, far from enhancing the status and respect for the Commonwealth, it is abdicating the role of its most important instrumentality, this parliament, the elected house of the people.

I find it strange that only a few years ago people on the opposite side of this house fought tooth and nail to have appeals to the Privy Council removed from the statute books. I respected their view at the time, but it is totally inconsistent to deny appeals to the Privy Council and then turn around in the short space of 10 years and take something as fundamental as state laws and subject those to some kangaroo court in another land where
people do not have standards of justice, behaviour and process akin to ours.

If, as the government says, the laws of Tasmania were so oppressive and were applied so discriminately, why did it not take on sections 122 and 123 of the Tasmanian criminal code head on? Why was it not honest enough to take it head on? If it really believed that those laws needed to be removed from the statute books of Tasmania, why did it not have the guts to be transparent and target the perceived prejudice? I will tell you why. The government had neither the moral fibre nor the courage to do it. It would have been electorally damaging for every ALP member in Tasmania, and every member opposite knows that.

So this clever stunt, this sugar-coated pill of international derivation, is being foisted on all Australians, and perhaps with the additional twist that it might somehow divide the coalition. What a way to make laws. What a way to honour the institutions of this parliament and of this land. What a way to treat the states that made up this Commonwealth.

Let there be no doubt about where I am coming from, for I am certain that many will seek to misrepresent me and my stance. I am no bigot. I am not homophobic. I respect the rights of individuals and minorities. But I believe any properly elected government has the right to institute laws that reflect the social mores and traditions of that state. When a government uses its external affairs powers in this way with blanket provisions, it effectively reduces the laws of all states to the lowest common denominator, as I suspect Western Australia will find out as its age of consent is forced down.

Laws on statute books have, for me, two applications. They are in a way a statement of standards setting the ultimate parameters of conduct in that particular state. Of course, as we all recognise, through the courts they are the mechanism for enforcement. If we widen the parameters of acceptability, where do we draw the line? Some speakers have already expressed concern, despite the assurances of the Attorney-General (Mr Lavarch), that once that line is moved it will not be a much bigger step to such matters as the approval of incest in private and prostitution in private homes.

Equally, laws that do exist must be exercised with justice and equanimity. I, for one, do not want doors kicked in and I do not want photographers jumping through bedroom windows. Nor is there any evidence of this in Tasmania. In fact, the right of police entry and search is probably more strictly controlled in Tasmania than in any other state. If this were not the case, is it likely that 63 per cent of Tasmanians would have rejected UN intervention in a widely held and properly conducted poll recently?

In the time remaining to me, I would like to reflect on the late Dr Evatt. Not so many years ago, in the lifetime of most of us here, a communist party dissolution bill was proposed. It was in April 1950. It very much divided Australia. It was tested in the High Court and found to be invalid. Dr Evatt led the charge on that particular bill. It would have allowed someone to be declared a communist and his property, or the property of the organisation to which he belonged, to be confiscated. It would have prevented people from having jobs in the Public Service and it was punishable by prison. When it was defeated in the High Court, it went to a referendum.

Evatt felt passionately about this. Again, people of all political persuasions in Australia took different stances on it. Some like Archbishop Mannix, who was an avowed anti-communist, took the view that Australians should vote no; Cardinal Gilroy said people should follow their consciences; and Archbishop Duhig in Brisbane said that people should vote yes. So that describes the amount of variation that was in the Australian population.

Evatt believed fervently that, once we sacrificed that right, once we declared one group in the Australian population anathema or we deprived them effectively of citizenship, none of our other political institutions thereafter would be safe. I suppose at the time in the heat of the Cold War, in the heat of the strikes in the postwar era and with the fear of the atomic bomb, many people probably saw communists as pretty dreadful people. I did,
and my own family did. Evatt made a very important point. If we deny one section of the Australian population its political rights, ultimately all institutions at some stage, by some capricious government, could be put in the same position. That act could be extended.

It is to his enduring credit that he was able to convince the Australian public. Even people from this side of the House who were opposed to him at the time I think would admit today that the Australian public made the wise decision. That is why I find it totally unbelievable that the Labor government that spawned Dr Evatt, who reached those heights on so important an issue, would allow the sovereignty of this nation to be sold so cheaply to a hillbilly kangaroo court of unrepresentative people from countries that have standards less than ours and would impose that on our sovereignty and, in particular, on the states of this Commonwealth.

In conclusion, one of the hardest things is disagreeing with my colleagues. Although I have been in this House for only 18 months, I have been an active member of the National Party for 35 years. I have always been a team worker. I have never ducked my responsibilities, but on this occasion I feel very strongly that I cannot support this measure. Not supporting it purely by not voting against it is not strong enough action for me. This is a watershed.

We have had treaties—and indeed sensible treaties—on things like the rules of the sea, telecommunications, export and import. Although I was ambivalent towards them at first, I have accepted such things as the protection of the Great Barrier Reef and of our national parks, but I will not accept international treaties that intrude into the lawmaking of the states of this Commonwealth or, indeed, of this Commonwealth itself. On that basis, with a somewhat heavy heart in having to disagree with my colleagues, I will take fierce pride in crossing the floor and voting against this bill.

Mr FILING (Moore) (2.06 p.m.)—One of the difficulties in rising to speak late in the list of speakers is that many of the points that one wants to canvass have been raised and perhaps repeated on a number of occasions by previous speakers. However, I think the most important facet of the Human Rights (Sexual Conduct) Bill and the debate surrounding it is that it is not about privacy at all. This is not a question of legislating to preserve the human rights of the citizens of Australia. It is a political ploy to create problems for the coalition.

It is another means by which the Commonwealth can use the external treaty provisions of the constitution and the treaties that it signs—which are subject not to the debate or the will of the parliament but only to the will of the executive—to change domestic Australian laws to reflect the particular philosophical values and objectives of the Australian Labor Party.

Around Australia there is rising concern about the abdication by this government of Australia's sovereign right to self-determination to bodies external to Australia which, by virtue of their status in relation to agreements, charters and declarations that this government signs, are able to influence the domestic law of this country and influence it in a way that the citizens of the country are not able to do. The fact that this has become such a notable issue in the community speaks for itself.

I note that the honourable member for Flinders (Mr Reith) is on duty for the coalition. I can recall the honourable member for Flinders conducting a very intense campaign in 1988 surrounding the referenda that were being proposed by the federal Labor government, proposals that in the first instance were apparently—according to polls that were undertaken before that campaign was launched—supported by many in the community, probably because they did not know much about them.

As a consequence of the campaign mounted by the member for Flinders, and also by the shadow minister for health and others around the country, the Liberal Party of Australia and the National Party were able to change the mind of the people of Australia and have those referenda proposals defeated at the polls on polling day. The key was that the people had a choice.

They chose at the ballot box to reject those referenda proposals to reflect the will of the...
people, and yet here we have circumstances that have been created by the federal Labor government to introduce legislation that will effectively overturn legislation that was enacted at the will of the Tasmanian and the Western Australian people. This legislation is quite clearly within the authority of the people of those states. This legislation clearly falls within the responsibility of the state parliaments of all states, but it is of particular concern to the state parliaments of Tasmania and Western Australia.

Of most concern to me, as a Western Australian, is the fact that, in the case of the Western Australian legislation and in the case of section 322A of the criminal code of Western Australia which deals with the question of age of consent and homosexual behaviour, that debate was in 1992—just two years ago. In other words, that is one of the most recent expressions of the will of the people of Western Australia and, for that matter, around the country of the will of citizens in relation to homosexual behaviour and the criminal law.

We have here a situation where the federal government is endeavouring to overturn legislation that was debated and enacted within Western Australia only two years ago. Not only that, that legislation in Western Australia, which was part of a move by the then Western Australian Labor government to decriminalise homosexual behaviour and which set the age of consent at 21 years, was arrived at as a result of a compromise in the Legislative Council. It was the same Legislative Council that was re-elected, holus-bolus and in virtually the same format, just under a year later. So not only was that a clear expression of the will of the Western Australian parliament, but the Western Australian people then re-elected, virtually in the same proportion, the Legislative Council of Western Australia.

I say that the will of the people of Western Australia in relation to this particular legislation has been most clearly and recently asserted. Yet now the government, within two years, is endeavouring to overturn that legislation, using as its basis a complaint made to a United Nations committee, the UN Human Rights Committee—an unrepresentative committee, as the member for Hinkler (Mr Neville) has pointed out. I suppose we could spend a lot of time looking at the various records of the countries of origin of the members of that committee. Sadly, we would probably arrive at the conclusion that Australia enjoys a far superior record of human rights to most of those countries. Yet we have been coerced into changing our domestic legislation and into interfering yet again in the relationship between the states and the federal government in order to placate a human rights committee composed of people who come from countries which have, in many cases, inferior human rights records to ours.

I mentioned at the beginning that this has become a matter of some note to citizens of Australia throughout the country, and quite rightly so. As we know, there are over 2,000 treaties, conventions and charters which have already been signed by the federal government which bind us, through the external treaties provisions of the constitution, to making changes to our domestic legislation. At a time when many people are feeling quite jaundiced and depressed about the way in which their democratic system is alleged to work, and are disappointed because they seem powerless to be able to make changes, to be able to influence events, to influence the political future of our country, the federal Labor government is going to insist, through this legislation, on yet another change. As I pointed out earlier, in the case of the citizens of my state, notwithstanding the fact that within recent memory—with the last two years—their representatives have determined legislation relating to the same matters, the same proportion of representatives was re-elected in the Legislative Council at an election last year.

So one could argue quite successfully that not only is this an interference in the relationship between the state and the federal governments but it is also anti-democratic; that it strikes at the substance of our system of democratic parliamentary government because it endeavours to take away the sovereign will, the rights of the people—of Western Australia and Tasmania in this case. At the same time
it is part of a concerted campaign by the Prime Minister (Mr Keating)—the same Prime Minister who often tries to mock the opposition for somehow being subservient to the British, for instance—to whittle away yet again at Australia's own rights to self-determination, your rights and mine to determine our own future. If you think about it carefully, there is no more fundamental right inherent to a nation, the nation state, than the ability of its people to determine their own political future.

In this particular instance, it is quite clear from the constitution that matters falling within the jurisdiction of the states include the determination of the criminal law in relation to offences that are committed in that particular state. The clear inference from this particular legislation is that somehow the people of Western Australia and Tasmania are unable under their own steam to arrive at a position on human rights that is consistent with the intentions of the Human Rights Committee. Another way of putting it is that we are not seen to come up to the mark; that the people of Western Australia and the people of Tasmania are somehow incompetent to determine their own affairs.

Whatever honourable members may think of this legislation, whether they support it or otherwise—and I am certainly not supportive of it—I would have thought that the inference that the people themselves are too incompetent to arrive at legislation that is fair and equitable is a gross insult to them. No matter what one might think of consenting adults performing homosexual acts together, this legislation is essentially saying to the people of Western Australia and Tasmania that they are incompetent to determine their own affairs.

This is despite the fact that one could argue in Tasmania, for instance, with its Hare-Clark proportional representation system of parliamentary elections, the composition of its parliament probably closely reflects the graduations of public opinion within that state. In Western Australia there is sufficient evidence to show that its parliament is quite properly representative of the views of Western Australian citizens. As a consequence this legislation flies in the face of the will, the self-determination, of the people of those two states.

But let me look at another aspect of the infringement of the rights and self-determination of the peoples of those states. Our constitutional system of government is essentially a relationship of give and take and it relies very much on cooperation and goodwill. I would think that the use of the external treaties powers, time and time again, by the federal Labor government under this Prime Minister to subvert the will of states—and the rest of the nation, for that matter—is in fact damaging, and some would argue damaging beyond repair, the relationship between the states and the Commonwealth.

That is a matter of concern to all of us because we know from debates here and elsewhere that, in order to make our country great again and to be able to repair our economy, to make things right, we must have a dynamic and cooperative federation. We cannot do the things that are necessary to make this country better—to make it great again and to get our economy going and to get people jobs—from Canberra on its own, and we cannot do it from the states on their own. It has to be a cooperative effort between the two levels of government.

The continuous use of the external treaties powers by the Commonwealth is eating away at and damaging the relationship between the federal and state governments. As a consequence, any assertion on behalf of this legislation, saying that it is somehow designed to enhance privacy or to improve the human rights situation of citizens of one state or another, is a furphy. This legislation is about grabbing more power and bringing it here to Canberra. I suppose there are only three or four of us in this parliament building who come from the ACT. We know that there is a psychological gulf between Canberra and the rest of the country, and I suppose that that is understandable because of the geography of
our country and the unique situation of Canberra being an administrative centre where many people's day-to-day activities are centred on or revolve around the administration of the government of Australia.

That gulf is widened by legislation such as this because, in the end, the people of the states concerned—in particular, my state—become more and more jaundiced about the laws that are being made here, because they feel powerless to change them. They feel that the process is less and less democratic. If it were not for the fact that there are members from those states that feel that way—of course I include Queensland, Tasmania and South Australia in those states—here to voice and represent those views, then the interests of the people of those states would be ridden roughshod over.

In the first instance, this legislation is designed apparently to improve the privacy and the human rights of consenting adult homosexuals in Tasmania, and to also lower the age of consent for homosexual activity in Western Australia under the criminal code. I would challenge any of the honourable members on the other side of the House to cite examples of where, in the states concerned, the privacy and the human rights of those people have somehow been infringed. As we know from the evidence in the Tasmanian instance, out of the last 46 convictions since 1976, made under sections of the Tasmanian criminal code targeted for repeal by the gay law reformers, 48 out of the 54 victims were under age, with 27 of them being 12 years or under.

What does that evidence show us? It shows us that, as opposed to the furphies and in some cases the lies being perpetrated out in the public arena, this legislation has not been used to infringe human rights and it has not been used to violate the privacy of particular people, but that in actual fact it has been used in cases which require the law to intervene. None of us would argue with the fact that under-age people who are victims of offences under this case should not be protected by the law. Who would not argue that, except some quite deviant people? Of course there is a requirement for laws to be able to protect under-age people from this sort of behaviour.

I was a policeman for nine years and I cannot think of any instance. I searched through my memory for instances where people were being raided in their bedrooms or somehow being rounded up, corralled as a result of the use of the criminal code in Western Australia. It is absolutely ludicrous to suggest that. Of course, it is a fact that in Western Australia the laws were changed—by a state Labor government, I might add. Those laws were changed, and debated in particular before those changes.

During those debates the Legislative Council and then the Legislative Assembly members, as a result of amendments, determined that the age of consent would be 21. I have got my views about that and I happen to agree with the legislation that was eventually enacted. I agree with it. But that is not the point. It would not matter if I agreed with it or disagreed. The point of the matter is that they were the representatives of the people of Western Australia, in their own parliament.

Mr Deputy Speaker, let me make some concluding points. Any insistence or assertion that this legislation is to do with privacy and human rights is a lie. It is a furphy. It is a smokescreen designed to cover what is only another effort to undermine the powers of the states, to take away the self-determinant rights of the peoples of those states. As Professor Geoffrey Bolton said recently in a speech that I heard him make, 'The relationship between the Commonwealth and the states is probably at its most poisonous in the history of federation.' That is as a result of this type of unilateral legislating that is done by the federal Labor government. There is no infringement of human rights, no question of privacy—

Mr DEPUTY SPEAKER (Mr Hollis)—Order! The honourable member's time has expired.

Mr FILING—This legislation I cannot support.

Mr DEPUTY SPEAKER—The honourable member's time has expired.
Mr FILING—It is merely to centralise power in the hands of the—

Mr DEPUTY SPEAKER—Order!

Mr FILING—Power brokers in Canberra. (Time expired)

Mr DEPUTY SPEAKER—Order! The honourable member’s time has expired. I should make the point to the honourable member that, although the chair always lets speakers finish a sentence, they are expected not to go on when their attention is drawn to the fact that their time has expired. I would ask members to observe that in future.

Mr McLACHLAN (Barker) (2.27 p.m.)—I look forward to making a contribution on the Human Rights (Sexual Conduct) Bill 1994. During this debate many have said that the dilemma to be decided concerns, on the one hand, a matter of the primacy of privacy in regard to the way in which consenting adults conduct themselves in the privacy of their own homes. On the other, some hold that the conflicting point of view should be paramount, and that has been put by many of my colleagues on this side of the House. That view is that the states have a responsibility—some call it a right—having been elected, to be able to legislate on these sorts of matters for the people who elected them, and that they should not be able to be effectively overridden by the Commonwealth, which is what will happen in this case.

In that context, then, is it a law that the states or the people of a state believe it is important to have enacted by that state parliament? Obviously some years ago many, if not all, of the states of Australia thought that it was important that their states enact those sorts of laws. In fact, laws such as sections 122 and 123 of the criminal code of Tasmania were passed in 1924 under a Labor government, and the Labor Party has been in power in that state on and off for some 50 years since. It chose not to change those laws. The question is, of course, whether or not the Commonwealth should do so.

I raise this point because the law has been on the Tasmanian statute books for any number of years during the tenure of state governments of different hues—both Liberal and Labor alike. In other words, the human rights responsibilities of the Commonwealth became blindingly obvious to it only after the demise of the Labor government in Tasmania—and, presumably, in regard to Western Australia, after the Labor government came to the same end in that state. Why was this issue not apparent to the Commonwealth before? Why has it become absolutely necessary to deal with this matter only now? After all, this federal government has been in office for 11 years.

Changing the law to effectively negate the Tasmanian criminal code is of no direct importance to the people of Sydney or New South Wales, the Northern Territory, Queensland, South Australia and Victoria, who are not in any way affected by the Tasmanian criminal code unless per chance they happen to visit Tasmania. I assert that it is also true that there was no general hue and cry to defend the people of Tasmania against themselves for having elected all of those governments in all of those years which did not choose to change the criminal code of Tasmania.

The Commonwealth felt that it was vitally urgent to introduce the Human Rights (Sexual Conduct) Bill, which deals specifically with the dreadful problem that Tasmania inflicted upon itself all of those years ago and never chose to change. The Commonwealth is doing what it has done many times before, and that is asserting that it is the single source of wisdom in the Commonwealth.

I notice that the Attorney-General (Mr Lavarch), in his second reading speech, referred to the inherent, basic rights which came to fruition in the Universal Declaration of Human Rights. He says that those rights are universal and cannot be limited by national or state boundaries. They may be universal, but I think even the Attorney would agree that they are not universally applied and that people’s perception of what is a universal, basic right changes from time to time over history. That has been the case ever since legal systems have evolved. They will change over history as circumstances change.

Being realistic, the ability to provide what many people today would think was a particu-
lar basic right is often dependent upon the financial circumstances of governments, the recipients or the general economic circumstances that surround the country in which people live. I am ever-mindful of that when the behaviour of our European ancestors in this country in a number of areas is heavily criticised as though they had the opportunities, the information and the luxury to act as we can today. That is a nonsense when contemplating the circumstances in which many of them arrived in this country about 200 years ago. On the one hand, it is argued in here that privacy should be dominant in this debate. On the other, some of us on this side—and I am one—believe that the responsibilities of the states should not be overridden by the Commonwealth for its own particular purposes.

I wish to raise what I think is a more important matter. Whether privacy is the paramount principle or the principle matter is the rights and responsibilities of the states comes second to a wider issue; that is, the chance that the signing of all these international treaties gives a government of a state—the state of Australia in this case—the right to use its powers to make, by using the external affairs power, laws for the purpose of governing the activities of its citizens. There does not seem to be any end to the list of purposes for which an appropriate treaty can be found—after all, we have signed 2,000 of them—containing a clause obliging the Commonwealth, and always obliging the Commonwealth, to legislate and, as the High Court has said, giving the power to the Commonwealth to legislate.

Though I am worried about the division of powers between the states and the Commonwealth and the Commonwealth’s continuing usurpation of the rights and responsibilities of the states to deal and legislate for their people individually and separately as they see fit under the federation, I do not think that is as important as the fact that this single international power can virtually be used to devour the constitution.

Whilst I notice that the Attorney-General has rightly said that the Human Rights Committee is not a court, that it does not make binding decisions, that it has no power of enforcement, that its decisions do not oblige any action from Australia to change its laws and so on, what happens in these circumstances is that, by using the imprimatur provided by the signing of international treaties—if you like, the fact that Australians believe that these treaties were signed for good reason—and by selectively using those treaties and the clauses therein, over time the constitution of this country can be changed without a single Australian ever having to vote or getting close to having a vote on a particular matter at hand.

We have introduced an amendment. The purpose of that amendment is to indicate to the Australian people that we will be bringing the matter of the slow devouring of the Australian constitution by the selective use of international covenants to the attention of the Australian people on a daily basis from now to the next election, and we will act on it after that election.

Mr TUCKEY (O’Connor) (2.38 p.m.)—I wish to record the fact that, whilst I have substantial concerns across this entire measure, I will not be opposing it. Nevertheless, I will be supporting the coalition amendment. The Human Rights (Sexual Conduct) Bill is not about privacy. It is basically an attempt to put some acceptability into certain sexual practices—‘sexual conduct’ is the term used throughout the legislation. As such, I think it is outrageous that the government has attempted to make this particular move under the guise of privacy.

We all accept the principle of privacy. What is more, we demand it in the context of our personal sexual conduct. However, we have never ever been guaranteed privacy in our home, and by way of its explanatory memorandum the government admits this to be so. The government talks about what is acceptable and what is unacceptable, as did the Attorney-General (Mr Lavarch) in his second reading speech. It is all a matter of definition. More importantly, we have never been given the privacy to counterfeit money or do other things in our home. It is arrant nonsense for people to try to argue that, on the basis of privacy, anything goes.
The hypocrisy of this political stunt is that the government itself in this legislation is demonstrating a very real sensitivity in avoiding legal definition of 'acceptable and unacceptable sexual conduct'. It is doing this because it knows the opinions of its hard core constituency. Its own constituency, its voters, do not concede nor do their views coincide with the more liberal views of caucus members. I will refer a little later to a letter most of us have received from the Returned Services League stating its members' views—the sorts of views your fellow members, Mr Deputy Speaker, would be picking up in your own RSL clubs.

Back at the front bar or at the factory gate it is much easier to talk about supporting privacy rather than anal intercourse. The problem is that, in pursuing this policy, the Keating government has opened the issue of acceptable and unacceptable sexual conduct to the interpretation of the courts when, in fact, it could have quite simply settled this matter by including within this legislation clear definitions and clear descriptions as to which forms of sexual conduct were considered to be properly entitled to the protection of privacy.

Let us just have a look at this bill. It is one of the shortest I have ever dealt with. There are four lines in it, plus another one and a bit, which simply state:

For the purposes of this section, an adult is a person who is 18 years old or more.

Clause 4(1) of the bill states:

Sexual conduct involving only consenting adults acting in private is not to be subject, by or under any law of the Commonwealth, a State or a Territory, to any arbitrary interference with privacy within the meaning of Article 17 of the International Covenant on Civil and Political Rights.

In four lines, the Attorney-General assures us that he can make and identify the difference between acceptable and unacceptable sexual conduct.

Then there is the explanatory memorandum. I had a dispute recently with a journalist who thought an explanatory memorandum was the law. God save us from people who stand in judgment when they do not know that an explanatory memorandum is no more than the opinion of the draftsman as to what the meaning of his or her legislation is. There have been some classic examples in recent times where they have been wrong, one of the more classic, of course, being the recent compensation claims by illegal immigrants. In referring to the term 'arbitrary' in the explanatory memorandum, the Attorney-General goes on to say:

The term 'arbitrary' guarantees that even interference provided for by law should be justified and reasonable in the circumstances.

So we are going to get a guarantee on justification and reasonableness. Perhaps he can tell me how that might work.

I would like to turn in a moment to the next part of that. Is it not interesting? We are told by the draftsman that, accordingly, the bill—those four lines—will not affect laws such as those, for example, dealing with incest, sexual conduct involving a person with an intellectual disability, sexual conduct involving animals, regulation of the sex industry, sexual conduct amounting to professional misconduct, the possession and use of child pornography, and sexual conduct in prisons where interference with privacy is justified and reasonable. Who says that is justified and reasonable? How much time will be used on this matter in the courts? What is sexual conduct? Why is it not defined in this legislation? Through the lack of definition, can it be extended? Can it be extended to abortion or female circumcision?

There is nothing in the bill to let us know whether sexual conduct can be extended to these activities. Sexual conduct is certainly interference with sexual organs. Is that going to be the situation? Most members are well aware from correspondence they have seen that certain very influential religious groups believe that is possibly the case. In letters I have received from organisations like the Parents and Friends Association, representing all of the Catholic schools, and from many other organisations, concern is expressed about that. Their legal advisers are not convinced that this law, in four lines, can define good and bad sex.

How can the government be so certain that the inclusion of the words 'arbitrary inter-
ference’ guarantees the interpretation provided in this explanatory memorandum? Why not simply put paragraph 8 of the explanatory memorandum into the legislation? Why not define sexual conduct? I can tell you why. It is because the government is not prepared to go back into the RSL clubs and the bars and the factories and tell its blue singlet constituency that this was all about protecting the right to anal intercourse, because they do not agree with the government. So the government comes up with this mishmash. It hides it all away.

The government is potentially creating one of the greatest disasters in legislation in years because it is creating the potential in court after court for the defence in cases involving incest, abortion and all the other things listed to be, ‘I did it in privacy.’ Why does the government not say that anal intercourse is acceptable conduct, if that is what it believes? How long will it be before the courts are considering a variety of defences for unacceptable behaviour, as identified by the minister himself—I will refer to that in a minute—based on the grounds that the activity occurred in the privacy of one’s own home, bedroom or motel unit? Without definition, what is unacceptable?

The minister chose to highlight incest between consenting adults. He said that that is unacceptable. Yet incest was a traditional practice amongst the ruling class of certain indigenous people. And, considering the acceptance by our courts of certain non-statutory law in recent times, how far might this go? If indigenous people’s tribal law condones incest but forbids anal intercourse, does this make us right and them wrong? Of course not. It is a matter of judgment.

The practice of female circumcision and other male genital mutilation is still a law of certain Aboriginal cultures. I can tell you all about it. If this is acceptably practised in the privacy of home or on secret ceremonial grounds, is that to be approved by this law? Are we saying that that is their right? Considering the debates that we are having in this place more recently, I find it the height of the ridiculous that we have a bill in front of us that does not tell us what the government really means, that just says that things that are conducted in private are all right.

As the minister reminds us, the key word in this test is ‘arbitrary’. I have looked at some precedents set down by the courts on ‘arbitrary’. The courts say that ‘arbitrary’ is unreasonable. If you really want to get a good fee as a lawyer, get yourself a case where they are debating what is reasonable. You can get three days pay for that and, at the end of it, you have got nowhere. There is no definition of ‘reasonable’. It is all going to be in the mind of the judge. If, for instance, you get a pro-abortion judge, is he going to accept the defence that the abortion was conducted in privacy? Are people going to be misled into believing that if they do it in private it will be okay—with all the medical problems that that might generate? In his second reading speech—I find these things quite amazing—the Attorney-General says:

The term ‘arbitrary’ guarantees that where laws do intrude on people’s privacy the laws must be justified, necessary and reasonable in the circumstances.

What does that mean? We are dealing with something of grave importance and we are given words like that. That is all the legislation has got in it. The Attorney-General continues:

In order to meet this test, a law must have a legitimate purpose—

I thought all laws had a legitimate purpose—and be a proportional means to achieve that purpose.

What does that mean—proportional in the law? I know they always indicate it with a pair of scales, but there is not too much balance; it has got to be definitive. He continues:

All such laws must pay due regard to the right and dignity of the individual.

He goes on to say:

It is appropriate and fully justifiable to have laws which regulate sexual conduct in public, sexual conduct involving children and sexual conduct to which a person does not consent. Expressly, the bill does not affect these laws.

How? It does not say so. It gives us no definition of acceptable and unacceptable. It gives us no definition of sexual conduct. But
somehow or other, miracle of miracles, in four lines this bright young Attorney can deliver these answers. He says:

Such laws exist throughout Australia and are acceptable... Why are they acceptable? Certain indigenous people thought incest was acceptable. What does acceptable mean? He said they are acceptable:

because they rest on an appropriate balance between the right to privacy in one’s sexual conduct and the interests of the community at large.

There are certain Aboriginal communities that see that differently in terms of female circumcision. To whom are we going to turn to find out what is acceptable? Why are we opening up all the things we find unacceptable, like incest, by bringing in this smart alec piece of legislation? The Attorney-General went on to say:

There are a broad range of laws across Australia which deal with private sexual conduct of adults. All jurisdictions, for example, make incest a criminal offence.

I have just dealt with that point. This particular piece of legislation reopens the opportunity for incest and, in fact, will turn the police force away from even trying to prosecute it because it will become too hard. The defence will be that it was done in private between consenting adults. The Attorney-General also said:

There is clearly a consensus throughout Australia that such laws are justified on medical and other grounds... So what? He said:

The sex industry in Australia is also regulated. States and territories have sought to deal with the commercial, community and health issues involved with the industry in a variety of ways.

But now we are going to centralise it; we are going to have one. He continued:

Appropriate regulation of the sex industry is not, however, an arbitrary interference with privacy.

Who says? If we make judgments on what is permissible in private and what is not, there will surely be those—particularly those within the sex industry—who would say, ‘We don’t want this sort of regulation. It’s not appropriate. It’s not right.’ We are certainly giving them the legal defence. That is my major complaint.

I stand with people from the Parents and Friends Association and others who say that this bill is dangerous and that it is going to open up all sorts of opportunities for people to lodge defences that are in fact based on the grounds of doing things that we say are not acceptable, that the minister says are not acceptable, but just might be acceptable if done in private once the courts and individual judges have had their say. We as a parliament give them no instructions on how they should determine these matters.

I have already had correspondence with the Attorney-General and the Minister for Aboriginal and Torres Strait Islander Affairs (Mr Tickner) raising the issue of Aboriginal tribal law, which provides for female circumcision and male genital mutilation, and they will not even reply to my letters. Why should they not reply?

‘Arbitrary’ means unreasonable and unreasonable means anything. I am trying to finish my speech so that the next member can speak before question time. There are many other things I have not addressed, particularly the danger that is rapidly developing in terms of our abuse of this convention process. We are seeing examples of where the courts are giving these conventions their own momentum. The government actually lost a deportation order on a drug importer. A court found it would be in contravention of the government’s commitments under the rights of the child convention because the importer had a couple of Australian children. That is not in our law, but the courts have taken over, and this government is not going to win. I do not accept that the explanatory memorandum can be taken as a guarantee as to the effects of this bill because too often in the past explanatory memorandums have not done so.

Mr CLEARY (Wills) (2.54 p.m.)—Mr Deputy Speaker, I certainly feel for your having to sit there and listen to the kind of waffle that the honourable member for O’Connor (Mr Tuckey) has just gone on with. He was allocated 20 minutes to speak but you will notice that he spoke for only 15 minutes because he had nothing to say.
Mr Tuckey—Mr Deputy Speaker, I raise a point of order. I was asked to speak for only 10 minutes so this donkey could speak for 10 minutes before question time. It is outrageous for him to say that. I wanted to speak for another 20 minutes, you flea.

Mr DEPUTY SPEAKER (Mr Hollis)—Order! The honourable member for O'Connor will withdraw that word.

Mr Tuckey—I withdraw my comment that he is a flea, but that is what makes other people scratch.

Mr DEPUTY SPEAKER—That is all you have to do. Now sit down.

Mr CLEARY—I thank the member's party for giving him only 10 minutes. What his party should have done was give its last 20 speakers only 10 minutes. What a lot of drivel we have heard. We thought the Human Rights (Sexual Conduct) Bill was about what consenting adults could do in private sexually, but we found out it was about female circumcision, abortion and incest. The member for O'Connor knows full well that the law will cover such acts in private or wherever. For the member for O'Connor to lead us down that path is sheer deception. The opposition cannot handle talking about that part of the body called the anus. Members would have noticed that from the way the opposition quivers every time it is mentioned. This is essentially what the opposition is concerned with. This drivel about being concerned about federal laws overriding state laws is rubbish.

Members of the Liberal Party supposedly represent the philosophy of the individual. Yet, when it comes to a question of the individual that concerns their morality or contravenes their morality, they are the first to jackboot the individual and raise the spectre of Nazism in Australia. That is the kind of law those opposite are talking about. Those are the kinds of laws that were enacted in Germany in the 1930s against homosexuals and Jews.

The Liberal Party is supposedly committed to the rights of individuals, but members such as the honourable member for McPherson (Mr Bradford)—the do-gooders, the Bible bashers—jump on the cart and start bashing a particular minority group. Quite simply, if the member for McPherson has a moral problem with homosexuality, so be it. It does not mean that because people are homosexual they have to be punished in the courts. People can have their religion, they can have their Sodom and Gomorrah and their biblical stories, but they do not have to enact a law that makes these acts criminal.

What we have from the opposition is an attempt to make these acts criminal or to support a law which says that gay men at home having sex should be gaoled. That is what the law says. The opposition says that this is a fair, just and reasonable law. And the people in the gallery know that it is not a fair and just law.

We are not talking about female circumcision, abortion and incest. The member for O'Connor knows that only too well. We come into the House and hear some of the icons from the opposition talking about sexual matters. The minute they talk about sexual matters we can see the hair on the back of their necks rising as if there is some sort of sexual problem lurking in some of them.

The truth is that this Tasmanian law is unjust and unfair and it should be overturned. The Attorney-General (Mr Lavarch), who is now in the House, knows that the law he has instituted could have been stronger. It could, in fact, have overturned the Tasmanian law. In a sense, it has been left for the High Court to determine. In principle it goes the right way, but we could argue for it to go further.

It is quite staggering that during this debate we heard the sorts of things we did from the opposition. It is interesting that these great paragons on my right cannot decide whether or not they will divide on the issue. The honourable member for Kennedy (Mr Katter) says that he will call for a division, but there has been a great hoo-ha about who will second it. Who will be man or woman enough to stand up and put his or her medals on his or her chest and say, 'I am the person to bring this bill down. I am the person to be the moral acclaimer'?

We have an obligation to overturn unjust, immoral laws. The law in Tasmania is unjust and immoral and this House should unani-
mously overturn it. I am waiting to see which one of the turkeys from the opposition actually seconds this dissent.

Mr SPEAKER—Order! It being almost 3 p.m., the debate is interrupted in accordance with standing order 101A. The debate may be resumed at a later hour. As I think the member was interrupted, he will have leave to continue speaking when the debate is resumed.

QUESTIONS WITHOUT NOTICE

Prime Minister

Mr DOWNER—I direct my question to the Prime Minister. Given that this is the first time the Prime Minister has entered the House since his interview earlier this week on ABC radio.

Mr Elliott—Oh!

Mr DOWNER—Well, it is by a matter of fact—will he now confirm to this House that he said that Mr Hawke showed no courage when it mattered during the Gulf conflict, that Mr Hawke told a straight lie in his book about the now Prime Minister's role in decision making leading up to the Gulf War, that the now Prime Minister was the real leader when it came to Australia's Gulf War strategy, and that your personal intervention resulted in the rejection of a proposal for Australian FA18 aircraft to go to the gulf?

Mr KEATING—I thought the Leader of the Opposition would have opened up with an apology wherein yesterday he said, 'Hawke is telling the truth about this matter and the present Prime Minister is scurrying away.'

Mr Downer—Why were you not here? Why didn't you come in?

Mr KEATING—Because it was not the sitting day I was rostered on.

Mr Downer—That was a mistake.

Mr SPEAKER—Order!

Mr KEATING—Indecent—the Leader of the Opposition does not apologise and compounds his now fallacious claim. I note that, as this matter has today been a matter of public notoriety, Mr Hawke has made certain allegations about me in his memoirs. Amongst other things, he has claimed I opposed Australia's participation in Operation Desert Shield and Operation Desert Storm and he has claimed that I said at a meeting prior to our commitment, 'What have the Americans ever done for us?' As I said yesterday, that was untrue. And let me quote what John Button, who was at the meeting, also said. He said in a press release today:

I indicated my opposition to Australian ships being moved up the Gulf to the war zone. In the course of my comments and in the context of expressed concerns about a number of trade related matters I asked the rhetorical question, "What has the United States done for us?" No one else used these words.

He went on to say:

The resolution of the issue of the number of ships to be sent to the top of the Gulf was subsequently discussed and the decision is a matter of public record.

I can also advise interested members that my adviser, who was present at the meeting at the time, has a record which clearly demonstrates my support for Australian involvement, specifically the kind of involvement which I have already mentioned.

Mr Pyne—When was this done?

Mr SPEAKER—Order! The member for Sturt!

Mr KEATING—After my adviser recorded what former Senator Button said, it says that I said, 'Put two up the top end with the United States and take the restrictions off them,' which is exactly what I said in public. It may be that Mr Hawke's recollection of events is faulty. It may be that, as the Leader of the Opposition said in a review of Mr Hawke's memoirs, he is 'a fallen man seeking vindication' and that his recollection is therefore biased and jaundiced. I do not know the reasons for his deceit in this instance, but I do know we all now know that he is entirely wrong.

Perhaps the Leader of the Opposition was right when he said that Bob Hawke should not have written these until 'the pain of his displacement had subsided and he had been able to approach the subject of his legacy with greater detachment'. Perhaps Mr Hawke cannot help himself just now. Perhaps he should be an object of pity rather than dis-
dain. But nothing Mr Hawke has said can match the hypocrisy of the people opposite. The same Alexander Downer who reviewed the Hawke memoirs in the *Adelaide Review* and who highlights the terms I have quoted said:

Political biographies are inevitably coloured by the prejudices of the author. Political autobiography is by nature even more prone to subjectivity and jaundice. Even as a personal account, however, the memoirs suffer from an almost total lack of effective introspection.

After the Leader of the Opposition made those claims about the very same memoirs, we had this disgracefully opportunist behaviour and hypocrisy yesterday.

Let me just make clear now four or five things on the record. In the *Sydney Morning Herald* of 1 September 1990, Mr Gregson says, in respect of the first meeting on this matter:

Mr Keating, attending the meeting in his capacity as Deputy Prime Minister, was gung-ho. He supported immediate and strong action against Saddam Hussein.

That was said about the first meeting. In respect of the second, on the *Sunday* program Mr Oakes asked the current Minister for Defence:

... Mister Hawke claims that Paul Keating was negative because he said ‘what have the Americans done for us?’ Did that happen?

Robert Ray:

Well I can’t say whether it happened or not,—

Opposition members—Ha, ha!

Mr KEATING—Just listen:

but I have no recollection of that. My only real recollection of that meeting, in terms of opposition, was the sort of whimsical opposition of John Button who said we shouldn’t be involved, and that he was an ‘east of Suez’ man.

Oakes went on to say:

If he’d said that, would you remember, do you think?

Robert Ray: I think I would have remembered it. Paul attended quite a few meetings . . .

Oakes then said:

... Keating supporters were prepared to see the Government lose if they couldn’t make him leader.

Senator Ray replied by saying that he did not believe that to be the case. Also, in the Senate on 12 October, the Minister for Foreign Affairs said:

... There is no doubt about Mr Keating’s commitment from the outset back in August to the need to respond in some appropriate way to the challenge to international order that was posed by Saddam Hussein.

He went on to say:

... there was no doubt about the unanimity of the commitment that was made and sustained to that decision; there was no doubt about Mr Keating’s belief, throughout the whole course of this saga, ...

He then went on to say:

... any suggestion that Prime Minister Keating was opposed to our commitment to the Gulf War—to the reaction against Iraq—does not conform with my recollection.

So there are the foreign minister and the defence minister supporting the view I have put. There is an article in the *Sydney Morning Herald*. There is the former Senator Button also. The fact is that there were five attendees at this meeting—Mr Hawke, me, former Senator Button, Senator Evans and Senator Ray—and that we know now what Senator Button has said.

Mrs Bishop—Table the note.

Mr SPEAKER—Order! The member for Mackellar!

Mr KEATING—We know what Senator Ray has said. We know what Senator Evans has said. And you know what I have said. So I should make it pretty clear that that extract of Mr Hawke’s memoirs—

Opposition members interjecting—

Mr SPEAKER—Order! Those on my left!

Mrs Bishop—Table the note for us to read.

Mr SPEAKER—I warn the honourable member for Mackellar!

Mr KEATING—which said:

Both Paul Keating and John Button had grave reservations. . . . Paul Keating was opposed on the grounds that we did not owe the US such support. ‘What has the US done for us?’ he asked.

You all now know that that statement was untrue. He went on to say:

I was quick to point out, as was Gareth, that we were acting to back the UN, not the US. At this Keating subsided into acquiescence.
That of course is entirely an untruth.

I will just say that I see the Leader of the Opposition today with a matter of public importance:

The need for the Prime Minister to set high standards of integrity and truthfulness in public debate.

Let me read some of the examples of this.

The Leader of the Opposition denied support for a citizens initiated referendum on 27 July but supported it in 1988. Blamed his confusion over the coalition land rights policy on heightened emotions after watching a corroboree—except the corroboree was two hours after he made the original statement. Opposed changes to the NT land rights laws which give veto to Aboriginal owners. Later that day he withdrew the statement saying that he was tired and emotional. Later still reverted to original position. This is the man who is talking about high standards of integrity and truthfulness. To continue:

Ian Macphee claimed Downer told him he was a symbol of what the Liberal Party should stand for during the leadership challenge of July 19 but Downer has privately denied these comments. Downer told Hewson he voted for him in 1993. Howard supporters claim he told them he voted for Howard but couldn't admit it to Hewson.

Mr Tuckey—What has this got to do with it, Mr Speaker?

Mr KEATING—What it has got to do with it is that you do not do not have any integrity, yet you claim it here. To continue:

Downer argues against a republic because the constitution is too complex but declares that the royal family is irrelevant to Australia, amongst others.

So you can see, Mr Speaker, that the Leader of the Opposition understands very clearly. He tries to refer to my problems and those of the Labor Party’s former leader, when his problem is the former leader of his party, who sits behind him—John Hewson, the small ‘I’ Liberal, John Hewson the capital ‘R’ republican, John Hewson the big ‘H’ hater. That is your problem, brother. And he is in your party and he is sitting up there.

Unemployment

Mr HORNE—Can the Prime Minister inform the House of the extent of the recovery in employment demonstrated by today’s release of the Australian Bureau of Statistics figures?

Mr KEATING—We have already seen today a remarkable change and turnaround in the fortunes of the unemployed since the beginning of this parliament. We have seen the government’s progress towards a commitment of 500,000 places in three years already at 412,000 within the life of this parliament.

Mr Tuckey—You are so rattled you cannot even find your papers.

Mr KEATING—No, I am just finding some detail for you. Just a second; don’t get too stroppy. We are also seeing a dramatic decline in the number of long-term unemployed.

Mr Tuckey—You will start attacking us now that you cannot find it.

Mr SPEAKER—Order! I warn the member for O’Connor.

Mr KEATING—The Leader of the Opposition has said that there will be over 500,000 long-term unemployed people in this country. That was totally misleading and duplicitous, as he knew we are now well under 300,000 as a result of the government’s policies. According to today’s employment numbers, for the first time in Australian history we have now more than eight million people in the work force.

Opposition members interjecting—

Mr SPEAKER—Order! The Prime Minister might wait for a moment. I would have thought that this was a particularly important issue. I would request those particularly on my left—

Ms Prosser—You are giving him a chance to find his notes.

Mr SPEAKER—I suggest that when I am speaking those down the far end might remain silent. Those on my left should give the Prime Minister an opportunity to respond.

Mr KEATING—The government said, ‘We will let the economy grow.’ It is growing of the order we predicted in 1992 in the One Nation statement—at 4 to 4½ per cent.

Mr Costello—One Nation! You were going to have a budget surplus.

Mr SPEAKER—The Deputy Leader of the Opposition is not assisting.
Mr KEATING—As a consequence, in the negotiations of accord mark 7, which was entered into by the government, the ACTU and its constituent unions before the last election, we said that we would make progress towards 500,000 job growth over the course of the parliament. We are also at 412,000. We have had over 300,000 new jobs this year. With today’s figures, in the year to this quarter and the year to this month we have had 3.9 per cent employment growth, just on four per cent employment growth—almost getting a one-for-one outcome: one per cent for GDP, one per cent on employment growth. If you contrast this with Western Europe, they would be lucky to have a third of that in employment growth with an equivalent level of growth in GDP.

The long-term unemployed have basically been preyed upon, used and abused by members of the opposition, who claim that the spending on the Working Nation white paper and the job compact is a waste of money. Those programs are now bringing the number of long-term unemployed people to under 300,000 at a time when your leader is saying it is going to 500,000, and we are streaming back into the workforce—it is the main growth in the workforce—those people who have been previously disadvantaged by being long-term unemployed.

Today’s job growth figures vindicate the government’s strategy and the government’s support of the economic policies that it has followed since 1992 in stimulating the economy back into growth and withdrawing the stimulus as the private economy has now picked up. We are seeing a return to the kind of employment numbers in the 1990s that we were seeing in the 1980s: that is, the kind of employment growth which was associated with the GDP growth which was about at that time. These numbers today are a cause of substantial rejoicing. It is confirmation that the recovery is there, that the employment growth is there and that, in the fairness and equity of this country, the long-term unemployed are getting a go and are getting their share of it. It is on these matters of substance, rather than the nonsense that members of the opposition go on with, that the public can be assured that the government of Australia is in the hands of the only people it ought to be in the hands of: the Australian Labor Party.

Prime Minister

Mr DOWNER—I direct my question to the Prime Minister. How long after his meeting on the Gulf War with Mr Hawke and other ministers was an office note prepared of his version of what was said? Who prepared the note and, as the document is so central to his claims, will he now table a full copy of his office note?

Mr KEATING—Let me make it clear that the document is not central to my claims at all. In his memoirs, Mr Hawke relied upon the quote mentioned yesterday, ‘What has the United States done for us?’ Those words were supposed to be the key descriptive contribution made by me at that meeting. That is wrong. Those remarks were made by Senator Button. That is the core issue. The note taken by my staff member was taken contemporaneously as the meeting progressed and, as a consequence, it confirms what Senator Button and I said: we should put two ships up the top of the Gulf, take the operational command restrictions from them, and take two ships out of the Gulf and bring them back to Australia.

Job Opportunities

Mr PETER MORRIS—My question is directed to the Leader of the House in his capacity as the acting Treasurer. Has his attention been drawn to a report that Australia’s job market is continuing to shrink rather than expand as more and more Australian jobs are shifted to other countries? If his attention has been drawn to that report, can he tell the House whether there is any substance to it and whether there is any data available to counter it?

Mr BEAZLEY—Yes, I have seen that report. You would be surprised to learn that it comes from the Dodger Downer joke book, otherwise known as The Things That Matter. Indeed, as we continue reading in question time from that otherwise discarded book—I must say that I think I am the only politician in the country giving it any prominence at all—we come across yet another factual error, revealed as even more an error by the statist-
ics that came out today. It was incorrect five weeks ago and it is incorrect today.

The honourable member will be delighted to learn that the 75,700 seasonably adjusted increase in employment between August and September is the sixth biggest monthly increase ever recorded by the ABS. It follows closely behind the third largest increase, which was recorded in July. As the Prime Minister has already stated, total employment has now grown by over 400,000 in the 17 months since April 1993 and by 3.9 per cent in the last 12 months. The labour force participation rate—it is very important to comprehend the shrinking size of the job market—is now higher than it has been in over three years.

Women's participation in the paid work force in this shrinking market is now higher than ever before. In trend terms, full-time jobs have accounted for over 65 per cent of total jobs created over the past year. That is not a picture of a shrinking job market. It is small wonder that this book that I referred to a little earlier on, I understand, has now been remaindered by the Queensland branch of the Liberal Party at zero. I would suspect that, in a couple of months, all branches will be trying to give it away with a set of speeches of past Liberal leaders, because they do not have one in office now.

Prime Minister

Mr COSTELLO—My question is directed to the Prime Minister. Will you inform the House whether you or anyone on your behalf has had discussions with Mr Button over recent days concerning what transpired at the meeting on 29 November 1990? If so, will you disclose the nature of those discussions? Did you ask him to make his statement of today?

Mr KEATING—The Dollar Sweets legal whip. The doyen of the police court. I do not think John Button required anybody to speak for him. He made his comments very clear. He said—wait till I read it again. I have so much material, I am embarrassed by it.

Mr Costello—Come on, Paul.

Mr KEATING—Just a second. They will have to wait for more than a second because I do not know if I can get my hands on it. There it is.

Opposition members—Hooray!

Mr KEATING—I do not know what you find the mirth in. You are the ones left looking ridiculous. This is the man who said yesterday that Mr Hawke was right and I was scurrying away. Where is he today? The other day I said that he is the most foolish political leader since Bill McMahon. I now apologise to the McMahon family. This fellow is, by a long margin, the silliest person ever to have occupied that seat. Senator Button said—

Mr Tuckey—Mr Speaker, a point of order.

Mr SPEAKER—The Prime Minister might resume his seat.

Mr Beazley—He has been interrupting all day.

Mr Tuckey—Mr Speaker, I seek your advice. If the Prime Minister is to carry on in this way, am I entitled to do the same with a couple of things you have ruled against?

Mr Beazley—I am going to take a point of order on this—

Mr Tuckey—Mr Speaker—

Mr SPEAKER—No. Relax.

Mr Beazley—I want to know whether it is orderly and within standing orders for a henhouse cackle of constant bickering from that side of the House followed up by a point of order which is a comment and not a point of order.

Mr Tuckey—You wouldn't know.

Mr SPEAKER—Order! The Leader of the House will resume his seat. The member for O'Connor, resume your seat.

Mr Tuckey—I ask for a withdrawal.

Mr SPEAKER—Resume your seat. I will rule on the point of order.

Mr Tuckey—I ask for a withdrawal.

Mr SPEAKER—Resume your seat. I will rule on the point of order.

Mr Tuckey—You fat slob.

Government members—Oh!

Mr SPEAKER—The honourable member for O'Connor, resume your seat. I suggest both sides of the House should calm down. The Prime Minister has been asked a question. He will come to the answer.
Mr KEATING—Mr Button says in his press statement:

In the last few days I have been approached by numerous journalists seeking my comments about matters currently in dispute between the former Prime Minister, Bob Hawke, and the present Prime Minister, Paul Keating. To date I have declined to comment. As my name has been involved in today's media speculation relating to a meeting I wish to clarify one matter.

Mr Costello—Mr Speaker, on a point of order under standing order 145—

Mr Beazley—It is very relevant.

Mr Keating—You cannot take a point of order on that.

Mr COSTELLO—You calm down, rich boy.

Mr SPEAKER—Order! Your point of order is on standing order 145.

Mr COSTELLO—Yes—the question you have directed the Prime Minister to answer is whether he or anyone on his behalf spoke to John Button, not what John Button has said in a statement of today. I ask you to direct him to answer that question.

Mr SPEAKER—There is no point of order. The Prime Minister is answering the question.

Mr Costello—He isn't answering the question.

Mr SPEAKER—Has the Prime Minister finished?

Mr KEATING—I have finished, Mr Speaker. So give us two calls from this side now.

Mr SPEAKER—If you have finished, you might resume your seat.

Mr KEATING—I did not speak to Senator Button.

Mr Downer—Did somebody on your staff speak to him?

Mr KEATING—No, no. Someone in my office told him that they had many calls from journalists about it. Mr Speaker, that is now a second question. Please call two from this side.

Regional Australia: Urban Growth

Mr HOLLIS—My question is directed to the Deputy Prime Minister. Last week a new report called Beyond the capitals—urban growth in regional Australia was launched. The report argued that more needed to be done by government to maximise the contribution that Australia's regional cities make to economic growth. Can the minister inform the House of how the government intends to respond to the recommendations in the report?

Mr HOWE—The report Beyond the capitals—urban growth in regional Australia, which I released last week, is an excellent piece of research from Flinders University. It is a study of cities above 10,000 people outside metropolitan areas around Australia. That study challenges the stereotypes associated with non-metropolitan Australia, particularly stereotypes associated with regional centres as being provincial, dependent very much on their hinterland, towns without diverse economies, cities that do not have access to urban services but, most of all, cities that are not able to control, shape and develop their own future.

This study is very important. It reflects the concepts of a sharp distinction between metropolitan and rural—that one can have, as there is in the coalition, a party responsible for metropolitan Australia and another party, a kind of rural party or a national party, responsible for rural Australia as though there are distinct interests and as though the balance of the country is dependent on rural industries or an extract of industries and does not represent diverse cities with diverse economies.

Mr Tim Fischer—We're all Australians.

Mr HOWE—I notice that the Leader of the National Party of Australia specialises in drawing that very sharp distinction; in setting one group of Australians against another, trying to suggest that the future outside
metropolitan areas does not rest on a similar basis to that in the metropolitan centres and that it does not represent similar concepts of economic development. While we are talking about history, it represents McEwenism, albeit in only a slightly attenuated form.

The importance of this study is that it challenges a great deal of the mythology associated with non-metropolitan Australia. I certainly commend it to all those in this House who represent seats outside the metropolitan area. I think you will find that the information contained in this book is very relevant. It indicates that cities in non-metropolitan Australia are able to shape their own future and that they can be the basis of very strong regional development. That is why the government is putting considerable resources into regional development and is working with those non-capital cities enumerated in this book.

As a result of the various measures, the regional development organisations, the financing measures—whether they be infrastructure bonds, pooled development funds or some of the other measures in the Working Nation statement—encouraging best practice and developing what is already there in much of these cities, we expect a national and international orientation. These cities are geared to operate in a world geared to exports and can be very successful in that regard.

For the information of honourable members, I table the book *Beyond the capitals—urban growth in regional Australia*. I commend it to honourable members because it is, in a very clear and sharp way, a repudiation of much that the National Party stands for, much of the artificiality of the distinction between the coalition parties. It reflects how much those parties opposite exist in the past and do not speak for, to, or with people in these non-metropolitan centres.

Prime Minister

Mr TIM FISCHER—My question is directed to the Prime Minister. During the time of the Gulf War, did the Prime Minister put the case for the international coalition to finish off Saddam Hussein? Did he also state a clear-cut position on a RAAF component to our gulf commitment? Or does he agree with what Senator Robert Ray had to say in the Senate this day that ‘the Prime Minister was confused on the matter of the FA18s’?

Mr KEATING—Yes, in the security committee of the cabinet I said I thought that, given the fact that the international force was in striking distance of a complete victory in Kuwait, that option should be taken up. That was a view also put, I think, by the Minister for Finance at the time.

Telecommunications

Mr LATHAM—My question is directed to the Minister for Communications and the Arts.

Mr Tim Fischer—What about the FA18s?

Mr Downer—He will not answer the question.

Mr Keating—Mr Speaker, I have given the—

Mr SPEAKER—Order! The member for Werriwa has the call.

Mr LATHAM—Can the minister advise the House of how the government intends to respond to calls for the deregulation of Australia’s telecommunications market? What is the government doing to plan for the telecommunications industry in the post-1997 environment?

Mr LEE—I thank the member for Werriwa for his interest not only in this issue but in pretty well every other issue that involves competition in the economy—an issue he addressed in his maiden speech, if I remember correctly. The government recently reaffirmed its decision to end the telecommunications duopoly on 30 June 1997. This Labor government can be very proud of the fact that it was the one which allowed competition in telecommunications services to commence in 1992. Our reform package did seek to ensure that we had a regulatory regime that encouraged sustainable competition.

The benefits of that package have been lower prices for consumers—business and residential. We have seen an increase in investment and a dramatic increase in exports of telecommunications equipment. We have also seen a much wider choice of services and
products for consumers. Telecom has been able to refocus itself on the services which customers need.

I would claim very strongly that competition has delivered benefits to the economy and to consumers, and it is the government's view that more competition will deliver more benefits. It is for that reason that the government decided that the duopoly will end on 1 July 1997 and that we will be moving to full and open competition. That is some time off, but it is the government's view that we need to start the consultative and planning process now to ensure that legislation can be passed by the parliament long before 1 July 1997 so that investors have time to raise their funds and determine their strategies and so that we can move to competition as smoothly and as swiftly as possible.

To ensure that we do that in the right way, I have established a group called the Telecommunications Advisory Panel, TAP, which has held its first meeting and considered a draft issues paper. TAP is made up of people who represent the carriers, Austel, consumers, the Trade Practices Commission, the ACTU and others. After considering and incorporating the views of the members of TAP, I am today releasing the issues paper called *Beyond the duopoly*.

This issues paper does not have the government seeking to lock in on particular issues. We have tried to ensure that all of these issues are left open. We are encouraging formal submissions from anyone—companies and consumers—who is interested in giving the government their views on the way we should move to greater competition after July 1997. We have ruled the line off on two issues: we want to ensure, firstly, that consumers continue to have access to untimed local calls and, secondly, that Telecom will remain in full public ownership.

This very detailed process of working through the issues in creating more competition in telecommunications should be compared with the opposition's statements on its views on the reform of this industry. All that telecommunications reform earned in the opposition's recent policy announcements was a few dot points. One of those dot points, of course, was that Telecom should be flogged off. If you look at what has happened in Britain, Mr Speaker, you can see very clearly that the ownership of the former public monopoly is not what is important; it is the regulatory regime and whether or not you are encouraging competition that is more important in delivering the benefits to consumers and ensuring that you have a competitive, healthy and vibrant telecommunications industry.

After two years in Australia, Optus has a greater share of the market than Mercury has in Britain after 10 years, despite the fact that British Telecom has been privatised and many people would argue that that process, in fact, restricted competition in the British telecommunications market. So, while the opposition is still locked up in the debates of the Thatcher years, this government is moving ahead and ensuring that it is addressing the real issues that can generate investment and jobs in the 1990s and beyond 2000.

**Prime Minister**

Mr Tim Fischer—I ask the Prime Minister again, with regard to the Gulf commitment, do you agree with the comments of Senator Robert Ray today that you were confused in your recollections in respect of the FA18?
Mr KEATING—Mr Speaker, what is the point of the question?

Mr Tim Fischer—Answer it.

Mr Downer—Were you confused or were you not?

Mr SPEAKER—The Leader of the National Party will resume his seat. The Prime Minister has the call.

Mr KEATING—My point was that there was a discussion at that meeting about the commitment of four ships—the two that were arriving, being the government taking up the option to put them up the top of the Gulf in the war zone with the restrictions off them and with the oiler, the supply ship, in the bottom of the Gulf—and consideration about strike aircraft. That is the key point. Whether they were F111s or FA18s is beside the point.

Dasfleet: Greenhouse Gas Emissions

Mr QUICK—My question is addressed to the Minister for Administrative Services. What steps is the government taking to cut fuel consumption and pollutant emissions in cars leased by Dasfleet, the government’s car leasing service?

Mr WALKER—I thank the honourable member for his interest in the greenhouse gas issue. Senior Dasfleet officers are in Perth today discussing, with Orbital Engine Corporation Ltd, a plan to trial its revolutionary 1.2 litre three-cylinder orbital engine in a number of vehicles that will be purchased by Dasfleet. These will be imported small cars—for example, Ford Festivas or Barinas—from the Australian car plan manufacturers. These vehicles will be the first to test the new generation orbital engine in Australia under normal operations across a range of Australian conditions. This means that the government will be assisting in the evaluation of the new Australian designed and manufactured engine. Putting aside the fact that the government will be supporting an exciting and potentially highly valuable Australian venture, the proposal is in line with the government’s policy to reduce energy consumption and pollution.

The House will be interested to know that the orbital engine is 70 per cent smaller in size than conventional engines and about half the weight. It costs 20 per cent less. It is up to 30 per cent more fuel efficient, which means that under highway driving it delivers 4.4 litres per 100 kilometres compared with six litres per 100 kilometres from cars of this size which Dasfleet now operates. It emits—and this is the most important part—fewer pollutants: significantly, about four times the reduction of CO2 over 100,000 kilometres of urban driving, or a cut of about 25 per cent in emissions from a comparable conventional engine.

I expect Dasfleet will install the engine in up to 20 vehicles from the Australian car plan manufacturers. These vehicles will then be used by Dasfleet and its customers with Dasfleet closely monitoring their performance, including fuel consumption, the level of pollutants emitted, engine viability and customer acceptance. When the vehicles are decommissioned after two years, the engines will be returned to Orbital for analysis and each vehicle’s standard engine will be refitted for sale.

Orbital is also developing a two-litre in-line six-cylinder engine, suitable for the Australian and North American markets, which will deliver exceptional power and fuel economy. When this engine reaches pre-production stage, Dasfleet envisages developing a similar relationship to trial this engine.

Taxation: Negative Gearing

Mr DOWNER—I direct my question to the Prime Minister. Does the Prime Minister recall describing in October 1985 the practice of negative gearing as being a blatant tax shelter and an outrageous rort practised by tax dodgers and bludgers? Is the Prime Minister planning to negatively gear his new property in Sydney and, if so, is it a fact that the only thing which has changed since 1985 is that the Prime Minister is buying a $2 million Sydney mansion?

Mr SPEAKER—Order!

Mr Tim Fischer—Double standard.

Mr SPEAKER—Order! The Leader of the Opposition earlier this week—

Mr McGauran—Aw!
Mr SPEAKER—No, don’t ‘aw’. I have not said anything yet. The Leader of the Opposition earlier this week would have heard me, in response to another question, raise whether standing orders relevant to ministers’ responsibilities were in fact being breached. I said on that occasion that it came close. I say the same thing now. If the Prime Minister chooses to respond to this question, I will give him that opportunity.

Mr KEATING—Mr Speaker, what is at the base of this question is that the Leader of the Opposition believes that only people who were born in big houses can have big houses. But you see, Mr Speaker, if you have come from a small house to a big house, he regards that as an absolute effrontery. If you pay for it yourself, it is like being in trade. What, pay for it yourself! Born with a silver cutlery service in his mouth, he expects to be given everything. Where did the house in Salisbury go—dad’s house, the assets? They are going to tumble to you. He expects them to all fall into his lap.

Mr Downer—What are you talking about? Answer the question.

Mr KEATING—Well, there is the Georgian house you had during your sojourn in the UK. The fact is that Basil Fawlty over here is working on my accommodation and making it much more certain. He said the other day, ‘The Prime Minister doesn’t live in his electorate.’ He is dead right about that. I live where my electors want me to live, that is, in The Lodge, Deakin, ACT, 2603. And do you know where I intend to keep living—in The Lodge, Deakin, ACT, 2603.

The Leader of the Opposition has an exquisite knowledge of the tax act, and there is the fact that he objects so much to having his personal affairs spoken of. When he submitted his House of Representatives return for the public register, he wrote on his return, ‘This is a gross invasion of privacy.’ The year before—in that year he was more restrained—he said, ‘This is an invasion of privacy.’ He got more angry the second year; ‘This is a gross invasion of privacy,’ he said.

The thing about the Liberals is that it really galls them that a Labor leader can actually live in one of their areas. They think that areas like Woollahra in Sydney are only for Liberal Party supporters.

Mr Cobb—Blaxland is not good enough for you.

Mr Katter—You are not with it.

Mr SPEAKER—Order! The member for Parkes and the member for Kennedy!

Mr KEATING—I am quoting from a Sydney Morning Herald article which says: This is the notion that rich suburbs such as Woollahra should be the exclusive preserve of Liberal supporters.

Mr Cobb—You are so out of touch.

Mr KEATING—You would think that the Leader of the Opposition would grow up. Grow up.

Mr Downer—Answer the question. You are negative gearing and renting.

Mr KEATING—that depends on what one’s rental income is and what one’s debts are.

Opposition members interjecting—

Mr KEATING—You are asking me a question in the abstract, and I am giving you an answer. Whether one has a negative cash flow or not depends on the income and the outgoings, and who would know where they would go? Mr Speaker, I tell you what, here is the Liberal Party talking about houses. Did you see the story of the week, the big house in Victoria: ‘The casino secrets revealed’? Wasn’t it a little ripper of a story?

Mr Tim Fischer—Mr Speaker, I raise a point of order.

Mr SPEAKER—Order! The Prime Minister might resume his seat for a moment.

Mr Tim Fischer—Mr Speaker, the Prime Minister is quite capable of organising a Dorothy Dixer on this other subject—

Mr Keating—Mr Speaker—

Mr SPEAKER—Prime Minister, wait until I hear the point of order.

Mr Tim Fischer—I take a point of order under standing order 145, which states that an answer shall be truly relevant to the question. If he wants to organise another question, let him do that, but he has no right to answer in this way.
Mr SPEAKER—Order! There is no point of order.

Mr Beazley—You said that there was no point of order. I was just going to go to the point of order.

Mr SPEAKER—I have got the chair. You might resume your seat.

Mr Beazley—There was a discursive question given by the Leader of the Opposition—

Mr SPEAKER—The Prime Minister has the call.

Mr KEATING—What we found in the Liberal Party over the weekend was that, in the issuing of the casino licence in Victoria, the assessment put the bid of the competing consortium more than $100 million ahead of Crown Casino, which was, finally, the winning consortium. The deadline was extended two weeks on 30 August but—surprise, surprise!—Crown’s bid increased substantially from that tendered in June. Surprise, surprise! The financial recommendation was:

As both proposals are very similar, we recommend that the Casino Control Authority selects the preferred applicant on grounds other than the financial attributes . . .

Mr Richards announced that Crown had won the licence and then we found that the tender was to be reopened upon the request of Sheraton.

Mr Atkinson—Mr Speaker, I rise on a point of order. Standing order 145 is quite clear on relevance. I have a great deal of difficulty in finding what the Crown Casino, or anything to do with it, has to do with the question asked on negative gearing. I ask you to direct the Prime Minister to either get back to the question or return to his seat.

Mr SPEAKER—Order! The Prime Minister in fact was asked a question relevant to personal finances—

Mr Downer—No, he was asked about negative gearing.

Mr SPEAKER—I beg your pardon!

Mr Downer—It was about his attitude towards negative gearing.

Mr SPEAKER—I do not need reminding from the Leader of the Opposition.

Mr Downer—You can talk about anything you like on that side.

Mr SPEAKER—The Prime Minister will respond to the question.

Mr KEATING—Sheraton asked, ‘How come Crown’s going from 300 rooms to 1,000 rooms?’ The reason is that Mr Walker alone knows that he is going to get the grand prix for Melbourne.

Mr Atkinson—Mr Speaker, I rise on a further point of order. You did direct the Prime Minister to return to the question, which was a clear indication that you felt he was out of order. The Prime Minister, after standing up again, resumed exactly the same comments he was making before you addressed him. I would ask you to direct him to either get back to the question or return to his seat.

Mr SPEAKER—The Prime Minister will answer the question. I invite him to wind up.

Mr KEATING—The question was about my personal affairs and you will take the answer whether you like it or not. Mr Speaker, these people are red hot.

Opposition members interjecting—

Mr SPEAKER—Order!

Mr Downer—Your hypocrisy is what it is all about.

Mr SPEAKER—Order! Those on my left!

Mr KEATING—They are right into corruptly arranging windfalls for themselves and their supporters by way of state government stipends. Mr Haddon Storey said:

I can indicate categorically on behalf of the VCCA that, on every basis of measurement, the financial offer from Crown Casino was greater than that of Melbourne Casinos Ltd.

Mr Abbott—Mr Speaker—

Mr KEATING—And, Mr Speaker—

Opposition members—Sit down! Sit down!

Mr Abbott—I have a point of order!

Mr SPEAKER—Order! The Prime Minister might just wait for a moment. I have given the member for Warringah the call so we will listen to him in silence.

Mr Abbott—Mr Speaker, I rise on a point of order under standing order 145 relating to
relevance. Talk of this Crown Casino has no relevance to the question whatsoever unless the Prime Minister got his $2.2 million to pay for his house in a casino.

Mr SPEAKER—Order! There is no point of order. The Prime Minister will bring his answer to a conclusion.

Mr KEATING—Those on that side of the House are worried that a tender that was $100 million behind miraculously became a tender where the financial adviser could not make a judgment. And who got the deal—good old Ron Walker and his mates. You blokes have asked about negative gearing. You have to be joking! You work red hot, the lot of you. You work absolutely white hot and what does it lead to—'Casino secrets revealed'.

Opposition members—Sit down!

Mr SPEAKER—Order!

Mr Cobb—Sit him down!

Mr SPEAKER—Order! The House will come to order. The member for Parkes is not helping.

Mr KEATING—What does the Victorian Premier say contemptuously? Mr Kennett said that he talked to his friend Ron Walker, a Crown principal, yesterday and they just laughed at the report of the Sunday Age, which he described as a 'scurrilous rag'. And you are talking about negative gearing.

Mr Nugent—A point of order!

Opposition members interjecting—

Mr KEATING—Yes, I know you are upset.

Mr SPEAKER—Order! The Prime Minister will resume his seat.

Mr Nugent—Mr Speaker, I rise on a point of order. Clearly the Prime Minister is defying your instruction to come back, under standing order 145, to relevance. The question was about negative gearing. The words have not passed his lips once. I would ask you to bring him back to the question.

Mr SPEAKER—Prime Minister, I invite you to now wind up your answer and resume your seat.

Mr KEATING—I will wind up on the questions from the Sunday Age: why did Crown win the casino licence if its financial offer was really no better or worse than Sheraton-Leighton's?

Opposition members—Sit him down!

Mr KEATING—There is another question that arises from these documents: how secure was the bidding process?

Opposition members interjecting—

Mr SPEAKER—Order!

Mr KEATING—I can understand their disquiet.

Mr SPEAKER—Order! The Prime Minister will respond to the question.

Mr KEATING—I can understand why Old Whiskers Black over there is upset. He is upset because this stinks to high heaven. This is like a dead cat in the middle of the road—stinking to high heaven.

Mr SPEAKER—Order! Order! The Prime Minister will resume his seat and stay there. I call the member for Corio.

Mr O'CONNOR—Thank you very much, Mr Speaker—

Mr KEATING—Mr Speaker—

Mr SPEAKER—Order! The Prime Minister on a point of order.

Mr KEATING—Mr Speaker, on a point of order: these questions are put which are of a personal nature and out of order; the responses equally do not need to be in order.

Veterans: Medical Claims

Mr O'CONNOR—My question is directed to the Minister for Veterans' Affairs. Before I ask the question, I commend the minister on the great work he is doing with the Australia Remembers commemoration.

Mr O'CONNOR—I note the recent announcement by the government accepting that there is sufficient evidence to link a range of cancers to exposure to herbicides such as
Agent Orange for Vietnam veterans. Is the minister aware of concerns expressed by the ex-service community and others that significant delays may occur in the processing and determination of compensation claims by veterans? Can the minister inform the House what steps he has taken, or will be taking, to ensure that, given the serious nature of these medical conditions, any delays are kept to an absolute minimum?

Mr SCIACCA—I thank the honourable member for his question. Naturally, I would be concerned if there were people in the ex-service community who may well be eligible for assistance under these new conditions who thought it is going to take a long time to process their claims. I should preface those remarks by saying that in July 1993 the United States Academy of Science brought down a report that said that there could be—I emphasise the words ‘could be’—a link between herbicides used in Vietnam, such as Agent Orange, and some forms of cancer.

As a result, two doctors were appointed by the Repatriation Commission to review the report and to come back and see whether there was any merit in the scientific findings of that report. Professors MacLennan and Smith came back and gave a report, which I made public at the end of last week, which specifically stated that in their view there was a sufficient link between herbicides used in Vietnam and some cancers. They said that there were approximately five cancers involved: multiple myeloma, leukemia and three forms of respiratory cancer—namely, lung, larynx and trachea cancer.

In the context of the Veterans Entitlement Act and in the context of the generous nature of the repatriation system in this country—probably one of the best, if not the best in the world—it was decided that we would accept the recommendations of Professors MacLennan and Smith to the effect that we would give the Vietnam veterans the benefit of the doubt. I want to make that point clear because there is no flow-on from this decision to civilians and other people outside that might say that they have a damages claim with respect to cancers or other injuries as a result of exposure to herbicides. This must be looked at in context.

Having made that decision, it is fairly obvious that, with such serious illnesses, one needs to ensure that these claims are looked at expeditiously. Accordingly, the Repatriation Medical Authority has already been handed a reference from the Repatriation Commission. It will be discussing the reference on the 27th of this month. Submissions will be put forward by the Repatriation Commission so that the Repatriation Medical Authority can hand down a statement of principles. It will be dealt with quickly and expeditiously.

I have arranged for my department to fast-track and prioritise all claims from veterans who may be eligible under the new conditions. We will look on our database and write to all those who have any of those five conditions that were refused compensation in the past and invite them to reapply. For those cases that are before the Veterans Review Board and the Administrative Appeals Tribunal, we will have a look at them and reconsider them under the new conditions.

I want to make it very clear that, having taken that decision, which I believe is a correct decision, and having ensured that the people with those diseases are properly looked after, we will not let them swing in the breeze; we will make sure that we look after them in the best way we possibly can. I invite all Vietnam veterans who think they may be eligible to arrange to put in their claims immediately and they will be looked at expeditiously.

Housing: Prime Minister's Purchase

Mr COSTELLO—My question is directed to the Prime Minister. Is it not true that the message over the past three months from the Prime Minister, the Treasurer and the Reserve Bank Governor in public statements and with changes to capital adequacy requirements has been that banks should reduce lending for housing, which will affect Australian families struggling to buy their own homes? With your $2.2 million purchase of a Sydney mansion,
what is the message about lending for home buying that you are sending this week?

Mr KEATING—As I was saying earlier, Mr Kennett said that he had talked to his friend Mr Ron Walker, a Crown principal, yesterday. They had just laughed at the report in the *Sunday Age*, which was, they said, 'a scurrilous rag'. Monday's *Age* stated:

Mr Kennett insisted..."I have not, and nor will I, look at the documents. This Government is about building for the future, we're not into minutiae."

"As both proposals are very similar, we recommend—
et cetera. The one thing about the Liberals is that they never know what any sense of order or magnitude is. As we can see from the total contempt which the government of Victoria has for the public of that state and for the processes of that state, making references to any home I have bought in respect of negative gearing or any of these tawdry, paltry things by Basil Fawlty over here and his colleagues does not come, when one looks at this sort of stuff—

Mr Costello—He cannot take it.

Mr KEATING—I am quite happy to have a full debate about this.

Mr Costello—And about the house?

Mr KEATING—No, just about this. I could even be encouraged to do a little more about it than have a debate about it—if pressed. Mind you, you would have to press me, but sometimes I am very easily pressed. The only advice I have for you, Basil, dear boy, is to basically go back to some substantive issues.

Children: Rights

Mr JENKINS—My question is directed to the Assistant Treasurer. Is the minister aware that some children in Western Australia do not have the same rights under child support legislation as children in the rest of Australia? What action can the minister take to rectify this injustice?

Mr GEAR—I thank the member for Scullin for taking an interest in matters Western Australian. Almost one in four Australian kids is born to a couple who are not married. In Western Australia this is slightly higher at about 27 per cent. Every state, except Western Australia, has referred its powers over these ex-nuptial children to the Commonwealth so that, when we use our section 51 powers to help kids whose parents have split up, all of these kids get the benefits immediately. WA alone has refused to refer its family law powers to the Commonwealth. That means that in Western Australia there are two classes of children: first-class kids who are born to married parents, and second-class kids who are born to parents who either are not married or were not married when the children were born.

What this means is that whenever we amend our laws in this parliament to give a better deal to all Australian kids, there are some Western Australian kids—the ex-nuptials—who have to wait until the state government passes its own laws to pass these benefits on to them. All of this happens because of a hang-up about states rights. It is relevant at this time because yesterday I introduced a bill into the parliament to amend the Child Support Act. The question really has to be asked: how long do Western Australian ex-nuptial kids have to wait to get benefits such as faster payment of child support or easier private payment arrangements? I am told that the Western Australian Attorney-General recently complained about the inconvenience of having to introduce her own laws whenever the Commonwealth made improvements in family law matters.

In relation to the second part of the question, I can say to the honourable member that, unfortunately, there is nothing I can do. But there is something that the Western Australian parliament can do—that is, what every other parliament has done; and for the same reason. It has to make a fundamental decision. The Western Australian government has to make up its mind whether it is really dinkum about passing on these rights. The fundamental question is: what is more important—citizens rights or states rights?

Mr Keating—Mr Speaker, I ask that further questions be placed on the *Notice Paper*. 
Mr Costello—Are you going to stay for the MPI?

Mr SPEAKER—Order!

AUDITOR-GENERAL'S REPORTS

Mr SPEAKER—I present the Auditor-General's audit report No. 3 of 1994-95 entitled Project audit—wool tax—Australian Taxation Office.

Motion (by Mr Beazley)—by leave—agreed to:

That:

(1) this House authorises the publication of the Auditor-General's audit report No. 3 of 1994-95; and

(2) the report be printed.

PAPERS

Mr BEAZLEY (Swan—Leader of the House)—Papers are tabled as listed in the schedule circulated to honourable members. Details of the papers will be recorded in the Votes and Proceedings and Hansard.

The schedule read as follows—


Motion (by Mr Beazley) proposed:

That the House take note of the following papers:


Debate (on motion by Mr Howard) adjourned.

MATTERS OF PUBLIC IMPORTANCE

Integrity and Truthfulness

Mr SPEAKER—I have received a letter from the Leader of the Opposition (Mr Downer) proposing that a definite matter of public importance be submitted to the House for discussion, namely:

The need for the Prime Minister to set high standards of integrity and truthfulness in public debate.

I call upon those members who approve of the proposed discussion to rise in their places.

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

Mr DOWNER (Mayo—Leader of the Opposition) (4.03 p.m.)—I have noticed in media reports that spokesmen for the Prime Minister (Mr Keating) and others have criticised how often we ask him questions. They have also criticised us for not raising issues with him at particular times. The fact is that in the course of this week the Prime Minister has deigned to attend this House on only two occasions—for question time on Monday and today. When we give him the opportunity to attend while we discuss a matter of public
importance, which concerns the standards of prime ministerial conduct, he scurries away again.

This is part of the imperial grandeur of a Prime Minister whose behaviour is becoming increasingly erratic—as Mr Hawke has pointed out only too clearly—and whose contempt for this parliament is unequivocal. It is quite clear that he holds this parliament in contempt. He will not even spend the time of day in here debating issues which are central to his integrity as the Prime Minister of Australia and which are, of course, of great interest to the people of this country.

I have to say that this week has been—from the point of view of the Prime Minister’s career—a bizarre week. First of all, there were headlines in newspapers on how he had this gung-ho approach in relation to the Gulf War. This was followed by a very interesting interview on the ABC’s PM program where, basically, he made three significant points.

One of them was that he called his predecessor Mr Hawke a liar. In the process he re-ignited an exchange between him and his predecessor. It begs the question: how much more of the book is going to be debated between these two? I look forward to there being an extended debate about other allegations in the book.

Then the Prime Minister chose by his own actions to go on ABC radio and accuse his predecessor of being a liar. He not only talked about support for Australia’s involvement in the Gulf, but made the claim—which has been totally rejected by Mr Hawke—that it was the now Prime Minister who led the debate; it was the now Prime Minister who apparently determined the whole of Australian policy in relation to the Gulf. The Leader of the House (Mr Beazley), who is at the table, knows that is not true. If we were to ask him whether it was true that the present Prime Minister led the debate; it was the now Prime Minister who determined that Australia should not be sending FA18 aircraft to the Gulf. This is a matter which Senator Ray in the Senate today has reflected on and which the Prime Minister does not want to answer questions about. Then we had the unedifying spectacle of the row between the existing Prime Minister and his predecessor, which raises central questions about prime ministerial integrity. The previous Prime Minister, Mr Hawke, produced a record of the discussions in November of 1990 in relation to Australia’s Gulf War commitment—a record which was taken by a respected public servant, a respected official. Then yesterday, when ministers were questioned about this matter, Senator Evans—who boasts of his great intellect, who likes to tell Australians of his special cerebral qualities—suddenly just could not remember. He scratched his head—

Mr Reith—He will make a great Secretary-General of the United Nations.

Mr Downer—Not only does he want to be Secretary-General of the United Nations; he wants to be Chief Justice of the High Court of Australia and Prime Minister, probably all at once. For a man of such vanity and self-proclaimed cerebral qualities he conveniently forgot the events of discussions three years ago. These were not minor discussions; these were discussions about whether the government and Australia generally should send Australians to a war, discussions I would have thought that any minister of the crown would have remembered. But oddly enough, yesterday Senator Evans, the foreign minister, could not remember. And Senator Ray, the defence minister—well, he was not going to adjudicate between the present and the previous Prime Ministers. He was not going to get involved, either. He did not want to say anything too hasty in the Senate on this matter.

Mr Beazley—I had my answer.

Mr Downer—We had the rather extraordinary spectacle of you over here—honestly and truly! I think I am right in saying that at one stage you were trying to argue that they were both telling the truth. They were both saying to each other that they were liars and you were saying that they were both telling
the truth. I am sure I have got that right; I will have to check the Hansard to be fair. But I did get that distinct impression, and I certainly noted that as a minister who was involved in the exercise you were quite reluctant to say anything to back up the Prime Minister.

Today Mr Button has put out a press release. There is a sense of the old saying that Mafeking has been relieved. At long last somebody has come up with something in this difficult issue. Mr Button has put out a press release—gosh, what a relief—after, as the Prime Minister himself admitted, the Prime Minister’s staff or somebody had rung Mr Button to tell him they were getting a lot of media inquiries about this issue.

Can you imagine the conversation? Mr Button picks up the phone. There is somebody at the other end who says just one sentence: ‘We’re getting a lot of media inquiries about this,’ and hangs up, I suppose. Yes, that is very believable. So what are we to believe? Yesterday three ministers, particularly the two most relevant ministers—the defence minister and the foreign minister—walked away from the Prime Minister. They were not prepared to come out unequivocally and back him up. Today they have decided to firm up the position a bit and Mr Button has put out his press release.

It is interesting that Mr Hawke is prepared to quote from his records—records taken by a distinguished public servant. There have obviously been some discussions between Senator Evans and Senator Ray, and presumably the Leader of the House was involved. We know that Mr Button certainly heard something over the phone. A new line has been developed today, but the Prime Minister will not table the record that he has, or that his staff took, of that particular meeting. He was given two opportunities today to table the record, but he will not do it. He does not want us to see it. He does not want it to be exposed. Even if there were something inordinately confidential or top secret about the rest of it, tabling even the relevant part of the record would at least give the Prime Minister’s case some greater credibility—not great credibility, but greater credibility. But, no, he will never do it. As I was casually watching question time in the Senate earlier in the afternoon—

Mr Beazley—Desperately.

Mr DOWNER—I am sure you were watching it because it was rather desperate. Desperate is a good word to use here. In question time, Senator Ray was asked about the FA18s, which is something Mr Hawke made a great play of in the past. Senator Ray was asked whether it was true that the government had been considering sending FA18s, as the Prime Minister had been boasting on PM on Tuesday evening. Senator Ray had not worked out that part of the script; he had not sat down and worked out what line to run there. Or was the line to run that the Prime Minister was confused? I do not think so. I do not think that was part of the script but Senator Ray said that, on the matter of the FA18s, the Prime Minister was confused. If he is confused about the FA18s, what else is he confused about? How much of his little tale is true and how much of Mr Hawke’s tale is true?

I have to say that the whole exercise has been little short of a fiasco from the point of view of the Prime Minister, and I think it has been a fiasco for members of the government who, from Tuesday evening until around lunchtime today, scurried around trying to work out what their little story was going to be in response to Mr Hawke. Here we have it. It took 48 hours for the Prime Minister to finally come up with some sort of politicking line that he hoped would see him through the end of the week.

I have to say one other thing about this. On Tuesday night, the Prime Minister said that Mr Hawke had told ‘a straight lie’. Twenty-four hours later, the Prime Minister put out a press release in which he said, ‘This is regrettable but not a matter of earth-shattering importance.’ On Tuesday night the angry and determined Prime Minister described this matter as ‘a straight lie’ but 24 hours later—realising that the issue had blown up in his face—described it as ‘regrettable but not a matter of earth-shattering importance’.

Here we have a Prime Minister twisting and turning, as he has done throughout his recent
career. Look at his record. He is the man who promised before the 1990 election that there would not be a recession, and there was a recession; he is the man who promised tax cuts—you all promised tax cuts—before the last election, and three-fifths of those tax cuts were simply scrubbed; he is the man who argued for the GST in 1985 and who, in 1993, did a 180-degree turn and campaigned against it. It was the basis of his election campaign. He is the man who loves to rewrite history. As Mr Hawke said, 'Don't rewrite history, Paul. You are no good at it.' Of course, that is right. He is the man who rewrites history for cynical political purposes in the way a fair number of nasty leaders have done this century and, in one or two cases, in previous centuries.

We saw later in question time a further example of the extraordinary double standards of the Prime Minister. Here is the man who has made a career out of the class war—about the establishment Liberals, the clubs they belong to, the houses they live in and so on. He has made a career out of this, but it is a shocking thing when he is asked a question which pertains to his own words in relation to negative gearing. That is a dreadful thing.

For a backbencher in the Senate to raise a question about the Prime Minister's house is an absolutely appalling thing to do. The backbencher is described as parliamentary filth. Well, fancy that, coming from the man who attacked the Fraser government in relation to Fraser's property, the man who endlessly attacked the financial affairs of the member for Wentworth (Dr Hewson), the man who has attacked me on the basis of my background. He went into it again today. He is always doing it—week in and week out—either directly or in a surreptitious backdoor way.

This is the man who has called my colleagues criminal garbage and scumbags, who has accused me of being a bigot, who suggests, again in the same way, that I am somehow a racist and so on. But punch him and he goes to pieces: 'I can't stand it!' He is the typical bully. He can dish it out, but he cannot take it. He is a sook. He is a sook who cannot take it. He is a man who can dish it out but he is not a man who can take it. That is not somebody who in our country is worthy of respect.

The double standards over the house are just breathtaking. Here it is in Hansard. On 17 October 1985 the Prime Minister said that negative gearing practices were blatantly abused tax shelters, outrageous rorts and tax ramps. People who did it were tax dodgers and bludgers and so the list goes on. Now the Prime Minister himself is contemplating negatively gearing his own property. It gets to the heart of the credibility of somebody when he says one thing in the parliament in 1985—apparently this is some passionate issue—and then indulges in the same practice, or at least contemplates doing so, some years later.

The case against the Prime Minister is a clear-cut one. He is a man who says one thing one day and does another thing another day, a man who has been exposed by the former Prime Minister, Mr Hawke, in a range of different areas in that book. He is a man who has spent 48 hours trying to cobble together a series of excuses and apologies for what he broke out and said on Tuesday. He has been exposed for his politicking in trying to piece together some kind of credible story. All I can say is that this is not a Prime Minister who brings dignity to the office. (Time expired)

Mr BEAZLEY (Swan—Leader of the House) (4.18 p.m.)—This was supposed to be, for anybody who is conceivably interested in this debate—I guess we must give anyone prepared to sit in the gallery credit for regarding this as a serious matter for us to consider—the speech for a censure motion. The opposition's case for a censure motion has been falling quietly apart since events earlier in the day and fell apart even further in the course of question time when the Leader of the Opposition (Mr Downer) was ridiculed out of court by the Prime Minister (Mr Keating) as his staff in the wings were trying desperately to cobble together a different set of questions, concluding with the final two questions on the Prime Minister's housing arrangements, which have to have been the most childish questions I have seen emerge from a deputy leader and leader of the oppo-
tion in the time I have been in this place. They were juvenile questions from the juvenile firm of Dodger & Dog.

Mr Filing—Mr Deputy Speaker, on a point of order: the Leader of the House knows better than to make those sorts of personal comments and to use unparliamentary language. I ask you to make him withdraw them and cease using them. That is the second time he has used them today and he ought to desist.

Mr DEPUTY SPEAKER (Mr Jenkins)—There is no point of order.

Mr BEAZLEY—The now departed Leader of the Opposition proposed as a matter of public importance:

The need for the Prime Minister to set high standards of integrity and truthfulness in public debate.

Mr Costello—Such a juvenile individual.

Mr BEAZLEY—There are no prizes for second, sport. Off you go, dog. The barker has departed from the place. I will go for another minute or two, and I will probably get rid of the lot of them. What is amusing is that this was to be a great afternoon. The galleries were to be full. Opposition backbenchers were to be there baying at all the Labor Party speakers as they got up to defend themselves against a censure motion of such vital significance to the future of the nation that the Leader of the Opposition's reputation would be made for all time. We were to have the Labor Party's benches full of depressed, miserable backbenchers calling into question whether or not they would have a show of winning the next election. What are we confronted with? Desertion. Off they all go into the distance to quietly lick their wounds and wonder whether there is some other distraction that they might organise before the privacy legislation is finally put to a vote and they fall apart dramatically all over the place. That will not occur any time soon. That pleasure awaits them next week.

As far as we are concerned, I guess there is some sort of necessity for us to make one or two points in this place. I will start with some advice. On the off-chance that the Leader of the Opposition might read these comments, I will give him a piece of free advice so that something of value emerges from this debate at least for somebody. Firstly, when you are born a silvertail—this is no criticism of him; he cannot help that—do not get up into this place and sling mud.

Mr Richard Evans—What is a silvertail?

Mr BEAZLEY—The honourable member does not know what a silvertail is. He needs even more of a political education, but other people will provide that for him. When you are born a silvertail, as the opposition leader was—as I said, you cannot help that—do not come into this place and criticise people who have worked very hard in their lives, made a bit of money and bought a piece of property. Get somebody else to do that for you.

Leave that character that you have parading around the Senate—Senator Baume—to keep raising these sorts of questions, if that is the way you want to go. Do not pretend that you are not responsible for it, but at least have the commonsense to leave it to him rather than clattering, jumping and bouncing in this chamber—chattering in the case of the Leader of the Opposition—and then starting to sling stones in your own glass house. Do not do that. Get somebody else to do it.

Secondly, learn how the processes of government proceed. I will make a couple of points about the issues raised in connection with the comments made by the former Prime Minister and the Prime Minister in relation to that meeting that they, among other ministers and staffers, attended on 29 November. Comprehend this: it was not a cabinet meeting or a cabinet committee meeting. There are no formal records or agreed minutes that proceed from any of those meetings. They rely substantially on the recollections of the people who were engaged in those meetings. They are meetings that took place, in the circumstances of the time, in plethora. There were more meetings than that, some more formal than others, but there was absolutely no requirement upon the attendees of that meeting to provide a written record agreed between them as to what transpired.

In the normal course of politics, if you want to agree conclusively a set of words about what occurs at a formally structured meeting, you await a presentation of those minutes and agree to them at a subsequent meeting. That
would not be appropriate for a meeting of this type, and that did not occur. Indeed, if you are looking for that in relation to a cabinet meeting, you would probably find something similar because it is the nature of cabinet meetings that a note taker's notes on the contribution to any particular matter are notoriously all over the place. They are merely aids to a note taker's memory of a course of discussion so that he or she can get the cabinet decision right. That is all that is minuted. At the end of the day, what emerges from the minutes is not a record of debate such as a *Hansard*. What emerges from them is merely an agreed position.

The reason why I wanted to go through that was to point out that when any particular meeting takes place what is relied upon at the end of the day is the recollection of all the participants. The recollection of at least all the ministerial participants is now a matter of record. There are disagreed conclusions. The bulk of the participants take a view on the contributions made at that meeting that agrees with the version of the current Prime Minister. After all of that, what are we left with? Absolutely nothing but an issue which, if the opposition thought was serious, it could have taken up in this place two months ago. Two months ago you could have raised this in this chamber—why didn't you?

**Mr Filing**—What about the Prime Minister? He didn't respond.

**Mr BEAZLEY**—Two months ago, if you regarded these matters as so serious that they required the attention of this place, you could have got up and said something about it. You chose not to. Your role as an opposition in this place, where you see a matter which is of substantial public importance, is to get up here and raise it.

**Mr Filing**—Why didn't the Prime Minister say something?

**Mr BEAZLEY**—The moron from Moore has an obsession with sitting in this chamber, heckling his silly head off. You are a new member; listen and I will assist you in your understanding of politics. You would benefit very greatly from that. Normally I would come into this place all fire and brimstone to answer all the accusations, but they are all gone.

**Mr Filing**—We are here.

**Mr BEAZLEY**—The people with no work to do are here. All we are left with here is a couple of characters who will be on the plane home with me a little later in the afternoon and who have nothing more to do in this place until that plane leaves. But let us get down to the question of integrity. The second lesson that the Leader of the Opposition has to learn is that, if he is going to stand up and make accusations about the Prime Minister and what he regards as the central criterion for being a Prime Minister—the quintessential personal characteristics that a Prime Minister must hold—he should watch out in case that glass house he brings clattering into the House is a bit of a problem for him.

The Leader of the Opposition's matter of public importance states:

The need for the Prime Minister to set high standards of integrity and truthfulness in public debate.

What an extraordinary statement from the chap who has built up the most incredible record for backflips unacknowledged, as opposed to backflips acknowledged, in the very few months that he has actually enjoyed the position of prominence that he has had since then. He came into this place on 27 July denying support for citizens initiated referendums, but there is correspondence saying he supported them in 1988. He blamed his confusion over the coalition's land rights policy on heightened emotions after watching a corroboree, but his press conference in regard to that great event occurred two hours before the corroboree. The emotion was welling up from that morning in anticipation and it was really surging through his veins in the couple of hours before he got there.

Ian Macphee claimed that Downer, during the leadership challenge on 19 July, told him that he was 'a symbol of what the Liberal Party should stand for'. But Downer has privately denied these comments. Downer told Hewson that he voted for him in 1993. Howard supporters claim he told them that he voted for Howard but could not admit it to Hewson. Downer argues against the republic because the constitution is too complex, but
declares that the royal family is irrelevant to Australia. We have had a massive series of backflips since this bloke came into office. There was an interesting description by Mike Seccombe—whose analyses I do not always agree with, but he often gets a very useful little quote—

Mr Filing—What about his analysis of you and Laurie Brereton?

Mr BEAZLEY—The other thing you need to learn in this place is that it is better not to suffer from verbal diarrhoea. If you can actually cure yourself of that, that will also be of great assistance to you in your future parliamentary career—if the Deputy President of the Senate permits you to have one.

Mike Seccombe writes:
He brings to mind
—a witticism by the American journalist and social critic H.L. Mencken: "There are some politicians who, if their constituents were cannibals, would promise them missionaries for dinner."

Of course, Downer would have a different line for the missionaries.

That is, no doubt, a reasonable description of where Mr Downer managed to arrive on all these issues. I want to go back over one of them because this is actually a really low point, I think, in the performance of anybody who ultimately emerges as a leader in this place.

In politics there are people with a bit of guts and courage and there are people without it. One of the central elements of the definition of having just the minimum requirement of guts for leadership in this place is that, when you are invited to support somebody else for leadership, you have sufficient capacity for straight dealing either to say, 'I am not telling anybody whom I vote for,' or 'I am going to vote for you,' or 'I'm going to vote for your opponent,' and leave it at that. Any one of those three responses are perfectly adequate responses, perfectly consistent with the basic criteria of political courage that is required of anybody entering this place. There is a fourth response. That is to say to the questioner, 'Well, I voted for you,' when in fact you voted for another person. That immediately casts you beyond the pale of political life.

What we have is this wonderful article by Mike Steketee, who is obviously extremely well informed. He states:

After Hewson defeated Howard in the leadership ballot following last year's election, Downer told the Hewson camp that he had voted for the winner, doing his chances of becoming shadow Treasurer no harm at all. That surprised the Howard forces, because Downer had told them that he had voted for Howard. When tackled on this issue by one of the Howard supporters, he said that, actually, it had been Howard but he didn't feel he could go and tell Hewson now.

When Hewson called Downer to Sydney after last year's election to offer him the position of shadow Treasurer, he asked him to pledge loyalty, not to push his own policy barrows and to curb his penchant for gimmickry.

Of course, we all know what happened to that; two hours prior to his actually declaring a challenge to Hewson he told Hewson that he, of course, was standing firm behind him.

Hewson's mistake was not to ask him three times. If Hewson had managed to ask the current Leader of the Opposition three times, no doubt on the third time the henhouse on the Downer property would have seen a rising up of all the male members, and a crowing as could only come from the henhouse of the Leader of the Opposition would have echoed across the valleys of South Australia at that third denial. As it was, Hewson was not wise enough to ask him three times, so he was not given the warning that the Downer fowl yard could have presented him with. So, disarmed, of course, at the end of the day, he found himself defeated. He did not find himself defeated by the next Liberal Prime Minister of Australia; he simply found himself defeated by one in a long line of valueless Liberal Party leaders who will disappear from the pages of history as their irrelevant contributions are continued to be noted by the Australian public. (Time expired)

Mr TIM FISCHER (Farrer—Leader of the National Party of Australia) (4.33 p.m.)—If anyone in this parliament is guilty of verbal diarrhoea, it is the Leader of the House (Mr Beazley). We get used to him, though. We enjoy the little raves that he produces at the
despatch box almost by rote. But he was very much guilty of breaching standing order 85, which, as my colleagues have reminded me, deals with tedious repetition, because he had little, if anything, to offer by way of new debate.

Let me remind the House, the parliament and the nation—if it still can get access to the parliamentary broadcasting network, reduced as it is—that the House is discussing a matter of public importance submitted by the Leader of the Opposition (Mr Downer), and that is the need for the Prime Minister (Mr Keating) to set high standards of integrity and truthfulness in public debate. That is a pretty reasonable objective, a pretty reasonable mission statement, a pretty reasonable requirement of the Prime Minister of this nation, on this day of all days.

I say ‘this day of all days’ because two new aspects have been injected into this debate. The former minister and former Senator Button issued a statement late this morning. It was very curiously timed. What we have learnt today, though, is that, prior to the issue of this statement, the Prime Minister’s office contacted former Senator Button. The Prime Minister confirmed it and then tried to tell us that it was just in the form of some sort of low key inquiry—‘I’d just like to let you know that we’ve had one or two calls, or even a few more calls, from the media of the day to inquire as to where you stood and whether you made the statement to the meeting’—the famous meeting—‘with regard to the Gulf commitment.’

Think about it. Button has been adrift from the parliament, adrift from his portfolio, for some considerable period of time. Button has been touring around the world as an ambassador-at-large and, in between times, writing some very interesting, enjoyable accounts of what happens when you get a two-week invitation to visit Great Britain and the like. But, suddenly, out of the blue, came this call from the Prime Minister’s office to Button saying, ‘Hang on, we’ve got a problem here; we’ve got an absolute problem. The journalists are climbing out of their trees over it. We have to have a statement from you.’ That is probably far closer to the truth than anything represented at the table by the Prime Minister today, although at least he had a change of heart and admitted that his office did contact Button today.

There is another ingredient to this little equation. I am led to believe that the same former Senator Button has a book launch tomorrow. I am led to believe that this exciting moment in any former senator’s career is about to reach a crescendo tomorrow for former Senator Button. Who is going to launch the book? None other than the Prime Minister. So was Button under some obligation after this phone call? What do you think? Of course he was. So it was that we had this neat, convenient statement—not, I admit, in the sort of wording that you and I have been accustomed to former Senator Button using over the years. The turn of phrase was a bit foreign, I thought, to what we have normally had from former Senator Button. But it was a turn of phrase, nevertheless, that we are now led to believe was the truth of the matter. I will tell you what the truth of the matter was. It rested more accurately with the responses of Ministers Beazley, Ray and Evans yesterday when they were given ample opportunity on the floor of this parliament to make very clear where they stood on the matter.

Let us just examine this point for a moment. Do you think for one moment that, if they felt Button was going to put his hand up today and be the fall guy, they would not have alluded to it more directly yesterday to get themselves off the hook? Of course they would have. Why did they not do that? Because they knew the truth lay elsewhere. For Senator Gareth Evans, with that meticulous ashtray throwing brain and body of his that can record with exactitude meeting after meeting over all the years, to then stand up and say of just a couple of years back ‘I have no recollection of the exactitude of that meeting’ is in fact gilding the lily a little too much.

I say simply that the real truth emerged from the lack of comment and commitment in favour of the Prime Minister of the day by Senator Evans, from the lack of comment and commitment by Minister Beazley, the Leader of the House, and particularly from the lack
of comment and commitment and the body language of one Senator Robert Ray, who made it clear to all who were observing that giant body of his that, in fact, he was on Bob Hawke's side on this matter and not the Prime Minister's. Further, as the Leader of the Opposition in the Senate (Senator Hill) effectively pointed out when he raised this matter in the Senate today, Senator Ray said that the Prime Minister was confused on the matter of FA18s. When he was questioned by us about the matter today, he said that the Prime Minister was confused between F111s, FA18s, the RAAF component possibility and the rest.

This nation has been taken for a ride. It is for this reason that the coalition has moved to remind the Prime Minister of the need to set a high standard of integrity and truthfulness in public debate. This week will be seen as a turning point in the life of this parliament, a turning point in the life of the Keating government and a turning point in the Prime Minister's political career. It is besmirched by his own efforts. He has shot himself in the foot. His advisers might have been on holidays. That would not have made much difference. He decided to break out and got it wrong.

In part, I feel that today is a sad day when we have to comment on this circumstance, when we have to comment on the fact that the former Prime Minister, the former leader of his own party, the Labor Party, has exposed him for what he is. He has been exposed for everybody in Australia to see. Just what sort of fear and jealousy ridden organisation has the government become when it can call up an old mate like Button ahead of a book launch and lock him into the scenario?

This week has exposed the real Paul Keating. It has exposed him as a Prime Minister the people simply do not trust, as a Prime Minister so totally divisive, so totally destructive, and as a Prime Minister who 51 of his colleagues do not even trust. I remind the House that the vote was 56 to 51 in that famous caucus ballot; 51 voted for Hawke. We all know that the Prime Minister revises history. We know he revised the history of World War II; he revised the history of the Malayan Peninsula campaign in a very shabby way. There is a fundamental dishonesty in these things.

The great dishonesty is in the Prime Minister's approach to leadership. He identified in his Placido Domingo speech the great leaders he admired. He referred to Roosevelt and others. But, in practising leadership, he has shown no ability to learn from their example, no capacity to demonstrate the attributes of great leadership.

There are fundamentally two flaws which will prevent him from ever being considered anything other than a tarnished opportunist. Firstly, he simply cannot be trusted to tell the truth—on capital gains tax, the assets test, and in his reply this afternoon to a question about negative gearing. The people of Australia will simply not believe him in that regard. Secondly, the great leaders he does identify with—people like Roosevelt and Winston Churchill—went about uniting their countries, providing cohesion to their countries, building nations, as a central focus of their leadership attributes.

In practice, and sadly today, this Prime Minister goes out of his way to divide the nation and to create the division we do not need on a range of issues. His whole tactic from the beginning of his parliamentary life has been to divide a group so that there is a bare majority, and he makes sure he is on the majority side. That, sadly, is his approach. There is nothing principled about it. If it suits to run a pro-GST argument, as the Leader of the Opposition said, he will run it; then he will change and drop it. It is like the American political candidate mentioned by Graeme Starr in today's Sydney Morning Herald who said, 'Ladies and gentlemen, these are my principles, and if you don't like 'em, I'll change 'em.'

The Prime Minister is a chameleon. I briefly refer to that great character in the BBC series, Arthur Daly. Arthur Daly was an ultimate standover merchant. Keating by name, Arthur Daly by nature as he seeks to stand over the truth, disguise the truth, disguise what his real conduct was as the then Treasurer, as government went about considering committing our troops.
The matter of public importance stands. It is high time the Prime Minister set a very high standard of integrity and truthfulness in carrying out the duties of his high office.

Mr TANNER (Melbourne) (4.43 p.m.)—The opposition today is really giving new meaning to the term ‘clutching at straws’. Here we have a debate that perhaps could be a new chapter in that famous document The Things That Matter. We have got a situation where there always has to be something on the front page of the newspaper, no matter how trivial. The opposition always has to come in here and say something, no matter how puerile. What have we got? We have a rather arcane argument about who said what to whom in a meeting nearly four years ago. What particular model of planes was involved, how many ships were sent—vital matters of historical interpretation, as suggested by the opposition.

Let us consider the substance of the issue. We would all agree on the text of the MPI:

The need for the Prime Minister—or any Prime Minister—to set high standards of integrity and truthfulness in public debate.

Nobody disputes that. We do dispute the absolute nonsense and trivia that the opposition has carried on with today and yesterday, including in this debate.

Was there a potential breach of national security involved? Was somebody in league with Saddam Hussein? Did somebody mislead our allies? Did we renege on some important international commitment? Were Australian lives put at risk? These are the sorts of matters of substance that perhaps are worthy of this sort of attention from the opposition. But the answer to those questions is no. The grand total we have here is two people having a disagreement, with differing versions of meetings that occurred nearly four years ago. Perhaps, as I said, we could make this a new chapter in that famous bible of the opposition, The Things That Matter. What an appropriate heading for this debate. What an appropriate title for the sort of stuff the opposition has carried on with today and yesterday—‘The Things That Matter’.

We have a situation where a meeting or meetings that occurred several years ago are now being sought to be dissected as though things that were said—how many ships there were, what types of planes were involved—have enormous significance to the carrying on of government in this country now. I participated in a few meetings at that time, as I am sure most other members of the House did. I must confess—maybe it is because I am a backbencher and not a super human Prime Minister—that I would be a bit wary of asserting my absolute memory of things that I said and things that were said to me. Sure, I was not involved in meetings of the same degree of importance.

Maybe I am just a too generous and benign person in suggesting this, but it is indeed possible for two or more people to come away from a meeting with slightly different interpretations of what has been said by whom, slightly different impressions of the discussion. As time goes by, those impressions are blurred. Therefore, before we go talking about lying and other such terms, I think we need to give people the benefit of the doubt. There may well be different interpretations, with people genuinely believing their interpretations. As I said, maybe I am an excessively generous soul, but we need to be a bit careful about the types of imputations that we place on people.

The opposition does not see this matter in that way. It sees it as a matter of earth-shattering significance, something of vital importance to the government of the nation. Pretty well all of yesterday and all of today has been focused on this issue. Perhaps we ought to have a judicial inquiry; maybe a royal commission would be the answer. I have the ideal solution, the standard opposition solution: let us have a Senate inquiry into this issue. Perhaps we could call some witnesses. We could call up Saddam Hussein and ask him to come and give evidence about what he thought went on at the meeting. Maybe he could tell us how many ships there were; maybe he could get out his security agents to tell us what types of planes were involved, and about other such vitally significant questions to the government of Australia in 1994.
As the Leader of the House (Mr Beazley) has indicated, the only reason the Leader of the Opposition (Mr Downer) is interested in contradictions between the current Prime Minister and former prime ministers is to distract attention from the fact that he contradicts himself. He does not need to have contradictions between himself and his predecessor, many as there may be. He contradicts himself over such things as the citizen initiated referenda, the Northern Territory Land Rights Act, and who he voted for in an internal party ballot.

The most extraordinary feature of the opposition's proposition is that it is coming from a person who, only a matter of weeks ago, was caught out blatantly fudging history. When the accusation about attending and speaking at a meeting of the League of Rights was raised, he tried to run and hide; he tried to pretend he did not know where he was; he tried to pretend that he was not there. It was just a meeting of young Christians, or something like that. Then he got caught out because there was a video which showed him up there on the platform; it showed his active and obviously knowing participation. Did he start his remarks with something like, 'Thanks for inviting me, whoever you are'? Or did he say, 'Look, I've heard there's a rumour that you're young Christians, so apologies if you are not and you are all Buddhists and my jokes offend you'? Did he say something like that? No. He said—big smile—'Thank you, Eric.' Eric who? Was it Eric the Christian? Eric the Viking? No, it was Eric the anti-Semite, Eric the neo-fascist. The Leader of the Opposition knew who it was. For the Leader of the Opposition to come in here suggesting that the Prime Minister has a problem with the fudging of history is blatant hypocrisy.

We have our antipodean version of Bertie Wooster—I think the Prime Minister is being generous describing him as Basil Fawlty, because Basil Fawlty actually packed a bit of a punch—coming in here talking about selective memory of history, mainly because he is very well qualified for the task. He is not talking about his qualifications or his background; he is not talking about a few other things either. We in the House should really focus on the things that are not being talked about, the things that obviously do not matter to the Liberal Party and the National Party, and the things that explain why we have an MPI focusing on an argument about what Bob Hawke and Paul Keating said four years ago.

We are not talking about economic growth being five per cent plus ahead of expectations, ahead of forecasts. We are not talking about inflation, which, in spite of increasing growth, is still low and amongst the best records in the world. We are not talking about interest rates—even though the opposition has made a few futile attempts to do so—which, in spite of the obvious international pressures for interest rates to rise, are staying at reasonable levels. We are not talking, most obviously, about employment growth, which ANZ forecasts to be down to 8.75 per cent by the middle of next year. We are not talking about the improved competitiveness of Australian industry or other big picture issues.

Most importantly of all, we have heard nothing of substance from the opposition about the latest threat in the Gulf. The issue which has triggered this little exchange between the Prime Minister and the former Prime Minister is a very serious issue! What does the opposition have to say about the threat to international security in the Gulf? Absolutely nothing. These are the issues that matter. When the opposition puts out its next document, perhaps it should think of a less ironic title than 'The Things That Matter'.

The Leader of the Opposition is not talking about his own popularity ratings, which, if the current trend continues, will end up in the minuses in the near future. He is not talking about his efforts to paper over the cracks, the extreme divisions, in his own party and the National Party with things such as amendments deliberately designed to be rejected so that the opposition will have an excuse to oppose something or to use devices such as 'We will neither oppose nor support'.

He is not talking about some of the failures and recycled hacks on his frontbench. He is not talking about his own deputy, who is not undermining him—yet. The only reason his
deputy is not undermining him is that the polls are so bad he does not need to. It suits his interests better to sit back and watch the opposition leader destroy himself.

Perhaps we can now understand why the opposition leader was in here today declaiming the Prime Minister's interpretation of history and meetings three or four years ago. The fundamental reason is that he cannot cope with the present. He is happy to have a debate about something that happened three or four years ago, but he cannot cope with the present. It is little wonder. If I were he, I would find it difficult to cope with the present as well.

To keep him going, perhaps we should serve up to him a few other debates such as 'Menzies wasn't such a bad bloke after all', 'Sir John McEwen was a greatly misunderstood man' or some other debates that are of fundamental importance to the understanding of issues that face this nation today. Yes, historical things are important but putting such arcane, trivial issues up to the level that the Leader of the Opposition and the Liberal and National parties have over the last two days illustrates the bankruptcy of their political position.

I will paraphrase and slightly alter what Humphrey Bogart once said about sex: 'There are those who talk about it and those who do it.' With respect to leadership, I suggest there are those who talk about it, such as the Leader of the Opposition, and there are those who do it, which is precisely what the Prime Minister has been doing and continues to do. This debate the opposition is pursuing is ludicrous and irrelevant to the serious interests of this nation.

MAIN COMMITTEE

Business

Mr JENKINS (Scullin)—Mr Second Deputy Speaker, just before presenting the report of the Main Committee, with your indulgence, could I just say a few words about the conduct of the Main Committee. I feel obliged to do so, because from time to time I have had feedback from members who have asked my opinion as Deputy Speaker on how the Main Committee is going. In most cases, the conduct of the Main Committee has been quite successful. The number of pieces of legislation that have been put through their second readings and reported back to the House attests to the Main Committee's success. All along I have said that, by having six hours of additional government business, we can in fact obtain several weeks of extra sitting time without asking members to come to the capital on any additional occasions.

In achieving this, there have been some minor problems that perhaps the House needs to be aware of. On some occasions, bills from similar portfolios have been discussed in both this chamber and the second chamber, which has meant that members with an interest in those portfolio areas have had to juggle their times between the two chambers. I ask that the whips, in their consultation on setting the order of business for the Main Committee, might take that into account, and that will prevent the problems that have arisen for individual members.

The other thing I should add is, as was witnessed today, after the two pieces of legislation that had been referred this week had been dealt with so quickly in the Main Committee we had considerable time to debate a motion to take note of a paper—in this case it was the Access to justice paper, a very important paper that attracts wide interest in the community. The additional time we have for debating, which is made available by the Main Committee, has enabled papers such as the Access to justice paper to be discussed. I am pleased to see on the Notice Paper that, with the agreement of the opposition, the Chief Government Whip has been able to list a number of reports, so there is continuing business for the Main Committee and a continuing opportunity for members to discuss these various papers.

I wish to thank all those who are associated with the conduct of the Main Committee. It is interesting to note that we seem to be getting our share of visitors who pass through Parliament House who come along to find out what this mysterious Main Committee is about and to listen to the debates. Even though the bills are non-controversial, some of the discussion can contain a bit of contro-
versy. Hopefully, as the Main Committee progresses, the media will pay attention also to the procedures of the Main Committee so that further interest is taken in the actions and debates of the Main Committee.

NATIONAL ENVIRONMENT PROTECTION COUNCIL BILL 1994

Main Committee Report
Bill returned from Main Committee without amendment; certified copy presented.
Ordered that the bill be taken into consideration forthwith.
Bill agreed to.

Third Reading
Bill (on motion by Mr Kerr)—by leave—read a third time.

AUSTRALIAN TRADE COMMISSION AMENDMENT BILL 1994

Main Committee Report
Bill returned from Main Committee without amendment; certified copy presented.
Ordered that the bill be taken into consideration forthwith.
Bill agreed to.

Third Reading
Bill (on motion by Mr Kerr)—by leave—read a third time.

BILLs RETURNED FROM THE SENATE

The following bills were returned from the Senate without amendment or requests:
Vocational Education and Training Funding Amendment Bill 1994
Primary Industries and Energy Legislation Amendment Bill (No. 2) 1994
Wine Grapes Levy Amendment Bill 1994
Primary Industries Levies and Charges (Wine Grapes) Collection Amendment Bill 1994
National Residue Survey Administration (Meat Chickens) Amendment Bill 1994

FAMILY LAW REFORM BILL 1994
No. 2

First Reading
Bill presented by Mr Kerr, for Mr Lavarch, and read a first time.

Explanatory memorandum presented by Mr Kerr; ordered that the second reading be made an order of the day for the next sitting.

STUDENT ASSISTANCE (YOUTH TRAINING ALLOWANCE) AMENDMENT BILL 1994

Mr KERR (Denison—Minister for Justice)—Mr Deputy Speaker, with your indulgence, I will take a moment to complete this bill. It was signed by my colleague the Minister for Schools, Vocational Education and Training (Mr Free). I have had to countersign the bill as it is now being tabled by me. A couple of signatures need to be placed on it.

First Reading
Bill presented by Mr Kerr, for Mr Free, and read a first time.

Explanatory memorandum presented by Mr Kerr; ordered that the second reading be made an order of the day for the next sitting.

STUDENT ASSISTANCE (YOUTH TRAINING ALLOWANCE—TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 1994

Mr KERR (Denison—Minister for Justice)—Mr Deputy Speaker, with your indulgence, I have a similar problem. Again, with your indulgence, I would appreciate the opportunity to complete the signing.

Mr RUDDOCK (Berowra)—Mr Speaker, with your indulgence, I ask whether these matters of form relating to the signing of bills are likely to jeopardise the validity of the bills if the minister were to sign the documents at a later time and proceed with the presentation of the bills forthwith?

Mr SPEAKER—I think the minister has probably finished by now. We will get on with the job.

First Reading
Bill presented by Mr Kerr, for Mr Free, and read a first time.

Explanatory memorandum presented by Mr Kerr; ordered that the second reading be made an order of the day for the next sitting.
TAXATION LAWS AMENDMENT BILL (No. 4) 1994
First Reading
Bill presented by Mr Kerr, and read a first time.
Explanatory memorandum presented by Mr Kerr; ordered that the second reading be made an order of the day for the next sitting.

INCOME TAX (FORMER COMPLYING SUPERANNUATION FUNDS) BILL 1994
First Reading
Bill presented by Mr Kerr, and read a first time.

Mr KERR (Denison—Minister for Justice)—I understand that the explanatory memorandum was presented with the previous bill.

Ordered that the second reading be made an order of the day for the next sitting.

INCOME TAX (FORMER NON-RESIDENT SUPERANNUATION FUNDS) BILL 1994
First Reading
Bill presented by Mr Kerr, and read a first time.

Ordered that the second reading be made an order of the day for the next sitting.

INCOME TAX RATES AMENDMENT BILL 1994
First Reading
Bill presented by Mr Kerr, and read a first time.

Ordered that the second reading be made an order of the day for the next sitting.

PERSONAL EXPLANATIONS
Mr MELHAM (Banks)—Mr Speaker, I wish to make a personal explanation.

Mr SPEAKER—Does the honourable member claim to have been misrepresented?

Mr MELHAM—I do, Mr Speaker.

Mr SPEAKER—Please proceed.

Mr MELHAM—I wish to make a personal explanation about a matter which was brought to my attention earlier today. A number of letters were sent on House of Representatives letterhead from my office requesting submissions to a purported inquiry on human rights in Australia. The letters could be read as implying that the House of Representatives Standing Committee on Legal and Constitutional Affairs, of which I am the chair, was
conducting the purported inquiry. The committee has no such inquiry.

The letters were sent without my knowledge or authority and without the knowledge or authority of members of the legal and constitutional affairs committee. The committee has recently met and discussed the matter, and we have determined to write to the recipients of the letters explaining the situation. The committee is aware that I intended making this personal explanation and agrees to my making it.

HUMAN RIGHTS (SEXUAL CONDUCT) BILL 1994

Second Reading

Debate resumed.

Mr SPEAKER—I call the honourable member for Makin.

Mrs Sullivan—I was on my feet first, I believe. He was not in his seat.

Mr SPEAKER—The honourable member for Makin has the call.

Mr DUNCAN (Makin—Parliamentary Secretary to the Attorney-General)—I have been called. I cannot defer now. Were you in continuation?

Mrs Sullivan—Mr Speaker, on a point of order: I believe the standing orders provide that, if a member wishes to speak, that member must stand in his or her place and seek the call. I was standing in my place; the member for Makin was not. I do not ever wish to unnecessarily take you on, Mr Speaker, but I point out that I was here and you probably did not see me.

Mr SPEAKER—that is correct. When I looked, the member for Makin was on his feet.

Mrs Sullivan—But not in his place.

Mr SPEAKER—He was when I looked.

Mrs Sullivan—No, he was not.

Mr SPEAKER—Let us not argue the toss, but he was when I did look before and I called the member for Makin. If the member for Moncrieff wishes to speak in this debate as well, I am quite happy to allow her to speak and the member for Makin will get the call after that.

Mrs SULLIVAN (Moncrieff) (5.16 p.m.)—It is not my intention today to attempt to make a definitive speech on the two issues central to the debate on the Human Rights (Sexual Conduct) Bill 1994, namely, human sexuality on the one hand and the Australian constitution on the other. Much has already been said on both subjects by previous speakers, and I do not intend to try the patience of the House by unnecessarily extending the debate.

The opposition’s view is detailed in the speech made by the honourable member for Berowra (Mr Ruddock) in this House yesterday. I support its content. I also recommend to all those with an interest in this bill—whether they hold views either for or against it—that they read the speech of the honourable member for Tangney (Mr Williams), also reported in yesterday’s Hansard. Nevertheless, I wish to put briefly on the record the reasons for the stance I shall take if this bill proceeds to a division.

Cynically confined as the subject matter of the bill is, its effect will be to remove from criminal sanction certain sexual behaviour between consenting adults—both homosexual and heterosexual adults—committed in private. To me, to oppose this bill is to effectively—I emphasise the word ‘effectively’—say that that behaviour is properly the subject of criminal law with all that that implies. I do not agree with that point of view.

Further, as a legislator, I have no time at all for the claim that, because the law has not resulted in a court appearance for a long time, it should be left alone. That would make a mockery of not only the Tasmanian law in question but also one of the very foundations of our society—the rule of law. If we are all to be equally subject to the laws of our society, then the laws should be equally enforced.

The Liberal Party has never resiled from the sometimes complex issue of personal privacy. The Liberal Party stands strongly for the right to individual privacy, particularly against unwarranted intervention by governments. In government we have adhered to that principle
in our legislative and administrative decisions and actions. Our party’s platform, the reflection of the views of all Liberal Party members—not just its parliamentary members—asserts the view that government must protect the civil liberties of the individual in society. As others before me have done, I point out that the coalition’s law and justice policy for the last federal election stated:

The Coalition puts a high priority on the right to privacy, especially the right to privacy against the Government.

On the other hand, I do not believe that it was ever the intention of the constitution’s authors and its supporters—that is, the Australian people voting in a referendum—that the external affairs power be applied as the Labor Party has sought ever since the 1983 federal election. Why would subsection 51(xxxxvii) of the constitution have been thought necessary if that were the case? The reference by the Attorney-General (Mr Lavarch) yesterday to Chief Justice Latham’s 1936 judgment leaves me and legions of other people unconvinced that recent judgments of the High Court formalise an intended implicit power in existence since Federation.

I have just referred to the fact that the subject matter of the bill is cynically confined. The United Nations covenant that this bill flows from contains a number of provisions that the Keating government is making absolutely no attempt to put into effect. Furthermore, a number of coalition members have already pointed out that it would be possible for this government, if it were true to the principles it claims to espouse in this case, to establish within Australia a means for settling domestic issues arising under the covenant and thereby precluding Australian citizens from having to seek recourse to judgment on those issues by a body outside Australia.

Yesterday, the member for Parkes (Mr Cobb) referred to the previous debate and vote in this House on this same subject. I wish to give just a little more detail than the member for Parkes was able to give in the time available to him.

On 18 October 1973 the then member for Higgins, the Rt. Hon. John Gorton, moved:

That in the opinion of this House homosexual acts between consenting adults in private should not be subject to the criminal law.

His opening statement was:

This is one of those rare occasions—those all-too-rare occasions—when the Parliament can act as it was originally theoretically intended to act; that is, to act as a collection of men, representing sections of the community, able to listen to a case and to make up their minds as to what is right without the constraints of party or of faction.

Page 2335 of that day’s Hansard shows that this motion was agreed to by a vote of 64 ayes and 40 noes, that is, by a majority of 24. The member for Parkes has already pointed out that amongst those listed under the noes was one Keating, P.J.

During its next three years in office, the Whitlam Labor government took no action to put that resolution of the House into effect. It was not until the Fraser government was elected in 1975 that a federal Liberal Attorney-General, the Hon. R.J. Ellicott, moved in 1976 to decriminalise homosexual activity in the ACT, which was then under the jurisdiction of the federal parliament. This is further proof of the cynical political nature of this government initiative. It amounts to nothing more than a political manipulation of the homosexual community. Labor’s record on this subject has been as poor as it is possible to imagine, even in that area—the ACT—in which there was no constitutional obstacle to its acting in 1973.

The honourable member for Wills (Mr Cleary) and a number of government members who have spoken in this debate have made cruelly unjustified statements about certain members of the opposition and their views on the subject matter of this bill. I am proud to belong to a political party which does not attempt to force on its members views which are contrary to individual conscience. There is no question about whether or not members of the Liberal Party have a conscience vote on this or any other issue. We always have a conscience vote. The Labor Party never does; at least, not anymore. There was a time, including since the time of my initial election to this parliament 20 years ago, when the Labor Party did allow its parliamentary representatives a conscience vote on
certain issues. No more, no matter what the issue.

It is no secret that there is a number of government members here today who would prefer not to be voting in favour of this bill but will be forced to. Therefore, not one government member is entitled to criticise, or gloat at, the actions of any opposition member on this bill—and certainly not the opposition, as such, if any of its members claim their entitlement of private conscience.

This raises the interesting issue of where the Prime Minister (Mr Keating) really stands on the issue of homosexuality. If members of the coalition are absent from any vote that may occur on this bill, undoubtedly a number of government members will be in full-cry pursuit of them, ridiculing them and debasing their motives.

But what about the Prime Minister? It is a convention of this House that the Prime Minister and the Leader of the Opposition are automatically paired in votes on most occasions. Will the Prime Minister have the courage of his convictions and walk in here and actually vote one way or the other on this bill? If his party members are forced—by virtue of not having a conscience vote—to vote in favour of it, why should the Prime Minister not also be here shoulder to shoulder with them on this issue that his government claims is so important? If he does not do that, could it be because of how he voted when given a free vote in 1973?

Will the Prime Minister have the guts to come in here and explain why he voted the way he did in 1973—something he did not avail himself of the opportunity to do back then—or will he hide in his cowards’ castle, his prime ministerial office, choosing to be shielded by the convention that I have mentioned?

Mr DUNCAN (Makin—Parliamentary Secretary to the Attorney-General) (5.25 p.m.)—I am very pleased to be given the opportunity to speak in this debate on the Human Rights (Sexual Conduct) Bill. I have had a long interest in the reform of the law in this area—since 1973. Before I say any more about that, I place on record my appreciation of the tremendous work that the Attorney-General (Mr Lavarch) has done in handling this matter. He has done a superb job in bringing this type of legislation to the parliament in quite difficult circumstances. The way that he has been supported by members of the Human Rights Branch of the Attorney-General’s Department has been absolutely superb. The work they have done in this regard has been outstanding.

My particular interest in the reform of the law in this area goes back to the early 1970s. From my point of view, there is a degree of deja vu in actually speaking in a debate in this parliament more than 21 years on from 19 September 1973 when, in the South Australian House of Assembly, as an almost new member, having been elected in March of that year, I put before that House a private member’s bill with the intention of removing from the statute book in South Australia all reference to the criminalisation of homosexual acts between consenting adults in private. Subsequently, that legislation gained the support of a majority of members of both houses of the South Australian parliament and South Australia became the first of the Australian states—and the Commonwealth, for that matter—in which homosexual acts conducted in private between consenting adults were removed from the province of that criminal law.

The honourable member for Boothby (Mr Steele Hall), who is in the chamber, is one of the people who would remember that legislation more than 21 years ago. There are probably only five members of parliament who were around at that time who are still in active public life. I chose to put that piece of legislation before the parliament in South Australia because I believed it was long overdue. I believed that we should stop persecuting homosexuals for acts where there was no victim. I still believe that. If anything, my views on that have strengthened over the years.

Over the past day or so, I have listened to the attitudes and views expressed by many members of this House. Some of the contributions have been sensitive, erudite and sensible. The contribution of the honourable member for Adelaide (Ms Worth) was a very sensible and balanced one. I would like to
congratulate her on that. I do not see this issue as one that should divide the House or the parties. It clearly ought not be in that position. The suggestion made by a number of opposition members that the Attorney-General and the government brought this matter in here in some sort of act of mala fides is absolutely absurd and ridiculous.

I will deal with some of the claims that have been made by members opposite in this regard. A number of opposition members actually said that the timing of this was quite extraordinary; that somehow or other it had something to do with the fact that there was a Liberal government in Tasmania and that we wanted to embarrass that government in some way. I say to the House that that view completely neglects the facts of the matter. It is not the case that in Tasmania this matter has only just come to light.

In 1979, Mr Green, a member of the Tasmanian House of Assembly, attempted to remove these obnoxious provisions from the law in Tasmania. Mr John White, when he was the Minister for Health in the Field government, also attempted to remove these provisions. On both occasions these attempts were thwarted by the Legislative Council in Tasmania.

Debate interrupted.

House adjourned at 5.30 p.m.

NOTICES

The following notices were given:

Mr Brereton to move—
That:
(1) in accordance with paragraph 2(3)(b) of the Carriage of Goods by Sea Act 1991 the question of the repeal of Part 3 and Schedule 2 of the Act be reconsidered after a further period of 3 years and no later than 31 October 1997; and
(2) a message be sent to the Senate acquainting it of this resolution and requesting it take similar action.

Mr McLachlan to move—
That the declaration by the Minister for Aboriginal and Torres Strait Islander Affairs of 10 July 1994, as contained in Commonwealth of Australia Gazette No. S270, and made under subsection 10(1) of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984, relating to Hindmarsh Island, be disallowed.

Mr Richard Evans to move—
That this House:
(1) acknowledges the Australian Football League staged an entertaining grand final event on Saturday, 1 October 1994;
(2) expresses concern about the method of ticket sales for this event;
(3) supports calls made by competing clubs for a review into ticket sales;
(4) sympathises with participating club members about the rudimentary method in selling tickets to members; and
(5) acknowledges the disappointment of many club members from participating clubs who wanted to attend the event but were unable to purchase a ticket.

Mr Forrest to present a Bill for an Act to amend the Telecommunications Act 1991 and other legislation in respect of standards of service.

Ms Worth to move—
That this House:
(1) recognises that about a quarter of a million Australians are affected by mild, moderate and severe dementia;
(2) notes that hundreds of thousands of other Australians, who are loved ones, carers and friends of dementia sufferers, are as much victims of dementia as the actual sufferers; and
(3) calls on the Government to provide greater and more effective assistance to all victims of dementia, particularly by:
(a) fostering the establishment of residential care facilities designed specifically to give full-time and specialist care and support to sufferers of severe forms of dementia;
(b) ensuring that home and community care services are operating to allow as many sufferers of dementia as possible to remain at home; and
(c) directing more funding to research into the cause of dementia, particularly related diseases including Alzheimer's Disease, Huntington's Disease and Creutzfeld-Jakob Disease.

Mr Bradford to move—
That this House condemns the Government's lack of support for the private health care sector of Australia.
Mr Bradford to move—

That this Parliament expresses its concern at the potential shortage of hotel accommodation to facilitate further growth in the tourism industry in Australia.

Mr Bradford to move—

That this House condemns the Government's unwillingness to fund urgently the long overdue upgrading of the Pacific Highway to dual carriage-way from Reedy Creek, Qld, to the New South Wales border, especially considering the Prime Minister's recent offer to spend $150 million to replace the perfectly functional Cahill Expressway in Sydney.

Mr Bradford to move—

That this House:

(1) condemns the Government for refusing to give parents real freedom of choice when it comes to caring for their children;

(2) notes that the new Home Child Care Allowance replaces the dependent spouse rebate and many families with a stay-at-home parent gain next to nothing from this allowance and that some families will be worse off; and

(3) calls on the Government to introduce real choice by offering an equal subsidy for all parents which can either be used to pay for child care or to offset the cost of one parent staying home to care for their children themselves.

Mr Bradford to move—

That this House:

(1) deplores the appalling lack of university places for Queenslanders and particularly persons living in the Brisbane-Gold Coast corridor;

(2) notes that:

(a) the provision of university places in Queensland in 1993 was 20 per cent below that for Victoria and 8 per cent below the national average;

(b) Queensland already has a shortfall of 3000 places and this will double by the year 2000 unless action is taken;

(c) first preference demand for undergraduate places at the Gold Coast campus of Griffith University has increased by 115 per cent between 1990 and 1994; and

(d) the population growth rate of the Brisbane-Gold Coast corridor is expected to be 150 per cent higher than the national growth rate over the next 17 years; and

(3) calls on the Government to take urgent action to ensure the fair distribution of university places across Australia and to address the imbalance in Queensland.

Mr Bradford to move—

That this Parliament:

(1) expresses its concern at the number of apprentices and trainees currently employed which is now at the lowest point for 25 years; and

(2) calls on the Government to take action to reverse this alarming trend in initial vocational training.

Mr Bradford to move—

That this House expresses deep concern, in the International Year of the Family, that the Government has failed to take any significant action to address some of the social problems that are contributing to the breakdown of Australian families, namely: increasing divorce rates, teenage pregnancy, drug and alcohol abuse, lawlessness and violence, adolescent suicide and welfare dependency.

Mr Bradford to move—

That, recognising that higher welfare benefits decrease work effort and increase welfare dependence and that increased welfare dependence has strong negative effects on children's intellectual development and life prospects, this House condemns the Government for its attempt to make Australia a welfare state.

Mr Bradford to move—

That this House:

(1) urges the Government to address the problem of rapidly depleting fish stocks in our waterways and coastal waters; and

(2) recognising the huge contribution of the commercial fishing sector to our primary industry and the significant contribution of recreational fishing to our tourism industry, calls on the Government urgently to assess the situation and explore ways of replenishing these stocks.

Mr Bradford to move—

That this House:

(1) urges the Government to consult widely with local communities on pursuing the sale of airports throughout Australia and particularly Coolangatta Airport on the Gold Coast; and

(2) notes that residents living near Coolangatta Airport have long had difficulties with excessive aircraft noise and that the Government has a responsibility to ensure that
whoever they sell the airport to is compelled to advance noise abatement procedures and continue consultations with the community on this and other matters.

PAPERS

The following papers were deemed to have been presented on 13 October 1994:

- Interstate Road Transport Act—Determination 1994 No. RTB94/06.
- Public Service Act—Determinations 1994 Nos. 157, 162.
Thursday, 13 October 1994

Mr DEPUTY SPEAKER (Mr Rocher) took the chair at 10.00 a.m.

NATIONAL ENVIRONMENT PROTECTION COUNCIL BILL 1994

Second Reading

Debate resumed from 12 October, on motion by Mr Snowdon:

That the bill be now read a second time.

Ms DEAHM (Macquarie) (10.00 a.m.)—Mr Deputy Speaker, I find it particularly appropriate that I, as a representative of the electorate of Macquarie, am speaking today in support of the National Environment Protection Council Bill 1994 to establish the National Environment Protection Council. It is possible to find within my electorate examples, and all too often they are major examples, of each of the environmental factors that the council is being established to address.

The schedule of the council's responsibilities is essentially the same as the list of predominant concerns that engage environmental groups, local councils and government agencies throughout the Hawkesbury and Blue Mountains regions. Those concerns and issues are thrown into sharp relief in Macquarie because of the extraordinary juxtaposition between large areas of World Heritage class wilderness and the sprawling urban fringe of Australia's largest city.

It is possible to stand in silence and solitude in one of the world's most magnificent national parks and to look down upon the polluted air and degraded environment of the Sydney basin, occupied by about one-fifth of the Australian population. From that vantage point it becomes absolutely clear that the achievement of ecologically sustainable patterns of economic activity and development is crucial to every business and every citizen. The bill before us today is a milestone on the path to that achievement and will be widely welcomed.

I have spoken on other occasions about the range of environmental issues that confront me in my electorate. I find all those issues mirrored in the brief of the proposed National Environmental Protection Council and I will briefly discuss them in the order that they appear.

Air and water quality are the two most prominent. The Hawkesbury region, which comprises half of my electorate, suffers major air pollution from the industries and vehicles of Sydney and has the unhappy distinction of being one of the most efficient places in Australia for the production of photochemical smog. CSIRO studies have demonstrated how pollutants generated in Sydney circulate around the basin, settle above the towns of Windsor and Richmond and slowly cook during the still summer days into ugly and dangerous grey-brown concentrations that are trapped by the encircling hills.

The general issue of air pollution has implications that flow across the whole spectrum from state planning authorities to the performance standards of individual vehicles and buildings. The authors of the CSIRO report identify in their conclusions that a major regional environmental matter requires resolution simultaneously at local, state and federal government levels. They thereby demonstrate the need for exactly the sort of broad-ranging cooperative approach embodied in this bill.
Most of my colleagues will have heard comments I have made in this place previously about the water pollution and riverine degradation problems in the Hawkesbury River. The river suffers the multiple burdens of providing nearly all the huge volume of reticulated water used in Sydney, of providing much of the irrigation water used in the extensive and highly productive agricultural areas that still exist to the north and south-west of the city, and of acting as a vast drain for the variously treated sewage and urban run-off from the whole of western Sydney.

Much work has been done already at the Commonwealth level on the issues of water quality in rivers and estuaries, and again I refer to a CSIRO document. The report *Towards Healthy Rivers* from the Division of Water Resources provides a broad underpinning for the future work of the council.

Another issue that the council will be dealing with is the effects of noise upon amenity. That is an issue of significant current concern in my electorate, with the operations of helicopter joy flights conflicting seriously with the natural amenity and the commercial potential of the Blue Mountains National Park, which may soon be nominated for listing on the World Heritage register.

Among those who love and use the Blue Mountains National Park, there is great dissatisfaction with the inability of local and state governments to find a resolution of the conflict. Much hope is placed upon the Commonwealth, as controller of airspace, to develop new standards that will reflect environmental values not recognised or valued by the existing regulations. The conflict between wilderness values and increasing aircraft traffic is experienced in all parts of Australia. It is a conflict that may only increase and it demonstrates again the important role of a body with the powers that the new council will have.

My electorate has the possibility of suffering serious contamination of ground water with highly toxic leachates emanating from the huge chemical waste dump at Castlereagh. The council will be establishing guidelines for the assessment of site contamination and will investigate the environmental impacts associated with hazardous wastes. Those guidelines, and the standards arising from them, will be vitally important parts of the suite of measures that are required to prevent the recurrence of horrors such as Castlereagh.

The National Environment Protection Council will also address the issue of reuse and recycling of used materials. Again, that is something of vital concern to my electorate. The low lying rural areas of the Hawkesbury valley, many of them wetlands in various stages of demise, are an irresistible attraction for those who are in the business of disposing either legally or illegally of materials such as demolition rubble, contaminated excavation spoil and old rubber tyres. Hawkesbury Council is under continual pressure to approve dumping and landfill operations, and I know that many people in that area will welcome Commonwealth attention being given to a problem that is overwhelming at the local level and inexcusably neglected at the state level.

The waste stream is double ended, with attention required at the point of production as well as at the point of disposal. The latest initiative of the New South Wales government embodied in a document apocalyptically but misleadingly entitled *No time to waste* leaves the responsibility for the entire stream in the laps of local government bodies. This is a clear case of the urgent necessity to implement the objectives of an enhanced and more detailed national approach to the environment and of a better definition of the roles of respective governments.
Those objectives are key parts of the process that has led to the setting up of the National Environment Protection Council. It is useful to examine briefly the history behind the council. Its establishment will be an important step in the systematic approach that this government is adopting for the management of the types of environmental issues that I have just described. The word ‘systematic’ is important and I will return to it later.

Twenty years ago the concept of integrated environmental management was generally unfamiliar in Australia. Nothing illustrates that more clearly than the famous, or perhaps infamous, conflict over Lake Pedder. There, for the first time in the broad public arena, the old notion that natural environmental systems could be endlessly and thoughtlessly exploited came head-to-head with the unfamiliar concept of ecology. Ecology lost that time. The engineers in control of the process found it much more satisfying to work with concrete, heavy machinery and explosives to generate electricity than to send out teams with utes and insulating batts and reduce the need for electricity.

Ten years later, on the Franklin River, the engineers had lost the ascendancy. Large sections of the Australian populace asserted that the natural environment had an intrinsic value that had to be taken into account in the planning of development. If we look back upon those two cardinal points in the emergence of environmental management in Australia, we see how far we have advanced in 20 years. The loss of Lake Pedder was devastating but became the foundation for the exhilarating victory later on the Franklin River.

However, the two issues were essentially isolated from the long-term administrative processes of federal and state governments, despite the passion with which they were fought and the international attention that they attracted. Dr Bob Brown characterised them accurately when he said that battles such as those, if lost, were lost for ever and, if won, were won only to be fought again.

For the past 11 years the Hawke and Keating governments have been travelling progressively away from that situation where protection of the environment was seen in terms of winning isolated conflicts to the position that prevails today, and that is exemplified in this bill. The journey has seen much of the superficial glamour and drama of environmental issues left behind, but has brought us to a point where we now have a far greater chance of lasting success.

I have spoken of two of the most dramatic and best known turning points of the journey which has been sustained by many other crucial developments. I will take a few moments to discuss the more significant of those.

In 1980, the world conservation strategy was released. It was followed locally by the national conservation strategy for Australia, which was accepted by the federal government after having been proposed by a conference in Canberra in June 1983. In 1987, the Brundtland report Our Common Future was published. Gro Harlem Brundtland, the Prime Minister and former environment minister of Norway, had been called upon by the Secretary-General of the United Nations to establish and chair the World Commission on Environment and Development. The report that ensued proved to be a seminal document and many far-reaching initiatives grew from it.

Internationally, it led to a range of treaties and conventions that culminated in the United Nations Conference on Environment and Development held in Brazil in 1992. Most of the world’s governments were represented and the conference produced a number of documents that included the Rio declaration and Agenda 21, both of which were intended to form a broad
international framework for environmentally sustainable development. The conference also incorporated related policy issues such as the United Nations Framework Convention on Climate Change and the United Nations Convention on Biological Diversity. Those international achievements were followed by various initiatives within Australia.

In 1990 the Hawke government began the major process of establishing principles of environmentally sustainable development that could guide future activities. A lengthy series of public consultations and of deliberations by special working groups led eventually to the publication of 11 reports that together contained over 500 recommendations for measures that would lead to the elusive goal of ESD.

In November 1992 the Council of Australian Governments adopted a national strategy for environmentally sustainable development, indicating that the strategy would play a crucial part in establishing broad directions and approaches and that future policies and programs, especially those of a national character, should be based upon it. Other developments within Australia include the national greenhouse response strategy, the national strategy for the conservation of Australia's biological diversity, the national waste minimisation and recycling strategy and the national forest policy statement. Investigations were also begun into the local implications of various international conventions.

The last development that I will mention is the intergovernmental agreement on the environment. It was signed in October 1990 by the Prime Minister, each state premier, each territory chief minister and the President of the Australian Local Government Association. The bill now being debated is the most important in the long line of developments that I have described because it contains the specific agreement that calls for the establishment of the National Environment Protection Council.

The intergovernmental agreement is constructed around five basic principles that establish:
- a cooperative national approach to the environment;
- a better definition of the roles of respective governments;
- a reduction in the number of disputes between the Commonwealth, the states and the territories on environmental issues;
- greater certainty of government and business decision making;
- and better environmental protection arising from the integration of environmental considerations in the decision making processes of all governments at the project, program and policy levels.

Schedule 4 of the agreement sets out the rationale, powers and processes of the National Environment Protection Council. They are reasonable, judicious and comprehensive. They are also, above all, cooperative and collectively determined. The council is given the power to determine whether to adopt standards, guidelines or goals and is required to consider which will be the most effective method to achieve the required national environmental outcomes.

I said earlier that the word 'systematic' was important. The long process that I have just described has run parallel to our growing understanding of environmental management. Twenty years ago, saving the environment was about saving isolated parts of it. We have learned during those 20 years that the environment is essentially about natural systems and that it is those that must be preserved, protected and restored.

Simultaneously, we have developed our administrative systems so as to take an increasingly systematic approach that is successful if it foresees and avoids the conflicts that were once an inherent part of the environmental movement. The Keating and Hawke governments have been leading this development in concert with many other players and in response to domestic and international stimuli.
Thursday, 13 October 1994

REPRESENTATIVES
MAIN COMMITTEE

In Tasmania in 1972, the notion that entirely undramatic jobs in the energy, conservation and tourism industries could eliminate the necessity for a major but environmentally reprehensible piece of engineering was considered ridiculous and dangerous. Today, through a wide range of labour market, employment and environmental initiatives like REEP, such jobs are on the way to becoming embedded into the core of the economy.

There is still much to be done. The process of establishing general principles has gone well, but that has been the relatively easy part. It is much more difficult to draw upon the principles and to implement detailed new practices. If we study, for example, the implementation of the national greenhouse strategy, we see very quickly—as we progress away from the Commonwealth end of the spectrum, where the guiding principles have been clearly established, and towards the local and state government end, where most of the changes must be made—that progress is far too slow and that far too little has been achieved.

The relative lack of success supports a case for more responsibility and initiative on the part of those responsible for the details. But it also points out clearly the need for the measures proposed in this bill, measures which will provide much stronger guidance, greatly clarified goals and a better case to put to local constituents.

In the context of the broad agreement and the laborious procedures that have led to the formation of the National Environment Protection Council, I am extremely disappointed to see that the Western Australian government has decided not to participate. This indicates to me the presence of a ridiculously misguided notion of states rights. I believe that citizens have rights, and that their governments have responsibilities. Environmental phenomena are not contained or transformed by state boundaries.

People in all states are affected similarly by polluted air and water, by noise and by the accumulation of undesirable quantities of hazardous chemicals in places where they are dangerous. People in all states have the right to expect equivalent standards of protection from such things, and they have the right to expect that industries and corporations operating in their state will be at least as careful and responsible as when they are operating in other states.

People also have the right to expect that environmentally undesirable phenomena or substances will not be imported into their states because conditions and requirements are less strict there than elsewhere. The assurance of these rights is one of the fundamental premises of the bill to establish the National Environment Protection Council. I hope that wisdom and the formerly exhibited spirit of cooperation will prevail and that we will soon see a genuinely national, rather than semi-national, council getting on with the vital tasks that have been assigned to it. I have great pleasure in commending this bill to the House.

Question resolved in the affirmative.

Bill read a second time.

Motion (by Mr Bilney)—by leave—agreed to:
That the bill be reported to the House without amendment.

AUSTRALIAN TRADE COMMISSION AMENDMENT BILL 1994
Consideration resumed from 29 August.

Second Reading

Mr BILNEY (Kingston—Minister for Development Cooperation and Pacific Island Affairs) (10.19 a.m.)—I move:
That the bill be now read a second time.

The Australian Trade Commission Amendment Bill 1994 repeals provisions in the Australian Trade Commission Act 1985 which impose age restrictions on the appointment of part-time members to the board of the Australian Trade Commission. This bill will permit appointment of part-time members to the board who are over the age of 65 years or for a term that would expire after the member attains the age of 65 years. The bill will have no financial impact. I commend this bill to honourable members.

Mr TIM FISCHER (Farrer—Leader of the National Party of Australia) (10.20 a.m.)—It is an honour to give my second address in this chamber and to welcome the Australian Trade Commission Amendment Bill 1994. The coalition will support this bill. I find myself on two days in a row enjoying close working relationships with a minister at the table on the matter of international agricultural research. The Minister for Development Cooperation and Pacific Island Affairs (Mr Bilney) very generously gave due recognition yesterday to the launch of a very important book written by Professor Derrick Tribe and again, today at this table, to this legislation, which is all about attacking ageism and removing this artificial barrier.

I would like to make two points in my address—not to be mischievous but to draw a parallel. At the same time that we are abolishing the age limit with the passage of this legislation as far as Austrade is concerned, we have in recent years, by the decision of the Australian people and parliament, put an age limit on the High Court. It is interesting—just in passing, Mr Deputy Speaker, because I realise you have a very learned interpretation of standing orders in this new place—that yesterday the High Court, by the narrowest of margins, four to three, came down with a certain determination.

If the High Court is going to be robust and aggressive in its role, then clearly the parliament, whilst recognising the separation of powers, will also be more interested and robust about the selection of their honours, in other words, about the selection of the membership of the High Court of Australia. They cannot have it both ways. I have a great respect for the High Court. I acknowledge it is something separate from the parliament. I acknowledge that this is only a passing comment on the fact that the age restriction has now been imposed on the High Court, whereas this bill is removing the age restriction from Austrade and, to that extent, there is some causal linkage.

In acknowledging the separation of powers and the doctrine of separation of powers, the High Court has been in very robust mood in recent years. It is heading to a further—

Mr Melham—Does that mean you don’t like their decisions?

Mr DEPUTY SPEAKER (Mr Rocher)—That would be unparliamentary, I am afraid.

Mr TIM FISCHER—I do not even allow myself the luxury to say that. You might feel sympathetic to your colleague after yesterday—or you may not. With regard to the High Court, while respecting the doctrine of separation of powers, the processes of selection of membership to the High Court—and there is a key position coming up next year at the retirement of the Chief Justice—is something that, progressively, the federal parliament, quite apart from the government and the processes of consultation with state attorneys-general, is going to feel the need to become more active in.

This bill does not have a clause in it about 35 per cent quota membership for women of the Austrade board. I am sitting opposite the honourable member for Forde (Ms Crawford) in this most critical week of political life for her. I have been in her position. I have had my seat
abolished from underneath me—it was very nasty of the redistribution commissioners at the time—and had it amalgamated with an adjoining seat held by a coalition colleague. So certain steps had to be embarked on. It is not easy, when a member is within just one or two thousand votes of having absolute right on her side, to be the contestant for the amalgamated seat of Forde and Rankin.

I make this comment in passing because this bill does not have a quota system in it. I looked for it. I looked right through. I spent all of 10 minutes looking for the 35 per cent quota, which might be in this bill but I do not find it. I do not even find a 30 per cent quota, but I find the member for Forde sitting in this Main Committee chamber.

Mr Melham—She'll be here after the next election too.

Mr TIM FISCHER—Please tell me which seat?

Ms Crawford—Forde.

Mr TIM FISCHER—I am sorry, but I have studied the figures and it will not be Forde. It may be Rankin.

Mr Melham—What chance Wendy Machin?

Mr TIM FISCHER—I would welcome Wendy Machin, who is a minister of the crown and a female member of the state parliamentary National Party in New South Wales. She is an extraordinarily capable minister, with two young children, who is going about her duties, and I would welcome her to federal parliament.

Mr Bilney interjecting—

Mr TIM FISCHER—In the absence of this cause, I think it deserves comment that this huge blank page had plenty of space for a form of quota, without any extra printing cost to the parliament. Here we are, 10 days after the Hobart conference, and we have this piece of legislation with a gaping hole in it.

Mr Melham—Move an amendment supporting the quotas.

Mr TIM FISCHER—Quotas are a nonsense. I do not support quotas. I challenge the government to do something about this holed bill which is before the Main Committee today. I feel for the honourable member for Forde, who has been hung out to dry and has been told to pull her head in, in pretty unceremonious terms, by the male mafia of the Queensland branch of the Australian Labor Party. It was a magnificent photo in the Australian. The hide of him to overreact to it! A nice photo like that is something to be proud of and should encourage people to continue to speak up for their cause.

Mr Deputy Speaker, I realise that a man of your integrity has just so much tolerance, so let me simply say in respect of the bill that it is a step in the right direction. The performance of Austrade and the Australian Trade Commission will continue to be monitored closely by the coalition. There can be no complacency with regard to the practical outcomes of the Australian export effort.

I have recently returned from New Zealand where I met with Trade-NZ people in New Zealand and looked at the New Zealand export performance. Despite New Zealand being a country with a small number of natural resources, its economy is currently growing at 6.1 per cent. The New Zealand economy is niche exporting dairy and other products to many parts of greater Asia, the Middle East and south Asia with great success, to Australia's cost. It is doing it through a streamlined, seamless operation, and through joint action parties, which are
set up to determine sectors of joint activity between the government and the private sector to boost export efforts.

These amendments make it timely for me to remind the parliament that we cannot be complacent with regard to our export performance. In real terms, we are losing market share in the key ASEAN economies. Our exports to Malaysia are not growing at the same rate as the Malaysian economy. Our exports to Indonesia are not growing at the same rate as the Indonesian economy. I point again to the spectacular growth, given all the restraints, of New Zealand exports into the Asian region especially.

In giving the coalition's concurrence to this legislation, I formally state in categorical terms as shadow minister for trade that the need exists to pull out all stops in an increasingly competitive world where there is a very unlevel playing field, where country after country will look for non-tariff barriers in one disguise or another to get around what is fair and proper trading practice and where, too often, Australia has been at the sharp end of conceding points to facilitate freer trade in the world—a laudable objective—ahead of other countries making movements in that direction.

We need a comprehensive export culture and export effort, and an efficiently helped and supported export effort through Austrade. Abolishing the age barrier is a step in the right direction, because all wisdom does not cut off at age 60 or 65. This legislation is a small step in the right direction, but we will continue to monitor that progress.

The last point I want to make is a trade point. It relates to the fact that the world is about to usher in a new trading era if some of the key countries get around to passing their legislation ahead of the timetable which currently still stands at 1 January next for the creation of the new World Trade Organisation, and the post-Uruguay Round outcomes.

I am disappointed that the opportunity was not seized to usher in the new dimension of world trade by shifting the World Trade Organisation headquarters from Geneva to Singapore. Arguably, it is this part of the world that is going to dominate the trading volumes of the world well into the next century. It would have been a clear symbolic break with the ugly trading practices of the European countries if we had seized the opportunity to stand up to Europe—the Europeans who have so often delayed the Uruguay Round negotiations—and provided in the ballot not only the nominations of Bonn and Geneva as was the case, but the nominations of Singapore, Bonn and Geneva for the WTO headquarters location.

It would have been a great breakthrough for Singapore, a great breakthrough for the broader ASEAN and Asian region, a great breakthrough for Australasia had Singapore been adopted as the World Trade Organisation headquarters. But it was too inconvenient for the diplomats ensconced at the western end of Lake Geneva suddenly to have to move somewhere like Singapore. Singapore just happens to be the most successful city at getting infrastructure working and providing an efficient and effective location for doing business. It just happens to export more by dollar value than the whole of Australia, I might add, although that does take into account the fact it is a key hub port.

So as we pass this bill today the world inches towards the new world trading regime. Firstly, it still will be an un-level playing field. Secondly, countries still will delay, fudge and erect non-tariff barriers and Australian authorities need to be fully aware of that. Thirdly, the World Trade Organisation headquarters should have been at Singapore and not Geneva—there was a ballot but Geneva defeated Bonn in that. Fourthly, I nevertheless hope that it will provide an affirmation of those things which were secured in negotiations, one of which is an increased
enhanced trading activity, especially for Australia. I acknowledge it will see cheese go into South Korea for the first time, rice go into Japan for the first time, and a series of other breakthroughs such as telecommunication equipment into the Middle East. It will build on the progress already being made in those areas. I also acknowledge that there can be no complacency. I look forward to this legislation providing a degree more flexibility which will assist our export effort.

**Mr Bilney** (Kingston—Minister for Development Cooperation and Pacific Island Affairs) (10.33 a.m.)—in reply—Before the debate is closed, I have got a right to respond to at least some of the remarks of the Leader of the National Party of Australia (Mr Tim Fischer). I welcome the opposition’s support of the Australian Trade Commission Amendment Bill 1994. It is, as it should be, an uncontroversial bill. One might not have gleaned from the remarks of the leader what the bill was actually about but it is to extend the age limit to allow people who are over 65, or will be over 65, to be appointed as part-time members of the Austrade board.

Certainly, the virtues of such a bill become more apparent the greyer one’s hair becomes and the nearer to retirement one comes. I am sure that is so for people like the honourable member for Shortland (Mr Peter Morris), the honourable leader and indeed younger people like yourself, Mr Deputy President. The virtues of such a bill become more apparent the older one gets and I am not immune to that. It is also the case that it is part of a trend throughout Australia against the setting of mandatory retirement ages. Just looking, if I might, at some members of the gallery who might also be affected by this, I think we are on the right track with legislation of this kind. I will not respond to the remarks about the High Court.

In respect of the leader’s remarks about our need not to be complacent and to pull out all stops and to remove any inhibitions we might have on our trade effort, of course, that is something which is at the back of the government’s mind in introducing legislation such as this. Obviously, a certain person is in mind in respect of this particular bill. Because people happen to be over 65 does not mean they are lacking in wisdom or energy; it is often the reverse. I welcome the support of the opposition.

Question resolved in the affirmative.

Bill read a second time.

Motion (by Mr Bilney)—by leave—agreed to:
That the bill be reported to the House without amendment.

### ACCESS TO JUSTICE

**Report**

Debate resumed from 22 September, on motion by Mr Beazley:
That the House take note of the paper.

**Mr Melham** (Banks) (10.36 a.m.)—In relation to the Sackville committee’s report *Access to justice*, I wish to confine my remarks today to chapter 20, which concerns courts and the electronic media, and, in particular, recommendation 20.1—that the Federal Court of Australia should consider the establishment of an experimental program to allow the broadcasting of proceedings and that it should be established subject to guidelines stipulated by the court.

I want to say at the outset that I am opposed to that recommendation in the Sackville committee report. I am opposed to it for a number of reasons. I am pleased that my opposition
to that recommendation is not opposition that can be described as being on party or factional lines, because an excellent article by the honourable member for Bennelong (Mr Howard) appeared in the *Sunday Telegraph*, on 17 July 1994, under the heading 'No Justice from court telecasts'. In the body of his article he has this to say:

A nation's judicial system exists to serve the cause of justice. It does not exist to satiate some general right to know on the part of the public.

So I think it is fair to say that what I have to say this morning would have some support across the political spectrum. I also make these comments because, prior to entering the parliament, I firstly worked as a public solicitor with the Legal Aid Commission of New South Wales from 1979 until 1987 when I was appointed a public defender, and then practised as a barrister and public defender from October 1987 until February 1990 in New South Wales in criminal matters, defending accused persons who were charged with serious criminal matters.

My experience over 10 years in the judicial system in New South Wales was that, as far as the members of the press were concerned, accuracy was not one of the hallmarks of their reporting and that what they basically concentrated on was sensationalism and distortion of facts. What they are interested in is ratings and making something interesting. They are not interested in full and copious reporting because, in many instances, it can be very boring. So we really need to sit back and have a look. Frankly, I think chapter 20 has shown a superficial and shallow consideration of what is probably one of the most radical suggestions in recent times as to how our court system should operate. There is a line in the report which says:

Opening of the courts to the electronic media has been the subject of relatively little attention within the Australian legal system, law reform bodies and the general public.

That appears at paragraph 20.2. What I suggest is that the consideration in chapter 20 takes it very little further down the track, and to then come out with such a radical recommendation raises some doubt. If there has been scant regard, what should happen is that there should be a reference to the Australian Law Reform Commission to look at the matter properly, to give it detailed consideration.

Recently I had the benefit of going on a study trip to look at the legal systems in America, in England and in France. I was in America during the O.J. Simpson preliminary hearings and what I saw was disturbing, because what we had was really a show trial that the whole of America had an opinion on. The closest thing that resembles that in Australia in our time is the Lindy Chamberlain case, where we really had about 15 million jurors out there wanting to determine the guilt or innocence of that particular person. Is that what we are on about? When we talk about open justice, Australia has, I think, one of the best legal systems in the world. It is an open system of justice where there is open access to the courts, except in limited circumstances related to Family Court proceedings, special proceedings relating to minors or whatever. Every time that the media has been involved, it has turned into a circus in terms of distorted reporting.

There is an excellent article by John Lyons in the *Weekend Australian* magazine of 21 May 1994 and another article in the same magazine by Sam Lipski. What they have to say really summarises my concerns about allowing radio and television broadcasting of proceedings. John Lyons says:

In the US, it's open season and the media is scrambling to see who can get into the gutter first.

Further on he says:

It is entertainment pitched at the lowest common denominator; entertainment masquerading as journalism.
I think that my comments are applicable to either criminal or civil proceedings in Australia. The courts should be left, both judges and juries, to determine the guilt or innocence of people charged with criminal offences or to determine the contest in civil proceedings. That is why we appoint judges; that is why we allow juries to go in there. The juries are our representatives in the system of justice that we administer. They are the ones that bring the public's commonsense and attitudes to bear on the standards of justice.

But what do we have if we allow television or radio, especially with the advent of pay television? Are we going to have a dedicated pay TV channel to broadcast civil proceedings? My concern is that the proponents of this system will say, 'We are not talking about criminal proceedings, we are talking about civil proceedings.' But what I say is that if we start down this track, there will be the inevitable rush to open up the criminal jurisdiction and other jurisdictions. And for what purpose? To satisfy ratings, not to satisfy the need to know. If people want to know, if they are interested in a particular case, the courtrooms are open, they can go along and they can observe.

There is an old saying that it is not the same if you are not at the game, and that is the problem. That saying applies to Rugby League, AFL, soccer or whatever, and it is more so in terms of the televising of court proceedings because of the distortion that that presents. In my opinion, there is too much television and radio reporting of court proceedings at the moment. Every time a case comes along where there is a celebrity, a media personality or a prominent person involved, there is this media frenzy. For what purpose? We will all know the result in the end. What purpose? Not to further the course of justice.

It is a fiction, a legal fiction, to think that juries and judges are not affected when a case starts to attract some publicity. In my time in New South Wales I appeared in some pretty notorious cases, though mainly as an instructing solicitor. I could see the demeanour of those presiding in the case change when there was some publicity involved. Anyone, any practitioner in the field, with an objective view will tell you that this is a recipe for disaster if what we are about is administering justice and allowing justice to take its course.

Mr Lipski makes some interesting observations in his article and I think they need to be repeated. They, again, summarise my views. What is not widely understood is that even as matters stand today, any Australian judge or senior magistrate already has the right to allow television coverage of a trial. In the case of special documentaries and programs, sometimes that authority has been exercised. That has happened when we are looking at educational programs in terms of educating the public.

There was an excellent program on the ABC some time ago on the operation of the Magistrates Court. We need to be very careful of the excesses of trial by media that already exist and are inherent in our legal system. Lipski goes on to say, and I endorse these comments:

Overall, the track-record when television was locked out of the courts, as in the Chamberlain case, does not inspire confidence about their behaviour if they had been allowed inside.

He says:

But, on a less sensational level we have a nightly demonstration of why television news, as we have come to know it, cannot be trusted with court coverage, especially not edited extracts from even simple cases. As it is, the standard half-hour news bulletins most Australians watch have become utterly distorted because of the disproportionate time given to crime and the police and court rounds.

Further on he says:
It is difficult to see how edited "live" highlights of the day's proceedings would do much more than compound the distortion problem which already exists or how the producers and editors would resist the temptation, despite guidelines, to present the more emotional and sensational aspects of the day's court proceedings. Apart from what it might do in particular cases, there is the much more serious and insidious concern about what it would do to any residual sense of reverence among Australians for the whole judicial system. As Americans have found, if everything, including the courts, becomes just another show, why take any of them seriously?

He finishes up with:

The simple answer is that unless we are extraordinarily careful we too may end up with what John Lyons describes—the mockery that now often passes for justice in the United States.

That is my main concern with that recommendation of the Sackville committee. It is my considered view that if we are even to contemplate venturing down that path, what we need, as a parliament, before we arrive at that particular decision, is a comprehensive evaluation of what the guidelines will be and what the pros and cons are. We do not need some superficial and shallow consideration that, under the mask of open justice, would result in show trials and injustice, and a mockery. And for what purpose—to assist in the deliberation of the verdict by the judge and jury?

A commonsense reading of the situation would show that any publicity, in any of these cases, only heightens the chances of a miscarriage of justice. The courts, as it is, are reluctant to intervene and stay proceedings as a result of excessive publicity, notwithstanding the stringent requirements under our current system of justice. I caution the parliament, and I caution the government and the Minister for Justice (Mr Kerr), about proceeding down this path, because it would make a mockery of our legal system. It would bring the system into disrepute, because all that the television and radio producers are interested in are ratings. Ratings come with sensationalism and titillation. They do not come with balanced reporting.

**Mr TANNER (Melbourne) (10.51 a.m.)—**The purpose of today's discussion is to note the *Access to justice* report, which is being presented to the government by the committee headed by Ron Sackville. It is very much a landmark document. It will substantially increase the level of debate and the consideration of many very important issues in the administration of justice, in what is a changing society. The report highlights some of the structural inequities in the Australian judicial system and provides a very worthwhile blueprint for reform, although many of us may not agree with every aspect of the report. Certainly, I have a fairly strong sympathy for the comments that have just been made by the honourable member for Banks (Mr Melham), with respect to the televising of court proceedings. I will refer to this in a little while.

Although we may not agree precisely with every recommendation, there is no doubt that this is a very comprehensive blueprint for consideration of substantial change to our system of justice in this country. This agenda is often said to be a bit esoteric, and to not really be an issue of importance to ordinary people, particularly on our side of politics. It is seen by many as the sort of thing that Labor lawyers play around with, something that really does not matter very much. In fact, quite on the contrary, it is an issue of major importance to ordinary working people in this country.

For most Australians the law is remote, it is mystified, it is expensive and, in many instances, it is unequal in application for various practical reasons. Provision of legal services by legal practitioners is inefficient, it is uncompetitive and it is often still shrouded in the
trappings of the 18th century, which are less and less relevant in the days of microelectronics and internationalisation of the global economy.

I will comment on some of the key themes of the report. The first is the single national market for legal services and a national regulatory structure. This is a proposition that is long overdue. Honourable members would probably know my views on the federal system. I do not like it and, therefore, any move towards national regulation of what is rapidly becoming an integrated national market is very worthwhile. It is clearly absurd that we still have a situation where, for example, the laws of libel in one state are different from those in a neighbouring state, and the publication of allegedly libellous material that is broadcast simultaneously in both states, can be libellous in one and not in the other. That is just one fairly obvious example of some of the absurdities.

In talking of the issue of libel, I would like to take the opportunity to comment on the landmark decision that has just been handed down by the High Court with respect to libel and public figures, because it is pertinent to this issue. I have only read media reports, so I am at a disadvantage, of course, in not having read the written judgment. It does seem that the law of libel has in effect been liberalised by the High Court through another dose of judicial activism, following on from the decision in the political advertising case. I am not a complete opponent of judicial activism and the interpretation of implied provisions in the constitution with respect to basic freedoms, such as freedom of the speech and the like, although I think we need to be very careful of how far we go down the track.

One of the points I think that is missing in the public debate on the issue of libel and public figures is the question of the monopoly ownership of our media. Like a number of people in the House of Representatives, I have been involved in libel proceedings both as a defendant and as a plaintiff.

In particular, I have had experience of what it is like being libelled in a newspaper with a circulation of about 500,000 copies across the state. The libel was potentially extremely damaging to me in my occupation, as it was then, as a secretary of a major trade union. The net effect of the article was to suggest that, in some way, I and other leading figures in the union had removed money, that we had, in effect, stolen money from the union—hundreds of thousands or millions of dollars. The article was very cleverly structured because the journalist who wrote the article had a specific agenda to run. He was trying to assist opponents of mine within the union to win union elections. There was no attempt to balance the article at all.

Clearly, I had no potential means of redress against that very damaging publication, certainly not in the newspaper concerned and certainly not on electronic media. I had no effective redress in the media as they stood, essentially because we have a monopoly owned media in this country. There is a lack of diversity within our media. There is a lack of mixed partisanship across different strands of political view. The end result is that, if people do not happen to fit within the interests of the dominant media ownership, they are very much at risk of being seriously libelled and of having no potential redress at the same level within the media. An individual can get on the local community radio station, or something like that, but it is impossible to get access to the 500,000 people who might have read that particular newspaper report.

A person's only protection is the law of libel. As a result of that law, I was able to obtain a printed retraction and apology, as did the president of our union who was also effectively
libelled by this article. That is all we wanted. We did not want money from the paper or anything like that. All we wanted was to effectively remove the damage that had been done to our reputation, which would not only affect us within the union but would also potentially affect us in the longer term, in other areas.

Without the law of libel, that stain would have remained and many people would have felt that I was in some way criminally corrupt as a result of that article. What disturbs me about anything that relaxes the law of libel as it applies to public figures is whether someone has an ability to get some sort of redress when they are libelled in this way. It does not necessarily apply to politicians, because at least we have forums which attract some attention in their own right. It applies particularly to other lesser public figures or to people in areas that are not quite so intensely followed by the media but who are still nonetheless public figures.

I would just like to throw that in as a comment. When we are talking about issues of reforming the law of libel, issues of reform of media ownership and control in this country cannot be avoided because the two are integrally related.

I return to some of the other issues that the report deals with. There is a proposition that the clients of lawyers should have access to greater information. I wholeheartedly endorse this. In my brief experience as a lawyer for a few years, it was one of the most common problems that I dealt with. Clients who had previously been with another lawyer would come to me. They simply would not know what was going on. They had not been told. They had not been given an opportunity to make genuine decisions based on informed consent. I think there is still a real element of lawyers being seen as priests in some sort of quasi-religious structure that permeates the way the legal system and lawyers operate in this country and there is a subconscious desire to guard the secrets and the mysteries of the law in order to ensure that the lawyers remain in some sort of dominant position.

I also endorse very strongly the recommendation in the report to abolish fee scales and to provide for written agreements dealing with costs with clients. I cannot see why a lawyer should not be able to give conditional quotes in the same way that a plumber or a builder does. I cannot see any reason at all, because ultimately a lawyer is nothing more than another form of tradesperson.

Limited contingency fees, with appropriate safeguards, which allow lawyers to assume some or all of the financial risk of losing, are probably a worthwhile path to head down. There are some associated risks. We do not want to get to the extremes of the grossly litigious society that is unfolding in the United States, partly contributed to by contingency fees, but I think there is potentially scope for it.

Independent complaints bodies, which involve justice being seen to be done where clients have complaints about lawyers, is an unarguable proposition in my view. Developing national coordinating uniform structures and world best practice approaches with respect to the administration of legal aid via the states would be very worthwhile. Again, if it has to be done by the states, we will probably have to live with that. The development of more alternative dispute resolution mechanisms also has to be applauded.

Strategies to address the chronic problem of legal delays and procedural difficulties are also of fundamental importance. I was appalled, but not surprised, to see in the media coverage of the recent Moura disaster in Queensland that the widows of the victims of the 1986 disaster have yet to receive their compensation—presumably they are common law cases. That is clearly not good enough, and yet there are many defenders of the status quo in the legal system.
right across the spectrum of politics, for some reason which escapes me. The abolition of wigs and gowns, with the exception of gowns for judges, is definitely a step forward, and a good way to move out of the 18th century and into the 20th century.

Finally, I turn to the issue of the electronic media. I may not be quite as strident on the issue as my friend the honourable member for Banks, but I harbour roughly the same reservations that he does. I am concerned that once it is introduced, even with restrictions, it will be impossible to contain, and that the boundaries of media intrusion into the judicial system will be gradually pushed out more and more.

I am particularly concerned about the effect that the electronic media involvement would have on the willingness of reluctant witnesses to give evidence, even with supposed safeguards like a choice about whether or not proceedings should be televised—simple things like a star witness in a very prominent civil trial, for argument’s sake. What implications are going to be read into that person’s refusal to allow televising of his or her evidence? If the person is a public figure, or somebody whose reputation is potentially at stake in giving evidence, then, clearly, implications may be drawn by some parts of the media if he or she opts not to have the testimony televised.

Anybody who has been involved in the legal system will know that people often run into difficulties getting people to voluntarily give evidence to support their case, for a whole variety of reasons, generally fairly legitimate and practical reasons. I feel that allowing the electronic media in to court will only add to that problem and, therefore, create another barrier towards the achievement of a just outcome.

Clearly, the monopolistic nature of our media also creates a problem. It means that there is a real lack of diversity, a real lack of ability of those who in some way suffer at the hands of the electronic media to get alternative coverage of their position that contradicts what is otherwise being presented.

Thirty second grabs, which would clearly be the most dominant or prominent feature of electronic media coverage of legal proceedings, convey a very distorted view, as any politician knows only too well, of what is being said. The capacity for distortion is infinitely greater than the capacity for distortion via the printed media. I do not accept the notion that the electronic media and the print media are exactly the same, and, if the print media are allowed to have access, then the electronic media should have access.

The honourable member for Banks said, based on the Sackville report, that the proceedings of the Chamberlain case, even though the case was a criminal proceeding, would not be open to the media. The basic point remains that the capacity for the media to distort and to sensationalise is so substantial, so extreme, that we would have to have very grave concerns about the implications of opening up the court system to the electronic media.

However, I would acknowledge that the report does indicate some of the reservations that are held. It comes out on the side of allowing greater access to the electronic media. It acknowledges some of the problems and calls for further debate. In spite of those reservations about that issue in particular, I still say that this is an excellent report and I commend the Minister for Justice (Mr Kerr) and the Attorney-General (Mr Lavarch) for pursuing this strategy.

I see this area of reform as a central part of the federal government’s reform agenda. I think we can see the legal system as one of the last great frontiers of micro-economic reform and perhaps more deserving of micro-economic reform than most of the other areas that have been
subject to the blowtorch in recent years. Over the next few years I look forward to this issue becoming central to public debate in this country. I sincerely hope that those members on the other side are able to resist the pressures from their lawyers, and that we are able to resist the pressures from our lawyers, so that we can get some genuine, decent outcomes for the community from this debate.

Mr GIBSON (Moreton) (11.07 a.m.)—I come into this debate not as a lawyer but as one who, thankfully, has had very little contact with the legal system or the justice system. I come into the debate as a law-maker, and as a person who has been honoured by holding the position of member of parliament, to try to ensure that our law system—our system of justice in this country—is fair, reasonable and accessible. In fact, I believe that our current legal system fails on most of those tests in a lot of cases.

I come into this debate as a person who has consistently advocated a very strong view about human rights and about social justice. The combined issues of human rights and social justice were probably my major motivating force for wanting to be in the parliament. The reason I am here, and the reason I am involved in as many issues and debates as I am, is that I believe we have a responsibility to advance and improve access to human rights and social justice for all Australians, regardless of who they are or where they come from.

I believe that the current structure of our legal system is failing to deliver proper human rights to all Australians. By any measure, it is a very difficult and inaccessible system for the majority of Australians. It is a system where people can only get decent access if they have the money to be able to afford it. It is such an adversarial, confrontationist system that a lot of people feel alienated from the whole process of the law and the court system. Because of that, they do not assert their own individual human rights and therefore gain real justice. They feel that the system is contrary to their values as a human being. We have a responsibility as a parliament to ensure that our justice system, our legal system, operates in such a way that all Australians believe that it is a fair, equitable and accessible system that delivers their rights to them.

I would encourage all members to get the transcript of evidence from this morning's Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade. Commissioner Brian Burdekin—in what will probably be his last appearance in this parliament, because his term expires at the end of this year—spoke to the subcommittee on the question of justice. He particularly emphasised the fact that people who may be intellectually disabled or who are suffering from mental illness are not able to access the justice system properly. He also emphasised that a lot of other disadvantaged groups in our community have their rights denied because of the very operation of the justice system. Admittedly, a lot of those disadvantaged groups do get legal aid and financial assistance because of their low income status. However, because of the very nature of the way in which the court system operates, it is difficult for a lot of those people to understand or to be able to participate in such a way that their rights are not denied. I believe we need to be looking at it from that angle.

I agree with most of the comments which the honourable member for Melbourne (Mr Tanner) made, particularly with regard to televising parliament, et cetera, because I do not believe one would get justice by having these show trials on TV. The O.J. Simpson case in the United States emphasises the foolishness of our going down that path. I cannot see how any proper, fair, independent trial could occur in that way. I was in the United States in July when some of the preliminary hearings were occurring, and the case was on television for eight
to 10 hours a day, every day, and on most channels. I just do not see how, through that process, one can then find 12 independent people who have not made any previous value judgments about the case, in order to be able to have a proper court trial with a jury. That is why I certainly support the comments that the member for Melbourne made with regard to televising parliament.

The biggest issue that many Australians face is that they do have an inability to access the justice system. There is an enormous level of disenchantment with the justice system in this country, just as there is amongst Australians a significant level of disenchantment with a lot of their other institutions. There is a deep cynicism about the worthiness and the veracity of the work that is done in a lot of our institutions. Opinion polls show that there is a corrosion of faith in the integrity of some of our social, corporate, economic and political institutions, as well as in our legal ones.

The irresponsibility of the corporate sector that we all faced as a country during the 1980s and through the boom period, when there seemed to be a madness which touched a lot of people in our society, added to that disrepute. I believe that, as members of parliament, we have a responsibility to try to confront and deal with the sources of that cynicism, and to ascertain what the root causes of the problems are, to see if we members of parliament can restructure our institutions and our systems so that they better reflect the values and attitudes of our community.

That is why I am pleased with most of the material that is in the Access to justice report. I do not agree with absolutely everything in the report. I do not know if there would be anybody in the parliament who would agree with everything that is in the report, but there are a lot of things in the report that I think are valuable. The report has brought the system into sharp focus and has enabled us to bring some of those criticisms and general cynicisms back to some sort of specifics and to ask, ‘Where are the specific issues with which we are having problems? What are some ideas on how we can tackle that?’ It has enabled us, as a community, to debate the issues in a rational and reasonable way and to come forward with some suggestions, and that is a very important and positive process for our democracy.

The Chief Justice, Sir Anthony Mason, commented in a recent speech about the disrepute in which some people hold the justice system. He said:

The plain fact is that, in contemporary society, people are not prepared to accept at face value what professional people tell them. That attitude, coupled with the ostensible shortcomings of the legal system, has generated a debate about the legal system which is quite fundamental in its reach.

It would be a grave error for us to dismiss this apparent crisis of confidence as just a figment of the media’s imagination, or as the work of a few people who have particular personal grumbles.

Brian Burdekin said, when he was talking to us this morning, that a fundamental plank of human rights in a free and democratic society is an independent judicial system. But we cannot just have an independent judicial system if most Australians do not actually have access to it, or if they feel that their rights are denied because of the cost or complexity of the system. We believe it is a very important fundamental principle of human rights that we do not just have institutions in place but also have access to those institutions and equity in that access.

I chaired a House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs inquiry that looked into the whole question of access and equity for Aboriginal people across our society. One of the big areas of complaint was the operation of the justice
system. The fact is that most Aboriginal and Islander people get access to legal aid and financial support to go through the court system and yet still have a level of incarceration which is 29 times higher in proportion to their representation in the population. So, although they get legal aid, although they get financial assistance, Aboriginal and Torres Strait Islander people are still not making good progress through the legal system. One cannot say that Aboriginal and Torres Strait Islander people are 29 times more criminal in their behaviour than the rest of Australian society, yet they are being represented in our prison system to that level. Even though we think we have fixed one access question in that we are providing financial assistance, on another level our justice system is certainly denying natural justice to Aboriginal and Torres Strait Islander people.

The deaths in custody report made it clear that Aboriginal people are the ones in our society who are most likely to come into contact with the justice system. When they do come in contact with it they end up in prison to a far greater extent than the rest of Australian society. They also often die in prison or suffer some other tragic consequence.

The position of Aboriginal and Torres Strait Islander peoples in relation to the law and the legal system in Australia was extensively canvassed in the report of the Royal Commission into Aboriginal Deaths in Custody. The picture presented by that report was one of 'deliberate and systematic disempowerment of Aboriginal people, starting with dispossession from their land and proceeding to almost every aspect of their life'. In this process, at least until recently, the law has not always been a protector of Aboriginal people but has rather been used as an instrument of hardship and even oppression.

The Access to Justice Advisory Committee report discussed the tragic effects of the justice system on Aboriginal women. These women are often the victims of domestic violence. There is a call in the report for separate Aboriginal women's services to be established to look after the needs of these women, and I very strongly endorse that call.

I was also heartened by the recognition of this problem in the speech of the Prime Minister (Mr Keating) on 22 August when he said:
The specific problems faced by Aboriginal and Torres Strait Islander women in gaining access to legal aid must be addressed.
He added:
These reforms are fundamental if we are to ensure access to justice for all Australians.
As the advisory committee report noted:
Aboriginal and Torres Strait Islander peoples have had their land taken by Europeans and their culture seriously dislocated under the aegis of the law and women have experienced systematic discrimination in their treatment by the law.
So I certainly welcome the initiatives that are included in this report and the initiative of the Attorney-General (Mr Lavarch) and the Minister for Justice (Mr Kerr) in trying to address some of those issues.

I note the contrast between what the government is doing in this area and what our colleagues in the opposition are proposing. In fact, in the Liberal Party's recently released policy statement, The Things That Matter, there are only a few cursory thoughts pulled together under the banner of access to justice. The statement attributes the barrier to access in the system to the unnecessary cost imposed by governments and their administrations. This is an incredibly simplistic and inaccurate point of view and shows a fundamental misunderstanding of the issues that are involved. Sure, there are issues relating to the
imposition of costs by governments, but there are far more fundamental issues that we need to address in the matter of access to the justice system.

Unlike the coalition, this government has got a commitment to providing innovative and imaginative policy agendas to address these fundamental social issues. We have a long way to go in ensuring that we are protecting the human rights of our Australian citizens. We pride ourselves as a nation on being a very strong protector of human rights and we get embarrassed when international statespersons of the calibre of Pierre Sane, the Secretary-General of Amnesty International, make comments of criticism of Australia. We all say, 'That is not fair. You are not supposed to criticise Australia.' But we are worthy of criticism. I think the justice system is one very good example of where we as a society may have established institutions that on the surface look like we are protecting people's human rights, when the real fact of the matter is that the way in which those things operate denies justice to a lot of people, does not give fair access and equitable access to all Australians and is in fact denying basic human rights for whole sections of our community. That is a fundamental question of human rights that we need to address.

I support the access to justice report in most of its initiatives. I certainly support the need for us as a parliament to take some very strong action to ensure that our justice system is fair, equitable and just. I look forward to the justice statement that the Prime Minister will be delivering later this year as a result of this report.

Mr MARTYN EVANS (Bonython) (11.20 a.m.)—I would like to support the underlying principles behind the Access to justice report and, of course, many of the detailed recommendations that are contained within it. It is indeed a very important and significant milestone in the development of our philosophical approach to this very important question of Access to justice for Australians. As the Attorney-General (Mr Lavarch) recently said when outlining the contents of the access to justice report, the Commonwealth now needs to sit down and very carefully prepare a response to that report, which underlines some very important principles.

The three principles which the Attorney specifically mentioned include, firstly, that all Australians should have equality before the law; secondly, that Australians, regardless of their place of residence, should have similar rights and privileges; and, thirdly, that Australians should have equal access to legal services.

I think that those very important fundamental principles enunciate some very broad positions. It is now a very important task for the Commonwealth as a whole, and indeed the states and the professions, to respond to this report and others like it in the past with some very detailed and clear-cut responses to those broad and generous terms of reference which the Attorney-General has set forward. These kinds of reports in the past have often ended up as very important documents on library shelves. I think there is an important commitment now on behalf of the Commonwealth to ensure that this particular report does not share that fate.

The concept of access to justice covers a very wide variety of topics and I know that honourable members who have preceded me and will follow me in this debate cover many different specific examples within that broad framework. In terms of professional changes, for example, we recently saw the Hilmer report on competition policy outline a number of important areas where the professions can address the issue of competition policy within their own terms of reference. The Hilmer report on competition policy, of course, covered much wider areas than professional services. Indeed, it was a disappointment to me to note in the context of an otherwise very good report that the professions came off quite lightly, if you
will, from the close analysis which Hilmer gave to competition generally in that regard. The professions clearly have a long way to go in some of the states, although one notes with satisfaction the changes which are proposed in some states to ensure that they are adequately competitive and that micro-economic reform is equally applicable to our professional groups and to the community at large.

In some cases the barriers which the professions have erected within their own jurisdictions have some sound and solid basis in the protection of their clients and the consumers, be they medical patients or be they legal clients. Those clearly are provisions which need to be retained in the longer term. But in many cases the micro-economic reform which is required of our professional groups needs to sweep aside or reform some of the longstanding traditions which are more designed to protect the profession than they are to protect the client, and are founded perhaps in government laws which have now long since ceased to exist or in community traditions which have also passed into history. But the professions have retained some of the barriers and technical barriers to entry which are no longer relevant except to improve their share of the community’s wealth.

That is one very important area which we can canvass in this debate. I am sure that the states, which have primary responsibility for professional regulation, will continue to do that over the coming period.

Another important example in access to justice is looking at the availability of resources. It is no good providing a wide range of people with the financial ability and the legal ability to go to the courts to seek the redress of grievances if the courts are so overloaded with work that people are denied access in a reasonable period of time. Justice delayed is justice denied, as the old maxim goes, and that is certainly a reasonable point.

If the court system of our country is overloaded to that point, then clearly it is meaningless to grant people rights of access, to grant them the financial means to engage counsel and to take a case, if the underlying court system will take so long to respond to their request that the matter will have passed somewhat into history by the time they are able to achieve their objective and have their day in court. So I think we have to have a very close look at those areas as well.

That has as much to do with the states as it does with the Commonwealth. One need only look at my own state, South Australia—but it is equally true of many of the others. In their wish to limit revenue expenditure in the 1990s, the states have withheld resources from the courts in a way which has certainly contributed, when combined with the increasingly litigious nature of our society, when combined with the fact that more people now have access to the courts, to produce a result where waiting lists have increased.

The parliaments of the states and the federal parliament have responded by granting the court systems a degree of autonomy, by allowing them to organise their own affairs in many ways and by expecting them to provide efficiencies along the way. The courts have done that to some extent, but certainly the micro-economic reform of the court system has not been enough to generate the kinds of savings which would be required to provide additional resources of a jurisdictional nature which will actually provide a greater throughput of the system, provide more judges and the like, to ensure that people can actually take their case before the courts. So that is another very important aspect of access to justice.

One has to ensure that legislation and the secondary sources which one needs to rely on when discovering just what the law is are also readily available. Even members of the
Commonwealth parliament do not always find it easy to have access to the terms and nature of the legislation which we are amending and considering. It is very difficult to acquire comprehensive Commonwealth and state statutes which are up-to-date. It is even harder to acquire subordinate legislation, regulations, which are equally important in their impact on business and on individuals' lives.

The Commonwealth is making significant efforts in that regard in terms of electronic access to legislation. The Attorney-General has recently announced a proposal whereby subordinate legislation will not be effective unless it is included on the electronic register of subordinate legislation. These are important steps in making the actual text of legislation, up-to-date and corrected, available to those of us in the parliament and in the business community and the public who are able to gain access to that technology and who can afford to pay for it.

That will not necessarily improve access for ordinary citizens unless we make a deliberate effort to ensure that that is the case. One of the ways we can do this is through our public library systems, through other public institutions in the community and through public access systems generally, which provide people with that electronic access. It is certainly the case that electronic access is much cheaper on an economic scale, because once an electronic file has been generated, the distribution of that system is relatively cheap, provided there are others within the system who are prepared to subsidise the original cost of it. That is something which requires very serious attention, because unless members of the public have access to the terms of the law itself, then access to justice is a bit meaningless.

I think there are a number of other aspects which we need to consider in that. A specific example that I draw to the attention of the Main Committee is that justice is not simply confined to the court system: the courts are not the only process by which the community can achieve justice for itself and its constituent members. For example, in South Australia we recently enacted new juvenile justice legislation. It is important and far-reaching in that it provides access to justice for the community, whether it is the defendant or the victim of crime, or whether it is the community as a whole wanting to ensure that justice is seen to be done.

That new system of juvenile justice which was introduced during the period of the last Labor administration in South Australia, and which took effect on 1 January this year, has been successful. One of the reasons for its success is its simplicity and its local approach to provision of justice. It does not rely on a court system which, under the old juvenile justice legislation, would take anywhere between six months and 12 months to bring an offender before it. Given that most young people have short attention spans in the context of their previous offences, and do not wish to be reminded of them, the reality is that by the time many of them come before the courts they have all but forgotten the purpose for which they are there. That is hardly justice for the defendant and it is certainly not justice for the victim.

The new system provides a very much different approach. It ensures that at the local level a police officer is able to respond to an offence by a young person. Where the young person admits that offence on the spot, the police are able to negotiate with the family for the provision of quite substantial consequences for that offence. Those consequences can include 75 hours of community service, recompense to the victim for the actual cost of any damage, written apologies to the victim and a whole variety of similar responses which would occur within hours or a day or so of the crime taking place. The whole matter can be resolved within a few weeks.
These provisions ensure that the young person is very conscious of the outcome of his or her criminal behaviour. It ensures that the victim of the crime sees that there were some consequences for that behaviour. It also ensures that police officers spend more time detecting and resolving criminal activity amongst young people rather than spending time preparing documentation and reports for court appearances which, at the end of the day, result in almost no consequences. The provisions also act as a positive disincentive for the police force to be involved in this kind of activity. That is why I think police officers at the individual level have very much welcomed this outcome.

Where the offence is more serious, the new system provides for the police and the Department for Family and Community Services to convene a family group conference which involves all members of the family and extended family of the offender. It also includes the victims, if they wish to be involved. That group conference can take place within a fortnight of the offence being detected. The family as a whole—with the provision of a veto by the police and the family and community services department, to ensure the interests of the community and the victim are protected—can impose consequences and penalties on the young person which are quite substantial. They can include up to 300 hours of community service and, again, recompense, apology and repayment to the victim. These are all things that have a very real and immediate impact on the young person concerned. They also have a very helpful and healing effect on the victims of the crime. The results of that are very positive for all concerned. I think it is a very important step forward.

Where the offence is particularly serious, we still have recourse to the youth court, which is the ultimate sanction, as it must always be. However, now that the court is free of many of the smaller matters which can be resolved locally, personally and directly by the police and by the family group conference, the court is able to respond to the more serious offences much faster. Also, because the court is only dealing with the more serious offences, those matters can be resolved much more to the satisfaction of the parties concerned. Obviously, where the offences are repeated and very serious, only the court process will suffice. It is a very good process, providing it is speedy, direct and immediate and the young offender is able to relate it very closely to his or her criminal behaviour.

When one is looking at access to justice, one needs to look at alternative mechanisms, be they mediation or dispute resolution processes or be they the kind of direct and immediate process which I have outlined in the context of juvenile justice in South Australia.

While I cite that as a particular example of law reform in South Australia, I think it does have broader implications in terms of access to justice because justice does not have to come only from the court system. It can come from alternative mechanisms which need not necessarily be an arbitrating mechanism or a mediation mechanism of community law reform. It can come from the more formal and direct processes of individual response by police officers or by family group conferences.

While it is more immediately applicable to young people, that kind of approach also has the kind of alternative and creative and lateral thinking which needs to take place in Australia if we are to tackle the overall question of access to justice for all Australians. While I have only had the chance today to cover a number of areas within that topic, I think this debate is a very useful one for the parliament and I hope the debate and the report will be translated into effective action when the government responds later this year.
Mr WILLIAMS (Tangney) (11.37 a.m.)—Mr Deputy Speaker, I want to offer a few broadly based comments on this subject which, while it is important, is not very well focused, I think, in the present context. The task given to the Access to Justice Advisory Committee, or AJAC as it is described in some circles, was a very difficult one. It was simply asked to take away a number of reports that had been prepared on the legal profession, the justice system and related subjects over quite a number of years and, using them as a basis, to see whether proposals for reform could be brought up.

The result really is a set of recommendations which are discrete and, to some considerable extent, unrelated. We have, for example, a set of recommendations on court dress. How court dress improves access to justice is not immediately obvious. Whether a judge is or is not wearing a wig or a gown is not likely to have a significant impact on the accessibility of the court. We have other subjects such as contingency fees, the cost of legal services and legal procedures—whether alternative dispute resolution systems are better than normal litigation. We have more relevant subjects such as the accessibility of legislation and the availability of legal services to members of the public.

My apprehension is that the Attorney-General (Mr Lavarch) and the Minister for Justice (Mr Kerr), having enlisted the aid of the Prime Minister (Mr Keating), are, as a trio, elevating to unrealistic levels the public expectation of what will come out of this report. I suspect that, in the end, this particularly eclectic report, comprised basically of updates of recommendations contained in earlier reports, will not fulfil the expectations of the ministers.

I do not wish to condemn the report. I think that, in some respects, it is quite useful. However, it is not based on expert studies by expert groups in confined areas. To me, the membership of the committee was a little unusual. I could not identify one person on the committee whom I would recognise as a mainstream lawyer.

There is quite a range of skills represented. I would not suggest that anyone of the people on the committee was an inappropriate person to be on the committee, but the committee's work was done without a person who is currently in practice as an ordinary practitioner being involved with it. There is plenty of representation of people formerly in practice but most of them have academic or public sector backgrounds.

Some of the sections of the report—again this not a serious criticism—are dealt with quite superficially. That was inevitable, in view of the task the committee was given. It was told to read other people's reports and come up with a set of recommendations. Some of the chapters are very useful summaries of the present situation, with possible recommendations for reform. They are particularly useful where they represent an updating of previous, more detailed work by an expert committee.

The subject matter is quite diverse, so there is something like a scatter-gun approach in dealing with a subject as intangible as justice. I will comment on a few matters. There are significant parts of the report which deal with reform of the legal profession. That is a subject that the then Mr Sackville QC, formerly Professor Sackville and now Mr Justice Sackville, had had a close involvement with. He was Chairman of the New South Wales Law Reform Commission in the early 1980s when that commission conducted a very extensive inquiry into the profession in New South Wales.

It is a common perception that restrictive work practices in the legal profession are a significant hindrance to access to justice. I accept that there are unjustifiable work practices engaged in by some parts of the legal profession. I would identify there, principally, the
Queensland, New South Wales and Victorian bars. Removal of those work practices is likely to have almost no effect whatever on accessibility by the ordinary citizen to legal services or the cost of those legal services.

Not long prior to the commissioning of this report, the Trade Practices Commission had published a draft report and I think that, subsequent to the commissioning and prior to the delivery of the AJAC report, the Trade Practices Commission delivered a final report on its study of the legal profession. It was a study done from an economic point of view by people who are principally economists. It said that, applying standard, orthodox economic principles, there are some things in the structure of the legal profession that should not be there. It said it does not provide the most economic service. That may be right if one takes an economic point of view, but it is not the only point of view. That study has to be seen in the light of who did it and why it was done.

When we talk about things such as whether a client can go directly to a barrister rather than to a solicitor—one of the work practices focused on by the Trade Practices Commission—we are talking about a system that has developed over centuries. It may be that in some situations that is not the most economic way of dealing with matters, but it has been proven in the light of public interest to have been a most effective means of delivery of expert services in particular areas. One should not lightly reject, simply on economic grounds, a system that has grown up over the years. I do not want to focus on restrictive work practices in the legal profession. That is a discrete subject in itself and I think it has negligible relevance to the accessibility by the citizen to legal services and to a proper service from the administration of justice system.

The fact of the matter is that the profession itself has undertaken major reforms in the last 10 or 20 years. The criticisms that are made by the Trade Practices Commission and the sorts of suggestions that are made by the Sackville committee really have little relevance in large parts of Australia. I speak specifically of South Australia, Western Australia, Tasmania and the Northern Territory. The only places where the restrictive work practices are significant are in the three eastern seaboard states. There, there have been major reforms even in recent months.

There is a serious risk in seeking to transform a profession into a business. Economists applying economic principles would have services delivered as economically and as efficiently as practicable. But legal services and medical services and dental services, to take three services delivered by traditional professions, are not readily delivered effectively in a business environment. There are very undesirable effects if one requires a lawyer to simply be a business trying to deliver a service at the least cost. The standards that will be applied in an efficient mass production business, for example, in workers compensation or personal injury litigation, may have significant impact on the results that are obtained for individual people. In fact, there is evidence to suggest that already those sorts of pressures have had a deleterious effect on the delivery of professional services in a professional manner.

At a broader level, again focusing on litigation, the House of Representatives is expected to debate next week the evidence bill, which has been an egg a long time in the laying. It originated in a reference given to the Australian Law Reform Commission as long ago as the 1970s by, I think, the then Attorney-General, former Senator Peter Durack QC. The Australian Law Reform Commission did some very thorough work over quite a number of years and produced quite a number of reports. Since then it has been the subject of endless debate at
SCAG and at other forums. It continues even to this day to be a subject of debate between the Commonwealth and New South Wales, New South Wales having the carriage of the production of a complementary state evidence bill.

If we are looking to make justice more accessible, there may be some benefit in having uniform evidence laws across the country. It would mean that it would be easier for legal practitioners growing up in one jurisdiction to practise in another. It would also mean that there would be less need for production of different statutes in different forms and the text used by lawyers would be much more uniform.

A similar argument can be mounted that there is no real need for each supreme court and the Federal Court to have similar but differing rules, each district or county court to have similar but differing rules in each jurisdiction and magistrates courts to have either no rules or an absolute plethora of them. There may again be some economy in having some sort of uniformity. There is as yet no concrete move towards the establishment of a uniform regime in relation to court rules. The evidence is not totally convincing because it really only involves a peripheral effect across the board. It does not affect the manner in which legal services will be delivered to an individual citizen, which seems to be the major problem.

Of much greater importance, I suspect, is the statute accessibility scheme contemplated in the AJAC report. What would be even better would be a broadly based statute simplification and eradication scheme. We have huge volumes of statutes passed by parliaments across the country every year. In many cases they could be in much simpler, much shorter form. The continuing need for statutes to be on a statute book is not always evident. We need an ongoing program across the nation to help eliminate unnecessary pages in our statute books.

The litigious process has as one of its major problems the provision of legal aid. This is probably one of the most important chapters in the AJAC report. What is needed, I suspect, is a great deal more money spent in an economic and efficient manner. How that is to be done I doubt is told us by the AJAC committee. In any event, we have not seen significant willingness on the part of the government to provide further funds for legal aid. (Time expired)

Mr Stephen Smith (Perth) (11.51 a.m.)—I am always pleased to hear the contributions from the honourable member for Tangney (Mr Williams). I do not always necessarily agree, but they are always learned and erudite. I am looking forward to seeing from him a more expansive analysis of yesterday's High Court decision on defamation than his analysis on the front page of today's *Sydney Morning Herald*. That is not to say that that analysis is wrong, but I am looking forward to his more complete analysis on that particular matter.

I am very pleased to take part in this debate, taking note of the *Access to justice* report. I do so because this was one of the issues that I referred to in my first speech in the parliament in May 1993. I made the following point:

... my initial life experience was to train and then practise as a lawyer. Practising as a lawyer put me in a special position. I became a member of Australia's second most powerful trade union, a law society—second, of course, to the AMA. That experience causes me to now focus on a serious national issue: the growing lack of access to justice.

I went on to say:

Justice can be denied simply by the array of resources marshalled against one individual or by the costs required to jump endless procedural or litigious hurdles. The attempt at a solution to this cannot be piecemeal. A national policy effort is now required to meet this access problem.
Although I do not claim any cause and effect, rather coincidence, I am very pleased to see that that national policy effort is now emerging as a result of the release of the access to justice action plan.

The philosophy of the government behind the Access to justice report is summarised in a couple of speeches by the Attorney-General (Mr Lavarch) and by the Prime Minister (Mr Keating). On the release of the report, Access to justice: an action plan, in May, the Attorney-General said:

I believe that the will does exist amongst Australian governments, the judiciary, lawyers and certainly the broader community to improve our legal systems and tackle the challenge of fairer, faster and more affordable justice.

That is really the focus of the Access to justice report—'fairer, faster and more affordable justice'. The Attorney went on to refer to the government's commitment to a fair, just and accessible legal system. He concluded his speech:

The Australian people want legal institutions that serve the public interest as fairly and effectively as possible. They are entitled to nothing less.

As the member for Tangney said, these are lofty ambitions. I have more confidence than he that these things can actually be met. The Attorney-General certainly does not underestimate the difficulty of the task. In a speech to the Law Institute of Victoria on 3 August this year, he said:

... reform is not an end in itself, but must be weighed up against the test of whether it will make justice fairer, more affordable and more quickly delivered ... there are no miraculous solutions here. A system which respects rights, values due process and fairness will almost by necessity be expensive to deliver. The real test is whether there is unnecessary cost or better ways to achieve the desired outcome.

That reflects the government's approach, the philosophy behind the report and the government's efforts to implement it.

I will refer very quickly to the Justice Forum in Parliament House, Canberra on 22 August 1994. The Prime Minister said:

With my firm support, the Attorney-General and the Minister for Justice are identifying the barriers to accessible justice and developing a major legal reform package to make access to justice a reality for all Australians.

Let me say a few words about those areas where I think we can really make a difference.

A major barrier to justice is its cost. The cost of justice excludes most Australians from using a lawyer or the courts to enforce or defend their rights. That's not acceptable.

The Prime Minister then went on to refer to a range of mechanisms that can be used to remove or reduce that cost barrier. He referred to the freeing up of the legal market; reform of the legal profession; the extension of the Trade Practices Act to introduce competition to the legal profession; lifting restrictions on advertising by lawyers to ensure that consumers have the best possible information on services they need; improving regulations in respect of disclosure of fees; and the ability to opt for contingency fees. The Prime Minister reiterated in that speech the government's commitment to accessible justice, affordable justice and pursuing the Access to justice report as a major national legal reform package.

In very many respects, the Access to justice report focuses on the entry points to justice. But it is also an access to justice issue to focus on the exit points. What I mean by 'exit
points’ is whether an individual, a litigant or a consumer has an effective remedy. We can say that access to justice is denied at the exit point where there is no effective remedy, or a remedy which cannot be effectively enforced. One such example has recently been drawn to the attention of the Joint Statutory Committee on Corporations and Securities, which I have the good fortune to chair.

In a report to the parliament in June of this year, the committee reported on abuse of the corporate form. I refer to part of that report by the committee at that time. The joint parliamentary committee had this to say about abuse of the corporate form. It was referring to the annual report of the Australian Securities Commission when it said:

The Annual Report states that the ASC has launched a surveillance program targeting directors who are repeatedly involved in company failures. While this program may be of some benefit in preventing repeated abuses of the corporate form it is basically reactive. It is understandably unlikely to prevent abuses of the type that have recently been drawn to the Committee’s attention.

The committee has received representations regarding abuse of the corporate form in the textile industry. These representations are that businesses have been structured so that the employees of the business have been employed by a company with limited assets while assets of the business are held by a separate company. If these businesses cease the company employing group employees have no assets with which to pay accumulated holiday pay, long service leave or redundancy payments and are placed in liquidations. Principals of the business retain control of its assets in a separate company where they are not accessible to employees or creditors.

Representations have been made to the Committee that a NSW group of companies, the Gazal group, had structured its businesses in this way and that companies in the Gazal group have failed to pay holiday, long service leave and redundancy payments to employees.

As well, according to press reports, the Textile, Clothing and Footwear Union has initiated legal action against the directors of a Victorian company, Jeanswear Australia, which went into liquidation a week before Christmas 1993 with staff being told there was no money available for holiday pay, long service leave and other entitlements.

The Committee is concerned that the corporate form, while continuing to provide a simple and effective business vehicle, can be deliberately abused so as to avoid obligations to employees and creditors. The Committee will actively pursue the issue of abuse of the corporate form. The Committee will pursue with the Australian Securities Commission the scope and effectiveness of its monitoring program and will, if necessary, recommend amendments to the Corporations Law to prevent this type of abuse.

Now one of the items that came before the committee in the course of the preparation of its report was a letter from the Chairman of the Australian Securities Commission to my predecessor as Chairman of the Joint Committee on Corporations and Securities, Senator Beahan, now the President of the Senate.

On 17 January 1994, in a letter addressed to Senator Beahan as chairman of the committee, headed ‘Gazal Group of Companies’, the Chairman of the Australian Securities Commission had this to say—and he was referring to a specific inquiry that the committee had made in respect of one of the Gazal group of companies, a company by the name of Caldaden. In the chairman’s letter it is stated:

The ASC has concluded that there are a number of gaps in the available evidence due to the destruction of most of Caldaden’s records in a fire at the premises where Caldaden conducted business. The ASC further concluded that difficulties would also be caused by the absence from the jurisdiction of Mr and Mrs Gazal who now are apparently living permanently in Ryhad, Saudi Arabia.

The chairman went on to say:
The general issue which you raise is more difficult. Whether it is appropriate to characterise this structure as intended to produce the result that employees are disadvantaged, may be open to argument, but it does seem clear that the structure has had that effect.

Abuse of the corporate form is dealt with either by recovery action against officers for unpaid liabilities of the company incurred through insolvent trading, or by disqualification proceedings against them. But in either case, proof is required, and a complete lack of documentation is a formidable obstacle.

The complete lack of documentation in the case of Caldaden, one of the Gazal group of companies, was as a result of fire at the premises where Caldaden conducted business. Talking about fire and ashes and what might remain causes me to refer to a very good report of the Law Reform Committee of the Parliament of Victoria, called Curbing the phoenix company. This particular report has a range of useful observations to make in respect of this area of activity, and I quote from chapters 1 and 2 of it. This very clearly illustrates the type of problem that the Joint Statutory Committee on Corporations and Securities referred to in its report to the parliament in June, and also illustrates the general issue referred to by the chairman of the ASC in his letter to the committee in January of this year.

The Law Reform Committee's report reads, in part:

1.1 The problem is the 'phoenix' company. A limited liability company fails, unable to pay its debts to creditors, employees and the State. At the same time, or soon afterwards, the same business rises from the ashes with the same directors, under the guise of the new limited liability company, but disclaiming any responsibility for the debts of the previous company.

1.3 Two principal issues arise from the terms of reference. In what circumstances should those responsible for an insolvent company failure be prevented from managing companies in the future? In what circumstances should the directors of an insolvent company be personally liable for its debts?

1.4 Behind these two questions lies a further issue. What measures can be taken to reduce the harm to individuals, small business and the community by company insolvencies of a dubious nature?

That is a very clear reference to the sorts of dubious insolvencies that we find in the Gazal group of companies and to the sorts of grave harm done to the employees of companies in that group. The report goes on in chapter 2 to say:

2.1.1 The social problem which gives rise to the Committee's Inquiry is that of companies which fail, unable to pay their debts and their obligations to their employees, but which then reappear in another corporate guise, with substantially the same management.

2.1.2 In these circumstances it appears to the creditors of the first entity that a fraud has been committed, in that the directors have misused the shield of limited liability and are continuing trading but with their debts repudiated. All the burden of failure is borne by the creditors, and little or none by the directors whose management is seen as having led to the failure.

2.1.3 There seem to be two principal approaches to dealing with the perceived wrong in this situation. One is to seek to prevent the directors concerned from doing it again; the Corporations Law provides for disqualification of directors in certain circumstances, and sets penalties for contravening the disqualification. The other is to make sure that they do not personally benefit at the expense of the creditors; this involves 'lifting the corporate veil' to provide the creditors with access to the directors' personal assets to satisfy the debts.

Page 7 of the report refers expressly to the sort of Gazal issue that I have referred to. It states:

2.1.13 ... the Committee was told of a practice of using small, financially weak companies as a device for the hiring of labour. It appears that the true employer gains the advantage that the company is in law regarded as the employer, so that liabilities which ought to rest with the true employer (eg responsibility for redundancy payments, long service leave payments and award entitlements) are not enforceable against it. Even though the true employer exerts considerable influence over the workplace and terms and
conditions of employment, the worker's security of employment and entitlements are entirely dependent upon the whim of the smaller companies which, in turn, are controlled by the true employer. It is apparently a common practice, when workers press for better entitlements, for the smaller company to wind up, pleading economic incapacity, leaving workers with no redress.

The report said earlier:

2.1.12 The Committee was told of several cases where employees are deprived of legal rights by the device of transmission annually of their employment from one limited liability company to another. This denies continuity of employment and thus deprives employees of rights to long service leave and retrenchment or severance pay. It appears there are also cases where companies cease to trade where no (or no adequate) provision has been paid to workers of their accrued entitlements and severance pay.

The recommendation of this report is that those sorts of matters be referred to the Ministerial Council of Attorney-Generals for consideration. I think that is essential. That is also the view of the Joint Statutory Committee on Corporations and Securities. There is no question that this is an access to justice point, ensuring that the corporate form cannot be abused so that individual employees of corporations are left with no adequate remedy. The ability of ordinary people affected by the abuse of the corporate form to pursue remedies is severely limited by the protection which continues to be provided by the Corporations Law in this area.

Debate (on motion by Mr Nehl) adjourned.

Main Committee adjourned at 12.07 p.m.
The following answers to questions were circulated:

Department of Primary Industries and Energy: Electronic Information
(Question No. 1363)

Mr Latham asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 23 August 1994:

(1) What services does the Minister’s Department, or government enterprises for which the Minister has portfolio responsibility, provide, or will it provide, using public access points for the distribution of electronic information in regional, district or suburban centres around Australia.

(2) How will each service referred to in part (1) be accommodated and operated.

(3) What consideration has been given to using Australia’s extensive network of municipal libraries to house the services and foster public access.

Mr Beddall—The Minister for Primary Industries and Energy has provided the following answer to the honourable member’s question: (1) Within the Department of Primary Industries and Energy, two areas provide, or will provide, information in electronic format through public access points. These are Rural Division, Headquarters Group, and the Bureau of Resource Sciences.

In addition, the Department is currently examining options for making Departmental information available through AARNet and the Internet.

Several other services are provided, or currently being investigated, by a number of government enterprises for which the Minister has portfolio responsibility.

DEPARTMENTAL INFORMATION SERVICES

Rural Division, Headquarters Group, administers three programs relevant to the question: the Telecentres Program, CountryLink and the associated Australian Country Information Service (ACIS). These are developmental programs specifically designed to address the information needs of Australia’s rural and remote communities. They do not provide services for urban or metropolitan communities.

Telecentres are multipurpose projects designed to exploit the use of modern communications and information technologies to:

a. expand opportunities for employment and enterprise,

b. increase the competence and confidence of the broad community in the use of such resources, and

c. assist in the delivery of services including education and training.

To date 31 Telecentres have been funded across Australia under the Commonwealth’s program and about 11 additional sites have been funded in Western Australia under a separate but similar WA State Government program.

At an investigative level only, a number of areas within the Department, and several of the portfolio’s government enterprises, are also participating in the Telecentre Program.

The CountryLink program aims to improve the access of Australians who live outside of capital cities to the range of Commonwealth Government services and programs. The core service provided by the CountryLink program is the toll free answer line which can be contacted by phoning 008 026 222 between 9AM and 6PM Monday to Friday. CountryLink also produces an annual update of the Rural Book, a 200 page guide to Commonwealth Government services and programs provided free of charge (on request) to non-metropolitan Australians.

The ACIS program is designed to provide a community level extension of the Department’s CountryLink information service. So far there have been 21 ACIS sites funded across the country.

The Telecentres Program is undergoing evaluation and ACIS will be evaluated next year. The evaluations will assist Government in making decisions on how it can best help in meeting the future information needs of rural communities.

The Bureau of Resource Sciences provides access, via a dialup service, to the National Directory of Australian Resources database.

OTHER PORTFOLIO INFORMATION SERVICES

The Grains Research and Development Corporation, Rural Industries Research and Development Corporation (RIRDC), Honeybee Research and
Development Council, Land and Water Research and Development Corporation (LWRDC), Cotton Research and Development Corporation, Horticultural Research and Development Corporation, all provide information on several hundred research projects through the Australian Rural Research in Progress (ARRIP) database.

RIRDC also provides information to the Australian Bibliography of Agriculture public access database and LWRDC makes information available through its own database Streamline which is accessed via Ozline on the Australian Bibliographic Network.

The Australian Meat and Livestock Corporation has a comprehensive electronic market intelligence service provided through the CALM Services communication system. This national system utilises the public telephone network. Access to the system requires a personal computer and a modem.

The Energy Research and Development Corporation is currently examining the feasibility of the development of a database as part of its Energy Technology Information Program (ETIP). The database will provide information to the community supporting energy research and development in Australia. As the feasibility evaluation is still in its formative stages, a decision on distribution of the information it will contain has yet to be made.

The Pig Research and Development Corporation has funded a project for the 94-95 financial year to establish a pilot scheme whereby producers, advisers, and ultimately, others can communicate electronically.

The Australian Fisheries Management Authority is currently investigating a number of possible future applications where information may be provided to the public in electronic format. These are a Register of quota holdings in the South East Fishery, Registers of Statutory Fishing Rights, and Catch data from Japanese longline vessels.

As part of its domestic promotion program, the Australian Dairy Corporation provides educational, health and nutrition material in electronic form through computer software packages such as Farming the Dairy Good Way and Healthy Habits. This material is distributed to a wide range of schools throughout Australia.

(2) DEPARTMENTAL INFORMATION SERVICES

Both the Telecentres and ACIS programs administered by Rural Division, Headquarters Group, are based on the community 'self help' model. This means rural communities must take the initiative in applying for the projects and developing and implementing an appropriate management plan.

For Telecentres the Commonwealth provides funding assistance for set up and initial operating expenses. Telecentres are expected to become financially self-sufficient within 24 months. ACIS sites provide a Departmental service and subject to the success of the program are expected to be funded on a continuing basis.

The CountryLink program is accommodated and operated from within the Department.

The Bureau of Resource Sciences NDAR database is accommodated and operated by the National Information Resource Centre in the Bureau.

OTHER PORTFOLIO INFORMATION SERVICES

The ARRIP database, used by many of the Research and Development Corporations for the distribution of information, is carried on the AUSTRALIS network. This is administered by CSIRO on behalf of the Standing Committee on Agriculture and Resource Management. It is also made available on CD-ROM.

The Australian Fisheries Management Authority envisage that the services they are investigating will be provided by a dial up bulletin board which will operate on a personal computer housed in AFMA's Canberra office. The information files will be updated from the corporate database.

At this stage, several of the Research & Development Corporations are cooperating with the expectation that they will have a common service to offer client groups. It is expected that there will be an overlap of interests between several areas, for example, grain and pig producers. Currently, they are investigating the feasibility of developing common electronic frameworks. Information specialists have indicated to several of the Research and Development Corporations that CD-ROM technology may be more appropriate than online bulletin boards or network services. In this event, the electronic material will be available for sale in exactly the same way that the printed matter is now.

(3) DEPARTMENTAL INFORMATION SERVICES

Although administered by the Rural Division, Headquarters Group, it is the community's responsibility to decide whether it is appropriate to consolidate the Telecentre and/or ACIS project with a municipal library site or with other services for example business enterprise centres, arts and crafts society or skillshare facilities. So far there have been examples of all these arrangements. The only program requirement is that the decision should be practical and show evidence of broadbased community support. In some cases Telecentre and ACIS projects are established on a stand-alone basis, particularly where there is no pre-existing service or municipal infrastructure which could assist in fostering the project. Some local governments are seeking to achieve economies of scale by consoli-
dating community services onto a single site. Such initiatives are welcomed, particularly when they result in improved access to the services being sought by rural communities under the ACIS and Telecentres programs.

Access to the NDAR database administered from the Bureau of Resource Sciences, is available to anyone, including municipal libraries, with the appropriate equipment (a modem and computer).

OTHER PORTFOLIO INFORMATION SERVICES

Libraries within several of the government enterprises under the Minister's portfolio maintain strong links, both formal and informal, with the municipal and corporate library networks. They exchange electronic and printed data, particularly with school and municipal libraries in the many rural communities.

Other organisations, such as the Energy Research and Development Corporation, will be considering the feasibility of providing access to proposed services through the public library system’s dial-up facilities.

CD-ROM and online search services are available through most Australian public libraries, and provide access to the portfolio information available on the ARRRIP database.

Several organisations target specific interest groups such as primary and secondary schools, shareholders, and provision of services on a cost recovery basis. For example, the software packages provided by the Australian Dairy Corporation to interested primary and secondary schools, the delivery of the CALM service by the Australian Meat and Livestock Corporation which focuses on point to point rural delivery. Given the specific target audiences, these organisation have no plans at present to utilise the network of municipal libraries.

Department of Industry, Science and Technology: Grants

(Question No. 1410)

Mr Richard Evans asked the Minister representing the Minister for Industry, Science and Technology, upon notice, on 24 August 1994:

(1) How many grants did the Minister’s Department make to individuals or organisations in the electoral division of Cowan in (a) 1992-93 and (b) 1993-94.

(2) With respect to each grant made in (a) 1992-93 and (b) 1993-94,

(i) under what program was it made;

(ii) what was its value; and,

(iii) what was the name of the recipient.

Mr Lee—The Minister for Industry, Science and Technology has provided the following answer to the honorable member’s question:

(1)(a) One grant was made to an organisation in the electoral division of Cowan in the 1992-93 financial year.

(b) Nil

(2)(i) This grant was a Discretionary Grant from the Industry Research and Development Board under the Industry Innovation Program

(ii) $138,150.00

(iii) Modron Pty Ltd

GATT: Federal Clause

(Question No. 1421)

Mr Hollis asked the Minister representing the Minister for Trade, upon notice, on 24 August 1994:

(1) Did the Minister for Trade and Overseas Development state in his answer to question No. 854 (Hansard, 21 June 1991, page 5344) that (a) Australia had not sought to defend the GATT inconsistent actions of its subcentral authorities under Article XXIV:12 since 1981 and (b) Canada was the only contracting party which had sought to do so since 1981.

(2) What will be the position of subcentral authorities as a result of the negotiations at Marrakesh on 15 April 1994.

Mr Bilney—The Minister for Trade has provided the following answer to the honourable member’s question:

(1) (a) I can confirm that the Minister for Trade and Overseas Development stated that no actions by Australia’s subcentral authorities had been subject to examination in a GATT panel established under the GATT dispute settlement procedures, and consequently that the issue of Australia seeking to defend these actions in a GATT panel had not arisen. There has been no change in the situation since the Minister for Trade and Overseas Development provided that answer.

(b) I can confirm that the Minister for Trade and Overseas Development stated that Canada was the only GATT contracting party which had sought to defend the otherwise GATT inconsistent actions of its subcentral authorities under Article XXIV:12 in a GATT panel. Since the Minister provided that answer on 21 June 1991 there have been two additional panels in which contracting parties have sought to defend such actions under Article XXIV:12. The contracting parties involved have been Canada and the United States.
The Uruguay Round Agreements signed at Marrakesh on 15 April 1994 have confirmed the existing GATT provisions in Article XXIV:12 requiring a member country to take such reasonable measures as may be available to it to ensure observance of the provisions of the GATT by regional and local governments and authorities within its territory.

Commonwealth Task Force on Asset Sales: ANL Ltd
(Question No. 1458)

Mr Peter Morris asked the Minister for Finance, upon notice, on 31 August 1994:

(1) Further to his predecessor's refusal to answer question No.712 (Hansard, 22 December 1993, page 4648), what information is he able to provide in relation to the composition of the Commonwealth Task Force on Asset Sales which has been involved in examining the affairs of the Australian National Line (ANL).

(2) What was the (a) name and (b) period of involvement with the examination of ANL of each member of the task force.

(3) What was the cost of the task force's operations in each year it was involved in examining ANL.

Mr Beazley—The answer to the honourable member's question is as follows:

(1) The composition of the Task Force on Asset Sale B on 22 August 1994 was:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEB Level 2</td>
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<tr>
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<tr>
<td>SO Gr A</td>
<td>1</td>
</tr>
<tr>
<td>SO Gr B</td>
<td>6</td>
</tr>
<tr>
<td>SO Gr C</td>
<td>4</td>
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<td>ASO 6</td>
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</tr>
<tr>
<td>ASO 2</td>
<td>2*</td>
</tr>
<tr>
<td>GAA</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22</strong></td>
</tr>
</tbody>
</table>

* One ASO 2 was part-time

At 22 August this year there was a team of five officers within the Task Force dedicated to work on ANL, comprising:

- Mr R. Hogan—SO Gr B
- Mr D. Owen—SO Gr B
- Mr G. Schmidt—SO Gr C
- Ms J. Mansbridge—ASO 6
- Mr M. Carrick—ASO 6

Their work was oversighted by an SEB Level 1 (Mr K. Bills) and SEB Level 2 (Mr R. Smith) officer, both of whom had responsibilities over other sales, but who had significant daily involvement with the team.

The period of involvement of these seven people in working on ANL ranged from one month to two years.

(3) The cost of the task force's operations in each year it was involved in examining ANL was:

<table>
<thead>
<tr>
<th>Year</th>
<th>Task Force A</th>
<th>Task Force B</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991-92</td>
<td>$3,473,634</td>
<td>N/A</td>
</tr>
<tr>
<td>1992-93</td>
<td>N/A</td>
<td>$2,947,000</td>
</tr>
<tr>
<td>1993-94</td>
<td>N/A</td>
<td>$11,034,212</td>
</tr>
<tr>
<td>July-August 1994</td>
<td>N/A</td>
<td>$1,703,833</td>
</tr>
</tbody>
</table>

It should be noted that the ANL Sale Team was located in Task Force A in 1991-92 (Task Force B did not exist), but that it has been subsequently located in Task Force B.

Commonwealth Task Force on Asset Sales: ANL Ltd
(Question No. 1460)

Mr Peter Morris asked the Minister for Finance, upon notice, on 31 August 1994:

(1) What costs, including staff wages and overheads, were incurred in the operations of Commonwealth Task Forces on Asset Sales A and B in (a) 1992-93 and (b) 1993-94.

(2) Was the examination of the affairs of the Australian National Line the principal work undertaken by Task Force B.

Mr Beazley—The answer to the honourable member's question is as follows:

(1) Costs, including staff wages and overheads, incurred in the operations of Commonwealth Task Forces on Asset Sales A and B in (a) 1992-93 and (b) 1993-94 were as follows:
Year | Task Force A | Task Force B
--- | --- | ---
1992-93 | $7,494,606 | $2,947,000
1993-94 | $25,385,744 | $11,034,212

(2) No. For example, in 1993/94 The Task Force on Asset Sales B also had responsibility for the sales of CSL Limited, the Moomba-Sydney Gas Pipeline System and AeroSpace Technologies Australia Limited (ASTA).

**Captain Cook Jet, Canberra**

(Question No. 1463)

Mr Connolly asked the Minister for Housing and Regional Development, upon notice, on 1 September 1994:

(1) What (a) was the original budget for and (b) is the latest estimate of the cost of the restoration of the Captain Cook Jet in Lake Burley Griffin, Canberra.

(2) What sums are being paid in connection with the restoration.

(3) To whom and why are the sums being paid.

Mr Howe—The answer to the honourable member’s question is as follows:

(1) (a) A cost estimate of $478,000 prepared in 1993 by the National Capital Planning Authority (NCPA) was based on a report prepared by the Snowy Mountains Engineering Corporation Ltd in 1991. This cost included pipe replacement and repair, repairs to structural concrete and replacement of nozzle flow straighteners.

(b) The latest construction cost estimate prepared by Sinclair Knight Merz in June 1994 is for a total of $936,000. This cost estimate reflects a major change in the scope of works for the project from the original cost estimate. The 1994 costing includes:

- main pipeline replacement
- civil structures (underground pump house to be brought up to Occupational Health and Safety and other safety standards)
- mechanical equipment
- electrical instrumentation (replacing computer control panel, plus interactive display for public use in the National Capital Exhibition at Regatta Point, Canberra.

(2) 1993/94 $65,289
1994/95 $650,000
1995/96 remainder of works to be completed within total project construction cost estimate of $936,000 as outlined in 1(b). Construction supervi-

sion is expected to cost an additional $30,000 during 1995/96.

(3) During the 1993/94 financial year, the following sums were paid in connection with the restoration:

(i) $23,998 to Gray Diving Services for fabrication and installation/replacement of stainless steel screens to the intake tunnels;

(ii) $30,086 to Sinclair Knight Merz for production of investigation report on the condition of the Jet recommending options for restoration;

(iii) $5,705 to the ACT Electricity and Water Engineering Services for technical assistance including assessment of the two 3.3KV transformers;

(iv) $5,500 to the ACT Department of Urban Services for technical assistance including de-watering the nozzle housing in the lake and intake tunnel.

The NCPA’s 1994/95 budget for this project is $650,000. Of this approximately $150,000 will be expended on design, documentation and works supervision fees. NCPA has a staged contract with Sinclair Knight Merz to provide these services during 1994/95.

A further $500,000 will be expended on construction works associated with pipe replacement. Construction contract is yet to be let.

**Australian Construction Services: New South Wales**

(Question No. 1474)

Mr Connolly asked the Minister for Administrative Services, upon notice, on 1 September 1994:

(1) Have the profit figures for 1993-94 of the New South Wales division of Australian Construction Services (ACS) been examined to determine their accuracy; if so, (a) what discrepancies were found, (b) were these in the cost centres PX and PY, Industry and Defence, (c) have the month by month profit figures for these profit centres been audited and (d) were gross margins in excess of 100 per cent claimed for July and August; if not, why not, if so, to what are they attributable.

(2) What were the NSW division of ACS’s (a) recorded and (b) actual losses for (i) 1992-93 and (ii) 1993-94.

(3) Did it originally appear that the loss trend for the division was decreasing over the periods referred to in part (2); if so, what are the implications of the actual as opposed to the recorded loss figures on the loss trend.

(4) Did ACS take any action as a result of the matters referred to in the preceding parts of this
question; if so, (a) what action and (b) when was it taken.

(5) Had he been informed of the matters; if so, when.

(6) Did the matters have implications for (a) the Department of Finance or (b) any other Commonwealth or State agency; if so, in each case, (i) what implications, (ii) what action was taken in response and (iii) when was the action taken.

Mr Walker—The answer to the honourable member's question is as follows:

(1) The 30 June 1994 trading results for the ACS, NSW Office have been determined. ANAO is currently finalising its audit of the results:

(a) so far the audit has not identified any material discrepancies requiring the result to be adjusted;

(b) the present cost centre structure of the NSW Office provides a facility for grouping jobs under general market sectors. In the case of cost centre "px" and "py" these sectors are Industry and Overseas, and Defence respectively. These groupings are a management convenience and are not in themselves trading sub-units. Nevertheless, given the present findings of the audit of the NSW Office it follows that there have been no material discrepancies identified on jobs listed in cost centres "px" and "py";

(c) further to comments provided in (b) above, trading results are not determined at the cost centre level; therefore there were no "profit figures (determined) for these profit centres" to audit;

(d) gross margins in excess of 100% occurred on three projects in cost centre "py" during the months of July and August of 1994. These gross margins essentially reflected the correction of cost estimates on these projects predominantly caused by the incorrect processing of timesheet costs, with the more significant cases being:

PY0202: Garden Island Health Centre

The timesheet costing adjustment ($1,784) resulted in the total cost estimate for the job being reduced from $20,421 to $18,637. Against the background of a modest increase in the physical progress on the job (2%) for July, that month's income and costs were assessed at $818 and $1,358 respectively, resulting in a gross margin of $2,176 (or 266%).

PY0223: HOLSWORTHY 5/7 RAR Officers' Mess Upgrade

A timesheet costing adjustment of $857 contributed to a net reduction in the total cost of the project of $685 identified in July; at the same time the fees for the job were increased as well as the percentage complete (ie from 99% to 100%) giving rise to a gross margin of $5,913 (or 111%) for July.

While the above gross margins are greater than 100% they only relate to the month that the adjustment to the project cost estimate was made; the whole of life gross margin will always be less than or equal to 100%.

(2) I assume that "recorded" refers to the result determined by the NSW Office and "actual" the final result supported by the ANAO.

In respect of 1992/93, the recorded result was a loss of $6.618 million which the ANAO adjusted to a loss of $6.460 million loss due to an over accrual of $158,000 for rent expenses in the recorded result.

The recorded result for 1993/94 is a loss of $3.505 million, which is currently supported by the ANAO.

(3) Yes. Furthermore, the improvement in the trading result for 1993/94 compared to 1992/93 was expected as evidenced by the trading budget prepared for 1993/94. Given that the present recorded result for 1993/94 is supported by the ANAO there are no implications to comment on.

(4) The main actions taken during 1993/94 to achieve the improved trading outcome included:

- bringing staff numbers into line with expected workload; and
- increasing marketing effort (both local and overseas) as a means to increasing the probability for winning new work at highly competitive prices in a recessed construction industry marketplace.

(5) I am aware of the staff cuts and of ACS' marketing efforts and the continuing high priority given to marketing activities.

(6) No.

Canned Tomatoes

(Question No. 1477)

Mr Lloyd asked the Minister representing the Minister for Small Business, Customs & Construction, upon notice, on 1 September 1994:

(1) Further to the answer to question No 1332, (Hansard, 23 August 1994, page 140) relating to the dumping of Italian canned tomatoes in Australia, has an application been lodged to re-open the case after the Federal Court ruled in February 1994 that dumping had occurred; if so, (a) who lodged the application and (b) on what basis.

(2) Are there any provisions in the relevant regulations against vexatious or frivolous applications; if so, what are the criteria for applying the regulations.

(3) Does Australia have regulations similar to those of some other countries which prevent a
dumping action being re-opened for up to 5 years; if not, will it consider adopting them.

Mr Lee—The Minister for Small Business, Customs & Construction has provided the following answer to the honourable member's question:

(1) Yes.

(a) An application was lodged with the Anti-Dumping Authority on 24 May 1994 by Roger Simpson and Associates on behalf of La Doria de Diodata Ferraoli S.p.A., an exporter of canned tomatoes from Italy. The Authority was asked to hold an inquiry into whether the dumping and countervailing duty notices in respect of canned tomatoes from Italy should be revoked.

(b) The application was based on changes which were alleged to have occurred in the Australian industry since measures were imposed in April 1992. It was claimed that during a period from April 1993 to February 1994 when the measures were not in force as a result of court action, the industry was able to improve its economic performance by increasing sales and maintaining its prices. It was claimed that this occurred despite a significant increase in imports from Italy.

(2) No. Applications for revocation of notices imposing dumping or countervailing duties can be made to the Authority at any time. In practice however, applications need to be supported by evidence to justify revocation of the notices. Sufficient information must also be provided in a non-confidential version of the application to allow interested parties to have a clear understanding of the case being put forward. An examination of the history of applications to the Authority for the revocation of measures indicates that there have not been any applications that could be considered to be vexatious or frivolous.

(3) I am not aware of any country that has a provision that prevents a dumping action being re-opened for up to 5 years. There is no intention by the Government that Australia will adopt such a policy in the foreseeable future.