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Tuesday, 14 March 2000

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

QUESTIONS WITHOUT NOTICE

Economy: Foreign Debt

Senator COOK (2.00 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Is it true that foreign debt now stands at a record high of $246 billion, having grown by $4.5 billion in the December quarter? Can the minister confirm that foreign debt is now 28 per cent or some $50 billion higher than it was when the coalition came to government? Doesn’t this make an absolute mockery of Mr Howard’s 1995 promise: ‘I can promise you that we will follow policies which will bring down the foreign debt’?

Senator KEMP—I thank Senator Cook for raising this issue because it gives me the chance to take the Senate back into history when I think all senators will be aware that, under the Labor government, there was a great expansion in foreign debt.

Senator George Campbell—Did you sell the debt truck?

Senator KEMP—Despite Senator George Campbell calling out, I think the truth of the matter is that there is no argument about that. When Senator Cook held the levers, held the reins of office with Senator Ray and Senator Faulkner—all those giants of the Labor Party—we saw a very significant expansion in foreign debt.

Senator George Campbell—And in interest rates.

Senator KEMP—as my colleague Senator Susan Knowles reminds me, that was not the only area where Labor are vulnerable to attack. She mentioned the very high levels of interest rates which occurred under the Labor Party. It is true: one of the great tasks of this government when we came to office was to try to rectify the imbalances that had been left to us by the Labor Party and, I might say, the likes of Senator Cook.

I have some information on the foreign debt for Senator Cook. Perhaps this may assist him and may help him to reflect on his own poor performance while he was in government. Net foreign debt, I am advised, as a percentage of GDP has stabilised under the coalition government, increasing by 2.3 percentage points since the March quarter 1996. A very interesting point in this, which I think Senator Cook perhaps needs to focus on too, relates again to the management of this government. The debt servicing ratio—this is the amount of exports required to pay the interest on foreign debt—was 10 per cent in the December quarter, which was well below the peak of 20 per cent recorded in the September quarter 1990.

Senator Knowles—Under Labor?

Senator KEMP—Under Labor. Senator Knowles, you obviously want me to repeat that figure and, in due deference to your request, I will do it. The amount of exports to pay interest on the foreign debt was 10 per cent in the December quarter, well below the peak of 20 per cent recorded in the September quarter 1990. I think this shows again that this government is able to deal with the very significant issues which have been left to it. Let me also say that, by returning the budget to surplus, the government has ensured that it is not contributing to any increase in foreign debt. This is one of the reasons why I believe the rate of increase has slowed significantly.

Madam President, you will recall that, under the Labor Party, the government of that day was notorious for running very high deficits. If my memory serves me correctly, in the last five years of the Labor government it ran up deficits in the order of $70 billion, which was a major attack of course on national savings. There was no apology for that performance; there was no apology for the fact that the previous government had run up these major deficits. Senator Cook, I think I have answered the specifics of your question. But I do urge you, Senator Cook, to reflect on your own performance when you were in government, and a very poor performance it was. (Time expired)

Senator COOK—I ask a supplementary question, Madam President. I note the minister did not answer any one of my three questions, so I will try again. Does the minister recall Mr Costello saying in 1995 that
the foreign debt as it then stood ‘represents
in human terms, if you break it down for
each person, $10,000 worth of debt’? Is it
true that the application of the Costello for-
eign debt formula to the current foreign debt
of $246 billion would give a figure of
$12,931 for every man, woman and child in
this country?

Senator KEMP—It is always a problem
with Senator Cook: he refuses to admit his
responsibilities as a senior minister in the
previous government. He refuses to admit his
responsibilities for the very high borrowings
which occurred under the previous govern-
ment. I have mentioned, Senator Cook, that
the net foreign debt as a percentage of GDP
has stabilised under the coalition govern-
ment, increasing by only 2.3 percentage
points since the March quarter 1996. I have
also mentioned the debt servicing ratio,
which again I think is an important factor in
measuring foreign debt. I point out that the
Labor Party is vulnerable in respect of its 13
years of government. But in no area is it
more vulnerable than in the management of
the economy and its massive borrowings
which occurred in its last five years.

Transnational Crime

Senator TCHEN (2.07 p.m.)—My ques-
tion is to the Minister for Justice and Cus-
toms, Senator Vanstone. Will the minister
please inform the Senate of the steps the
government is taking to combat the growing
threat of transnational crime; in particular
people smuggling and money laundering?

Senator VANSTONE—I thank Senator
Tchen for the question, and a very appropri-
ate one it is. Transnational crime is clearly on
the move, just like a rampant virus. Rapid
technological advances present the human
race—all of us—with great opportunities,
but they also facilitate traditional forms of
transnational crime such as money launder-
ing and trafficking in people, drugs and fire-
arms

Last week, as my colleague Senator
Newman pointed out, we reappointed Eliza-
beth Montano as director of AUSTRAC. Ms
Montano is the most senior woman in federal
law enforcement. Ms Montano and
AUSTRAC have been keenly involved in
Australia’s anti-money laundering efforts. It
might be beneficial to listen to what the US
State Department had to say this month
about those efforts:

Australia has a comprehensive and an effective
anti-money laundering regime. It fully complies
with the Financial Action Task Force Forty Rec-
ommendations. Australia is studying possible
amendments to its legislation in order to keep
up with the rapidly changing financial services
sector and to counter the opportunities that new
technologies may offer criminal enterprise, espe-
cially in the evolving field of electronic com-
merce—

And this is the bit that is really worth re-
peating:

Australia’s approach to combating money laun-
dering and its demonstrated ability to adapt to
change serve as a model for other countries to
emulate.

Certainly, high credit should be given to
AUSTRAC, Ms Montano and the NCA for
their work.

People smuggling and trafficking in hu-
man beings, however, may now be the fastest
growing of these new transnational crimes.
In our case, for example, the number of ille-
gal immigrants arriving in Australia has
grown from 923 in 1998-99 to 3,828 this

It is a filthy business where the human
cargo is harvested, warehoused, packaged,
bulk carried and distributed around the
world. So it is a fair question: what is the
government doing? In addition to the money
laundering regime that I have already re-
ferred to that has been highly recommended
by the US State Department, we are of

course doing other things. We have provided
significant resources to boost coastal sur-
veillance. We have amended the Mutual As-
sistance in Criminal Matters Act 1987 to
enable assistance to be provided and re-
quested much more expeditiously than was
previously available.

The Australian Federal Police now has
more overseas liaison officers in more coun-
tries than under Labor. Why would that be
so? The reason is really obvious. We just
cannot do it alone. Law enforcement inter-
nationally now recognises that cooperation is
one of the key weapons against crime. That
is why we need a strong UN convention on transnational organised crime and that is why Australia will be participating strongly in international conferences in Bangkok and Vienna to ensure that we can get the best international convention possible to fight transnational crime. It is worth repeating—quite apart from the accolades given to Australia by the United States State Department—that the recognition of cooperation as being the greatest weapon against crime not only applies to transnational crime; it applies within Australia. That is why the federal law enforcement agencies are now working much more effectively together and with the state police forces to combat crime.

Banking: Mergers

Senator COONEY (2.11 p.m.)—My question is directed to Senator Kemp as Assistant Treasurer. Given that Mr David Murray has stated that 2,500 jobs will be lost and 250 branches obliged to merge in New South Wales alone, does the government support—or is it concerned about or does it take some other attitude towards—the proposed merger of the Commonwealth and Colonial banks?

Senator KEMP—Thank you, Senator Cooney, for that question. It is certainly a topical question. We always welcome questions from Senator Cooney, who I think many of us on this side of the parliament would think is one of the more serious, hardworking senators in the Labor Party—but I would have to say, ‘Not that the competition is great.’ Senator Cooney has indicated that the CBA has announced an intention to merge with Colonial Ltd. I might say, Senator Cooney, because it would be of interest to you, that I am advised that no formal application has yet been submitted to the government. I would probably not expect one until the merger has been approved by the Colonial shareholders. Let me make it clear, Senator, that a bank merger would need to be assessed by APRA in terms of the prudential aspects of the proposal and by the ACCC in terms of the competitive issues. It would also require the approval of the Treasurer under the Financial Sector (Shareholdings) Act 1998. The basic aim of that act is to ensure an appropriate shareholding structure which will maintain a stable and competitive financial sector.

In the absence of any formal application, it would be premature to make any statement, frankly, whether approval would be forthcoming or not. I think that goes to the nub of the question that Senator Cooney asked. But let me assure Senator Cooney that any proposal would be rigorously examined and all the information provided and commitments given by the parties would be taken into account in determining whether the proposal is judged to be consistent with government policy. I think the following focuses even more closely on the matters you raised: this would include any commitments given with respect to the maintenance of rural branches, employment levels and levels of service. So I thank Senator Cooney for that question. I think that Senator Cooney wanted to get a clear understanding of the government’s position on that matter, and I would like to think, Senator Cooney, that I have given you that understanding.

Senator COONEY—Madam President, I ask a supplementary question. The Assistant Treasurer has brought into the issue the Financial Sector (Shareholdings) Act 1998 and the obligations the Treasurer has under that. You also mentioned the problems in regional Australia. Could we be assured that you would be urging the Treasurer, and that the Treasurer would take into account in a productive way the situation in regional Australia as far as banking services are concerned when this matter comes before him? What sort of evidence will he be relying on to take those matters into account?

Senator KEMP—I thank Senator Cooney for his question. Again, I appreciate the fact that, unlike many Labor senators, Senator Cooney apparently listened to the answer that was given and was able to pick up in his supplementary question, without reading it, some of the issues that were raised. If the senator examines my answer, he will note that in the concluding part I looked at the commitments that had been given in respect of the maintenance of rural branches, employment levels and levels of service. Those are matters which would be taken into account. Clearly, from what I have said, there
are a number of important steps which this particular proposal has to go through. This is a government which does its homework—a government which always has in its mind the national interest of this country. (Time expired)

Taxation: Reform

Senator WATSON (2.16 p.m.)—My question is also directed to Senator Kemp, the Assistant Treasurer. Will the minister inform the Senate how Australian families will benefit from the government’s reforms to the taxation system, and is the minister aware of any alternative proposals to change the taxation system?

Senator Faulkner—Not bad. Not as good as Calvert’s, but not bad—6½ out of 10.

Senator KEMP—I thank my colleague, Senator Watson, who is a very respected senator in this place. Senator Faulkner said, ‘A very good question; a very good question, indeed,’ and I agree with that. Senator, I have some information that I am able to share with you. Last week I think senators in this chamber were very pleased to hear the news that there had been a dramatic increase in the number of Australians with jobs and the unemployment levels had fallen to almost a decade low of 6.7 per cent. This has been great news for Australian families. It is great news that this government, as it always does, tackles the real issues of real concern to people. Of course, we are very much aware that there is more work to be done in this area. That is the reason why this government is committed to reform. We are a genuinely reforming government.

This brings me to one of the points that Senator Watson raised. On 1 July families will receive the largest tax cuts in Australian history. These tax cuts are worth around $12 billion a year. From 1 July this year some 80 per cent of Australian taxpayers will have a marginal tax rate of 30 per cent or less.

Senator Schacht interjecting—

Senator KEMP—This will mean that many families will gain $40 to $50 a week. The GST was raised by Senator Schacht and it will not surprise the senator to know that I will be dealing with that issue in a moment.

Senator Watson also asked whether I was aware of any alternative proposals for changes to the Australian tax system. One of the major statements that have been made in this area was in fact that the Labor Party has transacted what is arguably the biggest backflip in Australian history on tax policy. It was a tax flip which indicated that the Labor Party will now be supporting the GST. It went up and went down; it was not a perfect backflip, but indeed it was a backflip. Having signed on to the GST, you would have to say that there is massive confusion in the community as to just where the Labor Party stands on certain key issues. One of those key issues, of course, is the issue of income tax cuts. It is of great concern that the Labor Party is refusing to guarantee the very substantial income tax cuts which I mentioned in the first part of my answer.

It is true that a number of Labor Party people have made some very important statements in relation to the GST. I will quote the shadow minister for industry and former senator, Bob McMullan, who has indicated that the GST is good for exports. We welcome that particular endorsement. The New South Wales Labor Treasurer has made it very clear that the GST will be good for local government. I think Senator Macdonald has answered a very extensive question on that. I am pleased to say that there is even a quotation from Senator Cook. We always like quotes from Senator Cook in this chamber. He seems to have gone missing in action, but that is not the first time. This is what Senator Cook said about the GST:

There is a quantifiable, subject to advice, of course, advantage to your industry—

And he was referring to the—(Time expired)

Senator WATSON—Madam President, I ask a supplementary question. I ask the minister for further details of alternative proposals to the taxation system that he is aware of.

Senator Conroy—And he’s right.

Senator KEMP—‘He’s right’! Hello, Senator Conroy fully agrees with Mr Rudd about Mark Latham. I am very glad to have got that remark in Hansard. But I do think that there is an issue here that the Labor Party have got to address. Quite a number of
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Labor Party people have signed on to the GST and made some very appropriate comments about it, and I mentioned Senator Cook. *(Time expired)*

**Drugs: Destruction**

Senator SCHACHT (2.23 p.m.)—My question is to Senator Vanstone, the Minister for Justice and Customs. Can the minister confirm that in an answer to a question yesterday she advised the Senate that there are guidelines—‘national guidelines’—which govern procedures for the destruction of drugs seized by Customs or the Australian Federal Police and that ‘for large destructions ... the minister is invited to attend’? Will the minister table the relevant guidelines which relate to the involvement of a minister in the destruction of seized drugs?

Senator VANSTONE—I thank Senator Schacht for demonstrating to everybody how stupid he really is. Really, heavens above—

The PRESIDENT—Minister, I ask you to withdraw that.

Senator VANSTONE—It goes beyond the pale.

The PRESIDENT—Minister, I ask you to withdraw that statement, the reference as you put it.

Senator VANSTONE—I withdraw the statement. He is not that which I indicated. He is just damn lucky to be here, with the skill level he has. There are guidelines for the destruction of drugs, and I went on to say that the minister is invited to large destructions. That is obviously not a part of the guidelines. As to whether the guidelines are available to be tabled, I will check with the Australian Federal Police and the Director of Public Prosecutions to see if they are appropriately made public.

Senator SCHACHT—Madam President, I ask a supplementary question of the minister. I note that the minister has said that her attendance is not within the guidelines; it is just a general invitation. But I continue with a supplementary: can the minister confirm when the practice of inviting the minister to attend—and in the recent incident of the destruction of 500 kilograms of cocaine, to participate—was established? Did such a practice exist prior to her appointment as Minister for Justice and Customs, or did the minister initiate these procedures? If so, why?

Senator VANSTONE—Senator Schacht, I do not know what previous ministers were interested in doing, but I can assure you that this government has an excellent record in the war against drugs. We are very happy to do everything we can to let the people of Australia know how successful the Australian Federal Police and the Australian Customs Service are as a consequence of the money that we have put back into the Federal Police, to the National Crime Authority and to Customs. Senator Schacht, as you well know, I am not going to go to the specifics of any particular case, other than to say—other than to remind you—that last week in that one burn-off we burnt off twice as many drugs as your government seized in the previous four years.

**Mandatory Sentencing**

Senator GREIG (2.27 p.m.)—My question is also to Senator Vanstone as Minister for Justice and Customs. I ask the minister if she is aware of reports from members of the judiciary, both past and present, who have expressed strong concerns about the imposition of mandatory sentencing, which they say denies them their better judgments, prohibits judicial discretion and presents them with a moral dilemma? If so, does the minister still agree with the Prime Minister that mandatory sentencing is not a moral issue?

Senator VANSTONE—I thank Senator Greig for the question. Senator, I have a number of briefs here from the Attorney in relation to mandatory sentencing. I ask the minister if she is aware of reports from members of the judiciary, both past and present, who have expressed strong concerns about the imposition of mandatory sentencing, which they say denies them their better judgments, prohibits judicial discretion and presents them with a moral dilemma? If so, does the minister still agree with the Prime Minister that mandatory sentencing is not a moral issue?

Senator VANSTONE—I thank Senator Greig for the question. Senator, I have a number of briefs here from the Attorney in relation to mandatory sentencing. You asked me am I aware that a number of judges have made certain remarks. Generally speaking, yes. Can I list for you who the judges are and what they have said? No, I cannot. Judges occasionally make remarks appropriately, sometimes—as you well know—inappropriately. So I think the best thing for me to do is to ask the Attorney if he would like to offer comment in relation to comments made by the judiciary. He may or may not wish to do so. But if he does, I will get the answer to you promptly.
Senator GREIG—Madam President, as a supplementary question I would ask the minister if she was aware that the Prime Minister has said on radio this afternoon that free votes in the Liberal Party are very rare but can be used on matters of death, such as euthanasia or abortion. Minister, is it not reasonable, therefore, to expect that the issue of mandatory sentencing—which flies in the face of the recommendations from the Royal Commission into Aboriginal Deaths in Custody—should be regarded in the same way?

Senator VANSTONE—Senator Greig, you invite me to—

Senator Bolkus—Try an honest answer.

The PRESIDENT—Order! Senator Bolkus, your behaviour is completely out of order.

Senator VANSTONE—Senator, you invite me to decide for myself what is appropriate. That is a matter for the party room, not for any individual senator or member. There are rare occasions when the Liberal Party has a free vote. But I might remind you, Senator, that the Liberal Party is a party that, nonetheless, does—not necessarily willingly always—tolerate members who cannot in their own conscience abide by the team decision and cross the floor. I, myself, have done so in the past. It is not a very pleasant experience, but it is one thing the Liberal Party tolerates that the people over here never will.

Goods and Services Tax: Motor Trade

Senator JACINTA COLLINS (2.29 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Can the minister explain on what basis the Australian Taxation Office has provided advice to members of the Motor Trades Association that, in order to avoid paying the GST on the sale of a truck for which a deposit has been received, dealers should put deposit proceeds into a trust fund?

Senator KEMP—Clearly, there has been a comment by the tax office. I will seek advice from members of the Motor Trades Association that, in order to avoid paying the GST on the sale of a truck for which a deposit has been received, dealers should put deposit proceeds into a trust fund?

Senator KEMP—Clearly, there has been a comment by the tax office. I will seek advice from members of the Motor Trades Association that, in order to avoid paying the GST on the sale of a truck for which a deposit has been received, dealers should put deposit proceeds into a trust fund?

Senator JACINTA COLLINS—Madam President, I ask a supplementary question, and perhaps when the minister seeks further advice on that issue he could deal with this supplementary matter as well. Isn’t this tactic the only way of avoiding the immediate payment of the GST by the supplier to the Australian Taxation Office until total payment has been received on the actual delivery of the vehicle? Doesn’t this example highlight the complexity of the supposedly simple GST?

Senator KEMP—That was an interesting supplementary question, but there was a general attack on the GST from the senator. Can I remind you, Senator, that your party has signed on to the GST. If you are going to get up and say that the GST is complex and unfair, my question to you is: why have you then signed on to the GST? Why has the Labor Party dropped its opposition to the GST? I hope after question time there will be a very good debate on this and we will get the Labor Party to spell out in some detail what its policies are. I remind you that the Labor Party has now signed on to the GST, so it is no good you standing up and saying that it is complex. The time for you to have said that was in the caucus party room, if you believed that, and to have tried to change the policy. But you did not change the policy and your party has now signed on—not quite lock, stock and barrel but pretty close.

Tasmania: Environmental Expenditure

Senator BROWN (2.32 p.m.)—My question is to the Minister for the Environment and Heritage. My question regards the promised $120 million for environmental expenditure in Tasmania over five years which secured Senator Harradine’s vote and which was to be funded from the part sale of Telstra in 1996. Is this $120 million still designated over five years for the Tasmanian environment and, if so, can the minister say how it is being spent? In particular, is the up to $30 million for the world heritage area still on track and, if so, why has funding for the world heritage area been slashed by 60 per cent this year and the $5 million track upgrade which was to come out of that funding been cut by 50 per cent—that is, from $1 million to $0.5 million—and where has that money gone?

Senator HILL—It is true that Tasmania did very well out of the sale of the first tranche of Telstra. If Senator Brown has now
turned the corner and is commending the
government for that initiative that provided
such a substantial sum of money towards the
conservation of important natural assets in
Tasmania, I commend him. We, on the gov-
ernment side—in contrast to Senator
Brown—recognised from the start that Tas-
mania had exceptional natural values that
deserved support and that Tasmania was not
in a financial position to do that without
Commonwealth support. The extra expendi-
ture, as one might describe it, for Tasmania
was well warranted. The government is
meeting, and will continue to meet, its com-
mitment in relation to every dollar that it
publicly stated it would expend in Tasmania
on the conservation of these very important
natural values.

Senator BROWN—Madam President, I
ask a supplementary question. It is clear that
the minister is unable to answer my first
question, but I will follow on with this sup-
plementary question. Where has the $1.1
million slashed from this year’s funding,
which was promised under the Natural
Heritage Trust funding, been diverted to and
is this a reflection of the political reality that
the government no longer needs Senator
Harradine’s vote?

Senator HILL—No money has been
slashed, as suggested by Senator Brown. He
obviously did not listen to the answer that I
gave to his question, which was that every
dollar this government promised to expend
in Tasmania on the conservation of natural
values will be expended.

Goods and Services Tax: Show Societies

Senator GIBBS (2.34 p.m.)—My question
is to Senator Kemp, the Assistant Treasurer.
Is the minister aware that the West Moreton
and Brisbane Valley Association of Agricul-
tural Show Societies has been advised that it
will have to pay the GST on items such as
sponsorships, trophies and other donations;
gate entry; site fees; and sideshow ground
space? Is this true? Can the minister clarify
for the association precisely how the GST
will impact on its agricultural shows, which
are such an important part of its rural com-

Senator KEMP—I will have to get some
more information from you, Senator Gibbs, in
the latter part of my answer, so could you
be ready when you stand up and ask your
supplementary question to respond to those
matters. Let me make it clear how the or-
ganisation running the show is going to
benefit. I will list a number of ways in which
it is going to benefit. First of all, this package
has a very heavy rural bias. There is no
doubt that with the Diesel and Alternative
Fuels Grants Scheme we are able to provide
very substantial benefits to rural and regional
Australia. That is one of the benefits that our
package offered compared with the Labor
Party’s proposals. Let me list another one: man-
many people who will be going to the shows
after 1 July will enjoy those very substantial
tax cuts which I mentioned today. Many
families—I thank the senator for this par-
ticular question—will benefit in the order of
from $40 to $50 a week. I think in rural
Australia some of that extra money will
probably go to those shows.

One of the points that I would like you to
clarify when you stand up, because people
who go to these shows will want to know the
answer, is: is the Labor Party prepared to
guarantee those very substantial tax cuts?
That is a preliminary comment which I
would like you to stand up and make. We
believe that there are other factors which are
going to be very important to rural Australia.
One is of course that exports are GST free.
This is one of the factors that regional and

The PRESIDENT—Senator Kemp, I
draw your attention to the question that was
asked.

Senator KEMP—Madam President, I
thank you, but I was asked how the people
who organise these shows will benefit from
the GST, and that is exactly what I am say-
ing. They will benefit in a wide variety of
ways. I have mentioned the Diesel and Al-
ternative Fuel Grants Scheme, which is very
important to rural Australia. I have men-
tioned the income tax cuts, which are very
important to rural and regional Australia. I
have mentioned the fact that the farming
sector was particularly keen to make sure
that the export sector was GST free. Of
course, that is also going to give very substantial benefits to regional and rural Australia. In relation to the specific question, I would like you to answer me a question, Senator Gibbs. I do not know this particular organisation, I confess. I get fairly extensive briefings, but I confess I do not know this particular organisation. Senator, could you indicate to me whether they will register for the GST or not?

Senator GIBBS—Madam President, I have a supplementary question. Minister, obviously you did not know the answer to any of my questions. I really would appreciate it if you would give me an answer at a later date. While you are at it, let me tell you that the West Moreton and Brisbane Valley Association of Agricultural Show Societies believes that the GST will sound the death knell for small shows, which would include four of the 10 agricultural shows in the West Moreton region between Ipswich and Toowoomba. Can the minister allay the concerns of the association?

Senator KEMP—Senator Gibbs shows that she just does not have a clue about how the GST operates. You have signed on to the GST, but if an organisation is liable for the GST it must be in the GST system and it must register. Senator Gibbs, you talked about small shows. I do not know whether this particular body will be registered for the GST or not. Don’t you understand how the system operates? I stood up and asked a very straightforward question so that we could provide an answer to Senator Gibbs. I said, ‘Will this organisation be registered for GST purposes or not?’

Senator Faulkner—Madam President, I rise on a point of order. Even Senator Kemp, although he has failed to answer question after question in question time over the past few weeks, knows, as you do, Madam President, that this is the opportunity for senators to question members of the executive. It is Senator Kemp’s responsibility to answer questions, not ask them. He has failed to answer Senator Gibbs’s question. He has failed to answer Senator Gibbs’s supplementary question. Could you bring him to order and ask him to answer the question? If he cannot do that, sit him down.

Senator KEMP—Madam President, on the point of order, the question was not complete. What the Labor Party does not understand is that whether an organisation—

The PRESIDENT—Senator Kemp, you are debating the answer.

Senator KEMP—But I am making the point.

The PRESIDENT—The question is for the minister to answer as he sees appropriate, but it is not appropriate for him to ask questions of the opposition in the process.

Senator KEMP—You cannot indicate whether this organisation will be required to charge a GST unless we can find out whether the organisation is registered or not. That is completely straightforward. Whoever drafted the question unfortunately did not give the senator a complete question. When the senator finds out how the GST operates, she will then learn how to answer the question, which can be answered. (Time expired)

Great Barrier Reef

Senator MASON (2.41 p.m.)—My question is to the Minister for the Environment and Heritage, Senator Hill. Australia is recognised internationally for its management of the Great Barrier Reef Marine Park. Will the minister inform the Senate of recent moves by the Howard government to further protect the Great Barrier Reef?

Senator HILL—As honourable senators know, this government is very committed to nature conservation, committed to the Great Barrier Reef national park and committed to maintaining world heritage values generally. In relation to the Great Barrier Reef, however, there have been a number of significant matters in recent times that I would like to draw to the attention of the Senate. The first is in relation to surveillance and enforcement.

At the last election, we promised to inject an additional $3.4 million over three years into surveillance and enforcement activity on the Great Barrier Reef, and I am pleased to be able to advise that we delivered on that promise. Patrolling on the reef has increased by more than 40 per cent as part of the new surveillance and enforcement strategy. As a result, we recorded 38 convictions for of-
fences in the marine park between July and January. A further 15 matters are with the Director of Public Prosecutions for investigation. In a recent incident, complaints from within the commercial fishing industry initiated an investigation into illegal fishing activity as a result of which 15 matters relating to illegal commercial fishing are being prepared for prosecution. All stakeholders support this increase in surveillance and enforcement. The fishermen and tourist operators who are doing the right thing welcome the increased scrutiny. They want better management. They want the minority of operators who are breaking the rules and giving the industry a bad name to be properly regulated.

Secondly, I want to mention the new aquaculture regulations that we have put into effect to ensure that the reef is not damaged by waste being emitted from inappropriate aquaculture ventures. These new regulations came into effect on 23 February. They will operate as a safety net for the Great Barrier Reef. They will ensure that all new aquaculture projects discharging waste that may pollute the Great Barrier Reef Marine Park will be subject to a rigorous and transparent environmental assessment process. Unfortunately, it was necessary to bring these new regulations into effect because of deficient Queensland legislation which the Queensland government was not prepared to correct.

The third area that I want to mention is zoning. This week, I have tabled a new zoning plan for the far northern section of the Great Barrier Reef Marine Park. This section of the park extends from a bit north of Cooktown to the tip of Cape York. The new plan will provide high levels of protection for the region’s biodiversity, including dugongs, turtles and coral reefs, and will improve management for users of the marine park. In relation to trawling, it will mean that, if the Queensland government is not prepared to implement an ecologically sustainable trawling plan, those wishing to trawl within this zone will require a permit from GBRMPA. This is not our wish. We wish the trawl to be managed by Queensland, as has traditionally been the case. However, Queensland has to understand that, if it is to act for us in this regard, it has to ensure that trawling is conducted in an ecologically sustainable way. If Queensland is not prepared to meet that responsibility, the Commonwealth will have no alternative but to ensure that the world heritage values are properly protected, and this will require permits to be granted by GBRMPA. I have sought to set out a number of initiatives that we have taken in recent months which demonstrate clearly how committed the government is to the Great Barrier Reef Marine Park and how the government wants it to maintain its fine international reputation.

**Goods and Services Tax: Sun Protection Products**

Senator CROWLEY (2.46 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Is the Assistant Treasurer aware that a South Australian manufacturer of specialist sun protective apparel, Solarsuit, has flagged that the cost of its products will have to rise by as much as 17 per cent—10 per cent for the GST and an estimated seven per cent for administration and compliance costs?

Government senators interjecting—

The PRESIDENT—Order! Senator Kemp needs to hear the question.

Senator CROWLEY—I remind senators opposite and the minister that it is a South Australian manufacturer that makes those claims. Is the minister aware that Solarsuit fears this increase will have a disastrous impact on its business and, in all likelihood, will force it to relocate offshore? Can the minister allay Solarsuit’s concerns?

Senator KEMP—I certainly can allay the concerns of Solarsuit. The first bit of advice I would give to the manufacturer of Solarsuit is to go and get better accounting advice. That is the first point I would make. One of the steps it should take pretty quickly is to make contact with the tax office and to ask for a visit from a field officer to indicate the compliance arrangements which are required. That would be my first response to Senator Crowley. Frankly, those figures seem inconceivable—a seven per cent increase in compliance costs. Particularly in view of the
many comments that Chris Jordan has made on the compliance issue in recent months, I find it very hard to believe those figures. Assuming the manufacturer has made those comments in good faith, it needs to get further accounting advice.

Senator Faulkner—So you haven’t got a clue, as usual.

Senator KEMP—It also makes sense for it to make contact with the tax office. Because the input tax credits can be claimed, I suspect in many areas the manufacturer of Solarsuit’s cost factors will come down.

Senator Faulkner—What’s that 1800 number?

The PRESIDENT—Order! Senator Faulkner!

Senator KEMP—I do not know whether you are aware of it, Madam President, but while I am answering a question I am subjected to relentless comments from Senator Faulkner. I do not know whether you have heard those, but would you like to call him to order so we can complete the answer?

The PRESIDENT—I have.

Senator KEMP—Thank you, Madam President. Does the minister agree that the same arguments which apply to making sunscreens GST exempt apply to Solarsuit’s product, given that it provides greater protection than sunscreens?

Senator KEMP—Our policy has been announced in this area. If the Labor Party want us to announce a further roll-back in this area, they should get up and say so after question time.

Education and Research Expenditure

Senator STOTT DESPOJA (2.51 p.m.)—My question is addressed to the Minister for Industry, Science and Resources. Is the minister aware of comments that were made by the chief of Ford Australia that brain power will be the real competitive advantage of companies in the future? How does the minister compare this comment with reductions in R&D spending as well as the huge cuts to higher education and vocational training by this government—cuts that have turned education into Australia’s slowest growing industry, falling from 5.2 per cent of GDP to 4.4 per cent of GDP in the last four years? How does the government explain the fact that universities this year will be required to suffer a further cut, a real cut in spending, with grants increased by a factor of only 1.7 per cent when the economy is growing by about 4.5 per cent a year? Isn’t this just another example of the government failing to meet the real economic challenges of the future by not providing an adequate infrastructure to deliver the brain power needs of the future for Australian industries?
Senator MINCHIN—Much of that question I think should properly be directed to the Minister representing the Minister for Education, Training and Youth Affairs. However, with respect to the comments so far as they touch on research and development, I have not seen the particular reference by Mr Jack Nasser, to whom I think you are referring. However, I have answered numerous questions in this place on research and development from time to time, indicated the government’s very strong support for research and development and indicated indeed, quite frankly, the government’s concern to ensure that business investment in research and development is maintained. It is one of the themes we pursued most strongly at the Innovations Summit, which I was pleased that Senator Stott Despoja attended, and I congratulate her for attending it and taking an interest in that particular forum.

Research and development was one of the key themes of that summit. We have now set up a steering group arising from the summit to present to the government an action agenda to follow up the tremendous contribution made by the innovation community of Australia. At that summit there were some tremendous ideas on how we can work to boost business investment in research and development in this country. It is critical to Australia’s future as an economically productive and successful nation that we maximise our resources in research and development. We believe the government are playing their part, but I am always open to suggestions as to how we can better utilise the some $600 million of taxpayers’ money which goes towards research and development on an annual basis. We do perform well internationally on the score of our commitment to science, research and development and innovation. However, as I have said, we can do better on business investment, and I look forward to the action agenda that will arise from the Innovations Summit steering committee presenting some policy options to the government.

Senator STOTT DESPOJA—Madam President, I ask a supplementary question. Is it not the minister who emphasised the importance of education, both higher education and vocational education and training, as a key component of innovation at the recent Innovations Summit? Given the minister has raised the issue of science, I am wondering if he is aware of the November 1999 policy statement by the Federation of Australian Science and Technological Societies which states that many Australian university research laboratories now fail to meet even basic occupational health and safety standards or minimum industry standards, and their claim that low salaries in Australia, inadequate support for research, reduced access to administrative and technical staff and excessive teaching loads are driving Australia’s best academics overseas. Is the minister aware of this, is he concerned about it, and is he concerned that, since the abandonment of the 150 per cent tax rebate for industry research and development almost four years ago, R&D in the higher education sector has reduced from 0.318 per cent of GDP to only 0.2 per cent of GDP? (Time expired)

Senator MINCHIN—Yes, I am well aware of the FASTS document. I read it with great interest and I have replied in detail to that document, pointing out some of the alternative interpretations of the various statistics which they have presented to us which do indicate the government’s very strong commitment to science and innovation in this country—some $3.9 billion—and the range of programs that we have in place to stimulate science and investment in education.

Australian Taxation Office: Sydney to Hobart Yacht Race

Senator DENMAN (2.55 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Can the minister inform the Senate of the reasons that the Australian Taxation Office took six months to finalise tax exemptions needed to establish the trust fund for families of those killed during the 1998 Sydney to Hobart yacht race?

Senator KEMP—Senator, I will check on that and provide you with an answer.

Senator DENMAN—Madam President, I ask a supplementary question. Thank you, Minister, but isn’t this example of the delay in tax office processes—there has obviously
been a delay—just another symptom of the Howard government’s irrational slashing of resources and experienced officers out of the ATO? And, with this acute shortage of experienced officers, how can the ATO possibly deal with the implementation of the GST, such as the current lag in business registrations for the ABNs?

Senator KEMP—There was a very wide range of questions in that supplementary question. But let me make the point that the tax office, I believe, is operating at or close to world’s best practice. This is a tax office which has been changed quite dramatically in recent years, and we believe that the tax office certainly has the skills and the talent to make the reforms which the government is determined to deliver to the Australian people. In relation to registrations, I would certainly urge businesses to make sure that they are registered. A great deal of the advertising at the moment is encouraging people in business to register for their ABN. I thank you for the question because this gives me the chance to urge those who may be listening, if they have not registered, to get their forms in and to get them in quickly.

Aboriginal and Torres Straight Islander Commission

Senator FERRIS (2.57 p.m.)—My question is to the Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron. Minister, as you would be aware, the Aboriginal and Torres Strait Islander Commission is celebrating its 10th anniversary year. Will you inform the Senate of how ATSIC and the government are working together?

Senator HERRON—I thank Senator Ferris for her question and for her continued interest in this portfolio. May I congratulate her on her own anniversary today in celebrating her birthday.

Senator Robert Ray—Name the date!

Senator HERRON—It is today. Madam President, she is not 10 years old. ATSIC celebrated its 10th anniversary last week. I want to record that and tell the Senate that I was honoured to attend a small celebratory function with ATSIC staff last week. I must say that meeting highlighted what a good bunch of people work in ATSIC, and I thank them for their warm welcome. ATSIC began operations on 5 March 1990, and I would like to congratulate all of those who have contributed to both the elected and administrative arms of ATSIC over the past 10 years. I am happy to say that I enjoy a positive working relationship with ATSIC’s elected and administrative arms, and I am very pleased with the professional service provided to me by the many hardworking public servants within ATSIC.

ATSIC continues to be the government’s principal source of advice on indigenous affairs. Madam President, as you would be aware, there may have been political differences in the past—and I am sure there will be some in the future. However, the relationship between the Howard government and ATSIC, especially Chairman Commissioner Geoff Clark, remains positive and productive. As honourable senators would be aware, ATSIC is an organisation in constant review, and it has been my view that the organisation should change with the wishes of the people it represents.

I am also of the view that ATSIC should pursue a new structure of regional autonomy and devolved decision making to the community so that decisions predominantly affecting communities should, where possible, be made by the communities. So it is pleasing that the new board, under its first fully elected chair, Commissioner Geoff Clark, has endorsed plans for a major restructure of the administrative arm. The restructure, which is being progressively implemented by ATSIC’s Chief Executive Officer, Mark Sullivan, is designed to ensure that ATSIC’s administrative arm is far more responsive to the people it represents. The restructure sits well with the Howard government’s moves towards greater regional autonomy and the desire of Aboriginal and Torres Strait Islander people to see more authority devolved from Canberra to local and regional levels.

An example of this is the Torres Strait Islanders, who wanted to control their own destiny. They proved that they could manage their own affairs, and I am pleased that the government has been able to deliver to them regional autonomy and a budget independent
from ATSIC—something that was not acted on by the previous government. They have been wanting this for many, many years; this government has delivered. Late last year ATSIC and I released a discussion paper on regional autonomy to see whether similar structures could be established elsewhere around Australia. ATSIC is now conducting a community consultation process on the discussion paper which involves discussions through zone meetings with regional councils, indigenous organisations and individuals.

Senator Forshaw—Madam President, I raise a point of order. Is it appropriate for the minister, in answer to a question without notice, to stand there for four minutes and read out a prepared statement? Surely he could ask to make a ministerial statement and we may consider giving him leave.

The PRESIDENT—As I understand it, ministers and shadow ministers are able to read material that other senators would not be able to read. There is no point of order.

Senator Herron—Thank you, Madam President. As I mentioned, ATSIC are conducting community consultations and they will report to me with recommendations by midyear. There are many other areas where the government is working closely with the commission—and the interpretation of my question time by Senator Forshaw limits the amount of time that I can devote to answering the question, but I am happy to proceed in the time that is available to me. Suffice to say the government’s focus will continue to be in attacking disadvantage by seeking better outcomes in health, housing, education, employment and economic independence. We are making inroads into these areas, but more work obviously needs to be done. With the good will of the government and ATSIC, I am confident that we can together, in partnership, achieve much more to the lasting benefit of indigenous Australians—much more than was achieved by the Labor Party in its 13 years of wasted opportunity.

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Goods and Services Tax

Senator CONROY (Victoria) (3.02 p.m.)—I move:

That the Senate take note of the answers given by the Assistant Treasurer (Senator Kemp), to questions without notice asked today, relating to the goods and services tax.

Once again, Senator Kemp’s answers today have demonstrated why the GST is as unpopular as it is. We have a minister who does not understand the issues, a minister who does not understand the application of the GST. It is no wonder that ordinary Australians do not understand the GST in this country. We have seen this minister unable to answer question after question after question—and here he is, once again, running away out of the chamber. He does not want to face up to the fact that he has been exposed again. He is exposed time after time after time in this place. His only answer, whenever he gets into trouble at the moment, is to say, ‘The ACCC has got $10 million worth of fines; we will sic it on to any business that dares to question our interpretations and our promises.’

Right now we have the beer companies and the hoteliers saying, ‘But we were promised that beer prices in pubs would go up by only two per cent.’ That is what the government told them, that is what the Prime Minister said—beer prices up by two per cent. That was the promise, and what is the reality? The government now admits once again that beer prices will go up by nearly nine per cent. We see this time after time after time. The government continues to pretend that prices that it told Australians it would compensate them for will go up by only 1.9 per cent. But each time the government gets exposed in each industry. The government told us that the cost of air travel would go up by about two to three per cent. That is what the government told us. But what happened? The ACCC signed off on a seven per cent increase in airfares. The government is now admitting that it is nine per cent for the price of a beer across the bar in a pub.
What we see is the ACCC trying to be used as a political football by this government. The ACCC says, ‘It’s all right, we’ve got 18 million Australians who will help us police the beer price, the price rises in this country.’ Then you say to the ACCC, ‘Well, have you done any work, have you done any estimates on what the price rise will be?’ The ACCC says, ‘Oh well, we’ve commissioned a few studies.’ So you say, ‘Well, will you release them; will you let the consumers have a look at them so the consumers can see what the ACCC says is a fair increase in this industry?’ And the ACCC says, ‘Oh no, well, we’re not sure about that; we can’t possibly put those figures out’—because we all know that this government has got something to hide and the ACCC, if it releases its figures, will expose this government.

This government has refused to do any modelling in any industry on any price of any good since it did the dirty deal with the Democrats. Since the Murray-Lees GST compromise was done, this government has not done any modelling. The ACCC is the only group to have done even the remotest of modelling. But the ACCC has admitted, ‘No, well, while modelling, we haven’t asked them to model on the first year prices.’ That is right. It may actually occur to some ordinary Australians that, when they go into shops on 2 July this year, they will be paying a price on 2 July. They are not interested in the government’s fiction about how they will be on 2 July of the year 2001, because they are the only estimates that this government and even the ACCC have been prepared to do. So we have seen them continually say, ‘We will have Australians help us police prices.’

What has happened? We say, ‘Well, can we have price tags? Can shops put price tags with the goods and services tax in shops now?’ and we are told no. This government demanded that the dual price tag system be taken off. You are not allowed to have the dual price tag system till 1 June. Why is that? Why cannot ordinary Australians have a look right now at price rises that are proposed? Why won’t this government agree to let shops now display their before and after prices? You have to ask yourself, ‘What does this government have to hide? Why has this government three times defeated displaying the GST on price tags, displaying it on the cash register docket?’

Senator Ian Campbell—You hypocrite!

The DEPUTY PRESIDENT—Order! The level of noise in the chamber is far too high.

Senator Ian Campbell—He is a hypocrite and he should be made to sit down.

Senator CONROY—Why is Senator Campbell, who has got a lot to say in this debate right now, not going to take to his feet in the debate? He just wants to try to shout me down because he wants to shout down every Australian who knows that the price rises they are starting to see in the shops right now are GST induced, and this government is running scared from them. We have got petrol prices. Again, from the NRMA today, petrol prices will go up under this GST. (Time expired)

Senator KNOWLES (Western Australia) (3.08 p.m.)—Senator Kemp, as Assistant Treasurer, should in fact get a medal for patience for sustaining days and days and days of ill-informed claptrap from the Labor Party.

Senator Ian Campbell—Hypocrisy.

Senator KNOWLES—Absolute and utter hypocrisy, as Senator Ian Campbell says. These incessant, idiotic and ill-informed questions are coming from a party that have agreed to the retention of a GST. The two things that they have not agreed with are the tax cuts and the increase in benefits and pensions. So isn’t it interesting; they have agreed to maintain the goods and services tax, but they have not guaranteed the tax cuts and increase in pensions and benefits.

It is interesting also to note that when challenged to clarify a question, as Senator Gibbs was today, they duck for cover, because they simply do not understand the question that they originally asked. It is also interesting to note that they are saying there is going to be a roll-back. The question that needs to be asked of the Labor Party is: what is the roll-back going to include?
I have just written down a list of some of the things that have been raised in question time in recent days. It is by no means conclusive, but they have asked questions on things like solar suits, as raised by Senator Crowley today. They said that there is going to be a 17 per cent increase. Has anyone got an advance on 17 per cent? Senator Crowley has no idea how this tax system works. I had the unfortunate pleasure of sitting through endless inquiries with her, and she demonstrated day by day that she does not understand how it works and she has come in here and further demonstrated that she does not know how it works. That company, producing obviously a fine product, will not be in business long if they increase prices by 17 per cent, because their competitors will not. Their competitors will know how it works. But are the opposition going to roll it back? Are they going to say that the solar suits will be exempt?

Senator Gibbs talked about local shows. Are you going to roll it back? We do not know. Are you going to exempt sanitary products? Are you going to exempt trucks? Senator Bishop talked about trucks the other day in the most convoluted way. He said that people are going to have to put off staff now before the tax comes in and then he asked how they are going to cope because they had put off staff for an expected increase in demand after the tax comes in. How convoluted can you get? How upside down can you get? It further demonstrates that they have no idea how the system works.

Senator Conroy just mentioned petrol. Are we going to see the Labor Party wind back the tax on trucks and petrol? They talk about local government. Is Senator Mackay going to advocate to caucus that local government should have no tax, anywhere along the line? They talk about charities, deposits, insurance, food, clothing, motor vehicles, and let us come to beer. Senator Conroy just talked about beer. One of the most hypocritical things the Labor Party could talk about is the cost of beer. This comes from a party that, when in government, increased the price of beer by 28 per cent. How disgusting to think that they come in here and talk about—

Senator Calvert—And no tax cuts.
GST payments back. The Gatton Show Society invited two officers from the Australian Taxation Office to explain the impact of the GST and how it would affect the operations of their society. Those tax officers told the Gatton Show Society that the GST would hit almost everything they do, including entry fees, donated trophies, site fees and competition entry fees.

The Gatton Show Society told me that some competition entry fees for things like children’s writing, drawing, building and construction, painting, design and carving are as low as 5c. The tax office told the show society that they would have to charge the GST on those 5c entry fees. With the abolition of the one and two cent coins, this means that the 5c entry fee will be increased by 100 per cent. The GST will mean that the creativity of rural and regional children will be taxed. The GST will make it harder for those rural kids who show a spark of creativity to get some recognition for their talents.

One other problem the GST is causing the show societies is in administration. Most of them are small organisations that exist from meagre gate takings and donations and rely on the work of volunteers. They do not have the same capacity as either big or small businesses to deal with the introduction of this new tax, and they are not likely to receive any of the supposed benefits that are likely to flow to businesses from the new tax.

I will just give you an example of how this is actually going to affect them. There is a gentleman who owns a small bus and drives pensioners and families to and from the Gatton show. He does this at no cost to his passengers. He does this out of the goodness of his heart. In exchange, the Gatton Show Society give him a full-page advertisement in their show booklet. The tax office has told the Gatton Show Society that this will attract a GST. So the government might say, ‘Fair enough, there is an exchange of services involved,’ but the way they have to calculate the GST payable is a nightmare.

The tax office told the Gatton Show Society that they will have to calculate the value of this gentleman’s services. They will then have to calculate the value of the advertisement. Then they will have to subtract the value of the advertisement from the value of the bus service and charge the GST on the difference. They believe this to be an administrative nightmare.

Senator McGauran—No, that’s your story.

Senator Gibbs—This is what two officers from the tax office have told the Gatton Show Society! The tax office also told them they would need to pay the GST on the value of any complimentary passes they give out. Last year, they gave out 1,000 complimentary tickets. If they give out the same number of passes for their show this year, they will pay $700 GST to the government. It will cost the Gatton Show Society $700 for the common courtesy of giving out complimentary passes to judges, volunteers and sponsors. Of course, that leaves the show society in an unenviable position of having to choose whether to take the $700 out of their already marginal operating funds to pay the GST or to issue fewer complimentary passes. Some of the show societies operate on such a small basis that they do not need a computer for accounting.

I see I am running out of time, and I have a lot more to say, but this is just another example of the government bleating, bleating, bleating that they keep supporting rural and regional Queensland and it is all wrong, wrong, wrong. Rural and regional Queensland are waking up and complaining to us, the Labor Party, that what you are doing to them is wrong and it is not working. (Time expired)

Senator Watson (Tasmania) (3.18 p.m.)—I do not often take issue with the delightful medical practitioner in community medicine from South Australia, but rightly Senator Crowley is concerned about any increase in the price of solar suits. As a medical practitioner, she would be concerned about the impact of the sun’s rays, particularly the ultraviolet rays, on the sensitive skin of children. But, unfortunately, Senator, I think you have been used on this occasion, and the mathematics have escaped a number of your advisers, who obviously prepared the question for you.
As we all know, in a manufacturing operation there are a number of components of cost. For example, in making the solar suits, there is probably the material component—that is one of about seven—and that includes the fabrics, the buttons, the elastics, the strings, et cetera. Then there is the labour cost. Labour cost involves the people who do the sewing and the preparation of the garments, et cetera, and we all know there is no GST on that component of cost. Then there is the factory service cost, which includes the incidental costs—either direct or indirect, variable or fixed—and some would go up by a percentage, others would remain unchanged and some would actually come down. You then have your selling and your marketing costs. You have your administration costs, and here I would expect quite a fall because there is quite a lot of sales tax on office equipment. That will change and the sales tax will be replaced by a 10 per cent GST on retail. Then you have the financial expenses. As we know, these include the interest and those sorts of components, and we know there is no GST as such on those costs.

So there are all these different components of costs but, for simplicity’s sake, divide those into categories. So instead of the eight different categories of costs of producing an article, you can break them down to two. We will say that those two costs are material costs and administration costs, for simplicity’s sake—and I think this is the way you, Senator Crowley, presented the argument. For example, let us take your hypothesis that the material costs go up by 10 per cent—and I am not challenging that for the purpose of the arithmetic of the argument. We acknowledge that those material costs do not represent 100 per cent of the costs. They might represent a proportion, say, 60 per cent, of the costs. So 60 per cent of your 100 per cent is made up of material costs which go up by 10 per cent. You turn around and say that the administrative costs, which you have explained, go up by seven per cent. You do not add 10 per cent plus seven per cent. What you say is that 40 per cent of costs go up by seven per cent. So the overall cost of the fabric of the solar suit must go up not by a figure of 17 per cent but by a figure of less than 10 per cent. Whichever component of cost you use—whether it is 60, 70, 30 or 50—and whatever way you look at it, there is no way those costs could go up by more than 10 per cent because that is the maximum you specified in your article. So I submit, Senator Crowley, please go back to Solarsuits. I think they have good news coming to them because their costs will come down compared with the figure that you have given to us today, and it will certainly make them a lot more competitive.

What is not generally known is that there are a lot of other taxes that are going to come off. The wholesale sales tax will be completely removed. States and territories will cease to apply bed taxes from 1 July 2000, financial institutions duty and stamp duty on marketable securities from 1 July 2001 and debit taxes from 1 July 2005, subject to review of the ministerial council. The ministerial council by 2005 will review the need for the retention of stamp duty on non-residential conveyances, stamp duty on unquoted market securities, stamp duty on leases, stamp duty levied on rental payments under occupancy arrangements and stamp duty on mortgages, bonds and debentures. A whole host of costs are going to come off. We do not hear much about these costs coming off. What does the ordinary individual get? Eighty per cent of Australians will pay tax at the rate of 30 per cent or less, which means much more disposable income in their pockets to spend according to their needs. (Time expired)

Senator CROWLEY (South Australia) (3.23 p.m.)—I do not usually take issue with Senator Watson, but they are not my figures; they are what were given to me in a letter from a constituent from Solarsuits. She says, ‘Currently apparel does not attract sales tax.’ This is her letter. The big concern for people is that the 10 per cent GST will go on and there is no sales tax to come off. Now you tell us that by a complicated formula there will be a bit of wholesale sales tax here and there. On evidence that we have been given, and on evidence by experts, that wholesale sales tax package is a very small amount, if anything, and most people are not going to see any savings. They know the cost of ap-
parel will rise by pretty close to 10 per cent. Her figure, not mine, is an estimated seven per cent. I would be happy to write to her—

Senator Watson—I accept that.

Senator CROWLEY—You did, Senator Watson. You are at least part way reasonable, unlike Senator Kemp, whose answer to this question proved conclusively that he knows nothing. The more important point is that, as you properly said at the beginning, this government has said that health matters will not be subject to GST. The very big concern is: what is health and what is inside and outside the so-called definition of health? Do pharmaceuticals and those things that assist people to avoid cancer, for example, come under the definition of health? Over-the-counter pharmaceuticals and products were not going to be GST exempt. That meant that sunscreens were suddenly going to get a GST on them. So the government is still, all these months later, deciding what it will do by way of dealing with sunscreens and whether or not they are exempt and by what definition—15 plus, 30 plus or whatever.

The government still has not decided what it plans, to use the minister’s words today, to roll back. Do not bother about what a Labor government might do. You are in government. You tell us what you are planning to do. What the community knows is that you have made a dog’s breakfast of the GST, so prices will rise up to 10 per cent and for some even more.

Senator Watson—Some will come down.

Senator CROWLEY—Some, like the 30 per cent wholesale sales tax products, will come down. The 22 per cent products will probably be about the same and the 15 per cent wholesale sales tax products will be dearer. But the important question here is: will products that help people avoid sun cancers, like sunscreens and Solarsuit products that children will wear and with much more effect than sunscreens, be caught by the government under the definition of health products? Is this government serious about promoting the avoidance of cancer from sun?

Senator McGauran—Where is the roll-back?

Senator CROWLEY—Because at the moment, comrade, you have those things enjoying a GST.

The DEPUTY PRESIDENT—Order! Address the Chair, please, Senator Crowley.

Senator McGauran—Comrade?

Senator CROWLEY—Yes, well, why not? It is better than calling you all the other words I am thinking of, Senator. It is better than calling you all the other things I could call you.

The DEPUTY PRESIDENT—Order! Would you please address the Chair, Senator Crowley?

Senator CROWLEY—Madam Deputy President, I do beg your pardon. I was for the moment distracted.

The DEPUTY PRESIDENT—Senator McGauran should not be interjecting out of his seat.

Senator CROWLEY—There is a concern by many people that this government has promised that it will make health matters and health concerns GST exempt but at the margin it is still trying to decide what is defined as eligible to be GST exempt in the area of avoiding cancer from the sun. The minister said today, as I understood his answer, that the government still has not decided. This person making solar suits wants to know whether the sunscreen GST exemption, as proposed, will apply equally to the clothing that is made and, if not, why not? If you are serious about a policy or a philosophy that says, ‘Under our public health policy we are hoping to encourage people to avoid cancer,’ then the sun protective clothing should have exactly the same treatment when it comes to GST as sunscreens and sunscreen creams. It is certainly a very important point that this person raises.

I have been waiting some five months to get an answer from the Treasurer and the Assistant Treasurer. We still have not got an answer. This person is very concerned. The tax office cannot give her an answer. We cannot get an answer. She wants to know. Are these things going to be exempt or not?
If they are, she expects that she will be able to go on selling a very good product to the community to help them keep their children free of sun cancer. But, if not, she may lose her business. What she shows and what everybody in the community knows is that the GST is an absolute mess. The GST will make everything cost more, and the community out there is extremely concerned about the confusion and the cost. *(Time expired)*

Question resolved in the affirmative.

**Education and Research Expenditure**

_Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (3.28 p.m.)*—I move:

That the Senate take note of the answer given by the Minister for Industry, Science and Resources (Senator Minchin), to a question without notice asked by Senator Stott Despoja today, relating to the funding of research and development in the higher education sector.

I asked Senator Minchin today if he was aware of the comments that have been made by the chief of Ford Australia, who was talking about how brain power was underpinning our investment in future industries.

_Senator Watson interjecting—*

_Senator STOTT DESPOJA—* I am sorry, Madam Deputy President. I am not sure what Senator Watson’s interjection was.

_The DEPUTY PRESIDENT—* All interjections are unruly, so I would suggest you ignore them. Senator Watson, remain silent.

_Senator STOTT DESPOJA—* Indeed, Madam Deputy President, I will not allow myself to be distracted. Indeed, the minister seemed a little distracted in his response to me today. He did express his concern about, for example, the reduction in R&D spending by some groups in society and the massive decline in R&D spending by higher education institutions, but he did not seem as alarmed, as certainly the Democrats and other groups in society are, about the changes to funding of our higher education institutions and of our vocational education and training sector. There is a need, as I think the minister pointed out himself at the recent Innovation Summit held around 11 February this year, to recognise that education is an investment—not necessarily a cost—in our future that should be supported and promoted and that should underpin the very notion of innovation in society.

This government’s rejection or its refusal to accept the need for major additional investment in those sectors—both through direct allocation and incentives to industry in Australia’s research base—demonstrates how flawed the government’s response is to innovation needs. Certainly the government’s plans for reforming Australia’s research management sector remain flawed while it fails to understand that need for investment. The key contention in the government’s recent research white paper that the level of Australia’s research funding compares well with other OECD countries is completely wrong and it is based on out-of-date figures. Dr Kemp’s research papers OECD data, which relates to 1997 or earlier, takes no account of the substantial boost in R&D over recent years in OECD countries such as the UK, Japan, Germany, Finland, Canada, South Korea and, indeed, the United States. That funding commitment is not being matched in our country.

Moreover, since the abandonment of the 150 per cent tax rebate for industry R&D in the 1996-97 budgetary process, higher education R&D has been falling. In 1996-97, it was 0.318 per cent of GDP but, in 1999-2000, it has declined by 13 per cent to be around 0.276 of GDP. While universities can accept their obligation to embrace new ways of managing their research, the government needs to accept an obligation to increase funding across the spectrum of Australia’s research if it is to realise the vision it has articulated in its very own white paper.

American data that has been cited by the Australian Vice-Chancellors Committee shows that some 73 per cent of US patents cite research from public and non-profit organisations. This data rejects the notion professed by this government that Australia will be able to maintain a modern research infrastructure and culture by only seeking to increase industry sources of funding. While other OECD countries are now increasing their funding for research and development, this government—and certainly I know Dr Kemp suggests this—deserves praise for its
announcement of a significant injection of funds into health and biotechnological research. We support that, but what about the other spheres? We are only going to keep pace with other OECD countries and realise sustainable economic dividends through support for a wide range of research. I think the minister failed to articulate this in his response today. Certainly these issues were a key component of the Innovation Summit, but they were not reflected in the response today.

The government’s white paper uses a user-pays approach to research funding, but it gives rise to potential conflict with the principles of open collaboration, usually underpinning the best research, and an increased emphasis on national priority setting could also challenge the institutional autonomy necessary of course for research excellence. These days, instead of the search for truth, we seem to have the search for funds in most of our higher education and other education research facilities.

I draw the Senate’s attention to the Federation of Australian Scientific and Technological Societies’ policy statement of November 1999, which looks at these very issues, including understaffing, a lack of appropriate infrastructure and the need for improved occupational health and safety conditions, particularly in our laboratories—all the things that the minister in his reference to science in his answer to my question today should be aware of. (Time expired)

Question resolved in the affirmative.

PETITIONS

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

Goods and Services Tax: Sanitary Products

We, the undersigned Australians, request that the Senate reject the Government’s proposed plan to impose GST on tampons and sanitary pads.

We think that women not using tampons or pads would cause more than a “disability” it would cause a furore!

Women already carry the burden of paying for menstruation products. We do not believe that women should carry an additional burden of a 10% GST on a product that women have no choice but to purchase, and for which men have no equivalent.

It is discriminatory and unfair.

by Senator Faulkner (from 408 citizens).

Petition received.

NOTICES

Presentation

Senator Murphy—to move, on the next day of sitting:

That the time for the presentation of the report of the Economics Legislation Committee on annual reports be extended to 6 April 2000.

Senator Payne to move, on the next day of sitting:

That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on annual reports be extended to 4 April 2000.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.34 p.m.)—I give notice that, on the next day of sitting, I shall move:

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

Dairy Industry Adjustment Bill 2000
Dairy Adjustment Levy (Excise) Bill 2000
Dairy Adjustment Levy (Customs) Bill 2000
Dairy Adjustment Levy (General) Bill 2000
Primary Industries (Excise) Levies (GST Consequential Amendments) Bill 2000
Taxation Laws Amendment Bill (No. 5) 2000.

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

Leave granted.

The statements read as follows—
STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2000 AUTUMN SITTINGS

DAIRY INDUSTRY ADJUSTMENT BILL 2000

Purpose
The purpose of the proposed Dairy Industry Adjustment Bill is to amend the Dairy Produce Act 1986 to provide for the implementation and administration of an adjustment package to assist the dairy industry to manage the structural adjustment process to a deregulated domestic milk sector. The purpose of the proposed Dairy Adjustment Levy (General) Bill, the Dairy Adjustment Levy (Excise) Bill and the Dairy Adjustment Levy (Customs) Bill is to provide for a levy on drinking milk at the retail level to fund the adjustment package.

Reasons for urgency
Commercial competitive pressures are driving deregulation in the state-regulated market milk sector which will result, over time, in deregulation of Australia’s dairy industry. The Commonwealth’s Domestic Market Support Scheme is also due to end on 30 June 2000. The Australian dairy industry is seeking full deregulation of the market milk sector by 1 July 2000, and has sought an adjustment package. On 28 September 1999, the Commonwealth Government announced that it would make an adjustment package available if all states deregulate.

On 23 December 1999, the Victorian Government announced that it will deregulate its state market milk arrangements if an adjustment package is available. This was a critical point in the decision making process as Victoria produces 68 per cent of Australian milk production. An adjustment package will be an important measure for other states, who are also considering repealing their market milk arrangements as a result of the decision taken by the Victorian Government.

There is a high expectation by industry and state and territory governments that an adjustment package will be available from 1 July 2000.

Failure to establish the package in time for deregulation on 1 July 2000 would have a severe impact on the industry’s growth and export performance and is likely to result widespread financial hardship throughout the dairy industry and in dairying regions in Australia.

The Bills need to be passed in the Autumn sittings, to allow sufficient time to undertake the preparatory activities in establishing the package and levy payment arrangements. The Bills were not introduced in the 1999 Spring sittings as the new Victorian Government was waiting for the outcome of a plebiscite of its dairy producers before taking its decision on deregulation.

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

PRIMARY INDUSTRIES (EXCISE) LEVIES (GST CONSEQUENTIAL AMENDMENTS) BILL 2000

Purpose
The proposed Bill makes amendments to the Primary Industries (Excise) Levies Act 1999 to address the consequences of the GST legislation.

Reasons for Urgency
Amendments to portfolio legislation contained in the proposed Bill have been dependent upon the policy determination by the Treasurer, in accordance with Division 81 of A New Tax System (Goods and Services Tax) Act 1999, on the GST status of Commonwealth taxes, levies and regulatory charges.

Introduction of the GST on 1 July 2000 will affect the application of portfolio legislation and the consequential amendments to legislation is essential for a smooth and effective transition to the new tax system in both portfolio industries and the Department of Agriculture, Fisheries and Forestry (AFFA).

Delay could have adverse financial and operational impacts on the AFFA portfolio and statutory authorities (Research and Development Corporations and Statutory Marketing Authorities), and possible consequential flow-on costs associated with portfolio levies and regulatory charges to industries.

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

TAXATION LAWS AMENDMENT BILL (No. 5) 2000

Purpose of the proposed measures:
The first measure will amend the sales tax law. The amendments will exclude from the taxable value of a motor vehicle on which sales tax would otherwise be paid, that part of the taxable value...
that represents the amount attributable to the additional costs of manufacturing a vehicle to enable it to be driven by a person who is suffering from a physical impairment or to enable it to be used to transport a person who is suffering from a physical impairment.

The second measure will apply in situations in which shares are acquired under an employee share scheme in conjunction with a public offer of shares in an existing listed public company. The measure will ensure that the market value of shares when acquired is the public offer price rather than the weighted average price of shares traded on the stock market. The amendment removes uncertainty for employees who participate in such employee share schemes and ensures that an artificial gain does not arise under the tax law in such situations.

The third measure will improve the practical operation of the provisions that require trustees of closely held trusts to disclose the identity of ultimate beneficiaries in certain circumstances.

Reason for urgency:
The first measure was announced on 5 November 1999 and the sales tax law will only operate until 30 June 2000 when the GST law will take effect.

The second measure will affect employees who participated in the employee share schemes offered in conjunction with an existing public company after 2 September 1999. The amendment will affect the amount of discount that is assessable to these employees in the 1999-2000 year of income.

This measure impacts on the preparation of explanatory material and ATO computer system development for TaxPack 2000 and provisional tax calculations and accordingly needs to be resolved as soon as possible.

The third measure will apply to present entitlements created after 4pm, on 13 August 1998 AEST. Trustees affected by the provisions need certainty in determining their obligations.

Accordingly, it is crucial that the measures in this Bill are considered by the Parliament with a view to passage as soon as possible.

Result if Bill not dealt with in these sittings:
Passage of the Bill in these sittings will provide certainty to those affected by the Government announcements.

(Circulated by authority of the Treasurer)

Senator Hogg—to move, on the next day of sitting:
That the Senate notes that:
(a) it is 34 days since former Senator Parer resigned as a senator for the State of Queensland;
(b) the Queensland Liberal Party has said that it will not select a replacement for Senator Parer until 30 April 2000, another 47 days (a total of 81 days since Senator Parer’s resignation);
(c) at the Queensland Liberal Party’s request, the Queensland State Parliament will not be asked to appoint a replacement for Senator Parer until 16 May 2000 (a total of 97 days since Senator Parer’s resignation);
(d) the day of swearing-in of the successor to Senator Parer would be 5 June 2000 at the earliest (a total of 117 days since Senator Parer’s resignation); and
(e) the people of the State of Queensland have been denied their full Senate representation by the lethargy of the Queensland Liberal Party in appointing a successor to Senator Parer.

Senator Brown—to move, on 16 March 2000:
That the Senate—
(a) notes the recent World Bank report which concludes that the Ok Tedi copper mine in Papua New Guinea should, on environmental grounds, be closed immediately and which urges the Government of Papua New Guinea to consult the Ok Tedi community to draft a closure plan for the mine without delay;
(b) condemns the moves by BHP to abandon responsibility for its environmental liabilities by handing control of the mine to the Papua New Guinea Government; and
(c) calls on the Minister for the Environment and Heritage (Senator Hill) to prevent BHP from escaping its liabilities and ensure that BHP cleans up its environmental damage at, and downstream of, the mine.

Senator Brown—to move, on 16 March 2000:
That the Senate—
(a) notes that Wesfarmers Limited of Western Australia will reduce woodchip exports from native forests by 60 per cent in the next 2 years and increase exports from existing plantations by 1 500 per cent over the same period;
(b) observes that the transition can, in fact, happen now;
(c) calls on the Government to abandon the Regional Forest Agreement process before any more money is wasted and to stop all exports of woodchips from native forests immediately; and
(d) notes nationwide forest protests planned for 14 March 2000 in Perth and for 31 March 2000 in Sydney, Canberra, Melbourne and Hobart to support the transition option for the nation’s forests.

Postponement

Items of business were postponed as follows:

General business notice of motion No. 438 standing in the name of Senator Stott Despoja for today, relating to Australia’s education sector, postponed till 4 April 2000.

General business notice of motion No. 441 standing in the name of Senator Allison for today, relating to Telstra’s Bendigo and Morwell Call Centres, postponed till 15 March 2000.

General business notice of motion No. 454 standing in the name of Senator Allison for today, relating to Formula 1 Grand Prix and tobacco advertising, postponed till 15 March 2000.

General business notice of motion No. 462 standing in the name of Senator Stott Despoja for today, relating to unemployment in South Australia, postponed till 15 March 2000.

General business notice of motion No. 464 standing in the name of Senator Stott Despoja for today, relating to the First International Youth Services Models Conference, postponed till 15 March 2000.

General business notice of motion No. 444 standing in the name of Senator Stott Despoja for today, relating to genetic privacy, postponed till 15 March 2000.

SEX DISCRIMINATION LEGISLATION AMENDMENT (PREGNANCY AND WORK) BILL 2000 [No. 2]

First Reading

Motion (by Senator Crossin) agreed to:

That the following bill be introduced: a Bill for an Act to amend the law in respect of the prohibition of discrimination against pregnant women in the workplace, and for related purposes.

Motion (by Senator Crossin) agreed to:

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

Bill read a first time.

Second Reading

Senator CROSSIN (Northern Territory) (3.29 p.m.)—I table the explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This private senator’s bill amends the Sex Discrimination Act 1984 and the Human Rights and Equal Opportunity Commission Act 1978 to ensure that pregnant, potentially pregnant and breastfeeding women are not discriminated against in the workplace. The amendments contained within this bill are overdue. It has been nine months since the need for these changes was brought to the attention of this government, and we have seen absolutely nothing as a result. The government has repeatedly demonstrated no concern for protecting the rights of women. If the Howard government were committed to ensuring that the right to work while pregnant is a reality for every Australian woman, it would not continue to delay its response to the Human Rights and Equal Opportunity Commission’s inquiry into pregnancy and potential pregnancy discrimination in the workplace. This report was presented to the Attorney-General in June 1999, and since then he has done nothing with it. The reforms contained within this bill are one element of the Labor opposition’s commitment to assisting families balance work and family commitments. Fundamental reform is needed to our social and economic institutions to enable Australian families to regain control over their working lives and to place limits on the continual encroachment on family time. Long-term solutions that diminish the conflicts between work and family life must be developed and implemented. Governments in collaboration with unions and employers have a key role to play in developing these solutions. Governments must instigate a review of what policies and programs are predicated on the outdated male breadwinner model of the family and establish industrial relations, taxation and welfare policies that enable all Australians to live full family and work lives. Rather than make life easier for working parents, the government has implemented a litany of changes that make it harder for Australians to balance their work and family responsibilities. For example, formal child care is essential for many working families, but cuts to the child-care budget have resulted in the cost of
child care increasing by up to $20 to $30 a week, taking it out of the reach of many families. This government also promised that its individual contracts would allow employees greater flexibility to set working times. However, evidence suggests that the increased flexibility has been all one way and, instead of empowering the worker, it means that employers now have even greater flexibility to dictate what hours will be worked and when. This type of arrangement, coupled with the increasing casualisation of employment, makes it more and more difficult for families to plan their care arrangements and rob children of predictable family time. This type of workplace flexibility is not family friendly; it is a parents’ and children’s nightmare. The present organisation of work requires millions of families to make impossible choices between their family commitments and their work commitments. If governments can remove the need for these choices to be made, or at least make the choices a little easier, they have an obligation to do so. Nine months ago, the government was presented with the Human Rights and Equal Opportunity Commission’s Report Pregnant and productive: It’s a right not a privilege to work while pregnant. This report found that ‘erroneous tactics and exploitative practices are, to this day, being utilised to remove pregnant women from the workplace or deny pregnant and potentially pregnant women equal employment opportunity’. The HREOC report includes 46 recommendations on ways Australian workplaces can be made more family friendly. Whilst discrimination and harassment on the grounds of pregnancy and potential pregnancy are grounds for a complaint under the Sex Discrimination Act 1984, the Pregnant and productive report found that workplace discrimination and harassment on these grounds remain a real issue for many women and that clarification of the act is needed in a number of areas. Direct and indirect discrimination on the basis of pregnancy and potential pregnancy was documented in the report. A reading of it indicates that many workplaces fail to accommodate the realities of pregnancy and that action is needed. The commission reported that some employers conceal their pregnancy for as long as possible because they feared pregnancy discrimination and that some senior professional women took accrued holiday leave so that they would not be replaced or have maternity leave on their files. When the report was publicly released in August last year, the Sex Discrimination Commissioner, Susan Halliday, said that the report had uncovered horror stories such as women miscarrying because they were not allowed to sit down at work, men sacked for attending their babies’ births and women harassed about their appearance or removed from front desk work. In one case documented by the commissioner, a woman working in a car factory was denied a chair despite bleeding and severe pain. She collapsed at work when seven months pregnant and her baby was born prematurely with an underdeveloped heart. Ms Halliday said, ‘Something has to be done. It is fair to say that there are lives at stake here.’ Despite the report’s disturbing findings, the government has shelved it, and hence the need today for the opposition to pursue the recommended legislative reforms through this private senator’s bill. The amendments contained in this bill address 10 of the Pregnant and productive report’s 46 recommendations. The bill enhances the rights of pregnant and potentially pregnant women by: empowering the Human Rights and Equal Opportunity Commission to publish enforceable standards in relation to pregnancy and potential pregnancy; ensuring unpaid workers are covered by the Sex Discrimination Act 1984; removing the exemption for employment by an instrumentality of state from the Sex Discrimination Act; removing the exemption for educational institutions established for religious purposes in relation to pregnancy and potential pregnancy; allowing punitive damages to be awarded; specifically including breast-feeding as a ground of unlawful discrimination; allowing the Sex Discrimination Commissioner to refer discriminatory awards or agreements to the Australian Industrial Relations Commission without the requirement to receive a written complaint; clarifying that a complaint about a discriminatory advertisement may be made by any person; clarifying that the asking of questions to elicit information about whether and when a woman intends to become pregnant and/or her intentions in relation to meeting her current or pending family responsibilities is unlawful; and, finally, clarifying that it is unlawful to discriminate in medical examinations of pregnant women during the recruitment processes. This bill also extends the antidiscrimination provisions to employees who are in the process of adopting a child. The bill does not give effect to the recommendations that require amendments to other pieces of legislation. In addition to the legislative changes resulting from this bill, there is a need for attitudinal and cultural changes towards pregnant and potentially pregnant women in the workplace. An immediate education, guidance and awareness raising program around pregnancy, potential pregnancy and work should be undertaken. Until these attitudinal and cultural barriers to women working while pregnant are removed and family friendly workplaces become a reality, families will be forced to endure the stresses of balancing work and family...
or delay or even forgo completely having a family. This situation is unacceptable and must be addressed as a priority. Women should not have to choose between working and family life. The research of ANU demography professor Peter McDonald into fertility rates indicates a growing trend by women to choose between work and family rather than pursuing both. Their choices are linked, and it is the job of governments to work to make social and economic institutions family friendly. To quote Professor McDonald:

The countries, through their social institutions, which make it difficult or unrewarding for women to combine work and family, or which provide incentives for mothers to stay at home rather than to be employed are the countries that have very low fertility. Faced with a choice between an uninterrupted career or having a child and withdrawing from the work force for an extended period, women in these countries often make the decision not to have the child.

Professor McDonald's work therefore suggests that the barriers to combining work and family are at the heart of the trend for women to delay, limit or forgo having children. Australia’s declining fertility rate may, therefore, be directly related to the inability of our governments and our social and economic institutions to respond to a trend which has at its source increasing gender equality. Australia’s fertility level is below the level of generational replacement and is declining. Business organisations and employers who argue against family friendly reforms to their workplaces because of their costs must be shown the true long-term consequences of these actions. Halting a declining labour force is far more difficult than removing the barriers to providing family friendly workplaces. One barrier to combining work and family responsibilities that requires a substantial reform is the provision of workers’ benefits such as paid sick leave, paid holiday leave, long service leave, paid and unpaid maternity leave, family or carers’ leave. Research indicates that the loss of these benefits due to women temporarily exiting the labour market to have children is a considerable burden and occurs at a time when access to these benefits is most needed. Greater flexibility in the use of benefits and the provision of benefits to casual and part-time positions must be a central part of a 21st century work and family policy. This bill goes some way to addressing the discrimination that is a reality for some pregnant, potentially pregnant and breastfeeding women in our workplaces. The inability of many workplaces to manage pregnancy and work issues threatens a woman’s human right to work while pregnant. The amendments contained in this bill are not radical but they will make a substantial contribution to ensuring our workplaces are more family friendly—a goal worthy of the parliament’s support.

Debate (on motion by Senator Calvert) adjourned.

COMMITTEES

Foreign Affairs, Defence and Trade Legislation Committee

Meeting

Motion (by Senator Calvert, at the request of Senator Brownhill) agreed to:

That the Foreign Affairs, Defence and Trade Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 16 March 2000, from 9.30 am till 12.30 pm, to take evidence for the committee’s inquiry into the provisions of the Broadcasting Services Amendment Bill (No. 4) 1999.

Rural and Regional Affairs and Transport Legislation Committee

Meeting

Motion (by Senator Calvert, at the request of Senator Crane) agreed to:

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 14 March 2000, from 6 pm till 8 pm, to take evidence for the committee’s inquiry into the provisions of the Dairy Industry Adjustment Bill 2000 and 3 related bills.

Corporations and Securities Committee

Meeting

Motion (by Senator Calvert, at the request of Senator Chapman) agreed to:

That the Parliamentary Joint Committee on Corporations and Securities be authorised to hold a public meeting during the sitting of the Senate on 15 March 2000, from 5.30 pm, to take evidence for the committee’s inquiry into the mandatory bid rule.

MEMBER FOR KENNEDY

Motion (by Senator Robert Ray) agreed to:

That the Senate:

(a) notes the need for the Minister for Communications, Information Technology and the Arts (Senator Alston) to justify his public statement that the Member for Kennedy (Mr Katter) is ‘a national disgrace, who has no respect
in this Parliament and very little credibil-
ity outside it’; and
(b) calls on the Minister, if he fails to jus-
tify his statement, to apologise to the
Member for Kennedy.

MINISTERIAL STATEMENTS

Trade Mission to the Gulf

Senator IAN CAMPBELL (Western
Australia—Parliamentary Secretary to the
Minister for Communications, Information
Technology and the Arts) (3.42 p.m.)—I table
a statement by the Minister for Trade, Mr
Vaile, on the trade mission to the Gulf from
24 February 2000 to 5 March 2000. I seek
leave to incorporate the statement in Han-
sard

Leave granted.

The statement read as follows—

The Gulf States of the Middle East offer some
exciting opportunities for Australia to increase its
trade, and to secure new sources of investment.

I was keen to visit the key countries of the region
early in my tenure as Trade Minister, to promote
Australia’s economic and commercial interests
and strengthen relations with governments of the
region.

I’m pleased to report the visit to the Gulf States of
Bahrain, Saudi Arabia, Kuwait, and the United
Arab Emirates fully achieved its objectives.

In particular, the visit was able to demonstrate to
their business communities the commercial po-
tential of Australian exporters and also to broaden
awareness in the Gulf of the range and quality of
Australian high technology and services such as
in education, health and tourism as well as Aus-
tralian agricultural exports.

The success of the visit is good news, especially,
for regional and rural Australia.

Personal relationships and mutual trust are vital in
developing commercial relationships in these
countries. The visit was particularly useful in
allowing me to establish a personal rapport with
my Ministerial counterparts and commercial
leaders.

A very large and diverse business mission of up to
60 leading Australian business delegates accom-
panied me on the trade visit. The delegates repre-
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in high technology and service exports, defence,
mining, and agricultural produce, as well as agri-
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The size and quality of participants in the delega-
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with the highly influential Governor of Riyadh,
Prince Salman, who is planning to visit Australia
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My discussions with Commerce Minister Faqih
centred on the Saudi desire to conclude Aus-
tralia’s negotiations on their accession to the WTO
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speed up the bilateral negotiation process by
having separate negotiations in Riyadh.

The visit to Saudi Arabia coincided with the suc-
cessful commencement of trial live sheep ship-
ments. I was able to inspect some of these in a
feedlot during my visit to Jeddah.

In Kuwait, I had the opportunity to draw upon
Australia’s substantial record of support for Ku-
wait over the past decade to present a strong case
for Kuwaiti support for major Australian com-
mmercial interests, as well as to seek further Ku-
waiti investment.

I was assured the long-term prospects to both
expand and diversify the trade and investment
relationship with Kuwait are very good.

In the UAE, I co-chaired a highly successful
Australia/UAE Joint Ministerial Commission
(JMC) on March 4, attended by over 200 dele-
gates. The attendance on the UAE side was un-
precedented. It was the first time that all seven of
their Chambers of Commerce and Industry had
been represented at the Chairman and/or Director
General level. Mr Speaker, in the Middle East,
Chambers of Commerce play extremely influen-
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The 84 UAE delegates in Abu Dhabi represented
nearly all the major local companies.

The JMC agreed on a substantial program of bi-
lateral cooperation, most of it commercially
based.

Among the outcomes of the JMC was agreement
to develop a partnership that would see both
countries working toward the development of
new elements in the bilateral trade relationship;
the diversification of both sides’ investment
bases; and the use of both countries as a launching pad for trading into other countries.

The UAE is an ideal entry point for Australian companies seeking to establish commercial relationships in other parts of the Gulf, Iran, the Indian sub-continent and parts of Africa.

We also agreed to continue negotiations on an Investment Promotion and Protection Agreement, and to conduct further discussions on double taxation issues. I also had discussions with leaders, Ministers and business people on expanding trade and two-way investment relationships.

At a high-level function arranged by the local Australian business association (Australian Business In the Gulf—ABIG) in Dubai, I went to lengths to outline the Coalition’s intentions to push our trade and investment relationship forward.

While in Abu Dhabi, it was my pleasure to open the new Australian Embassy.

**Why focus now on the Middle East and, in particular, on the Gulf?**

Australia has established a very sound reputation as a reliable and understanding economic partner with the countries of the Middle East. The region has long been a major destination for our exports of wheat, live sheep, sugar and alumina.

It’s a market that’s become increasingly important for Australia, particularly for Australia’s Automotive sector.

The potential of the Gulf States, as a market for Australian products, is very promising. In 1999, Australian exports to the Gulf totalled $2.2 billion of which our exports to Saudi Arabia were over $1 billion and the UAE, over $800 million.

Australia has a great track record in producing what the market wants—not only commodities, but also value added manufactures such as motor vehicles and high technology equipment. Who would have thought five years ago that Australia would become a major supplier of passenger cars to the Gulf?

The region is also potentially a very significant market for our services, in education, medical, hospitality and communications, in mining and mining infrastructure development, and in energy development. There is great potential for two-way growth in the tourism industry.

One of the lessons flowing from the recent financial crisis in Asia is that it is important for Australia to broaden and diversify its investment base. The Gulf is a key potential source of investment for Australia.

I promoted Australia as an economically and politically stable investment destination. I outlined the Government’s proud economic record. The reception accorded to my delegation in the UAE, Saudi Arabia and Kuwait was regarded by senior government figures in those countries as exceptional, even by the traditional standards of hospitality of the region. There was a message in that for Australia—that our business reputation in the region is strong and we are seen as having a great deal to offer. Australia’s relations with those countries clearly matter to them as well as to us.

In Saudi Arabia, Kuwait and the UAE, I found there was both the interest and the capacity to undertake further investment in Australian commercial ventures.

Mr Speaker

Australia has done a great deal to strengthen its profile and to pursue its objectives in the Gulf region. We are now effectively represented. We have a strong and effective Austrade and diplomatic presence in the UAE as well as in Saudi Arabia.

But we must keep up the effort. The competition is tough. Innovative thinking is needed for us to build our competitive edge in this market.

The region is very dynamic indeed. Some 60 per cent of the Gulf’s population are under the age of 21, and they are becoming wealthier and more cosmopolitan in their tastes. Right now, the Gulf has import needs of some $150 billion each year. It has huge development needs with some $55 billion worth of development projects expected for the next 5 years in areas such as water, airports, road/rail, aluminium, and hospitality infrastructure.

The eventual accession of Saudi Arabia to the WTO will bolster trade with the region in coming years.

The focus of Gulf economic policy is increasingly one of diversification from reliance on oil revenue. This embraces everything from downstream hydrocarbon products like fertilisers and polymers, to building and construction materials and particularly services such as investment, banking and finance, education and health and information technology.

Saudi Arabia is starting to open its economy more to foreign participation for the first time. All Gulf states are making progress in deregulating and privatising their economic structures. These elements offer opportunities for Australia.

Australia must diversify its export base into other markets beyond Asia. In this context, the Middle East market stands out. It offers an excellent opportunity to build on our strong reputation as a supplier of traditional commodity exports, and to
broaden our commercial relationship into value added goods and services. And it has the potential to become a very important source of foreign investment in our economy.

The mission I led put Australia’s stamp on many future commercial developments in the region.

The Gulf States of the Middle East offer some exciting opportunities for Australia to increase its trade, and to secure new sources of investment.

I was keen to visit the key countries of the region early in my tenure as Trade Minister, to promote Australia’s economic and commercial interests and strengthen relations with governments of the region.

I’m pleased to report the visit to the Gulf States of Bahrain, Saudi Arabia, Kuwait, and the United Arab Emirates fully achieved its objectives.

In particular, the visit was able to demonstrate to their business communities the commercial potential of Australian exporters and also to broaden awareness in the Gulf of the range and quality of Australian high technology and services such as in education, health and tourism as well as Australian agricultural exports.

The success of the visit is good news, especially, for regional and rural Australia.

Personal relationships and mutual trust are vital in developing commercial relationships in these countries. The visit was particularly useful in allowing me to establish a personal rapport with my Ministerial counterparts and commercial leaders.

A very large and diverse business mission of up to 60 leading Australian business delegates accompanied me on the trade visit. The delegates represented a broad cross section of SMEs specialising in high technology and service exports, defence, mining, and agricultural produce, as well as agribusiness. In many cases the participants were new to this market.

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Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.42 p.m.)—by leave—I move:

That the Senate take note of the statement.

Labor welcomes Minister Vaille’s report. It is good to see the government focusing attention on the Middle East and, in particular,
Saudi Arabia, Kuwait, Bahrain and the United Arab Emirates. Like so many of his previous reports, however, today's statement of Minister Vaile's golf trip reads more like a travelogue than a government strategy. While modestly outlining the unusually high level of access he was accorded, the exceptional reception he received and the unprecedented attendance to his functions, it is far from clear what Minister Vaile actually did when he was overseas. It is even less clear what Minister Vaile intends to do to boost our trade with the region. It is all very well to meet and greet, but the minister's report contains no real sense of vision at all. On the crucial question of Saudi Arabia's accession to the WTO, Minister Vaile says that he will accelerate Australia's bilateral negotiations, but he fails to take the next step. Australia should play a key role in building international support for accession, but under Minister Vaile we will just be a spectator to the main game.

Whenever we are assessing the government's trade performance, it is important to focus on the big picture. When Labor left office, Australia had a trade surplus. We now have a record deficit, which topped $16 billion in 1999. As a proportion of GDP our trade deficit is worse than that of seven of our top 10 trading partners. The trade deficit is not the only figure to be considered. Our current account deficit is also up. For the 12 months to the end of September 1999 quarter, Australia's current account deficit was $34 billion, another shocking record.

Thirdly, there is foreign debt. Australia's foreign debt today stands at $246 billion, 28 per cent higher than when Labor left office. Do you remember the debt truck that Peter Costello proudly drove around the country in 1996? Back then he said that Labor had racked up debts of $10,000 for every person in Australia. John Howard promised that under the coalition foreign debt would fall, yet today Australia's foreign debt is nearly $13,000 for every person, man and child.

This is the perspective from which we should view the coalition's strategy of aggressive bilateralism, for, while bilateralism should always be an important part of Australia's trade strategy, it should not be the centrepiece. The core of our trade policy, and where the greatest gains can be made, is through multilateralism. The cost of the coalition's policy of aggressive bilateralism is a record trade deficit, a record current account deficit, a record level of net foreign liabilities, and Australia's estrangement from our trading partners in Asia. APEC has stalled, to the extent that the APEC leaders' meeting will be increasingly difficult to justify in future years.

As to the WTO, Minister Vaile seems to have sunk into the mire of pessimism and decided that it is not worth pushing for a new trade round until the year 2001. Furthermore, the recent news that the International Labour Organisation's committee of experts has found that Australia is in breach of ILO convention 98 on collective bargaining may prove another blow to our efforts for world trade liberalisation. If we are to rescue the WTO from the confusion of Seattle, we must deal appropriately with the issues of labour standards. Yet this is going to be difficult to achieve when we have a government that stands in breach of one of the core labour conventions. If the Howard government is serious about a new WTO round, it must get serious about adhering to ILO conventions. If not, Australian exporters will miss out on the benefit that a new WTO round could bring, as much as $7.5 billion per annum—not to mention the employment boost that comes with access to our new markets.

ILO convention 98 was adopted 26 years ago by the Australian government. It was adopted after a process of consideration by each of the legislators in the states and territories of this country, and after they had given assent to the Commonwealth to approve the ratification of this convention. It is a core labour standard. The matter of the breach by Australia has been considered by an international panel of jurists who constitute the committee of experts for the ILO. After the Australian government has presented its arguments as to why it believes the Workplace Relations Act is not in contravention—

Senator Ian Campbell—Madam Deputy President, I raise a point of order. My point of order concerns the standing order of rele-
vance. Senator Cook needs to be relevant to the statement I have just incorporated. I am informed that he has had it since about 12 o’clock through a special arrangement that was made. He seems to have picked up the wrong file. I think it is his application for a job at ILO, as opposed to the speech on the Gulf. I have listened very carefully for the past five minutes. The first 32 seconds he related vaguely to the minister’s statement, but for the last four minutes and 28 seconds he has been discussing a range of issues which have no relevance to the statement I have just incorporated.

Senator COOK—It may be the case that the Parliamentary Secretary has not bothered to read the statement by the trade minister. If he were to have read the statement, he would have discovered that the statement touches on Australian trade matters. Certainly it focuses on the Gulf, but it canvasses the issue wider than that. In responding to the statement, it is appropriate that I not only comment on the Gulf but also deal with the broader context in which exports and imports from the Persian Gulf and trade opportunities in that region of the world arise.

Senator Ian Campbell—Nowhere does it touch on the ILO issues that you are discussing.

Senator COOK—Noting the interjection that has just been made, can I say that the ILO committee of experts’ finding against Australia relates front and centre to our trade interests. If the Parliamentary Secretary had bothered to follow the trade issues, he would understand that one of the reasons why the attempt to bring a world trade round forward at Seattle failed is because trade and labour issues were not properly addressed on the one hand, and were resented for being raised on the other hand. This is an issue that deals directly with our vital national interest and is related to the subject before the chair.

The DEPUTY PRESIDENT—I have not seen the minister’s report, but it is one on trade policy and the minister’s trade mission. I would urge that Senator Cook continue, and I am sure he will relate it to other aspects of that particular trip.

Senator COOK—Let me relate my remarks about the ILO directly to the minister’s statement, if there is a requirement that that be done. Saudi Arabia is seeking accession to the WTO. It is in Australia’s interests that Saudi Arabia become a member of the WTO, as it is in Australia’s interests that the People’s Republic of China become a member of the WTO, and economies in our broad region widely defined are brought inside the world trade tent, rather than being kept outside of the world trade tent. One of the issues inside that tent that they will confront immediately upon being granted accession is this debate about trade and labour standards. Australia has been found by an international body of jurists constituting the expert panel to be in breach of conventions that it itself has ratified. That is to say, our trade negotiators will now face an uphill battle in Europe with the European nations who will find this an influential decision and another reason why they should resist Australia’s attempts to open the agricultural market in Europe.

This government has got to realise that taking a trade mission to the Persian Gulf—while a good thing in itself—does not go to the question of the record levels of trade deficit this nation has under the Howard government, does not go to the issue of the level of deficit that we have on the current account under the Howard government either. This nation has got to realise that if our international behaviour breaks international treaties of the type that I am talking about when our trade negotiators front up in international negotiations, those breaches will be used against our vital national interest, and Australian farmers will pay for that.

We can go to the Persian Gulf. We can try to open markets with the oil-rich sheikhdoms of the Middle East—and that is a positive thing, and we should do as much of that as we possibly can. But let us live under no illusion that, if Australia is regarded as a maverick internationally by not adhering to conventions it signs, then there is a basis for other nations to take action against us, and they will do so on the trade front, where our vital national interests are at stake, and the sector in Australia that will pay most dearly
for that is the agricultural export sector, which faces markets that are highly subsi-
dised or highly protected, which work against our national interest.

So I congratulate Mark Vaile and the 60 Australian businessmen who accompanied
him on his visit to Saudi Arabia, Bahrain and the other Persian Gulf states that he visited
on this occasion. But I do think it is of funda-
damental national importance that trade
promotion and the importance of that not be
confused with the trade responsibilities and
strategy we have to open new markets in the
world. By opening new markets we offer all
Australian exporters an opportunity, and the
best opportunity to open new markets is to
bring forward a world trade negotiating
round, as was attempted to be achieved at
Seattle.

When Australia now raises its voice in
international fora in that cause, the issue of
our record in industrial relations will be used
against us. And it may well be used against
us by nations which have a worse record in
industrial relations. We have given them a
stick to beat us with, which we ought not
given them. At the end of the day it will
all come home to roost in terms of our
standing as a good international corporate
citizen. This government has tarnished that.
Australian exporters will suffer as a conse-
quence. And the only way we can turn that
around is for this government now to con-
form with what the ILO has requested and
amend our domestic laws to conform with
the treaties we have signed. (Time expired)

Question resolved in the affirmative.

PARLIAMENTARY ZONE
Old Parliament House Gardens

Senator IAN CAMPBELL (Western
Australia—Parliamentary Secretary to the
Minister for Communications, Information
Technology and the Arts) (3.55 p.m.)—In
accordance with the provisions of the Par-
lament Act 1974, I present a proposal for
works within the parliamentary zone together
with supporting documentation relating to
the reconstruction of the Old Parliament
House gardens. I seek leave to give a notice
of motion in relation to the proposal.

Leave granted.

Senator IAN CAMPBELL—I thank my
colleagues for granting leave. I now give
notice that, on the next day of sitting, I shall
move:

That, in accordance with section 5 of the Par-
lament Act 1974, the Senate approves the pro-
posal by National Capital Authority for capital
works within the Parliamentary Zone, being the
reconstruction of the Old Parliament House gar-
dens.

COMMITTEES

Senators’ Interests Committee

Report

Senator DENMAN (Tasmania) (3.56
p.m.)—Pursuant to standing order 22A, I
present the annual report of the Committee
of Senators’ Interests for 1999.

Ordered that the report be printed.

Senator DENMAN—I seek leave to
make a short statement.

Leave granted.

Senator DENMAN—I thank the Senate.
The report I have tabled contains a brief
summary of the issues dealt with by the
committee in 1999. The register of senators’
interests generated little controversy during
the year. The purpose of the register is to
identify conflicts of interest. As senators we
have public duties. As citizens we, or those
closest to us, have pecuniary and other inter-
ests. Conflicts of interest arise when per-
formance of public duty would have an ef-
fect on promoting a private interest. As
senators we resolve the conflict by declaring
it. Then our performance of public duties can
be assessed in the light of our private inter-
ests. That declaration is in the register where
pecuniary and other interests are recorded
and also during debates and votes when we
declare interests while actually influencing
or participating in legislative decision mak-
ing.

Because of their great personal decision
making power ministers are, in addition, ex-
pected not to take executive decisions if they
have a conflict of interest. Before the minis-
terial decision is taken the conflict must be
ended, either by resigning from the public
duty or by divesting oneself of the private
interest. The two must not coexist where
personal executive powers are concerned.
These principles now appear to be universally agreed in the Senate, as is the recognition that it is the personal responsibility of each senator to make appropriate declarations in accordance with the letter and spirit of the Senate resolutions.

I want to draw again senators’ attention to the absence of an essential complement to the register of interests. This is an agreed code of conduct for parliamentarians, to which I referred on 9 December 1998. A code of conduct is not an instant remedy for those aspects of political behaviour which may have led many in the community to feel less than satisfied with their elected representatives. However, statements of values and codes of ethics do represent vital statements of expected standards against which elected representatives can be more fairly measured.

Values and codes challenge both the prejudices of the critical and the habits of the criticised. They embody points of reference which map out the limits of acceptable political behaviour. They become powerful moral and political restraints and incentives. As such, they cannot but improve political performance and, hence, the public interest. There is an inexorable link between political ethics, political performance and public interest.

I have taken the liberty of putting these remarks on the record in this context because I believe the Register of Senators’ Interests—pragmatic and generally effective though it is—is only half of the ethical framework for our professional lives as elected representatives. It is now almost five years since 21 June 1995 when the Presiding Officers tabled for consideration draft ethical principles for ministers, senators and members. These were the recommendations of an informal working group set up on 25 June 1992. No action has been taken by the parliament since. As a parliament, however, we enacted only last year specific laws which put in place world’s best practice values and codes for the Australian Public Service and the new Australian Parliamentary Service. Our legislative intent was to articulate the standards we expect of our public administration and provide mechanisms to ensure the highest standards are met. I believe we should require no less of ourselves as elected representatives. I believe we should continue to consider the development of an appropriate code for the parliament itself. Those of us who are conscientious elected representatives—and that is the majority of us—have nothing to fear from such a code and much to gain in articulating our standards and expecting universal adherence to them. A time when there is little or no controversy about the behaviour of senators, members or ministers may perhaps be the best and only window of opportunity to achieve an effective bipartisan code. I seek leave to incorporate in Hansard, for renewed information, the draft codes prepared in 1995, which are still a useful starting point.

Leave granted.

The document read as follows—

[DRAFT PROPOSED BY WORKING GROUP]

A FRAMEWORK OF ETHICAL PRINCIPLES FOR MINISTERS AND PRESIDING OFFICERS.

All Members of the Commonwealth Parliament are obliged to meet a number of ethical and administrative requirements in respect of their behaviour and personal interests. A fundamental obligation in respect of ethical behaviour is to comply with the Framework of Ethical Principles for Members and Senators. In respect of pecuniary interests of Ministers and public office holders, the Code of Conduct on Public Duty and Private Interest recommended by the Bowen Committee is accepted as the model for general application. Declarations of interest, dealing with lobbyists, hospitality, benefits and gifts are the subject of procedures laid down by successive governments. Guidance to Ministers on administrative procedures and requirements pertaining to Cabinet is provided in the Cabinet Handbook.

The Prime Minister enunciates standards and determines the penalty for any failings of Ministers, but it is to Parliament and, through it, the people, that Ministers and the Presiding Officers are accountable. Ministers and the Presiding Officers are responsible for the competence with which they handle their public duties, the relevant actions of their personal staff and their departments, and their personal conduct insofar as it affects their public role.
Because of the greater trust placed in them, and the power and discretion they exercise in the performance of their duties, Ministers and the Presiding Officers must also conform to a set of ethical standards more stringent than those required of Members and Senators. The principles which follow are intended to provide a framework of reference for Ministers and the Presiding Officers. This supplements the Framework of Ethical Principles for Members and Senators and the provisions of the Standing Orders of both Houses. For the purposes of framework, “Ministers” includes Parliamentary Secretaries, and “Presiding Officers” means the Speaker of the House of Representatives and the President of the Senate.

Subject to action taken by the Prime Minister and Cabinet, each House of the Parliament may consider matters raised by Members and Senators under this Framework and a majority of two thirds of members of a House will be necessary to resolve a matter.

THE PRINCIPLES

1. Impartiality
   In the performance of their public duties Ministers and the Presiding Officers must act impartially, uninfluenced by fear or favour.

2. Honesty
   Ministers and the Presiding Officers must be frank and honest in their public dealings, and in particular must not mislead intentionally the Parliament or the public. Any misconception caused inadvertently by a Minister or Presiding Officer must be corrected at the earliest opportunity.

3. Use of Influence
   Ministers and the Presiding Officers must not exercise the influence obtained from their public office to further their personal interests, obtain any improper advantage or benefit for themselves or another, or any promise of future advantage.

4. Gifts, Benefits and Hospitality
   Ministers and the Presiding Officers may accept gifts, benefits or hospitality offered in connection with their public office only if in doing so they conform and report in accordance with applicable procedures enunciated publicly by Parliament, the Prime Minister, or relevant Commonwealth Departments.

5. Public Property and Services
   Ministers and the Presiding Officers must ensure that their use of public property and services is in accordance with the entitlements of their public office, and that the same standards are maintained by those under their authority who use public property and services.

6. Official Information
   Ministers and the Presiding Officers must not use official information for personal gain.

7. Administrative Accountability
   In the performance of their duties, Ministers and the Presiding Officers must:
   - be accountable to Parliament and to the public;
   - have proper regard to advice and guidance offered by their departments;
   - apportion discretionary funds on established principles and on the basis of legitimate public purposes; and
   - document and substantiate adequately their decisions.

8. Compliance by Staff
   Ministers and the Presiding Officers must ensure that the actions of members of their staff are consistent with these principles.

9. Continuing Obligation
   Ministers and the Presiding Officers must ensure that their actions after leaving public office are consistent with these principles. In particular they must not seek or appear to seek improper advantage from any influence they may retain with their former colleagues or public officials.

[DRAFT PROPOSED BY WORKING GROUP]

A FRAMEWORK OF ETHICAL PRINCIPLES FOR MEMBERS AND SENATORS

The principles which follow are intended to provide a framework of reference for Members and Senators in the discharge of their responsibilities. They outline the minimum standards of behaviour which the Australian people have a right to expect of their elected representatives. They incorporate some relevant ethical standards which should guide the considerations of Members of Parliament, and which should be a continuing reference point for former Members.

It is by adherence to such principles that Members of Parliament can maintain and strengthen the public’s trust and confidence in the integrity of the Parliamentary institution and uphold the dignity of public office.

This framework does not seek to anticipate circumstances or to prescribe behaviour in hypothetical cases. While terms such as “the public interest” or “just cause” are not capable of definition in the abstract, over time, each House will
develop a body of interpretation and clarification which has regard to individual cases and contemporary values.

Each House of the Parliament will consider matters which are raised by Members and Senators under the framework and a majority of two thirds of Members of a House will be necessary to resolve a matter.

THE PRINCIPLES

1. Loyalty to the Nation and Regard for its Laws

Members and Senators must be loyal to Australia and its people. They must uphold the laws of Australia and ensure that their conduct does not, without just cause as an exercise of freedom of conscience, breach or evade those laws.

2. Diligence and Economy

Members and Senators must exercise due diligence, and in performing their official duties to the best of their ability, apply public resources economically and only for the purposes for which they are intended.

3. Respect for the Dignity and Privacy of Others

Members and Senators must have due regard for the rights and obligations of all Australians. They must respect the privacy of others and avoid unjustifiable or illegal discrimination. They must safeguard information obtained in confidence in the course of their duties and exercise responsibly their rights and privileges as Members and Senators.

4. Integrity

Members and Senators must at all times act honestly, strive to meet the public trust placed in them, and advance the common good of the people of Australia.

5. Primacy of the Public Interest

Members and Senators must base their conduct on a consideration of the public interest, avoid conflict between personal interest and the requirements of public duty, and resolve any conflict, real or apparent, quickly and in favour of the public interest.

6. Proper Exercise of Influence

Members and Senators must exercise the influenced gained from their public office only to advance the public interest. They must not obtain improperly any property or benefit, whether for themselves or another, or affect improperly any process undertaken by officials or members of the public.

7. Personal Conduct

Members and Senators must ensure that their personal conduct is consistent with the dignity and integrity of the Parliament.

8. Additional Responsibilities of Parliamentary Office Holders

Members and Senators who hold a Parliamentary office have a duty to exercise their additional responsibilities with strict adherence to these principles. They must have particular regard for the proper exercise of influence and the use of information gained from their duties as Parliamentary office holders. They must also be accountable for their administrative actions and for their conduct insofar as it affects their public duties.

ADDITIONAL GUIDANCE

In individually considering these principles, Members and Senators should also have regard to:

- sections 44 and 45 of the Constitution; provisions of the Parliamentary Entitlements Act 1990; standing and sessional orders of the House of the Parliament of which they are members; resolutions of continuing effect of the House of the Parliament of which they are members; decisions and determinations of the relevant Presiding Officer and the appropriate Minister concerning the obligations and entitlements of Members and Senators; determinations of the Remuneration Tribunal; and section 73A of the Crimes Act 1914.

Interpretation

In this Framework, the term Parliamentary office holder includes Leaders of Parties, Shadow Ministers and Shadow Parliamentary Secretaries, Party Whips, Deputy President of the Senate and Chairman of Committees, Deputy Speaker, Second Deputy Speaker and Chairs of Parliamentary Committees.

HUMAN RIGHTS (MANDATORY SENTENCING OF JUVENILE OFFENDERS) BILL 1999

Second Reading

Debate resumed from 13 March 2000, on motion by Senator Brown:

That this bill be now read a second time.

Senator LIGHTFOOT (Western Australia) (4.02 p.m.)—I finished last night at or about the time when I was praising the Chief Minister of the Northern Territory, the Hon. Denis Burke, for his resounding victory in a
by-election. Elections of this nature are not normally won by such a convincing margin as Mr Burke won by in this case for his Country Liberal Party in the Northern Territory. I emphasise that point because this was apparent in all of the media throughout Australia and the Northern Territory—that is, that the Northern Territorians in this particular by-election quite clearly voted in favour of maintaining mandatory sentencing. I want to take a brief moment now to read into Hansard the very essence of the mandatory sentencing laws in the Northern Territory because I am sure that a lot of people—critics among them—do not understand just how those laws and the laws in Western Australia work. For the first offence:

Except in the most serious cases, NT Police caution juveniles they apprehend for property offences for the first time. They do not usually go to court.

There is nothing wrong with that. These can be first-time break and enters—first-time burglaries—and they will, more often than not, be cautioned. For the second offence, where they are charged in court—and only when they are charged in court:

Most cases—the court counsels young offenders without penalty. They are usually NOT sentenced.

Let me repeat that: they are usually not sentenced, even though it is the second offence. On the third offence, where they are charged in court, they:

Participate in a diversionary program if suitable otherwise 28 days detention.

The judge has discretion with respect to those two penalties. On the fourth offence, where they are charged in court—and I emphasise, where they are charged in court—there is:

28 days detention. Court can decide more than the minimum.

So the judges do have some discretionary power there. That is the case with the Northern Territory. I think it is a pity that this house is wasting its time on the Brown-Greig bill with respect to human rights.

Let me turn now to the laws as they relate to Western Australia. Senator Faulkner, I think it was, and some others said that they did not agree with mandatory sentencing and yet we have mandatory sentencing in most states. You know, as well as I do, Mr Acting Deputy President, that there is mandatory sentencing in perhaps all states for murder.

Senator Forshaw—No, there is not. That is nonsense.

Senator LIGHTFOOT—Senator Forshaw says, ‘No, that is not correct.’ But let me go on, if I may, because I have only a short time left to talk. There is also mandatory sentencing for drink-driving offences for the third time in most, if not all, states. The judge has no option but to sentence a person who has appeared before a court for the third time to a jail term. So we do have that, and it is no good saying that only the Northern Territory and bad old Western Australia—both of which supply a great deal of wealth to this nation—are the bullyboys or the ones that are out of step. I can tell you that, if I took a straw poll in the Northern Territory and another in Western Australia—which I have—they would be overwhelmingly in favour of it. My view is that those people from the eastern seaboard should keep their noses out of the affairs of Western Australia and the Northern Territory.

May I also elaborate on the fact that Western Australia has the highest number of home burglaries in the nation. The government of Western Australia had a public duty to do something about that. I can also confidently say that there is not one example of a person who was jailed for a home burglary offence under the ‘three strikes and you’re in’ laws who should not be there. They were never taken out on appeal. There was never any outcry about it. But there is an outcry here in this place, which I think is wasting the time of the Senate. Every state has mandatory sentencing, as I have said, and it is no good saying that they do not.

Senator Forshaw interjecting—

Senator LIGHTFOOT—I am surprised that Senator Forshaw, though he has more degrees than a thermometer, is ignorant on this basis. Mandatory sentencing has its place and is a legitimate role for parliament, but that is the Western Australian parliament. Do not interfere with that. We have a healthy
suspicion in Western Australia—and we had a healthy suspicion when I was in the Western Australian parliament—of interference by the then federal Labor government. We do not want that interference, and I am sure the Territory feels the same way.

Mandatory sentences quite obviously have their place. They are all over the civilised world—and they are probably all over the uncivilised world too—which concerns me. They have to be judged on their merit and not just mindlessly condemned because it seems appropriate in the emotive times that we sometimes experience to condemn them. A person sentenced for home burglary has not just accidentally offended in a minor manner; he has done it, seriously, three times or more. Take the very unfortunate and tragic death of the 15-year-old Aboriginal boy in Darwin. He had 28 convictions. He broke into a school on four occasions and on one of those occasions stole $7,800. That is not a minor offence. These offences for stealing are not the ones that attract the mandatory sentencing; it is the break and enter. That is what does it. The stealing compounds that. It is not stealing textacolours. It is not stealing a packet of biscuits. Yes, those exacerbate the break and enter, but please, people in the Senate, keep it in your minds that it is the break and enter where the problem occurs. It was so prolific in Western Australia at one stage that something had to be done.

I will give you some statistics with respect to Western Australia and some of those areas that attract mandatory sentencing, though not all of these do. I will take Aboriginals and Euro-Australians. For Aboriginals driving under the influence, the incarceration rate is 80.7 per cent. For non-Aboriginals or Euro-Australians, it is 19 per cent. For offences against good order, it is 79 per cent versus 20 per cent. For assault, excluding sexual assault, it is 70 per cent versus 29 per cent. For drug offences, it is 66 per cent versus 33 per cent. For theft of motor vehicles, it is 63 per cent versus 36 per cent. These statistics are not because we have a bias towards Aboriginal people; these are because Aboriginal people commit the offences. We have an excellent police force. We have a police force that is cognisant of the problems of Aboriginal people—and there are many problems with them. I have grown up with them, and I know the problems. Taking away mandatory sentencing with respect to Western Australia and the Northern Territory is not just a matter of forcing the views of the Eastern States on Western Australia and the Northern Territory; it is in fact doing a disservice to Aboriginal people. Some children who are sentenced under these three strike laws are in fact referred to the police by their parents. You can tell me I am wrong, but you cannot tell me that Aboriginal parents themselves who support this legislation are wrong.

I want to go on to the Western Australian context again and the mandatory sentencing there. The three strikes law was enacted in a strong response from the people of Western Australia. In Victoria, Tasmania, most of New South Wales and sometimes in South Australia, you do not experience the same amount or the same degree of home burglaries that we do in Western Australia. It is not all Aboriginal people, and it is not all Aboriginal boys and girls who are sentenced under this particular legislation. It is a whole range of people. It was not designed as an entrapment for Aboriginal youth; it was designed across the board and across the ethnic spectrum in Western Australia without mentioning race. So I do not know what this debate is all about.

I can understand people’s passion and compassion when it comes to a 15-year-old youth who hangs himself while in jail. That is unequivocally tragic, but it is not right for the Eastern States to impose their will in this indissoluble federation of states on one of their fellow states where we have the right under the Constitution. Sure, you can say, ‘We’ll let the High Court decide.’ If we let the High Court decide, we might as well pack our bags, lock the doors up here and all go home and just run our bills past the High Court. What I am saying is that we are not very happy with anyone of any particular ilk telling us what we should or should not do in Western Australia. I have talked to people in the Territory, and they are not very happy about it either. Stop disrupting the federation of Australia. Leave us to run our constitutional laws and we will get on a lot better
and stay in the federation a lot longer. (Time expired)

Senator HARRADINE (Tasmania) (4.13 p.m.)—The purpose of this legislation, the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 is to provide justice in sentencing for juveniles and to prohibit mandatory sentencing and detention sentencing in respect of juveniles. This bill is of course a very relevant bill to what is happening in the Northern Territory in particular and to the laws in Western Australia and the Northern Territory.

I just have to refer very briefly to what Senator Lightfoot said. He appeared to indicate that the bill would prohibit the jailing of persons who have committed serious crimes and who the sentencing judge considers should be jailed. That is not so. In fact, the legislation will have the unfortunate effect of imposing a higher sentence in all cases. That is a matter of great concern. Let us have a look at what the laws of those two jurisdictions say in respect of mandatory sentencing. In Western Australia, the type of offence to be covered is home burglary. For adults, for a third or subsequent offence, the penalty is 12 months jail. For young persons, 16- and 17-year-olds, the penalty for a third or subsequent home burglary offence is 12 months prison or detention or an intensive youth supervision order. That is in Western Australia.

The two jurisdictions are somewhat different. For the purpose of the Northern Territory mandatory sentencing regime for property offences, people are deemed to be adults when they are 17 years old. The types of offences cover a wide range of property offences. I will not go into them; they have been referred to during the debate. Under this regime, the penalty for an adult’s first sentence is a minimum of 14 days jail. The court does not have to impose mandatory sentences in special circumstances. But the Senate committee considers these special circumstances to benefit middle-class white people. It is an interesting comment adverted to by the committee.

Politically imposed mandatory sentencing laws are an invasion of the judicial power and undermine the independence and integrity of the judiciary. That is very serious in Australia. Justice demands that sentencing decisions should fit the crime, are purposive and are made by magistrates and judges, not by a bunch of politicians unaware of the circumstances of each individual case. Mandatory sentencing laws in effect discriminate against the vulnerable, such as Aboriginal people, poor people and those with mild intellectual disabilities. I believe that these laws must go and that the Commonwealth must act effectively.

The invasion of judicial power by politicians is very serious indeed, particularly

... juvenile must join a special program. If program completed, court may discharge without penalty. If juvenile fails to complete program, court must order 28 days’ detention ... Court may also impose punitive work orders. The penalty for the third or subsequent appearance is a minimum of 28 days detention. That is for juveniles. The committee report considers these circumstances to benefit middle-class white people. It is an interesting comment adverted to by the committee.

Politically imposed mandatory sentencing laws are an invasion of the judicial power and undermine the independence and integrity of the judiciary. That is very serious in Australia. Justice demands that sentencing decisions should fit the crime, are purposive and are made by magistrates and judges, not by a bunch of politicians unaware of the circumstances of each individual case. Mandatory sentencing laws in effect discriminate against the vulnerable, such as Aboriginal people, poor people and those with mild intellectual disabilities. I believe that these laws must go and that the Commonwealth must act effectively.

The invasion of judicial power by politicians is very serious indeed, particularly
when it comes to sentencing. For the punishment to fit the crime, the sentencing must be purposive and just. It must take into account the circumstances of the individual case. The trial judge that has heard all the evidence should be able to assess what penalty to impose. Why do you think judges call for pre-sentence reports in individual cases? They must know who the offender is and what that offender’s background is. They must also have regard to what effect jailing will have on that young offender. Their hands are now shackled by the Northern Territory law and, to a large extent, by the Western Australian law. They are not able to exercise that decision fairly. They are not able to deal with the matter on the basis of proportionality. It is unjust to have a system where mandatory sentencing is imposed. It also raises the question of the separation of powers between the parliament, the executive and the judiciary. On that particular subject there has been a considerable amount of discussion. The argument that mandatory sentencing offends the doctrine of the separation of powers is simple. By prescribing sentences, parliament is interfering with the exercise of judicial power and thereby undermining the independence and integrity of the judiciary. The question that we have to ask ourselves is: how can that be developed, how can that be determined. I am sure, from the Prime Minister down, it would be of great concern in this country should the separation of powers between the parliament, the executive and the judiciary be violated.

These matters have been discussed, and I suppose the most relevant case is Kable v. the DPP of New South Wales. That case considered references in chapter III to the existence of state courts and suggested the Constitution contemplates ‘an integrated Australian judicial system’. One consequence of this integrated system was that the separation of powers requirement in the Commonwealth Constitution was applicable to state courts. A fourth member of the majority in the High Court found that the separation of powers principle applied because the state court was exercising federal jurisdiction. The test for determining a breach of the separation of powers requirement in Kable was expressed in terms of whether the powers to be exercised were repugnant to or incompatible with the exercise of judicial power of the Commonwealth—Gaudron and McHugh had that to say—or whether public confidence in the integrity of the judiciary to discharge the judicial power of the Commonwealth would be undermined—Toohey and Gummow referred to that—and whether an ordinary member of the community would conclude that the court was not independent of the state. And, of course, an ordinary member of the public, wherever they are in Australia, would conclude that the laws in the Northern Territory in particular, and to some extent in Western Australia, meant that the courts in the exercise of their duties were not independent of the state. The essential principle of Kable is that the protection of public confidence in the integrity of a state court is an essential condition for the maintenance of an integrated judicial system.

It is important that there is a debate on this matter, and it is good to see that there is healthy debate on this matter. I am sure it is the focus of attention, particularly in Western Australia where there will be an examination and review of those laws and a report to parliament by, I think, September of this year. I believe that we should take action immediately, however, to deal with the urgent situation in the Northern Territory. What concerns me here, so far as this bill is concerned, is that it is based on the external affairs power. Unless you go to the ICCPR, under the external affairs power, under the power that is relied upon in this legislation, it can only deal with mandatory sentencing for juveniles. I think we really ought to enact unchallengeable legislation to override politically imposed jailing and leave the sentencing of individuals where it belongs—in the hands of the judiciary. I will therefore be proposing an amendment to the legislation which will rely on the Territory power and which will override the Territory’s mandatory sentencing laws. I believe this is important because it will provide justice for offenders in that Territory. It will also uphold, so far as the Territory is concerned, the proper regard for the separation of powers between the executive, the parliament and the judiciary.
One might say, ‘Well, what happens to Western Australia?’ It was clear to me from a reading of the report that Western Australia seemed to be in a slightly different category. Nevertheless, action should be taken with regard to Western Australia. I propose that, the very next time there is a mandatory jail sentence imposed by the Supreme Court in Western Australia because of the operation of the politically imposed law that the offender be jailed, the Attorney-General of the Commonwealth should join in an appeal to the High Court. That appeal would need to be considered by the full bench of the High Court since it is a constitutional question, and I believe it would be most interesting indeed to see how that would pan out.

I have the transcript of proceedings of the petition to the High Court in Wynbyne v. Marshall—the late Ron Castan was the QC involved in that—and it is very illuminating to read. I know that at the end of the day, without calling the opposing party, Their Honours Justices Gaudron and Hayne said: The Court is of the view that the proposed appeal does not enjoy sufficient prospects of success to justify the grant of special leave.

And special leave was refused. That was in 1998, two years ago. I believe that things have moved on since that time and I would appeal to the government, as of right—the Commonwealth Attorney-General has the right—to intervene in any such case or the first case that comes along.

Finally, I do repeat that this issue is of great national importance. But we need certainty, and the Northern Territory cannot challenge our actions if we rely on the territories power. Relying on the territories power, we can also attack the evil of politicians imposing mandatory sentencing in individual cases where they know nothing about those cases. That is an evil that should be eradicated not only for juveniles but also for 18-year-olds, 19-year-olds, and 20-year-olds. I commend my amendment to the Senate. (Time expired)

Senator BOURNE (New South Wales) (4.33 p.m.)—This afternoon I would like to have a look at the international treaties that mandatory sentencing laws are considered to contravene—and I must say that I agree that they do contravene them. The two that have been most discussed are the International Covenant on Civil and Political Rights 1996, the ICCPR, and the Convention on the Rights of the Child 1999, which Australia has ratified. We ratified ICCPR in 1980 and CROC in 1990 respectively. There is also to look at though the International Convention on the Elimination of All Forms of Racial Discrimination, CERD, and the Convention on the Elimination of All Forms of Discrimination Against Women, CEDAW.

The committee that presented its report yesterday was presented with overwhelming evidence regarding the contravention of international treaties, and in particular of those first two. I would like to go back to a couple of the submissions that I thought gave particularly compelling and coherent evidence of the problems associated with mandatory sentencing, especially as it relates to our international obligations. Those were the submissions by Amnesty International and by the Human Rights and Equal Opportunity Commission. Their evidence is compelling in its completeness—and, of course, both of them speak with authority in this area.

Both Amnesty and HREOC focus on specific provisions contained within CROC and ICCPR that particularly address the issue of juvenile justice. They include CROC article 37(b): No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

CROC article 40.2(b): Every child … accused of having infringed the penal law has at least the following guarantees …

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law.

CROC article 40.4: A variety of dispositions … shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

ICCPR article 9:
No one shall be subjected to arbitrary arrest or detention.

And ICCPR article 14.5:

Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

Embodied with all those provisions are a number of fundamental principles of juvenile justice, and I will take a little time to expand on some of those. Detention must be a measure of last resort and it must reflect both the circumstances of the offence and of the offender. It is obvious that mandatory detention is the only penalty allowable under the law with those offences that fall within their provisions—and that is a direct violation of CROC article 37(b). This article is also contravened by the removal of any judicial discretion at all.

CROC article 37(b) also requires that imprisonment or detention, if imposed, shall be for the shortest appropriate period of time. Of course, what is appropriate must, by its very nature, be assessed on an individual basis, and it must be guided by some consideration of what is in the best interests of the child.

So why do children steal? The committee’s report detailed evidence that some juveniles were sentenced for property crimes amounting to $3 or so. Others have been jailed for stealing food, drinks or a few dollars worth of petrol to sniff. Why does a child sniff petrol? Is the best way to deal with that problem to put the child in jail? Probably not.

HREOC also makes the point that all action must be ‘consistent with the promotion of the child’s sense of dignity and worth’ and must take into account the child’s age and also ‘the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society’. Mandatory sentencing does nothing to promote the child’s sense of dignity or worth, particularly in cases where they may not even understand the law due to lack of education, remoteness or the fact that English may be their third language. Perhaps they have been driven to commit a crime through extreme poverty or through substance abuse. Jailing them will not necessarily promote a resumption of a constructive role in society. I know that there was plenty of evidence to the committee to confirm that jail actually increased the likelihood of further crimes.

Both CROC article 37(b) and ICCPR article 9 require that detention must not be arbitrary. Arbitrary detention is generally considered to be detention ‘incompatible with the principles of justice or with the dignity of the human person’. The lack of individually tailored sentences, which would consider such things as proportionality between the sentence and the offence, leads to the notion that mandatory detention does not constitute just sentencing.

CROC article 40.4 requires that the sentence imposed should be proportionate to the circumstances of both the offender and the offence. This article cannot be adhered to without individual tailoring of sentencing. We know that many of the people presented for property offences are not hardened criminals. We know that there may be social disadvantages that lead them to crime. Often it may simply be hunger, it may be boredom, it may be substance abuse. They may simply be thieves. The point is that, with mandatory sentencing, we cannot ascertain their motives for committing the crime. We also cannot be sure that the punishment is not guided by ulterior motives totally disconnected from the individual circumstances, such as politics. It must surely be a political winner for a government to instigate a ‘get tough on crime’ attitude.

Due consideration must also be given to the victims of crime, of course, but in doing so the solution must not be in contravention of international conventions. If a government is serious about wanting to rid the community of crime, then rehabilitation must be part of that agenda. There is strong evidence that detention is relatively ineffective in promoting rehabilitation. To quote HREOC: ‘With mandatory detention, the overriding aim is incapacitation and not rehabilitation.’

CROC article 40.2(b) and ICCPR article 14.5 require that both the conviction and sentence be capable of review. The mandatory detention laws in the Northern Territory and Western Australia do not allow for a right of appeal against any sentence.
With regard to CEDAW, on the face of it the numbers cited in the committee’s report are astounding. Between 1993 and 1997 there were 40 to 60 indigenous women being incarcerated a year. By 1998-99 this had increased to 252, whereas for non-indigenous women, the figures show only an increase from seven to 12 a year to 24. I acknowledge the committee’s concern regarding some of the rubbery figures they were supplied with and the difficulty it raises in drawing definitive conclusions, but it does suggest that there is a problem that has been exacerbated by the mandatory sentencing laws. The debate is really whether the laws are discriminating against all women or just indigenous women. I suspect both. For instance, these laws impact more on women because of their role in the family, their community, their child caring responsibilities and so on.

The indirect discriminatory impact is also very real. If they report domestic violence, the perpetrator of the crime is also subject to mandatory sentencing. You wonder what the consequence of that is to the woman reporting the crime. It is hard enough for women to come forward and report abuse. It seems to me that this type of sentencing is doing nothing to alleviate the problems of domestic violence. Maybe this is true of all detention, but it does seem to be particularly discriminatory in this case.

Finally, with regard to CERD, HREOC writes:

Where sentencing is influenced by the offender’s race, sex, age, religion or other status to the offender’s detriment relative to another case, which is similar in other respects, the sentencing is arbitrary.

The problem is that indigenous people are overrepresented in prison populations. There is no evidence to suggest that the intention of the law is to discriminate against indigenous Australians, but it is certainly the outcome. The nature of the crimes included in mandatory sentencing and the extreme poverty and other social problems endured by this group do result in an overrepresentation of Aboriginal people coming before the courts for mandatory sentencing.

I commend the committee’s comments that, whilst the intention may not be to discriminate and that the discrimination may be indirect, the end result is discrimination against indigenous people. Of course these laws cannot be taken in isolation from other measures that governments may take to deal with the issue, but by choosing certain crimes to be included in the mandatory sentencing basket together with a failure to provide adequate education and translating services as well as the lack of improvement in poverty and health, the net result is discrimination.

Finally, I would just like to mention the report titled A review of Australia’s efforts to promote and protect human rights. This report was the first report that was ever brought down by the Human Rights Subcommittee of the Joint Committee on Foreign Affairs, Defence and Trade; it was brought down in December 1992. In that report, we looked at juvenile justice and juvenile detention in Australia. Remember, this is 1992. We were given particularly interesting evidence from Brian Burdekin, who was the then Human Rights Commissioner, and from Justice John Dowd, who was speaking on behalf of the ICJ. They both saw very significant problems if the legislation which was then being proposed by Dr Carmen Lawrence was brought in in WA.

Appendix 9 of this report contains a series of letters, being the correspondence between Mr Burdekin and Dr Lawrence about mandatory sentencing for juveniles. I think senators would find it very interesting to look at that and read what the problems were then. It sets out very well the problems with mandatory sentencing of juveniles in particular. It is also interesting to note that the committee—which was then a committee with a Labor Party chair and majority, and of course Dr Lawrence was the head of a Labor Party government in WA—found that the arguments put by the Human Rights Commissioner and the ICJ were very persuasive on this issue. I would have to say they are still very persuasive, and all the arguments we have heard since are still very persuasive.

The federal government is responsible to ensure that all levels of government in Australia conform to our international responsibilities. State and territory governments are
always consulted before any convention is ratified. I will definitely be supporting this bill. I am sure all my colleagues will do so as well.

Senator CRANE (Western Australia) (4.45 p.m.)—I rise to speak on the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999, which is before us. At the outset, let me say that, for a variety of reasons, which I will endeavour to work through, I am totally and absolutely opposed to it. The first point that I want to make in speaking to this bill is that, had the judiciary or the system that we have in place not failed us, we would not be here today. That is really what created the situation where the Northern Territory and Western Australia decided to have a different response from what exists in the rest of Australia. It is my very, very strong view that they have a right to have that different response because of a different set of circumstances. If we try to lock all Australians into the same laws or the same sets of rules, regardless of whether it is this or some other issue, we will be on a road to disaster. It will not work, and that is what has occurred. So I make that particular point at the very outset.

This is not about Aboriginals, a particular ethnic group or those of European or British descent. Nor is suicide about that. If you want to be statistical, you can get far worse suicide statistics outside the jails. You have only to go to certain parts of rural Australia—and the area I come from has not been short of it—to see how difficult and how endemic rural suicide is. To try to tie these particular things together and blame the mandatory sentencing laws in the Northern Territory—and I am particularly sad that that boy committed suicide—when we see what is happening with regard to suicide around the rest of Australia, I think is foolish, unwise and distorts the whole debate. So I put that on the record.

Mandatory sentencing in the Northern Territory and Western Australia is the community’s response to the failure of our current legal system, whether it be the judges, the magistrates or those people dealing with it. It is also a response to the failure of the system when somebody has committed a relatively serious crime, and I think it is very easy in terms of this debate to take a simplistic view and take one issue in isolation. But, when you look at it, many people have been sentenced to a reasonably long time but after a very short period find themselves back out on the street, and many of them repeat the offence. I want to go into one particular offence before I finish my contribution here today.

Certainly, there are some differences between the Northern Territory legislation and the Western Australian legislation. I have here today a copy of a document that was sent to all federal coalition members, and it relates to mandatory sentencing in Western Australia. It sets out very clearly the situation in Western Australia. It also sets out very clearly that, in fact, there are provisions taken before the judge or the magistrate may not put somebody into jail for a relatively minor offence. Although I am not an expert on the Northern Territory legislation—and I have not sought to be—I understand that some amendments were made to it last year that gave it more flexibility. Maybe the answer is for us collectively to convince the Northern Territory government that it needs to introduce more of the flexibilities that exist in Western Australia in terms of dealing with minor offenders. I think that that is a far more sensible way to go in terms of dealing with this.

I do not think anybody likes mandatory sentencing. I know some people, some individuals, who were not too happy about the mandatory penalties that existed when they got to their third offence and lost their licence. I can understand that but, nonetheless, across a whole range of laws in this country, there are provisions for mandatory sentencing.

Senator Forshaw—That’s not sentencing. They’re not being sentenced.

Senator CRANE—I should have said ‘mandatory penalties’. I will correct that.

Senator Forshaw—There’s a big difference.

Senator CRANE—You can jump up and down as much as you like, Senator Forshaw. I never interrupted you once and I do not
intend to interrupt you because most of the time you are that confused you do not know what you are talking about.

Senator Forshaw—Get it right.

The ACTING DEPUTY PRESIDENT (Senator Sherry)—Order! Senator Forshaw! Senator Crane, please address the Chair.

Senator Forshaw interjecting—

Senator CRANE—I corrected it. I accept that I made a mistake. If he is going to keep on interrupting, I reserve the right to respond to those interruptions. I have every right to put on the table here today, which I am going to do, my particular views with regard to this subject.

In my view, the other aspect of the failure of the system and the community response to that is the fact that it has got to such a point in certain areas of Western Australia where it is not safe for old ladies, old couples or individuals to even go outside and hang their washing on the line without fear of attack. There are many instances of that or similar things happening. It has almost got to the point where you would believe that vigilante groups are watching until an individual is on their own, and then the big attack comes. Invariably, it is two, three, four or five against one. But, in terms of this particular debate, I am fairly and squarely on the side of the victim.

Also, if you commit adult crimes, you should be prepared to take adult punishment. That is a very simple statement, and some of the things that have been done are more than adult crimes, are really out on the extreme. I think the communities in the Northern Territory and Western Australia have sent a very, very clear message to the policy makers. In Western Australia, the Court-Cowan coalition government and Dr Gallop's opposition have come out very clearly in support of the mandatory sentencing laws in Western Australia.

It is important that we recognise that there is a need to allow the Territory or the states to take their own action according to the response that is required to deal with the issue that is before us today. Having said that, I have no doubt that over the years amendments will come through the various state jurisdictions to deal with changing circumstances or different circumstances.

One of the points of interest in relation to the Attorney-General’s paper is that it would appear from the figures—and they are relatively young; I accept that—that there has been a reduction in some of these crimes that I have referred to since mandatory sentencing came in. People need to understand that the legal system in Western Australia prior to 1997 actually became quite a joke. The running line was that you went in one revolving door, had a chat, went out the other revolving door, went back into the community, committed another crime and went round the circle again. I understand—and, once again, I am not a student of this—that there were examples of this occurring up to 20 times. There was no disincentive whatsoever in the system to bring about discipline, hence the reaction of the Western Australian government in dealing with this.

I also want to highlight a particular aspect of this issue which occurred just last Friday. It is a very difficult thing for me to do because it shows how serious the situation is at home. The person I talk about is a chap named Greg. The incident happened in Bentley last Friday. He happens to be my sister-in-law’s brother—or, to be more correct, my wife’s brother’s wife’s brother. He was going about his lawful job. He happens to run a small trucking operation. On this particular occasion he was picking up some pavement from the side of the road where they were replacing the footpath. Totally unprovoked and out of the blue he was suddenly set upon by four relatively young people—I have not got all the details at this stage, but I understand that one was 20 and the other three were 16 or 17. He was attacked. The older one hit him with what is believed to be an axe or a form of axe.

On Saturday, he spent 8½ hours on the surgeon’s table with four surgeons. He had 15 pieces of metal inserted in his head. A massive attempt has been made to get him back, get his eyes fixed, get everything done so that he can lead a normal life again. We do not know at this stage whether he will be able to do that or what is going to happen. He is still in a serious condition. This person
was attacked in broad daylight. The witness says—and obviously this has to go before a court, so I do not want to pre-empt any of that—that the person who hit him with the object was the 20-year-old. That 20-year-old was sentenced not so long ago to four years jail. He was let out two days before the attack after having served four months of his sentence.

This is a stark example of why the community in Western Australia has had enough in terms of the revolving door episode that I talked about. That is absolutely correct. If he is 20 years old, you cannot classify him as a juvenile. We will wait and see what the ages are of the other people. I highlight this incident at this particular time because it demonstrates the point I was trying to make at the start about much of our sentencing. I have heard many people say that you should give the judiciary all the flexibility in the world to handle that; I accept that in principle. But the facts are that it has not worked. It has let society down very badly. It has let law-abiding citizens down very badly. It has let the old down very badly. It has let those who are unable to protect themselves against two or three or four people attacking them at once down very badly.

I think many of us can talk about experiences that we have had. I certainly can—there was a time when I was not game to open the door and go outside while my car was being stolen and subsequently trashed. In that particular case, the five who did it were all juveniles. I was not prepared to go out there to deal with them when they had waddies and weapons. There needs to be a different response—in some instances, a tough response—from certain areas of the nation where these things happen. I do not believe it is in the best interests of the national parliament and it is certainly not in the best interests of the people who have these difficult situations to have us moving in and trying to interfere with the states' and territories' sovereign rights to pass their own laws and run their own laws.

My final comment about this document that I have here that was put out by Mr Foss is that he makes it quite clear that the way the law is structured in Western Australia—and it is his opinion as the Attorney-General, but I do respect his opinion as the Attorney-General—is legal, if I can use that term, with regard to the Convention on the Rights of the Child and the other international conventions that we have heard discussed here.

I repeat: I do not think in this particular instance it is the role of the federal government to intervene—in fact, I believe it is wrong of the federal government to intervene—and the Northern Territory and Western Australia should be able to get on with managing their own affairs and delivering the correct or appropriate response that the community demands from us as their elected people—in the case of my state, the state members who are elected, including those members of the party that Dr Gallop leads. At the end of the day, as far as I am concerned, people going about their lawful business deserve the support of the federal parliament to assist the states who have difficulties in upholding the particular laws they have put in place because of necessity as a result of the occurrences that have taken place.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (5.00 p.m.)—I rise to speak on the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 and, in doing so, I echo the words of many in this place who have spoken in this debate, in particular contributions by my colleagues Senators Bourne, Greig, Murray, Ridgeway and Woodley. I hope that I might lend some weight to the force of what I and many others believe to be unassailable arguments against the draconian mandatory sentencing legislation currently in operation, in particular, in the Northern Territory.

I acknowledge, first of all, the extraordinary efforts of organisations around the nation that have a commitment to human rights and protection of young people and, in particular, indigenous young Australians. I acknowledge the work of the Human Rights and Equal Opportunity Commission, the Children and Youth Law Centre, UNICEF right through to the Northern Australian Aboriginal Legal Aid Service. They are all
groups that have worked together to work against mandatory sentencing legislation and to bring about this bill today. In my former capacity as the Democrats’ Attorney-General’s spokesperson, and still in my capacity as youth affairs spokesperson, I worked closely with Senators Woodley and Crossin and with Mr Kerr and Senator Brown. A while ago now, we met with HREOC in order to work out some solution to what we perceived as unjust and regressive laws. I am glad to see that the fruition of that work is here before us today in a bill supported by Senator Bolkus, Senator Brown and, of course, Senator Brian Greig from the Australian Democrats.

This debate I believe is one of the most important to come before the chamber in recent years, certainly in my time in this place. At issue I think is the depth of our commitment not only to our international treaty obligations but more importantly to the protection of human rights. Our adherence to these legal obligations is not a mere legal nicety. This chamber has been called upon to consider those obligations on a number of occasions, yet, as far as I am aware, this is the first time that it has done so in the context of the United Nations Convention on the Rights of the Child. Australia does not commit herself lightly to international treaties but the convention has near universal support. The protection of children and young people is an issue of shared international concern. The continued existence of mandatory sentencing laws greatly undermines our commitment to the same.

This would be I think only the fourth instance in the past 20 years of federal intervention in the laws of a state or territory to ensure compliance with international treaty obligations. Three of these occasions of intervention have been in the name of protecting human rights to ensure that the obligations that we have committed ourselves to—that is, on an international level—are upheld. The most recent occasion upon which such action was taken was the passage of a federal law to override voluntary euthanasia laws passed by the Northern Territory legislature. On that occasion, I did not support attempts to override legislation that specifically targeted a territory law, as opposed to a universal or Commonwealth law. As many senators will remember, a conscience vote in this place secured a majority in favour of federal intervention.

The Australian Democrats believe very strongly in the concept of a conscience vote, as many people would be aware, but I think that debate was a great debate in this chamber. Although the result achieved was not one that I personally agreed with, I actually think the nature and the substance of the contributions by senators was of an incredibly high quality. It was fascinating watching which way individual senators would come down on that particular debate and how they decided to vote. Many of those people in the chamber who supported intervention in that instance have been denied a conscience vote in the matter before us today. Yet the concerns are similar. It could be argued that they are similar, in particular that the most vulnerable members of our society be afforded protection, and that was an argument put forward and proffered by a number of people who, in the end, supported that legislation.

I have mentioned on record my commitment to conscience votes, because in the Australian Democrats we have a conscience vote on every issue. It is true that that conscience vote is rarely exercised because on almost 99.9 per cent of occasions we agree. We are bound by like-minded policies and commitments to social justice, accountability, democracy, environment, et cetera. I think it is unfortunate that this grave issue is not afforded a conscience vote. I have to acknowledge that perhaps today’s Sydney Morning Herald editorial is correct in suggesting that senators, in particular senators who have agreed with the committee report or some recommendations, cannot have it both ways. But I also acknowledge, too, that if those senators were to cross the floor—and I do urge them to cross the floor—they would probably get vilified by the Sydney Morning Herald. Knowing its past record on matters of conscience voting, they would probably be condemned for their individualist and petulant actions—certainly that is what it did in my case.
Nonetheless, I also recognise, as one honourable senator pointed out, that we are here to do the right thing. I think the quote was ‘not to be popular but to do the right thing’. These are noble and appropriate sentiments with which I concur. I hope that senators of all persuasions will act on them. More so, I hope there is a conscience vote afforded in this debate. Yes, conscience voting is hard; yes, it has costs; but if you believe strongly in an issue, then you should do it.

As has been acknowledged in this place by some, mandatory sentencing is wrong. It is morally reprehensible to arbitrarily lock up children, on some occasions, hundreds of kilometres from their families and communities. In allowing this to occur, we are repeating the grave concerns of our past where young indigenous children were forced to endure similar separation and incarceration. Many of the crimes perpetuated against the stolen generation were perpetrated in the name of charity, and that is an ongoing debate. But the Northern Territory government in this instance, in relation to mandatory sentencing, cannot even claim that excuse. Mandatory sentencing is about retribution; it is about crushing those found guilty of petty crime, rather than helping them. It entrenches alienation in the name of populist politics.

This country should well know that just because ideas or policies may prove popular that does not make them acceptable. Recent debates in this nation over issues of immigration and multiculturalism reinforce that point. There is an onus upon those in public life to stand up for the most vulnerable, against injustice. This bill provides us with an opportunity to do just that.

Mandatory sentencing laws were championed by former Northern Territory Chief Minister, Mr Shane Stone. In an interview published in the Northern Territory News in April 1997, he describes the rationale for the legislation, saying that Aborigines who come to Darwin from their communities deserve to be ‘monstered’ and ‘stomped on’ if they don’t return. With such overt racism at their core, it is little wonder that these laws have had such a devastating effect on the Aboriginal people in the Northern Territory. Both UNICEF in 1997 and the Australian Institute of Criminology this year have found that indigenous children are at least 18 times more likely than non-indigenous children to be incarcerated, despite comprising less than three per cent of the national youth population.

The current Chief Minister, Mr Denis Burke, has reserved his vitriol for the Territory’s justice system, which he has described on one occasion as ‘corrupt’. I acknowledge that there has been a qualification and debate about those comments. But it is the retention of mandatory sentencing which, in many respects, could be argued to have corrupted the provision of justice in that Territory. It does prevent judges and magistrates taking the individual circumstances of each case into consideration when sentencing and denies those convicted the right to appeal.

Mandatory sentencing has provoked unprecedented judicial criticism and distress, expressed in such comments as the following examples. Justice Kearney said in 1997:

Rational sentencing is distorted by the mandatory sentencing regime.

How about Justice Mildren, who said in 1997:

Prescribed minimum sentences are the very antithesis of just sentences.

Mr Trigg, the Summary Magistrate in the Northern Territory, said, when sentencing a 17-year-old boy in 1998:

He is not even old enough to vote the people out who are putting him in gaol.

This is a law that targets young people. Former Chief Magistrate, Ian Gray, on the Law Report on Radio National on the ABC on 18 May 1999, said:

It— referring to mandatory sentencing— led me to feel that it would be unconscionable for me to remain on the Bench long enough for me to be sentencing in this very kind of case where I was imposing 12 months on people where in my view, it was simply unjust.

If we allow mandatory sentencing laws to stand, we affirm that money buys justice. There is no more stark example of this than the recent example of Mr Alan Bond. Mr Bond was fortunate enough to be released
from jail after seven years of incarceration for fraud totalling over $1.3 billion. As Paul Barry pointed out in the Sydney Morning Herald last week on Friday 10 March, his punishment worked out at one day’s imprisonment for every million dollars he stole. Alan Bond can thank his lucky stars he was not sentenced under mandatory sentencing. Had the same sentencing formula been applied to him as was applied to the young indigenous man imprisoned for a year for stealing cordial and biscuits, he would have been put away for 50 million years.

The infamous nature of the mandatory sentencing laws has attracted much analysis of their effectiveness. As far as I am aware, of all the studies which have been undertaken into the laws since their inception, none contains evidence that the laws achieve their stated aim of reducing property crime. Even if they did, the question would still remain as to whether the crimes warranted such harsh punishment in the first place. They are massively disproportionate in their effect on young people, indigenous people and groups deemed worthy of special protection—in particular after the deaths in custody inquiry and under articles 3(1), 37(b) and 40 of the Convention on the Rights of the Child. Evidence was produced to the committee’s inquiry that mandatory sentencing leads to emotional ill-health, self-harm and an increased suicide risk. It entrenches alienation of young people, and young people from indigenous backgrounds in particular.

Australia likes to pride itself as a modern liberal democracy, committed to the protection of human rights—that is something we all hope to boast about. Mandatory sentencing is the latest and perhaps the most serious of tests of this reputation. In 1997, Australia was rebuked by the United Nations Committee on the Rights of the Child for failing to adequately protect children’s rights. Only six months after the Prime Minister, John Howard, raised the possibility of Australia acting as a defender of human rights in Asia, this government is undecided on how it will go about defending human rights of those in this country. Despite claims by the Prime Minister that the Secretary-General of the United Nations was not so concerned by the issue of mandatory sentencing as to raise it during a brief meeting between the two men, he was evidently sufficiently concerned to refer the laws to the United Nations Commissioner for Human Rights, Mary Robinson. The advice provided to Australia most recently by UNICEF and the UN Commissioner for Human Rights reiterates the concerns expressed by the UN in its 1997 Progress of nations report that the level of incarceration of indigenous children is too high, and it reminds the government of its international obligations under the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

For decades, Australian schoolchildren have been astonished to learn of the pettiness of the crimes for which English convicts were deported to Australia. All learn how the theft of a loaf of bread was enough to be convicted to hard labour in Australia. The incredulity with which these stories are typically met has been reflected in many of the reactions of the Australian community to the absurd sentencing consequences of mandatory sentencing. But this is not the only lesson of history which has been ignored. For decades, this country committed genocide against the indigenous people. The current Prime Minister has stated that he is not willing to apologise to the stolen generation, many of whose families are the victims of that genocide. He is unwilling to apologise for the policies of previous parliaments. I acknowledge the irony pointed out by Senator Bolkus in a question in this place on Monday this week about the remarkable apology by the Pope for centuries of wrongs committed by Catholics—an apology that was also echoed by Australia’s Catholic bishops in a statement of repentance. This statement contained the following apology:

Our efforts to assist indigenous people in Australia have often been misguided and have led to unintended but harmful long-term consequences.

In the debates over reconciliation, particularly last year, I listened to a number of colleagues in this place detail how they had come to recognise the need to apologise for
Senator KNOWLES (Western Australia) (5.15 p.m.)—Today we are debating a bill that should not even be considered by the federal parliament. I take the same position on this legislation as I did on the euthanasia legislation. At that time I said that this parliament should simply butt out. The Northern Territory has self-government—not self-government subject to a tick of approval of the Commonwealth parliament. More importantly, my state of Western Australia has, according to the Constitution, responsibility for matters to do with law and order, as of course does the Territory. I have taken a completely consistent line on this matter and I will not resile from it.

We had a contribution by Senator Stott Despoja immediately prior to my speech. She consistently talked about this matter being in relation to people found guilty of petty crime. I do not think that people constantly invading someone’s privacy and their domain is something that can be classified as petty. I ask the Senator Stott Despoja of this world: have they ever actually been subjected to such an invasion? Have they ever spoken to people who have been subjected to such an invasion? I think anyone who had would not have that view.

There is no question in my mind that mandatory sentencing is not a first option and never should be. But what I find amazing in debating this legislation and hearing the rubbish that has come from opposition members in particular is that their own party members in the Western Australian parliament voted only a few short years ago for this legislation because the state parliament in Western Australia in its wisdom decided that something had to be done. Yet Labor senators come into this place and take a diametrically opposed view to that which their own colleagues took in Western Australia because they deemed it fit for the people of Western Australia.

It is the state parliament that has responsibility in this matter, not us. Richard Court, the Premier of Western Australia, was quoted in today’s paper as saying: Our laws, we believe, have been very effective. They reflect the will of the people and they take into account the position of the victim—often overlooked in these debates.

But the difference is that the Western Australian laws compel courts to jail home burglary offenders for 12 months on their third court appearance whether they are adult or juvenile. But there are other qualifications in that matter. There have been a number of rulings which have qualified the operation of the three-strikes provision in respect of juveniles in particular. This seems to have been completely and utterly overlooked by the proponents of this bill.

As an alternative to immediate detention, the President of the Children’s Court can, where it is deemed appropriate: firstly, place a young person on an intensive youth supervision order, which means the offender is supervised in the community with detention as a default option; secondly, give credit for time spent on remand and backdate sentences; thirdly, use the ruling that previous convictions more than two years old do not count as strikes; and, fourthly, use the ruling that previous convictions for home burglary where no penalty was given do not count as a strike.

I have heard a number of times in this debate people talk about stealing a packet of biscuits, a box of textas or whatever. In this case we are not talking about that; we are talking about the invasion and the burglary of people’s homes. Something simply has to be done. I was staggered yesterday when I listened to proponents of this bill talk incessantly about breaches of the Convention on the Rights of the Child. I simply ask: what
do they think about breaches of the rights of the victims, the law-abiding citizens, who are constantly invaded? I wonder what those proponents of the bill would also think if they had spent time in some of the major trouble spots of the Northern Territory and Western Australia.

I recognise that there are many people in Western Australia who have done an outstanding job in making sure that troublemakers—not only Aboriginal troublemakers, let me emphasise, but troublemakers in general—are kept in order. If some of these people were to go to some of the traditional trouble spots in Western Australia, like Halls Creek, they would find outstanding work that has been done by the police and the community together. That has, by and large, forced crime down. It has forced the incidence of invasions down. Not only that, it has created a far more harmonious community. Throughout Western Australia—and I am not trying to ignore the Northern Territory because they have the right to make their own laws, but I can speak with knowledge only about my own state of Western Australia—there are many outstanding police officers not just in country areas but in metropolitan areas as well who, with the aid of the Aboriginal communities, have made sure that the incidence of crime has been greatly reduced.

It is interesting to note that the three-strikes laws on juveniles, as I say, only applies to a small number of repeat offenders and, more importantly, only applies to the home burglary convictions within a two-year period. But since the introduction of the legislation in 1996, until December of last year, a total of 88 juveniles have been sentenced; 88 convictions out of about 14,000. Let us get this into perspective: we are not talking about every child that goes to court getting thrown into jail; it is only those who continue to re-offend. But the number of juveniles sentenced under this legislation has diminished significantly over time. In 1997, 57 juveniles were convicted under the legislation, compared to nine in 1998 and 22 in 1999. The number of reported burglary offences has dropped dramatically, and that is what the community of Western Australia wants.

Home burglary is a serious offence. It involves the violation of the sanctity of a person's home. It has an incredibly traumatic effect on the victims. Yet we have people coming into this place who say, 'We should not worry about the victim. We should only worry about the perpetrator.' I am saying in Western Australia that is not the case. Offenders are not automatically locked away, and they should not be. There should be a provision and discretion, as is the case in the law in Western Australia. No-one, as I say, would want children incarcerated, but when they keep repeating crimes that so seriously invade others' privacy and wellbeing there has to be a point where enough is enough.

Let us face it; if there is a better way, then let the proponents of this legislation come in here and say what should be done. If there is a better way to stop people going to their homes and finding them ransacked, finding the contents of their refrigerators poured into their television sets and videos, finding excrement in their beds and their clothes strewn all around the place, then let them come into this place and tell the Senate what it is they propose to alleviate such crimes. Because that is what we are talking about. I do not believe at any stage we should be saying lock everyone away, but we do have to say there is a point where no more will be tolerated. It is interesting, because this legislation, as I say, was passed by a democratically elected government in both the Territory and Western Australia. The various pieces of legislation were passed in the full knowledge of the local circumstances, not something that someone from a leafy suburb where the problem does not occur on a daily basis decides is appropriate.

It is not fair for anyone to suggest—as has been suggested in this debate—that the Commonwealth has not taken some degree of responsibility for trying to correct the problems that are being encountered in the wider community. The government recognises that dealing with young offenders requires a variety of programs to support, rehabilitate and educate as well as to deter and punish. In the report that the committee put
down yesterday, Senators Payne and Coonan recognised this fact; that, for this very reason, the Commonwealth government funds a number of programs to help tackle juvenile crime. And so it should. And so should the states. They are not simply saying, ‘This is a problem, and we’re not going to do anything about it. We’re not going to try to correct it; we’re simply going to lock people away.’ Money is actually poured in to try to diminish the problem prior to that.

There is, for example, an allocation of $39.2 million in the 1999-2000 federal budget to the National Youth Suicide Prevention Strategy. Someone might ask, ‘What’s that got to do with crime?’ It has a lot to do with crime, because quite often the mental state of the perpetrators of crime leads them to end up taking it out on others prior to taking it out on themselves. If we can get their minds clearer and more stable, then hopefully that will flow on to the community. It will maintain focus on youth while expanding across the general population, not just for indigenous people but for those with substance abuse problems as well.

There is the Job Placement, Employment and Training Program, designed to assist disadvantaged young people to overcome the barriers which prevent them from getting jobs, undertaking education or training, or having a sustainable and productive future. It focuses on 15- to 19-years-olds who are homeless or at risk of being homeless, ex-offenders, refugees or wards of the state. There is the Young Offenders Pilot program that provides for intensive coordinated assistance for young offenders as they prepare for reintegration into the community. It is directed at young people at risk of re-offending who are in detention or custody and those leaving such institutions. It is aimed at reducing the marginalisation of young offenders from mainstream employment, education and training programs. There is the pathways to prevention, developmental and early intervention approaches to crime in Australia, and the national crime prevention strategy for young people. That focuses on family and youth support through community education and skills development.

It is all very well for some of the people here to be able to say, ‘The court should not have a say in this matter. These young offenders should simply be sent home to their parents, and their parents take the responsibility for correcting the ills.’ That is all very well if their parents care, but in a lot of cases the parents could not care less, and that is where that system falls down. It is not good enough to simply say it is someone else’s responsibility. This is a community responsibility, and one which the governments of Western Australia and the Northern Territory have taken on head-on.

I will never support such legislation, because I do believe not only that the issue of law and order is the responsibility of the states and territories but that to go to the extreme length of invoking the external affairs power over Western Australia is something this parliament should not even be contemplating on this issue. Most of the proponents of this legislation, as I say, just do not know the length and breadth of this problem. It is not good enough for them to come in here and pontificate in a way that has no bearing or empathy with the victims of dreadful crimes.

Senator McKIERNAN (Western Australia) (5.30 p.m.)—The Senate this afternoon is discussing the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999. This is a bill that I will vote for and that I will support, but it is a bill that I do not want to vote for or support. I agree with the closing comments of my colleague from Western Australia Senator Knowles that we should not be doing this. The Commonwealth parliament should not have to interfere in this matter, but regrettably we do have to because what is occurring, particularly in the Northern Territory, is a blight on our society. It is a blight on our children in that Territory and on Australia’s reputation at home and abroad. We cannot sit on our hands and not do anything about it; we have to do something. Events since the legislation was placed on the statute books in both Western Australia and the Territory do not give anyone any confidence that the governments in the Territory and Western Australia are going to correct this themselves. I think there is a
unanimous view among the membership, including the participating membership, of the Senate Legal and Constitutional References Committee, whose report from this committee was put in yesterday, that that is the case. However, there are some who are willing to give this issue more of an opportunity, to see if Western Australia and the Northern Territory will take action themselves. I do not believe they will. Certainly, the comments that have come from the various government spokespersons in Western Australia and the Northern Territory since the report came down would not leave one with any hope that these governments are going to change their ways themselves without being forced to.

Despite that, I think this is a very useful report that will aid the ongoing debate on mandatory sentencing both here and in other places, because there are places throughout the world where mandatory sentencing does apply. It may have some impact on the committal of crime. For example, we have heard in recent times that in Afghanistan, where there is mandatory sentencing for theft, individuals are hauled into sports stadiums and their hand or foot is amputated. We have also seen the report of a recent incident where a 10-year-old boy was given the job of being executioner, using a Kalashnikov on the convicted murderer of his father. This is mandatory sentencing at its extreme, and I am not suggesting that this would occur in Western Australia or in the Northern Territory—although I have grave concerns about the Northern Territory, particularly about the utterances of the Chief Minister. I have real concerns about that man and what he stands for. For example, his response to the report yesterday was that he is not racist. That response would be logical if the committee had accused Chief Minister Burke of being racist, but we didn’t. We didn’t do that in the report itself, in the majority report or in the individual comments that came from senators—even in the government senators’ comments—and yet that is his response. That is an odd comment to come from him. As I said in the doorstep this morning, maybe it has pricked his conscience and maybe he is responding to his own questions. I do not know, but history will decide.

I heard part of Senator Crane’s comments earlier in this debate and took note of the very violent incident that he described to the chamber where an individual who had recently been released from prison had attacked another human being, inflicting very serious injuries, and was subsequently charged for that. This is a horrific incident, but I ask the Senate to consider why that crime would, upon conviction, not carry a mandatory minimum sentence in the same way that crimes against property in the Northern Territory and in Western Australia do. It is a horrific crime but it does not carry a mandatory minimum sentence. That proves to me, and it should prove to the Senate, that the government in Western Australia and, indeed—let me say it here—the opposition in that state that supported the WA bill have a view that crimes against property are more important than crimes against the individual. I do not agree with that view, as I have not agreed with many of the things that have been determined within my party in Western Australia, going back some years now, such as when we talked about the juvenile justice legislation that was brought into being in the early 1990s. Juvenile justice was seen to be the answer to the problem that was occurring at that particular time. Thankfully, the more extreme aspects of that legislation have since been modified and, I might add, the individual proponents of the legislation at that time would now, probably, publicly admit that they were mistaken at that particular time and that they have changed their views. The point about property crime as opposed to crimes against the person still remains, though: one carries a mandatory minimum sentence and the other does not.

Senator Tambling last night did not add a great deal to the debate at all. I am surprised that he, as the only government senator from the Territory in this place, was completely and utterly silent through the course of the inquiry. There was no submission from Senator Tambling. He was not willing to put his name down and support the laws of the Northern Territory amongst an ocean of criticism, not all of which was directed at the committee. Yet my colleague had the nerve to come in here last night and say:
It amazes me and, I am sad to say, disgusts me that interfering, humbugging busybodies from southern states cannot understand that we live in a democracy.

I think I speak for all the members of the committee when I say, Senator Tambling, you should not have come in here and said that. You have added absolutely nothing to the debate. It might help you in your preselection, and maybe that is what it is aimed at, but it certainly has not aided this particular debate. I am sure the Territory government would have appreciated, during the course of the Senate committee’s inquiry, some support coming from someone. If Senator Tambling felt so good about the legislation and the laws of the Northern Territory, he should have been quite willing if not to give a submission to the committee then to give evidence to the committee or at least be in attendance within his constituency when the committee took the evidence.

Chief Minister Denis Burke appeared with me and a number of my colleagues on the ABC program *Lateline* last night and invited us all to look in our own backyards as representatives. I was doing that all the way through the inquiry. I am a senator for Western Australia. The laws of Western Australia were under scrutiny in this inquiry. I took them into account and was certainly very mindful of the earlier decisions that members of my party in the state parliament had taken on this issue. I listened to and analysed the advice and came down with the decision that I did. It is interesting to note that on 8 March, before the report was even printed and tabled in the parliament, Mr Burke issued a press statement. It said:

Chief Minister, Denis Burke said the Labor-dominated Senate Committee planning to condemn the Territory’s laws should realise that they were a long way out of touch with the attitudes of a clear majority of Australians in their own electorates.

He knew what we were going to do because, I believe, his officers had analysed the evidence for themselves and had concluded for themselves that they had a bad and indefensible law.

Mr Burke had commissioned a poll of Australians where he asked quite a lengthy question of those who were going to be surveyed. I will quote one sentence of that question to show the loading and the distortion that the Chief Minister of the Northern Territory gave this and the lengths that he went to to influence views and get a dishonest result from the poll. One sentence is all I need to quote. This is part of the question that those who were being polled were asked. It states:

> In the case of juvenile offenders between the ages of 15 and 17, the law requires that the magistrate must sentence offenders for at least 28 days for a third offence.

What is wrong with that as a question? What is wrong with it is that a 17-year-old person convicted of an offence on the third occasion will not go to jail for 28 days or detention for 28 days because in the Northern Territory they are treated as an adult and are sent to prison. They can receive a sentence for their third offence of 12 months in prison. That is but one of the distortions in this poll that Mr Burke put out and then issued. Then of course Senator Tambling circulated the poll results to everybody else in this parliament.

Mr Burke went on to say in the same media release:

> Obviously Labor and the Greens are getting the same message from middle Australia, which is why the Labor-chaired Senate Committee has delayed its report on mandatory sentencing until after Saturday’s by-election in Port Darwin.

That is the furthest thing from the truth that there is, but truth comes cheap for Mr Burke. My colleagues in the chamber Senator Coonan and Senator Brown know some of the reasons for things in the report, but some of them would be amazed to know that at 7 a.m. last Sunday I got a call from the secretariat to indicate that the report was finally in position to be printed. There was a huge virus in our system, which necessitated in some instances the rekeying of complete chapters. There were many worried looks
exchanged among the Senate personnel over whether or not we would get the report in or not. Thankfully, we did.

Senator Coonan—They are a fantastic secretariat.

Senator McKIERNAN—They are a fantastic secretariat. They have done an absolutely wonderful job. But Mr Burke on Thursday last week said it was because of a by-election, I did not know about the by-election. The committee did not know about the by-election when we took our evidence in Alice Springs and the Northern Territory because there was no vacancy at that particular point in time. I suggest it was more on his mind than it was on mine.

Since the by-election, he has issued another press statement, which claims that the result of the by-election is a massive ‘yes’ vote for mandatory sentencing. It shows how loose he can be with the truth. I went to have a look at the results of the poll. I confirmed from my own research that the CLP candidate did in fact get 51 per cent of the vote last Saturday—a clear majority. I went back to the election before, the 1997 election for the division of Port Darwin, and found out that the CLP candidate on that occasion actually got 64 per cent of the vote. Previously, in 1994, the CLP candidate got 60 per cent of the vote. That tells me that there is a big loss of support for the Northern Territory candidate.

I will let honourable senators into a secret here. Part of the reason—you have heard about the glitch, the virus, that we had—the report was delayed was that we had to go back to the Territory government on a number of occasions to get statistical information that we could rely on. As I said yesterday in my tabling statement, and as the committee as a whole said in the report, chapter 3 of the report is inadequate. We do not have the hard evidence on which to base findings. We had real difficulty. Even now, we do not have what could be called reliable statistical information on mandatory sentencing in the Northern Territory, particularly as it affects juveniles. We do not have that information.

When the representative of the Territory government appeared before the committee on 2 February, we asked a number of questions. We asked for the details then, because the figures were not available to us. They were not published. The other witnesses who came to us had picked figures from all over the place—from the Correctional Services annual report, from the legal aid office, from the courts and from their own experience. We found much of the evidence was anecdotal. We tried to get reliable statistics that the committee as a whole could rely on in reaching our conclusions and making our recommendations to the parliament. They were not available to us.

The officer from the Northern Territory government did the best he could. He took our questions on notice. He provided us with information. A response came back from them around 28 February. We were due to report in a matter of days, but they took four weeks to get us the information, and even then the information was not sufficient. The committee got a response from Mr David Anderson from the Northern Territory Attorney-General’s Department on a fax dated 1 March. This was further correspondence that we had to go back to him for. Because of time concerns, I will quote only part of it:

In essence my message to the Committee was there have only been 113 juveniles convicted of a mandatory sentencing property offence, these juveniles had 139 custody episodes ordered by the courts and of these 139 custody episodes only 35 custody episodes or 25% can be considered to be of a 28 day duration. The remaining 104 custody episodes or 75% were for a period other than the mandatory minimum.

This was about the third attempt that we made to get reliable information from the Northern Territory government, who knew their laws were under scrutiny by the parliament of Australia. Mr Anderson went on:

With regard to the juveniles sentenced as adults there is no data immediately available.

Remember what I said earlier: in the Northern Territory, an adult is somebody who is 17 years old. We asked for the detail on 17-year-olds. We asked for details on individuals who committed offences at the ages of 15 and 16 and who were sentenced at the age of 17. The information is not available. But the
punchline came later, and I again quote from the fax:

The quality of the data presented above has not changed since the hearing and is within 5%.

Even when we are talking about some 113 offences over a period of three years, we cannot get accurate data. Yet this regime puts a person in jail for taking a towel worth $15 from a line and sentences that individual to be incarcerated for 12 months—for the theft of a towel worth $15. They cannot even collect the figures on that. It is worse as it applies to juveniles, for a 15-year-old child caught stealing some textas of a value of less than $50 gets sentenced to be incarcerated some 800 miles away from his home for a period of 28 days. These are bad laws. If the Territory will not change them, the Commonwealth parliament has to change them and, from a point of principle, if we are changing bad laws in the Territory, we should change bad laws as they apply within the states as well. Regrettably, I have to say that we have to take action in the state that I represent in this place, Western Australia.

Senator McGauran (Victoria) (5.52 p.m.)—I also rise to enter the debate on the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 and the Northern Territory and Western Australian mandatory sentencing laws as they stand now. It is worthy of note that the mandatory laws apply to a very narrow base of property offences, like home burglary, and do not apply to all areas of the law. Therefore, the overriding principle of discretionary sentencing still holds. As has been argued by the state and territory leaders, the laws are a reflection of their communities’ exasperation towards the growing number of break-ins, petty thefts and repeat offences, along with the view that the judges were not administering punishments to fit the crimes. The old penalties were neither a punishment nor a deterrent, and the public felt enough was enough. So it was on this basis that the Western Australian and Northern Territory parliaments believed their mandatory sentencing laws for property crimes reflected public opinion. Moreover, the law officers of the Territory and Western Australia have judged that the mandatory sentencing laws for their particular jurisdictions will work to stem crime.

I will turn to look at the laws. In the Northern Territory, under 1997 amendments to the Sentencing Act 1995 (NT), an adult first-time offender convicted of a designated property offence must receive a minimum term of imprisonment of 14 days, offenders convicted of their second offence must receive a minimum term of 90 days and offenders convicted of their third offence receive a term of one year. The same amendments also impose mandatory minimum terms of imprisonment on juveniles—that is, 15- and 16-year-olds—of 28 days for juvenile repeat offenders on the third conviction with escalating penalties for subsequent offences. In Western Australia, under the 1996 amendments to the Criminal Code, an adult offender convicted for the third time or more for a home burglary must receive a 12-month minimum term of imprisonment or detention.

While success or otherwise of these laws in stemming the crime rate would need to be measured over the long term, the Australian Institute of Criminology in the recent Trend and Issues Paper No. 138 stated that the laws have been successful in both the Northern Territory and Western Australia. That paper stated:

In Western Australia the state government claimed that downward trends in car thefts and juvenile convictions were due to the deterrent effects of the legislation ... On the basis of the available research, though, it would appear that mandatory sentencing laws can bring about a small reduction in those crimes which attract mandatory sentences.

In April 1998 the Chief Minister released police figures on the number of reported offences over several years up to January 1998 and which covered nine months since the commencement of mandatory sentencing in March 1997. For the period January 1997 to January 1998, the figures showed a reduction in the major offence groups covered by mandatory sentencing, as well as a reduction in all reported criminal offences. In relation to all property offences covered by mandatory sentencing laws, there were 14.4 per cent fewer reported offences in January 1998 than in January 1997.
I am further informed that the Northern Territory legislation has very much been shaped around the United States experience, where such states as Massachusetts, Michigan, Florida, Pennsylvania and New York all have mandatory sentencing laws for property. In New York the laws have been a success in as much as success can be measured by the crime rate figures. They have been dubbed the zero tolerance laws. As the Senate would be aware, New York was notorious for its muggings and vandalism prior to these tough laws being introduced by the current Mayor, Giuliani. Today, it is recognised that New York is a much safer city, having introduced its zero tolerance laws.

The subways test proves the success of the laws. The notorious New York subways were the epicentre of crime at any hour of the day. Since the introduction of zero tolerance laws, it is recognised by even the most liberal that the laws have worked to make the subways safe. As one New Yorker told me, you can use the subways at 3 a.m. and feel safe. But, as any New Yorker will tell you, this has come at a price: the perceived abrogation of certain civil liberties. The core issue of the debate in Australia today is the balance between tough laws and the protection of civil liberties. When making laws, there is always that balance between civil liberties and law and order to consider.

It is true to say specifically that mandatory sentencing of juveniles is the most contentious issue, and many in this debate have sought to sensationalise single cases in an attempt to make the exception the rule. It is worth reminding the chamber that mandatory sentencing for juveniles, as outlined in the Northern Territory act, is a ‘three strikes and you’re in’ policy, not a ‘first strike and you’re in’, as many speakers would have us believe. There is scope for discretion before the third strike.

The facts are that, in the Northern Territory, when a juvenile—that is a 15- or 16-year-old—appears before a court for the first time and is found guilty of a property offence, the court is not required to send the offender to a detention centre. In fact, the court has a range of sentences available, which include sending the juvenile away without recording a penalty, requiring the juvenile to behave themselves, placing the juvenile on a bond, making the juvenile pay a fine or making them perform community work. Further, if a juvenile appears before a court for a second time and is found guilty of a property offence, the court may require the juvenile to participate in a program as an alternative to spending time in detention. The programs currently available include programs that are aimed at boosting the self-esteem of young offenders; providing them with training, education, employment and lifestyles; and, more recently, providing joint offender-victim workshops and counselling as well as the community service parts of the Duke of Edinburgh Award.

People are not incarcerated in the Northern Territory for a single breach of the law. It is, as has been described, a ‘third strike and you’re in’ system. It is worthy of note that the Northern Territory and Western Australian governments have been prompted to introduce these tough laws due to the exceptionally high rate of break and enters in their jurisdiction. They have introduced these tough laws on behalf of the victims. Anyone who has had their home ransacked or robbed feels aggrieved and violated. They feel that the privacy of their home has been invaded and often demand tough justice from their public representatives. Throughout this debate we therefore should not lose sight of the victims’ rights. Nevertheless, it is not hard to understand those that support judicial discretion as opposed to mandatory sentencing. The argument goes that each crime and each offender is different and should be judged on the merits of the case. Therefore, the bill before the Senate requests that the government overturn the Western Australian and Territory mandatory sentencing laws.

In regard to Western Australia’s state law, the federal government has no constitutional power to overturn other than to use its external powers—that is, to rely upon an international treaty to override a state law, such as Australia’s obligations under the International Covenant on Civil and Political Rights. I refer the Senate to the recently tabled Legal and Constitutional References Committee report on mandatory sentencing.
for a full discussion on this matter of external powers. While the legal opinions may vary greatly, as they always do in trying to make judgments on international agreements, there is no direct link between the Western Australian mandatory sentencing laws and the International Covenant on Civil and Political Rights. If there were a direct and obvious transgression, many other countries before Australia would have to adjust their laws and many other states before Western Australia would have to adjust their laws—many other countries being no less than the United States but also countries in the Middle East, South America and Africa.

Traditionally, the government has not directly interfered with the rights of states with regard to law and order, nor do we seek to. Where we disagree, we will certainly express our views and encourage change—and that is what we have done in this case, given that the Attorney-General has written to the Premier of Western Australia seeking a review of the laws. The matter concerning the Northern Territory is different, as the Commonwealth has the authority to change any part of the NT’s laws. The Commonwealth power has been enhanced, particularly given the Northern Territory’s rejection of statehood last year. Nevertheless, the government chooses not to directly intervene for similar reasons to those relating to Western Australia; that is, we wish to maintain the traditional responsibility of the territory to deal with matters of law and order and, where we disagree, to consult with the territory concerned in order to encourage change.

I particularly refer to the Northern Territory, given that this parliament does have a direct responsibility over the laws of the Northern Territory more so than Western Australia. I do believe that the Northern Territory government, in particular the Chief Minister, does have an obligation to take notice of the obvious national concern with its law that is going on at the moment and to keep its laws under review, particularly to make amendments where it believes that amendments should be made. The Northern Territory has that obligation and it should not just see this as a turf war, a fight against Canberra, and, therefore, stubbornly make no changes where changes should be made. It has an obligation to see that the principles of law are upheld and that there should not be total abolition of discretionary law, that there should be an element of rehabilitation and, of course, that the separation of powers should be maintained.

I was in the chamber when Senator Harradine made the point that he believed the mandatory sentencing laws in the Northern Territory were a violation of the separation of powers between the parliament and the judiciary. Of course, that would be very serious if it were true. It is, in fact, a serious charge, but it would be serious if it were true. The truth is that the parliament has long set the sentences and the penalties for the judiciary. It should also be remembered that these mandatory sentencing laws are not all pervading and that there is great room for discretion.

If the argument is that the parliament of the Northern Territory and, for that matter, that of Western Australia have influenced the judgments of the court, that is a violation of the separation of powers. But that is not the case, and no-one is suggesting it is. So, on those grounds, the government rejects the bill before the house.

Senator COONEY (Victoria) (6.04 p.m.)—In debating this case many people have put forward the idea of the victim’s rights, and certainly a victim should have rights. The person who is subject to a bashing, the person who is subject to having his or her property taken from them in violent or non-violent circumstances needs to be considered when a sentence is being put upon the perpetrator. But it does not follow that, because people suffer—and victims of crime do suffer—people who commit crime should all be treated as one, as if they were automatons, as if there were no individuality in either their personality or what they have done.

There are three principles, I have always thought, that should be taken into account when a person is being sentenced. There is the first question: who is this person; in other words, whom do I have before me? What is his or her background? What chances has he or she had in life? What were the circum-
stances that drove this person to the particular crime that he or she has committed? Then there is the second question: what has he or she done? Has he or she stolen $100,000 or $2? Has he or she slapped somebody in a fit of pique, or has he or she gone about committing a crime in a cold-blooded manner? Those two questions—what has this person done, and who is this person—are the sorts of questions that anybody who is accused and convicted of a crime would expect somebody to ask about him or her. That is just what this bill seeks to do in both the Northern Territory and Western Australia: it seeks to enable a judge to treat a person on his or her merits.

That does not take away the rights of the victim. Of course, the person deciding what the proper penalty is will consider what the victim does. Indeed, judges have victim statements that talk about how the crime has affected the victim, and those statements are taken into account in the overall exercise of working out a sentence. But here we are debating simply having a law which says, ‘No matter who you are, no matter what your background, no matter what chances you have had in life, no matter how big the amount of money is that you have stolen, you will get the same penalty—as a minimum at least.’ It is true that many people will say that a judge can sentence a person to more, that this is a minimum sentence. Nevertheless, that minimum sentence—whether it be 28 days, as is the situation in the Northern Territory for a second offence by a child, or whether it be a year, which is the penalty for a third offence of breaking in and stealing in Western Australia—is one that is imposed because of a piece of legislation. It is not imposed because of a person’s identity, because of a person’s background or because of what the person has done in terms of the amount of money involved or the circumstances in which that money was taken.

So there is no doubt that a victim’s situation should be taken into account, but basic fairness demands that a person be treated on his or her merit. That is not a new concept. A lot of the people who have debated this—perhaps most of them—have been greatly affected by a Judaeo-Christian background. Way back when Deuteronomy was written and when the penalty was apparently a canning or a whipping—a thing that I am horrified at, but nevertheless that is how they did it in those days—whether they used a whip or not, what they said was that the number of strokes should be proportionate to the offence.

That is the point I want to make here: whoever decides what the penalty is going to be should make it proportionate to the offence. The mandatory sentence takes that tradition away. It takes away that tradition that goes back thousands of years in the interests, may I say, unfortunately—and this is from statements in evidence—of getting votes to win an election and take office. Unfortunately, as Senator McKiernan was saying, from the statements that have been made on this matter, particularly from the Northern Territory, that seems to be the situation: people are happy to take away thousands of years of tradition, thousands of years of moral teachings, in the interests of gaining office. That is hardly noble.

People have talked about democracy. I believe in democracy, I know that you do, Mr Acting Deputy President Sherry, and I know that everybody in this chamber does. People throughout Australia believe in democracy. But because you believe in democracy, it does not thereby follow that, because a particular democratic state or territory or even a particular country passes a law, that law is therefore right.

There are statements that you heard in your youth that you thought had some force, but when you read them again you see that they have even more force and you begin to understand that the person had considerable wisdom. I speak of a statement by Sir Winston Churchill that is often quoted in this and the other chamber. On 11 November 1947—a very significant date, for all sorts of reasons—he said:

No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time.

What the great man was saying was this: democracy has got its faults. It is the best
system of government that we know but it is not a perfect system, as he said. There are errors that arise that ought to be corrected, and that is why people talk in terms of the rule of law, that is why you have a bill of rights and that is why you have an overarching set of principles which are so fundamental that everybody is entitled to them and which even a democratic vote cannot take away from people.

Since I was being biblical earlier and quoting Deuteronomy, one of the great bills of rights, one of those great statements that says you are not to go beyond certain things, is the Ten Commandments. Democracy might legislate that you can kill at will, steal at will or lie and cheat and do all those sorts of things, but it would not be right. When you lock up in a capricious and arbitrary manner children of 16 years and younger, such as is happening in the Northern Territory, even if it is done according to a majority vote in that territory, that does not make it right. Let us hope we have not got to the point of being so postmodern that we would allow anything to go through.

There are fundamental rights which even a democratic vote should not be able to override, and one of them is that we should not be locking up children simply to get votes, simply to feel good about it or simply to feel that we are satisfying a revenge that we have within us. That is not right and everybody knows it is not right. That is why we have bills of rights. That is why, since that fearful calamity of the Second World War, we have had Franklin Roosevelt talking about the four freedoms, we have had the Atlantic Charter, we have had a whole series of conventions, including the International Covenant on Civil and Political Rights. They were all written to show that no matter what sort of government you have got—whether you are democratic or whether you are a benign dictatorship, if ever there has been such a thing—it is subject to certain rights. These conventions, rules and agreements across the world represent that overarching principle that there are certain things so fundamental to people’s rights and entitlements that no government should interfere and take them away.

You have to give the United States great credit in this area. Their Bill of Rights, in which due process is insisted upon, was introduced very early on in the history of that country and has been a great lesson to the world—and I pay tribute to it now. The Americans have gone off the rails a bit, or a lot, in terms of the sort of criminal law they are running in many of the states over there, but I wanted to make that overall point about a bill of rights.

People say, ‘Parliament has made this law. Therefore, it must be all right.’ Parliaments can, and do, make mistakes. In fact, parliaments can be despotic. That term was used in relation to parliaments by Mr Justice Molesworth in the 19th century. That is how far it goes back. He was talking about how parliament had jailed the publisher and the printer of the Argus newspaper in the 19th century. People were saying, ‘This is a bit beyond the powers of the parliament,’ and he said that it was not and that parliament can be despotic. Everybody knows that. That is why we have second chambers. That is why we have the High Court—to keep this parliament within the bounds of the Constitution. I suggest it is time there was a bill of rights for the High Court to interpret so it can keep all parliaments in Australia within proper bounds. The point is this: just because a law is made by parliament does not mean to say that it is right.

When we talk about people who have to put up with all these crimes—with children going around and breaking into houses and doing all sorts of things—and when we talk about something having to be done, we have to be very careful that we do not go from being reasonable people wanting law and order in its properly understood sense, wanting something done about a problem, to a mob looking for lynch law. One of the great books I read in my youth, which was some time ago, may I say, was the Ox-bow Incident. It was a cowboy story, in effect, by Walter Van Tilburg Clark, as I remember. He told this story about a group of cowboys, or people from a town, who were very righteous, who felt very righteous. To cut a very good story short, they thought somebody had been murdered, so they picked up three peo-
people whom they firmly believed had done the murder and hanged them. Immediately after the hanging, the person who they thought had been murdered came towards them on a horse.

That story has always stood with me because it brought out very powerfully the dangers of lynch law. We have to be very careful in this instance that we do not say, ‘Righto, throw these children into jail, lock them up no matter what because we feel good about it. We know that they’re wrong and we’re right. Let’s do that.’ That is a very bad road to go down. Nevertheless, some of the speeches that have been given in this chamber have invited us to go down that road, but not deliberately of course. We have to bring law and order as it is properly understood. We have to do justice to the victim. We have to do justice to the perpetrator. Remember, we are talking about children here.

Any decent society and any decent family will try to bring up children in the right way. The children will go wrong, they will go off the rails, as everybody knows, some more seriously than others. Nevertheless, there will be problems. Perhaps there will not be. Perhaps there are families where the children have been perfect from go to whoa, but I do not know of any.

Are we the sort of society that would lock up a child for a second offence, in the case of the Northern Territory, or a third offence, in the case of Western Australia, during that vulnerable period when children are finding their feet? We might free a child. A child might come before a judge or a magistrate, whoever has discretion, and might be let go with a bond or something else, and the child might go out and commit another crime. One way of ensuring that does not happen is to lock people up forever, but any decent society will take a risk on the future of children. Indeed, when we send our children to school, to university or to the football field to play, there is a risk that they will not succeed, there is a risk that they will get injured on the football field, but we as a society take that risk because we think it is the right thing to do. So too should we take a risk with children who go off the rails and might take some years to get on them again. If there is potential there, we have to take risks.

We do not have to be stupid about it. We have to make a judgment, and that is why we have judges. Parliament can set maximum sentences in the abstract, but we should leave it to the judge to decide in the particular instance what is proper. What is proper may be that the person should be locked up, maybe not much can be done about the child, maybe that is the thing to do. But, at least when that child is locked up, what he or she has done and what he or she is is taken into account and they are not, as it were, thrown behind bars without proper consideration being given to their situation. In doing that, the victim’s situation should be looked at as well.

There is no doubt that the Commonwealth has power to make this law in respect of the Northern Territory and probably in respect of Western Australia. The Northern Territory and Western Australia, while breaching the rule of law, while doing violence to this idea of an overriding morality that should guide us all, rail at the Commonwealth for suggesting that it should apply its power to correct that situation—a very peculiar argument. Western Australia and the Northern Territory are saying, ‘Yes, we can do violence to the rule of law, but you as a Commonwealth are not to use the powers that you have because, if you do that, that would be breaching convention.’ They should come with clean hands.

Senator McLUCAS (Queensland) (6.24 p.m.)—I rise today to add my voice to concerns expressed by many people in this parliament, as well the broader community, about the mandatory sentencing regimes operating now in the Northern Territory and Western Australia. I support Senator Brown’s Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 and I urge the Howard government to support this bill as well. Mandatory sentencing is wrong and it does not work.

As speakers before me have mentioned, mandatory sentencing requires courts in the Northern Territory and Western Australia to impose minimum sentences of detention or imprisonment for people convicted of certain
offences. They effectively remove judicial discretion in relation to those offences. Of particular concern, as we have heard, is their application to juvenile offenders.

The Western Australian criminal code provides for a minimum 12-month sentence for both adults and juveniles convicted for a third time or more for a home burglary, the so-called ‘three strikes and you’re in’ legislation. The provisions contain some allowance for both adults and juveniles to be released under supervision.

The Northern Territory laws differentiate between adult and juvenile offenders. Adults in the Northern Territory found guilty of certain property offences are subject to a mandatory minimum term of imprisonment of 14 days for a first offence. For a second property offence, the mandatory minimum sentence is 90 days. For the third offence, the period of imprisonment is one year. Recent amendments have allowed courts to waive mandatory sentences in certain ‘exceptional circumstances’. However, this applies to adults only and not to juveniles. In the Northern Territory, it is important to remember, an adult is defined as anyone aged 17 or over.

In the case of juveniles, mandatory detention provisions require at least one prior conviction. Under the Northern Territory Juvenile Justice Act a person aged 15 or 16 years who has been convicted of a relevant property offence and has at least one prior conviction for such an offence must be subject to detention for at least 28 days.

Yesterday, the Senate’s Legal and Constitutional References Committee report was tabled. The committee inquired extensively into the legal aspects of these regimes and, in particular, whether or not they were in breach of Australia’s international human rights obligations. I commend the committee for their report. Of particular concern is the UN’s Convention on the Rights of the Child, which applied to all children under the age of 18 and which states, amongst other things, that detention must be used as a last resort.

Australia has clear obligations as a signatory to this convention. There is no doubt that the sentencing regimes operative in Western Australia and the Northern Territory do contravene our undertakings to the UN—our undertakings that, in matters relating to the welfare of our children, our primary consideration should be the best interests of the child and, where punishment is required, it should be proportionate to the child’s circumstances and to the offence. In removing the discretion of the courts, the Western Australia and Northern Territory legislatures have clearly removed any ability for the judiciary to consider the circumstances of a particular child. To my mind, the convention has clearly been breached. There is a clear case for intervention. This chamber has the responsibility to the Australian community to show the leadership that the government has shown that it will not.

To me the argument for intervention is very simple: mandatory sentencing is a bad law and it does not work. Firstly, mandatory sentencing does not reduce crime. It does not deliver to the community that which its proponents trumpet so loudly. It does not deter potential offenders from committing offences. Mandatory sentencing has not produced the results its authors promised their constituencies. Western Australia and the Northern Territory have the highest rates of home burglary and attempted home burglary in Australia. There has been no change to the overall reporting of property crime in the Northern Territory since mandatory sentencing was introduced. Reports of home burglaries increased between June 1997 and June 1998.

Secondly, mandatory sentencing is very expensive. Given that there is no evidence to support the notion that mandatory sentencing delivers a safer community, mandatory sentencing is an expensive joke to be playing on our communities. It costs $146.94 a day to imprison an adult, and it costs $331.62 a day to detain a juvenile. We know that an estimated $5 million has been spent imprisoning property offenders sentenced under mandatory sentencing laws. For what? A false sense of security and misplaced retribution.

Thirdly, mandatory sentencing does not mandatorily provide appropriate correction for those offenders who are incarcerated. I found it extremely interesting to receive in
my mail recently an advertisement placed by Denis Burke, the Northern Territory Chief Minister; in fact, it had been sent from Denis Burke to me. It was placed in newspapers quite extensively around this nation and paid for by the taxpayers of Australia. The advertisement identified 11 programs that ostensibly provide correctional services for young offenders in the Northern Territory. However, I am advised that, to date, the programs have not yet resulted in a single child escaping a mandatory sentence. As far as the Northern Australia Aboriginal Legal Aid Service is aware, only one person has been hired to manage those programs across the whole of the Territory. There is no government funding for communities to set up community based programs that would be appropriate for their own community.

It is clear that the Northern Territory government has very recently developed this set of diversionary programs as a direct response to public outrage and to the inquiry. It is also clear to me that there is no political will in the Northern Territory to sincerely provide real and effective alternatives and to work with Aboriginal communities to find appropriate programs that are tailored to the special needs of individual communities. The Northern Territory government, it would seem, is quite prepared to see young offenders come in contact with jail in the knowledge that this contact will raise the likelihood of those persons continuing with offending activities.

Fourthly, mandatory sentencing does not allow the judicial system to allocate the appropriate sentence to every individual offender who comes before them. The limiting of the ability of the judiciary has been opposed by some of this country’s pre-eminent legal minds. People like Sir Gerard Brennan, Sir Anthony Mason, Sir Ninian Stephen, Sir Harry Gibbs and Sir Daryl Dawson have all spoken about their grave concerns about the operation of mandatory sentencing and its implications for the justice system. The questions that need to be answered by those who support political intervention in the role of the judiciary are: when do you stop intervening; when do you stop limiting judges’ legitimate obligations to deliver justice independently? For justice to be delivered, judges need the independence to allocate sentences that suit the crime and the individual’s circumstances. There are success stories that show that, where there has been the ability for a judge to allocate an appropriate penalty, correction has been successful. I challenge some of the members opposite to put their minds to finding those success stories in this debate.

Briefly, I would like to look at some initiatives in my own state of Queensland where, like the Northern Territory and Western Australia, the Beattie Labor government has been under pressure from, notably, some regional newspapers and some in the community to act on crime and juvenile crime in the same way. Rather than to go down the path of mandatory sentencing, the Beattie government has chosen to develop a range of strategies across a number of government departments. Juvenile crime is not seen just as a Department of Police and Corrective Services issue, but one which requires a range of expertise and responses. Specifically the government, under the families, youth and community care portfolio of Minister Bligh, has initiated a $6.3 million pilot Youth Justice Service Program trialed in targeted locations, including Townsville.

The role of this service is to provide a coordinated response to first-time juvenile offenders. The government is doing this by case managing young people who are subject to court orders; conducting risk and needs assessment of young people to identify the likelihood of re-offending and developing a program which will reduce this risk; developing culturally appropriate programs which provide consequences for offending and reparation to the community and/or the victim; and identifying programs that assist young offenders to improve their life skills and assist them to participate in education, training and employment.

These centres are guided by a community advisory group which provides assistance to the manager and staff of the services to ensure that the community interest is served in the process of dealing with young offenders. In Townsville, where the centre has been operating since August, 13 young offenders
have found employment, including apprenticeships in a variety of trades. A further 100 young people are currently being assisted. Surely this is an outcome the entire community can be proud of. It is an opportunity for young persons to make amends and to get on with their lives, and it is an opportunity for the community to show that we do care about our young people—that we do take crime seriously, but we are willing to help our young people who just need a chance.

The Queensland Department of Aboriginal and Torres Strait Islander Policy and Development has also been involved in addressing juvenile crime with a number of initiatives. The department funds community justice initiatives in more than 30 communities across the state. The total funding is just $1.1 million. Yet an interim review has established that these local initiatives have resulted in a two-third reduction in juvenile court appearances. These are real statistics that can be justified, unlike the case of locating statistics in the Northern Territory. These community justice groups work with offenders, offering counselling, advising magistrates and supervising court orders. They use aspects of traditional punishment, including shaming or growling by elders and removal from the community. They also undertake culturally appropriate crime prevention strategies, like night patrols, camps for cultural and spiritual regeneration and teaching life skills.

The Queensland government also provides funding to a number of outstations to divert young people from custody and address their offending behaviour. These operate, and have done so for some years now, at Aurukun, Possum Creek, Fantome Island near Palm Island and Woorabinda. These initiatives work not just for the offenders themselves but for the community. In Mackay, the justice alternatives panel meets with the broader community, the police, the Department of Police and Corrective Services and the Department of Families, Youth and Community Care. The panel conducts voluntary night patrols with the support of city traders. It has been instrumental in securing apprenticeships for seven juveniles over the last 18 months. There has been no recidivism from the juveniles after gaining employment. These are just some of the initiatives under way in my own state. I think they provide a more positive way forward for the community as a whole.

It is the difference between being seen to be tough on crime and actually doing something about it—or, as the Beattie government has labelled it, being tough on the causes of crime. It takes political will and a commitment to a long-term strategy rather than short-term political advantage. It takes a whole of government approach to draw the community, service providers, families, victims, police and the courts into the job of dealing with young people in the justice system. It is slow. It is not as sexy as ‘do the crime, do the time’ and, thankfully, it is not as deliberately simplistic either.

It is not an approach which contemplates sacrificing another generation of young, predominantly indigenous people to our judicial system for no demonstrable effect. It allows the community into the complexity of crime and its causes, and provides a means for the community to obtain a sense of justice and a sense of closure. I would argue that this a cost-effective and far more productive use of public funds than sending a young person to jail in the knowledge that they will be more likely to re-offend at the end of their sentence.

Eventually, those who promote mandatory sentencing will learn that it does not work. It is only a matter of time. In the end, the community will realise that it has been duped, and those who have thumped their political tubs over mandatory sentencing will have their chickens come home to roost. The community will know that it is expensive, it does not deliver any substantive changes in offending activity, and it delivers the tragic and unjust event of last month when a young man was so dislocated from his community that he took his own life.

This brings me to the most disturbing part of the debate: the misleading and dishonest behaviour of some politicians, including some who sit in this chamber, who have lowered the level of debate to that of the lowest common denominator—showing no understanding of the fact that there is no substan-
tive evidence that mandatory sentencing delivers any change in offending behaviour. But this did not stop Peter Lindsay, the member for Herbert, who was reported in the Townsville Daily Bulletin with the banner headline ‘Lock ‘em up says Lindsay’. This was in March this year. We had the same old cliches: ‘sick of a revolving door correction system’, ‘a slap on the wrist’, and ‘victims left to pick up the pieces’.

The Townsville Daily Bulletin responded in kind the following day with the former One Nation member from the Burdekin, Jeff Knuth, adding his voice to a number of Liberal council candidates in calling for Queensland to adopt mandatory sentencing. But Mr Lindsay must have had a bit of a rethink overnight—or maybe he actually thought about being out of step with his Prime Minister and his party, or parts of it, because the next day he is confusing the issue by suggesting that we need to focus on rehabilitation and diversion and ‘effective’ punishment. It was a bit of a turnaround. However, Mr Lindsay’s goal had been achieved. Those who read the headline on the first day think he is tough on crime, and those who wish to take him to task about his lack of leadership can be referred to his more temperate remarks the following day. This is lowest common denominator politics and should be rejected by the community.

As Senator Cooney wrote in the report tabled yesterday:

Political parties need votes to win and to retain power. They must go about the task of gathering them and they use a variety of means to do so: that is fundamental to politics. But getting votes by gaoling juveniles who ought be let free goes beyond even the elastic boundaries of legitimate political practice. Law and order campaigns which put their proponents into office but children into custody, when they ought not be, are despicable. Eventually, mandatory sentencing will be seen for what it is: a vote gathering exercise, not an honest attempt to deal with the complex issue of juveniles who offend.

Senator WATSON (Tasmania) (6.41 p.m.)—Tonight I rise to speak against this Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999, not because the bill specifically relates or has particular relevance to my home state of Tasmania that I represent in this Senate chamber but because, once again, this Senate is urging inappropriate intervention by the Commonwealth.

As my colleague Senator Eggleston has rightly brought to the Senate’s notice, both the Western Australian and Northern Territory parliaments are democratically elected bodies, and mandatory sentencing laws are supported by public opinion in those states—even supported by the Labor Party in Western Australia. The rights of states and territories to make laws supported by their people should be respected and the will of the people should prevail. I repeat: the will of the people should prevail.

Senator Schacht—You didn’t think that when you voted down the euthanasia bill.

The ACTING DEPUTY PRESIDENT (Senator Sherry)—Senator Schacht, please. Senator Schacht, you cannot continue interjecting in that way. Senator Watson has the call and he deserves to be heard in silence.

Senator WATSON—Thank you, Mr Acting Deputy President. The issue is a matter for the people of Western Australia and the Northern Territory through the ballot box.

Senator Schacht interjecting—

Senator WATSON—Perhaps this Senate should really better focus on the type of incarceration for young offenders, where perhaps the prospect of suicide for some would be less if you could provide an alternative to what is known as the traditional jail environment. However, that does not seem to be the case.

So it also grieves me greatly that another Tasmanian senator sitting opposite—Senator Brown—has taken a leading role in the presentation of this bill before the Senate because, to use a colloquialism, Senator Brown couldn’t care a damn about states’ rights or territories’ rights in relation to this matter. We just have to look at the record in terms of Senator Brown challenging states’ rights. In fact, he has a good record of achievement—from his point of view. But ask Tasmanians where they would be today if Senator
Brown, all those meddling mainlanders and the Labor Party had not interfered with our major capital investment projects.

Senator Schacht—You would have flooded the Franklin.

Senator Watson—I draw the Senate’s attention to just two of them: the dam issue and the forestry issue—

Senator Schacht—What about the Franklin, John?

Senator Watson—and the loss of an international paper mill.

Senator Lightfoot—I raise a point of order, Mr Acting Deputy President. There are two points of order. First of all, you have warned Senator Schacht about his continuous interjections. That is the first one. The second is: if Senator Schacht is so compelled to interject, he should refer to Senator Watson as Senator Watson and not by his first name.

The Acting Deputy President—Senator Schacht should not be interjecting at all. I do uphold that part of the point of order, regardless of the title or description he gives to Senator Watson. So, Senator Schacht, please desist from interjecting and let Senator Watson be heard in silence.

Senator Watson—If we really want to be honest about this issue, mandatory sentencing has been sensationalised to quite a major extent by the press. This is unfortunate. The sensational reporting would never have occurred if the 15-year-old Aboriginal boy had not committed suicide in a Darwin institution.

In looking at his offence record in his short life, it is indeed a tragedy—it is a tragedy for the system, it is a tragedy for the families and it is a tragedy for the whole of Australia. It is no wonder really that he was spending some time there. Because of the unfortunate incident leading to the mandatory sentence, the press forgot all the previous offences and concentrated on approximately $50 worth of assorted pens—again stirring the emotions. I believe this is indeed quite wrong.

I am a person who has a strong record on state rights. I firmly believe there is a need to preserve the integrity on this issue. The minor states and the outlying states constantly come under attack by people in this place—particularly from within the Labor Party and others on the opposite benches—who constantly seek to intervene, using international issues and links to try to change the situation. I, therefore, have deep concerns about both attempts to override the Northern Territory and the Western Australian laws in regard to mandatory sentencing.

Public opinion seems to suggest—and I have got friends up there—that the streets appear to be a lot safer for both the residents and the tourists, especially of an evening. So I fear for the elderly who are particularly prone to attack from petty criminals. They should not be deprived of their right of protection. This is also a right that we have to look at. It is a person’s democratic right to vote for protection. That is what democracy is all about. As parliamentarians we should be protecting that right.

I feel for the people of Western Australia and the Northern Territory who have clearly voted for this concept of mandatory sentencing. I believe the environment in which they are incarcerated should be examined. I feel for them because I know how Tasmanians felt when their state rights were being challenged by Senator Brown and the people living outside the state who did not know what they were talking about and who had probably never even set foot on Tasmanian soil. Tasmanians lost what they perceived to be their rights and we are still suffering. We would be suffering a lot more if it had not been for the generosity of this federal government that is handing out such large sums of money to the state at the present time.

In a democracy the will of the people must prevail. The Northern Territory and Western Australian law must not be overridden except by a change of heart through the ballot box. The federal government must not intervene because I believe this would be the greatest injustice of the lot.

Debate interrupted.
I want to make few brief remarks on the Department of Education, Training and Youth Affairs report entitled Anglo-Australian Telescope Board Annual Report 1998-99. I commend this work and the report before us, which obviously has the mandatory reporting, financial reporting statements, et cetera. What is interesting about this report is it is a joint venture, if you like, between our government and that of the UK in accordance with article 8 of the agreement between the Australian government and the government of the United Kingdom—that is, the establishment and operation of an optical telescope at Siding Spring Mountain in New South Wales. I note this report reflects that engagement between our two countries in relation to scientific and technological advancement and endeavour.

I note a couple of the scientific highlights that are described in this board’s report, in particular Comet Lee. On 16 April 1999 the AAT night assistant and an amateur astronomer—according to this report, Steven Lee—discovered a new comet in the southern constellation of Musca. That was obviously an achievement.

The statement of purpose in this report notes that the Anglo-Australian Observatory provides world-class optical and infra-red observing facilities for British and Australian astronomers to ensure the best possible science. Ensuring the best possible science not only for the UK but for Australia is a theme that the Democrats are quite hot on, especially at the moment. We are very concerned that some of these achievements may be jeopardised by the lack of investment in our education and training opportunities and in particular by a lack of support for students undertaking science and science based courses not only in universities but also in schools.

We want students to grow up to be astronomers like Mr Steven Lee, whose efforts are recorded in this report. We want to be able to support institutions such as this to carry out various research programs. This report outlines its key result area, which is research, and talks about some of its strategies in order to achieve some of these research outcomes.

It also refers to a number of highlights during the year—everything from gravitational lensing to the Hubble Deep Field. Many people would be aware that one of the most successful astronomical observations of the past decade was the deep image of the distant universe that was made in December 1995 by the Hubble space telescope. Some of these achievements are referred to.

But in order to provide an environment where science can be good and can prosper and people will undertake science and hopefully work one day in the space and observatory field, I would like to refer to another report that obviously ties in with this issue, and that is a policy statement that was brought down last year by FASTS, the Federation of Australian Scientific and Technological Societies, who talk about how we can create a better climate for science research and technological endeavour in Australia. They think there are four critical policies for the sector. Our universities’ teaching and research capabilities are essential to a modern economy and must not be allowed to erode further. That is the first. Second is: funding for university research and teaching infrastructure, which should be at the same levels as those of comparable OECD nations. Third is that salaries and conditions for university academic staff should be internationally competitive. And, fourth, the nexus between research and teaching must be preserved.

To achieve those goals so that we can have a scientific nation and boast proudly about our scientific achievements, such as those of the Anglo-Australian Observatory, FASTS has urged this government, firstly, to increase funding to address the current crisis in the higher education sector; secondly, to identify and target infrastructure funding to support the needs of teaching and research; and, thirdly, to provide realistic annual indexation of academic salaries. This is all be-
cause they have acknowledged that our capacity to sustain an effective access to the global network of information and knowledge is under threat; it is diminishing as a result of lack of funding.

So I put on record the Democrats’ congratulations to the Anglo-Australian Observatory. We look forward to many such joint education, technology and science initiatives between our government and other governments but recognise that, if good science is to exist and be supported, then we must have an investment in education and training and, in particular, science. And I think you will find that is a recommendation that came out very strongly at the recent Innovation Summit.

Question resolved in the affirmative.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Sherry)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

New South Wales Teachers Federation

Senator TIERNEY (New South Wales) (6.54 p.m.)—I rise tonight to discuss the very sad state of education in my own state of New South Wales, particularly because of the actions of the teachers federation in recent times. I was actually a member of the New South Wales Teachers Federation. Senator Mackay, yes, I was a member of a union.

Senator Mackay—Good.

Senator TIERNEY—I thought that would get your attention. Up until 1968 under the teachers federation there were no strikes. So from Federation to 1968—a period of 68 years—there was no strike action in New South Wales schools. I went along to the first strike meeting. Actually, I got up and voted against the strike. I will put that on the record. But I was outvoted. The strike did go ahead.

Senator Mackay—Did you strike?

Senator TIERNEY—No, I did not. I have never gone on strike in my life. I would actually like to put that on the record. I stand here proudly and say that whenever in my 10-year membership of the teachers federation they went on strike I was one of the ones that went to school to teach the students I was charged to teach. I would like to contrast that situation of ‘up to 1968 absolutely no strikes’ to what is happening now in New South Wales schools. We have a situation where this year, in the last 12 months, there have been 20 strikes by New South Wales teachers. That is one a fortnight. What a change!

My father—who was a primary school principal and also an organiser, Senator Mackay, for the teachers federation in southern New South Wales—would be very saddened at the current state of the teachers federation and the way it is operating. My father always spoke of the teaching profession very proudly, and he taught for over 40 years. But he would be shocked by how unprofessional the teachers federation has indeed become. My father’s interest was ‘children first’, but for the teachers federation that seems to be at about the bottom of their list.

The latest example of this change is the destruction that has been caused by the teachers federation to the literacy and numeracy skill tests. The New South Wales government are culpable in this as well, because they knew for several months that this was going to happen and they did not move in an effective way to prevent it. So we had a situation where the basic skills test—in particular, the English language and literacy assessment—which was to be taken by 120,000 pupils in years 7 and 8 right across the state was actually called off. It was called off because only 10 per cent of students turned up owing to a lack of teachers and, therefore, the test lost all validity. As a result of the test being called off, $2.1 million was wasted by the teachers federation.

And, worse than that, the years 7 and 8 pupils lost this vital point of assessment. They lost the chance to have a record of where they were in literacy and numeracy and, as a result, the opportunity to be informed in respect of their further education. The importance of these tests is that they do identify students with special needs. They do prevent students from sliding through the net, and they do develop basic skills, because
the teachers pick up where the pupils are not learning and that feeds back into their teaching process. It is very sad that the teachers federation has used these tests as a political football to settle an industrial dispute. That industrial dispute related to where the teachers were placed across the state. And I want to return to that a little later on.

But I want to just emphasise, first of all, the way in which these tests are a crucial part of our education system. In 1986 I was chair of the Liberal Party’s education committee, and one of the things I pushed very hard for was this basic skill testing in year 3, year 5 and year 8. I pushed for that because of the need to monitor where pupils were up to at different stages of education with basic literacy and numeracy. And, if you find that they have fallen behind, then what you do is provide appropriate remedial measures.

When the Greiner government was elected—and particularly under the leadership of the minister Virginia Chadwick—we had a situation where New South Wales became an Australian leader on this. Of course, down in Victoria we had the Cain-Kirner government, which was way behind on these sorts of things. And, unfortunately, that dragged back during that era—particularly the federal Labor era—literacy and numeracy progress in this country.

But New South Wales was a leader. Unfortunately, when the Liberal government left, the Carr government went back to the bad old ways of not showing leadership in this field. What has happened over the last few weeks is further testimony to that lack of leadership by this government. It has led to the situation where we have teachers banning basic testing, which is a vital part of education in New South Wales. But that is not all that the teachers federation has been up to in halting the progress on education in our state. If you have a look at what was reported on the front page of yesterday’s *Daily Telegraph* under the headline ‘Block vote’, it describes the ways in which the teachers federation has blocked progressive reform in education in New South Wales since 1995. I would like to read into the Hansard record what some of these things were. I will just read out some samples from this because of a lack of time. The list reads:

- Ban on Languages Other Than English (LOT) program.
- Ban on introduction of new programs until start of 1997 school year.
- Bans on changes to quality assurance review process.
- Ban on Government’s Computers in Schools policy.
- Ban on ALP politicians who had not endorsed a 12% teacher pay rise.
- Ban on all Education Week activities.
- Ban on quality assurance reviews.
- Ban on use of student data in school reporting.
- Ban on Year 7 literacy test.
- Ban on teachers signing a register to acknowledge receipt of Child Protection Framework documents.
- Ban on review of four western Sydney high schools.
- Threat to ban 1998 School Certificate.
- Ban on TAFE computer education management systems.
- Ban on annual school reports.
- Ban on school reviews.
- Ban on attendance at meetings at recess, lunchtime and outside normal school hours.

Wow, that is professional! The list goes on:

- Ban on professional training and development activities unless relief/release provided.
- So they are banning their own professional development, of which they seem to need a lot. Again, the list continues:
  - Ban on welcoming the Premier or the minister to schools.
- They ban everything, this group. The list goes on:
  - Ban on HSC marking.
  - Ban on English Language and Literacy Assessment Test.
- All of those bans occurred between 1995 and 2000, and I did not read out the entire list.
What we have, very sadly, from the time that I was in schools through to now, is a teachers federation that has become less and less professional. Yesterday in the House of Representatives Minister David Kemp noted this disgraceful state of affairs. The minister described the actions of the NSW Teachers Federation in relation to English literacy tests as ‘educational vandalism’. He went on to state that it was an ‘inexcusable action by a union which is a close friend of the federal Labor Party’. No wonder Kim Beazley, the Leader of the Opposition, is so silent on the matter.

Students and parents are tired of these industrial bans that have been led by the teachers federation in New South Wales. The result is that students go through the system and leave school with poor standards, parents miss out on vital information that they should be entitled to and teachers miss out on information that they need to improve student learning. The key breakthrough that the Carr government needs to stop these strikes and to move on from the basis which they were striking on—which was insufficient resources in remediation—is to stop moving teachers around like deckchairs on the Titanic and to instead put some extra resources into remediation in New South Wales. They should not take the teachers from the schools where they are needed. They are needed in all schools. If there are particular difficulties in some schools, the government need to put in the extra resources. They have not done that and these industrial disputes are the result. The important thing is that additional staff are needed to support children with the greatest need.

(Time expired)

Estimates Committees: Misleading Evidence

Senator O’BRIEN (Tasmania) (7.04 p.m.)—I am interested in Senator Tierney’s concept of democracy and it reminded me of the War of American Independence. But he has not learnt these lessons of history and I do not propose to take up the time of the chamber tonight on this—perhaps another time.

I want to talk tonight about the subject of misleading evidence to estimates committees. The role of this chamber is to properly scrutinise the administration of government. Estimates committees play an important part in this process, with senior public servants appearing four times a year to explain how programs within their area of responsibility are administered. It is an opportunity for the Senate and therefore for the broader community to assess how effective programs are in achieving the policy objectives of the government. While I have been in this place for only a relatively short period of time, it sometimes feels that I spend most of my time in estimates committees. As I said, I consider this to be an important part of the political process and therefore I give the matter considerable priority. The effectiveness of this process obviously relies on accurate answers being given to the questions that are asked, and we should expect nothing less from senior professional public servants. However, in my limited experience this is not always the case.

During the Senate economics estimates hearings that took place on 18 August 1997, a senior officer of the department of workplace relations, an officer directly responsible for the waterfront reform, Mr Derren Gillespie, was asked a series of questions relating to consultancies. His evidence was misleading and, in my view, was designed to be so. Mr Gillespie found himself caught between his obligation to give accurate and truthful evidence to the Senate and a desire to protect his minister. He chose the latter.

I questioned Mr Gillespie on his earlier evidence when the Senate Economics Legislation Committee met again in February 1998. He had an opportunity to correct the record at that time, but he chose not to do so. The secretary to the then workplace relations department, Dr Shergold, was also increasingly drawn into the controversy surrounding
Mr Gillespie’s direct role in the waterfront conspiracy and his evidence to the Senate. Dr Shergold was forced to write to the chair of the economics committee, Senator Alan Ferguson, on 3 April 1998 supporting his officer and claiming that Mr Gillespie’s evidence was neither inaccurate nor contradictory. However, my battle with Mr Gillespie over the accuracy of his evidence to the Senate exposed me to the broader, informal process of information flow from the bureaucracy to the parliament. A number of Mr Gillespie’s colleagues clearly thought his behaviour before the committee was inappropriate and sought to informally correct the record through the mail. Finally, Mr Gillespie was forced to concede that he had misled the committee or, in the words of his secretary, Dr Shergold, in a letter to the committee dated 2 June, that he had ‘made certain inadvertent errors in his evidence’. The reality was that a combination of ongoing leaks from the department and a legal discovery process made Mr Gillespie’s position and that of his secretary untenable. In the end, it is my view that they had no choice but to correct the record.

Last year, I asked a number of questions about the processes that led to the appointment of Mr Laurie Foley to the position of Assistant Director, Safety Compliance in the Civil Aviation Safety Authority. This was in the Senate Rural and Regional Affairs and Transport Legislation Committee’s estimates hearings. In response, I received a large swag of answers. As with Mr Gillespie’s evidence, I quickly became aware that many of the answers provided largely by CASA Director, Mick Toller, were inaccurate or incomplete. The same informal flow from the bureaucracy to the parliament that exposed Mr Gillespie’s deliberate misinformation quickly exposed the inadvertent errors and emissions in Mr Toller’s evidence. Mr Toller was then forced to write to the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Crane, attaching no less than 11 pages of corrections and elaborations to that evidence.

It appears that the Senate Rural and Regional Affairs and Transport Legislation Committee was again misled by the CASA Director, Mr Toller, at the most recent estimates hearings. However, on this occasion, I am not so sure that it was simply a mistake. During those hearings, which took place on 7 February, I asked Mr Toller how the authority organised its legal drafting work. I asked whether that work was actually done by the Office of Legislative Drafting in the Attorney-General’s Department. Mr Toller responded, ‘That is correct.’ As I recall it in the estimates hearing, Mr Peter Ilyk, CASA’s General Counsel, was literally sitting beside Mr Toller at the table when Mr Toller responded to the question. I assumed at that time that the answer was correct because, otherwise, Mr Ilyk, who has direct responsibility for this matter, would have corrected the record on the spot.

I know this is not a big issue, but I asked the question to see whether CASA had responded to an instruction from the Minister for Transport and Regional Services. I understand that at the end of April or the beginning of May last year Mr Anderson wrote to CASA advising that the legislative drafting function should return to the Office of Legislative Drafting. I understand—and, as always, if I am wrong I am happy to be corrected—the government had decided that CASA should be placed in the same position in relation to legislative drafting as all other Commonwealth agencies. I wanted to know whether CASA had responded to the government decision, which I assume was a cabinet decision, and effected the necessary changes. That was the point of my question, and Mr Toller’s answer confirmed for the committee that the transfer had in fact happened. However, that answer appears not to be accurate. I have been advised that there are still three legislative drafting positions within the CASA Office of Legal Counsel. I understand these positions have been retained to enable the drafting of civil aviation orders and other legislative instruments. If my advice is correct, Mr Toller has misled the committee yet again and CASA has ignored what I believe to have been a cabinet decision and a request by the minister, Mr Anderson, to implement that decision. Mr Ilyk, who was at the table beside Mr Toller when the inaccurate evidence was given to
the committee, for some reason chose not to correct the record.

It appears that yet again the informal flow of information from the bureaucracy to the parliament has put the record straight. I am sure that Mr Anderson will argue, as he always does, that this is a matter for CASA. He will argue that the issue is one of staffing, but it is not simply a staffing matter. It goes to the issue of how the government wishes certain administrative functions—in this case, legal drafting—to be managed. But when you have a hands-off minister like Mr Anderson, it seems that cabinet decisions count for very little. I am not going to be holding my breath waiting for Mr Toller to correct the record as he is obliged to.

South Australia: Olsen Government

Senator LEES (South Australia—Leader of the Australian Democrats) (7.13 p.m.)—I rise tonight to make some comments on an article on page 2 of the Adelaide Advertiser of Thursday, 9 March entitled ‘Premier not up to the job, says Scott’. This is a most unusual article because normally businessman Allan Scott is a loyal supporter of the Liberal Party. He has, on a couple of occasions in the past, spoken out but not quite as vehemently and with as great a level of determination as he has done on this particular occasion. This scathing attack relates to a range of issues and matters that the government has been dealing with. It is not just Mr Scott who is sending the government this message. Indeed, if we look at recent opinion polls in some of the safest Liberal seats in South Australia, we see a drop of 20 per cent or more in Liberal Party support.

What is leading to this level of dissatisfaction? I have no doubt that one of the issues is South Australia being awarded, by the Bureau of Statistics, the dubious honour of having the highest unemployment rate in the nation at 8.7 per cent. I do not stand here with any comfort in the knowledge that my home state leads in the unemployment stakes. It is not being helped by a series of decisions from the South Australian government, and privatisation is certainly one of those that has exacerbated the problem. Let us look at some of the issues that South Australians are becoming more and more disenchanted with.

Let us look at the privatisation issue, particularly of the water supply and now of power utilities. These are obviously essentials and things South Australians hold very dear as far as being under government control goes. The people expect the government to not just guarantee supply but guarantee a high quality supply that is reasonably priced. If we look at what has happened with the supply of water, the profits from the South Australian water supply system are now in private hands. We were assured when this was done that it would lead to cheaper water for average households, but exactly the opposite has happened. We have seen a steady increase in the cost of water to households.

South Australia: Olsen Government

We have now been told that privatisation of the electricity supply is essential. And what are we seeing there? For a mixture of reasons, as the government is relinquishing control of our electricity industry, we have the industry shutting down. Every time the mercury gets towards the 40s, it is at risk. We have had brownouts and blackouts, a disruption of supply which has meant a considerable loss of money for many businesses—not to mention inconvenience for your average householder and quite risky situations for those with very young children and for the elderly, who need to call on air-conditioning on those very hot days. It is no wonder that, in some cases, the government of South Australia is facing a backlash from its most ardent supporters in previous times.

The Premier of South Australia would like to see South Australia as the radioactive state. The unhappy fact is that a combination of a complacent state government and a federal government that is very comfortable with the nuclear option means that South Australia is likely to be turned into this country’s nuclear dumping ground. I read with astonishment that the Premier of South Australia, John Olsen, thinks that legislating against the possibility of a medium to high level radioactive waste dump in South Australia is tokenism. Comments of the federal government and the state Liberal government in the agreement that is being made to locate a low to medium level radioactive waste dump
in northern South Australia have rung alarm bells amongst a large percentage of the population. Listening to comments from Pangea, in particular, many of us fear that a medium to high level waste dump is an obvious step. If we look at the opposition of the Democrats in South Australia, my colleague Sandra Kanck has anti-dump legislation before the South Australian parliament. Why aren’t we able to get support for this legislation, as happened in Western Australia? I call on the South Australian government, if they are truly not going to see our state as a radioactive state, to support that legislation and to prevent us becoming a nuclear dumping ground.

Another very unpopular issue in my home state is the emergency services levy. Looking at the reaction of many on the back bench of the Liberal Party, the South Australian government now have just as much difficulty selling it to their own troops as they do selling it to the average South Australian. We have all had our bills in the post now—not just households but community organisations and hospitals, and the list goes on. Many people would not be surprised to know that the amount being collected is not $82 million; it is close to $120 million. But the government does not seem to have owned up to that yet. The government cannot explain why services will not improve with this levy, and it cannot explain to rural and regional people why those living outside the metropolitan area are being asked to make commitments without any of the backup support that they need. It is another exercise in which the government is buck-passing responsibility and hoping that someone else will make the next round of cuts, because it is not passing the money on with the responsibility. We have had a steady reduction in funding for public education, some five per cent since 1992, and we are seeing a steady decline in the number of students staying through to matriculation. Leaked government documents tell us there is going to be a further round of cuts specifically aimed at students with disabilities. With the increased funding to the states as a result of the GST, I hope to see public education as one of the highest priorities for the South Australian government.

I now turn my attention to the South Australian health system. The tests are back, and the results are not good at all. This has been a constant exercise in handballing and buck-passing backwards and forwards between state and federal governments to the point where it is nothing more than a political football match. The obvious losers in this game are average South Australians trying to access our health system, whether it is community health services or, in particular, hospital services. We see ward closures, we see longer and longer queues in emergency and queues just to get appointments to see specialists. We see now the introduction of fees for a range of services, from hospital bandages to visits from the Royal District Nursing Service. Since 1993, the state government has slashed health spending. We seem to have an ongoing problem between the Premier and the Minister for Human Services, Dean Brown, and this has exacerbated the health system problems.

I think it is time that we in South Australia sorted out our priorities. Do we upgrade a football stadium, as necessary as it may be, for $30 million or do we use that money for our health system? Instead of looking at things like keeping wards open in the Women’s and Children’s Hospital, we have
the upgrading of Hindmarsh Soccer Stadium. We come back to this government’s priorities. As popular as some sporting facilities may be, and as necessary as some of that expenditure may be, I ask the government: what are your priorities when we have waiting lists for essential surgery stretching out and when we have inadequate funding, particularly looking at our HACC services, across most of the poorer suburbs of Adelaide?

If we had a state government that was prepared to listen to the people, we would not have prominent South Australians such as Mr Scott making the comments that he has made. Mr Scott said in the Adelaide Advertiser article to which I referred earlier:

I don’t believe that we have had the best government we could have had.

I don’t think that John Olsen is capable of running it—

he is referring to the state—

and I don’t think Rob Lucas, the Treasurer, has any idea.

Looking at the level of support for the Liberal government in South Australia, those comments are echoed by more and more of us. South Australians will have a choice at the next election. I will say more about that, as my colleague Senator Stott Despoja will say, at another time on the adjournment. (Time expired)

South Australia

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (7.23 p.m.)—As indicated by my colleague and leader Senator Meg Lees, I also rise in this adjournment debate to speak about our home state, the state of South Australia. I wish to do some flag waving, yes, but also to recognise, as Senator Lees has done, some of the key problems that affect South Australia at the moment. South Australia has the distinction of being a state of many firsts, some of which I am justifiably proud of—in particular, the fact that we were one of the first places in the entire world to grant women the right to vote and the right to stand for parliament. However, tonight I wish to speak on how our state has recently garnered the more dubious honour, as Senator Lees mentioned, of having the highest unemployment of any state in this country. Last Thursday’s Australian Bureau of Statistics labour force figures revealed that South Australia recorded an increase in its seasonally adjusted unemployment figure of a full percentage point—to 8.7 per cent—which is two per cent above the national average. South Australia was also the only state to record an increase in its unemployment rate; all other states showed a fall in their monthly unemployment rates.

The Premier of South Australia, John Olsen, came to office with a promise to reduce South Australia’s unemployment to below the national average. Given the current situation, where South Australian unemployment is continuing to grow even as other states benefit from sustained economic growth, the chances of his goal being realised seem to be increasingly remote. I believe that the statistic of 8.7 per cent is the largest unemployment rate in the state of South Australia since at least 1996—again, nothing to boast about. Of course, I recognise that the blame does not rest entirely with the Olsen state government, although they are culpable to some degree, and that the federal government must bear a large share of the responsibility for the failure of the South Australian labour market.

This evening I am happy to do a little flag waving for my state. It falls to Democrats—Senator Lees and myself—to do this because we feel that some of our federal colleagues who are South Australians have failed to do so of late. Despite having a large number of cabinet members as its federal representatives, South Australian interests do not seem to have been served. In fact, the state’s interests appear to be at risk of further being sold out, with reports, as Senator Lees mentioned, of the Minister for Industry, Science and Resources, Senator Nick Minchin—a South Australian—advocating a nuclear waste dump in outback South Australia, to the horror of most Australians. I do not think there are many South Australians who find that an appropriate solution at all. But these are the job creation initiatives that we seem to be offered in our state. They are not the kinds of job creation initiatives that South Australia
deserves. My home state of South Australia deserves initiatives which build on our already demonstrated capacity for research, innovation and development. This is the state which built the Australian wine industry, whose produce is enjoyed throughout the world and which has made us an internationally acknowledged centre of expertise in viticulture.

Our universities continue to undertake groundbreaking research in spite of drastic funding cuts implemented not on a state level but by this government—in fact, in 1996, as I recall, when another South Australian minister, Senator Amanda Vanstone, was holding the education portfolio. But, despite this, our three universities with a number of campuses continue to attract students from around the world and particularly from the Asian region. We are working very hard to export our education and to attract overseas students to South Australia. Many people are attracted to the opportunity of getting a first-class education in our region. I put on record very strongly my support for the work of the vice-chancellors of the three institutions—Vice-Chancellors Bradley, O’Kane and Chubb—who have worked very hard and cooperated in a very constructive fashion in order to build our state as a university state, as a knowledge state—something that our South Australian federal representatives as well as the South Australian government should be promoting more strongly.

At the moment—and probably it is quite timely—we have the country’s most renowned arts festivals, the Adelaide Festival and the Adelaide Fringe Festival, both currently under way. These are a legacy of the visionary leadership of a former Premier of our state, the great Don Dunstan, one of the many South Australians who helped make our state such a leader in policy reform and the arts. However, South Australia is at risk of further decline, and state and federal governments must act to prevent this from occurring. Employment policies which build on our skills and our education base must be developed as a matter of urgency. The reliance on attracting call centre jobs to the state must end. I acknowledge that call centres have offered valuable employment opportunities to many South Australians. However, I also recognise that this type of employment is low skilled, often casual and rarely permanent. As the announcement by Telstra that it would be closing call centres and shedding thousands of staff has starkly demonstrated, this is clearly a volatile industry and employment within it is scarce—it is not secure.

Attracting and growing value added and knowledge based industries requires a commitment to investing in education. The Democrats are strong believers that education is an investment in our future—not just for young people but for all Australians. It is not a cost, but that is how it seems to be treated by both the state government and certainly, increasingly, the federal government. Government higher education proposals risk favouring established universities at the expense of newer and regional campuses. So it is no secret that a number of South Australia’s universities would not be well served by a move to the so-called voucher based system, of which I believe Dr David Kemp, the minister, is an advocate. Whether that is simply in private, in secret cabinet submissions or in public these days, I am not sure.

Similarly, cuts to research and development funding undermine our capacity to keep our best and brightest in the state where they can continue what is a tradition of innovation. An unfortunate trend has developed of too many graduates collecting their degrees and heading east—that is something that we are all concerned about in relation to education opportunities and jobs—where other states are benefiting from and capitalising on their skills. As I have stated, the Democrats—and certainly I—have always viewed education as an investment by society in its future. The failure of the government, state and federal, to keep our graduates in South Australia is causing us to miss out on the benefits of that investment.

Senator Lees referred to a number of issues affecting the state in relation to health care and the constant handballing or buck-passing that has gone on in relation to public hospitals and health funding. She referred to
the emergency services levy, a key area of concern for many South Australians, especially disadvantaged and low income earners. She talked about privatisation in relation to our water supply, for example, the issue of the waste dump and, of course, public schooling. We certainly call on our state government to recognise the importance of doing something about the state of public education in South Australia.

I wish to refer also briefly to the issue of the Murray-Darling, an issue at the heart of all South Australians in particular. I note that the Leader of the South Australian Democrats, Mr Mike Elliott, has made very clear to the federal government, to the state government and also to his federal colleagues in the Democrats the Democrats’ strong concern about this issue, the fact that it is not good enough simply—although we do welcome some of the recent statements by the federal environment minister, Senator Hill—for there to be the suggestion of a lowering of the irrigation cap in the eastern states. That is perhaps a good start, but it is not enough. If you live in the driest state in the driest continent in the world, you recognise that water is such a precious resource that we must secure it and we must look after it. As Mike Elliott has stated, it is vital to Adelaide’s long-term water supply and the overall health of the Murray and the Coorong that the Commonwealth government insist on efficient water use in the eastern states and that the Murray flow increase. He has argued, as have we all, that if the eastern states want to receive their large federal Landcare grants, then they should earn them—and that they should not earn them at South Australia’s expense.

I wish to conclude tonight by referring to the choice to which Senator Lees made mention, that is, ‘Running to Win’, a campaign being launched by the Democrats to make clear that all South Australians do have a choice—as, indeed, most people around Australia have a choice—when it comes to the next election. The Democrats have always performed particularly well in South Australia. It is a heartland for us, but we do not take that for granted, we are not complacent about that support. We recognise, especially in these testing times, that Australians, and South Australians in particular, would like an alternative to the two old parties. We were very impressed by the polling results at the state election in 1997 and in the federal election in 1998, proving that Australian Democrats can win at both a federal and a state level and in upper and lower house seats. So, along with Senator Lees and my colleagues, I look forward to informing the parliament and the community of this alternative and the fact that they can vote Democrat. (Time expired)

Senate adjourned at 7.34 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:


Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended 3 December 1998:

Indexed lists of departmental and agency files for the period 1 July to 31 December 1999—

Australian Trade Commission.

Civil Aviation Safety Authority.
Department of Immigration and Multicultural Affairs.
Department of the Prime Minister and Cabinet.
Department of Transport and Regional Services.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

PQ Lifestyles Continence Aids Assistance Scheme
(Question No. 1754)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 8 November 1999:

With reference to the Continence Aids Assistance Scheme, on a state by state basis:

(1) Can details be provided for the number of orders filled and individual products supplied for the year prior to PQ Lifestyles taking over nationwide supply.

(2) What was the average length of time each order took to fill.

(3) What percentage of orders were filled fully and correctly in the first delivery.

(4) What was the average cost of each order.

(5) What is the average number of items returned by clients as being incorrect.

(6) Can the same information be provided for the period since PQ Lifestyle assumed control for nationwide supply.

Senator Newman—The answer to the honourable senator’s question is as follows:

(1) PQ Lifestyles, the commercial arm of the Paraplegic and Quadriplegic Association of Queensland (PQAQ), commenced as the national administrator of the Continence Aids Assistance Scheme (CAAS) on 1 January 1997. Prior to this date, the organisations contracted to administer CAAS on a State basis provided purchasing records in a range of formats.

To extract the data requested from over 100,000 data records in a range of formats would require significant effort and analysis. I am not prepared to authorise the expenditure of resources and effort that would be involved.

I also refer you to Table 4.29 of the 1995 Australian Institute of Health and Welfare report “A Magnificent scheme if you qualify – Evaluation of the Continence Aids Assistance Scheme” that indicated that between 1 January 1993 to 30 September 1994 there were a total of 101,708 transactions nationally.

(2) The information referred to in the honourable senator’s question is not available prior to PQ Lifestyles commencing as national administrator in 1997. The available data only identifies the date of the invoice rather than both the order placement and dispatch date. The requested data was not collected as part of the 1995 Australian Institute of Health and Welfare report.

(3) The information referred to in the honourable senator’s question is not available prior to PQ Lifestyles commencing as national administrator in 1997. The available data does not provide any information on the quality of order completion.

(4) See response to part (1). I refer the Senator to table 4.30 of the 1995 Australian Institute of Health and Welfare report that identified the average value of orders in the period January 1993 to September 1994 as $147.74. It should be noted that under arrangements before 1997, this amount would have included administrative mark ups.

(5) The information referred to in the honourable senator’s question is not available.

(6) In respect of question 1754 (1) PQ Lifestyles advises that in the period 1 January 1997 to 31 March 1998 49,954 orders were filled and 121,098 transactions made. (A transaction represents a processing activity on the order system eg. two boxes/cartons/packs of an individual product for a client would be one transaction.)

In respect of question 1754 (2), PQ Lifestyles advises that in the period 1 January 1997 to 31 March 1998 orders were generally despatched within 24 hours of receipt. Following the engagement of a national distributor by PQ Lifestyles better transaction data is now able to be provided. In the period 8 September 1999 to 10 November 1999 the average order turnaround was 1 day in all states and territories with the exception of Qld which averaged 3-4 days because it distributes low sales volume products and special buy-in lines for the whole of Australia.

In respect of question 1754 (3), PQ Lifestyles advise that the percentage of orders delivered in full on placement of order has averaged approximately 96% between 8 September and 10 November 1999. This data is not available prior to September 1999.
In respect of question 1754 (4), PQ Lifestyles advises that in the period 1 January 1997 to 31 March 1998 the average cost of each order was $107.41.

In respect of question 1754 (5) the information referred to in the honourable senator’s question is not available in the detail requested. PQ Lifestyles have advised that the current picking error rate for their national distributor is currently under 1%. (A picking error rate measures the instances of when incorrect stock is taken from shelves for an order and subsequently returned by the client.)

**PQ Lifestyles: Continence Aids Assistance Scheme**

(Question No. 1755)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 8 November 1999:

With reference to the Continence Aids Assistance Scheme, on a state by state basis:

(1) What were the service arrangements prior to PQ Lifestyles becoming sole supplier.

(2) What were the details surrounding, and what was the timeframe behind, the decision to extend PQ Lifestyle’s contract.

(3) Why were the existing service arrangements changed.

(4) What were the estimated savings/costs to the department.

(5) What outcomes is PQ Lifestyles contracted to achieve.

(6) What review mechanisms are in place to ensure those outcomes are being achieved.

(7) Why was the decision made not to put the contract out to tender.

Senator Newman—The answer to the honourable senator’s question is as follows:

1. The Department contracted organisations to administer CAAS in each State and Territory except in the Australian Capital Territory, which was administered with New South Wales, and the Northern Territory, which was administered with South Australia.

2. In June 1999 the contract was extended for one year to allow the Department to conduct an evaluation of the administration of the Scheme, and to ensure that the findings of the evaluation are incorporated into the new tender arrangements.

3. PQ Lifestyles changed service delivery arrangements as the company they subcontracted to supply CAAS products to clients in Western Australia, South Australia, and the Northern Territory, Silver Chain Nursing Association, chose not to renew their subcontract with PQ Lifestyles from 1 July 1999. It was therefore necessary for PQ Lifestyles to put in place a new subcontracting arrangement. From July 1999 PQ Lifestyles subcontracted Faulding Healthcare to supply CAAS products nationally. The new national subcontracting arrangements with Faulding Healthcare are expected to improve efficiency and streamline data collection processes.

4. Nil.

5. The PQ Lifestyles contract requires them to:

   . manage funds provided by the Commonwealth;
   . liaise with Health Services Australia concerning eligibility queries;
   . process requests for aids from eligible CAAS customers;
   . purchase appropriate aids from suppliers and/or manufacturers;
   . inform consumers when they have fully expended their CAAS subsidy for a given year;
   . arrange the storage of sufficient aids to meet 90 days of client demand;
   . deal with consumer queries and complaints;
   . schedule a program of client follow up calls to assess service delivery and product performance;
   . market the program, including disseminating a multi-lingual brochure and a national newsletter to clients;
   . provide a national product catalogue to clients;
   . deliver products in a maximum expected turnaround time of five days from receipt of an order;
   . maintain a national central reporting system;
. keep records of proof of identity of eligible consumers;
. provide the Department with aggregate data;
. provide information to consumers seeking advice on continence management; and
. employ a full time field representative.

(6) The Department receives monthly reports covering major performance indicators such as number of clients, income and expenditure, consumption patterns and client order turn around time. The Department also receives audited income and expenditure statements on a six monthly basis. PQ Lifestyles are also required to provide the Department with an annual report, which provides data on a range of items, including client demographics and consumption patterns.

(7) Refer to response to question 1755 (2).

PQ Lifestyles: Continence Aids Assistance Scheme
(Question No. 1756)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 8 November 1999:

With reference to the Continence Aids Assistance Scheme:
(1) Has the department received any complaints from clients of the scheme concerning the increased cost of the products; if so, what were the nature and origin of the complaints.
(2) Has the department received any complaints from clients of the scheme concerning the delays they are experiencing in having their orders filled, if so, what were the nature and origin of the complaints.
(3) What procedure does the Department follow to investigate complaints from the public.

Senator Newman—The answer to the honourable senator’s question is as follows:
(1) Yes. Between 1 July and 30 October 1999 six letters were received from clients in New South Wales, two from Queensland and one from Western Australia. Detailed data on phone calls received has only been recorded since 1 August 1999. Between 1 August and 30 October 1999 three phone calls were received from New South Wales and one from Victoria.
(2) Yes. Between 1 July and 30 October 1999, 26 letters were received from New South Wales, 5 from Victoria, 4 from Western Australia, 3 from Queensland, 3 from the Australian Capital Territory and 2 from South Australia. Detailed data on phone calls received has only been recorded since 1 August 1999. Between 1 August 1999 and 30 October 1999, 72 phone calls were received from New South Wales, 18 from Victoria, 17 from Australian Capital Territory, 14 from Western Australia, 9 from Queensland and 6 from South Australia.
(3) When the Department receives a complaint, the details of the nature of the complaint including the client’s contact details are recorded. The Department requests PQ Lifestyles to provide an explanation of the circumstances leading to the complaint and ensures that PQ Lifestyles have put in place appropriate actions to resolve the complaint. In the majority of cases the Department also contacts clients directly to either report on progress or ensure that the complaint has been satisfactorily resolved.

PQ Lifestyles: Cost of Products
(Question No. 1757)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 8 November 1999:
(1) Why isn’t a catalogue listing the products on offer and their costs made available to the clients by PQ Lifestyle despite repeated requests.
(2) What was the average increase in price of the products since PQ Lifestyles won the tender.
(3) Is PQ Lifestyles under any contractual obligation to keep the costs of its products within a certain range.
(4) Can a comparison be provided between the cost of identical items purchased over the counter from chemists, supermarkets, et cetera and those supplied by PQ Lifestyle.
(5)(a) Is any notification given to clients of the scheme regarding price increases; and (b) does it have to be approved by the department.
(6) How are the goods dispatched to clients.

(7) What courier and transport costs were incurred by the operators prior to PQ Lifestyle supplying all states.

(8) What courier and transport costs are currently incurred by PQ Lifestyle.

**Senator Newman**—The answer to the honourable senator’s question is as follows:

1. A catalogue is available. Prices were not included in the current catalogue as negotiations on prices had not been finalised at the time of printing. Prices are available on request from the free 1800 number.

2. Detailed information on all products is not readily available for the full period since PQ Lifestyles were contracted. There are more than 1700 high use CAAS items and a further 1000 low usage items. PQ lifestyles are required to report price variances greater than the consumer price index for the previous quarter. For the period 1 January 1999 to 30 June 1999, PQ Lifestyles advised price increases for 213 products. The average increase in price was $2 or a 7 percent increase. During that same period the average decrease in price of 14 products was $6.

At least 80% of CAAS sales are for imported products. It should be noted that a number of factors can impact on the prices of CAAS products, such as the Asian currency crisis, variations for the Australian dollar and manufacturiers improving products and changing pack quantities.

3. No. See response to question 1757 (2).

4. A comparison can be done on some generic items, however these are not items specifically for the management of a continence condition. Continence specific items such as catheters are not normally available from Chemists or supermarkets. Where continence specific products are available from chemists they are normally only available on special order.

5. (a) No, however, clients are informed of the current prices of the products when they order. (b) No. See also response to question 1757(3).

6. By Australia Post except in emergency circumstances.

7. See response to question 1754 (1). I refer the honourable senator to table 4.32 of the 1995 Australian Institute of Health and Welfare report that identified the value of freight in the evaluation period.

8. The contract between the Commonwealth and PQ Lifestyles requires that products are delivered within 5 days of receipt of order. The contract includes a specific percentage of funding for courier/postal costs. The contract between the Commonwealth and PQ Lifestyles is Commercial-in-Confidence. The release of information of the detailed nature as requested could impact upon the business and commercial affairs of PQ Lifestyles and would therefore not be subject to release under the Commonwealth *Freedom of Information Act 1982* without the express permission of PQ Lifestyles (section 43).

**Gippsland Electorate: Programs and Grants**

(Question No. 1875)

**Senator O’Brien** asked the Minister for Family and Community Services, upon notice, on 21 January 2000:

1. What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Gippsland.

2. What was the level of funding provided through these programs and grants for the 1996-97, 1997-98 and 1998-99 financial years.

3. What is the level of funding provided through these programs and grants has been appropriated for the 1999-2000 financial year.

**Senator Newman**—The answer to the honourable senator’s question is as follows:

1. Programs and Grants

<table>
<thead>
<tr>
<th>Program/grant</th>
<th>(2) funding for 1996-97, 1997-98 and 1998-99 financial years</th>
<th>(3) funding appropriated for 1999-2000 financial year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supported Accommodation Assistance Program</td>
<td>1996-97 $1,135,175; 1997-98 $1,006,415; 1998-99 $1,133,418</td>
<td>$1,141,699</td>
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Emergency Relief Program

(1) Program/grant (2) funding for 1996-97, 1997-98 and 1998-99 financial years (3) funding appropriated for 1999-2000 financial year

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<tr>
<td>Emergency Relief Program</td>
<td>$116,743</td>
<td>$121,723</td>
<td>$166,511</td>
<td>$167,861</td>
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Family Relationship Services Programme

(1) Program/grant (2) funding for 1996-97, 1997-98 and 1998-99 financial years (3) funding appropriated for 1999-2000 financial year

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<tr>
<td>Funding cannot be broken down by electorate. However, some $7.03 million was provided to agencies for Family Relationship Services Programme services in the State of Victoria as a whole for 1998–99. Centacare Catholic Family Services has been providing services under this programme through an outlet at Sale, in Gippsland. The programme was the responsibility of another portfolio in the years 1996–97 and 1997–98.</td>
<td>$1,753,166</td>
<td>$1,756,689</td>
<td>$1,803,401</td>
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<th>1999-2000</th>
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<td>Total</td>
<td>$1,778,239</td>
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</table>

Special Disability Employment Assistance

(1) Program/grant (2) funding for 1996-97, 1997-98 and 1998-99 financial years (3) funding appropriated for 1999-2000 financial year

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<tr>
<td>Special Disability Employment Assistance</td>
<td>$1,753,166</td>
<td>$1,756,689</td>
<td>$1,803,401</td>
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<th>1999-2000</th>
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<tr>
<td>Total</td>
<td>$1,778,239</td>
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*Advocacy for people with a disability

(1) Program/grant (2) funding for 1996-97, 1997-98 and 1998-99 financial years (3) funding appropriated for 1999-2000 financial year

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<tbody>
<tr>
<td>*Advocacy for people with a disability</td>
<td>$129,605</td>
<td>$129,031</td>
<td>$131,199</td>
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Wage Subsidies

(1) Program/grant (2) funding for 1996-97, 1997-98 and 1998-99 financial years (3) funding appropriated for 1999-2000 financial year

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<th>1999-2000</th>
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<tr>
<td>Total</td>
<td>$1,778,239</td>
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Supported Wage System Payments

(1) Program/grant (2) funding for 1996-97, 1997-98 and 1998-99 financial years (3) funding appropriated for 1999-2000 financial year

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<td>Supported Wage System Payments</td>
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<td>$1,803,401</td>
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<thead>
<tr>
<th></th>
<th>1999-2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>$1,778,239</td>
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</tbody>
</table>

Work Place Modifications

(1) Program/grant (2) funding for 1996-97, 1997-98 and 1998-99 financial years (3) funding appropriated for 1999-2000 financial year

<table>
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<tr>
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<tbody>
<tr>
<td>Work Place Modifications</td>
<td>$1,753,166</td>
<td>$1,756,689</td>
<td>$1,803,401</td>
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</table>

<table>
<thead>
<tr>
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<th>1999-2000</th>
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</thead>
<tbody>
<tr>
<td>Total</td>
<td>$1,778,239</td>
</tr>
</tbody>
</table>

Employment Assistance School Leavers

(1) Program/grant (2) funding for 1996-97, 1997-98 and 1998-99 financial years (3) funding appropriated for 1999-2000 financial year

<table>
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<tbody>
<tr>
<td>Employment Assistance School Leavers</td>
<td>$1,753,166</td>
<td>$1,756,689</td>
<td>$1,803,401</td>
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<tr>
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<th>1999-2000</th>
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<tbody>
<tr>
<td>Total</td>
<td>$1,778,239</td>
</tr>
</tbody>
</table>

*Carer Respite

(1) Program/grant (2) funding for 1996-97, 1997-98 and 1998-99 financial years (3) funding appropriated for 1999-2000 financial year

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Carer Respite</td>
<td>Nil</td>
<td>Nil</td>
<td>$55,016</td>
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</table>

Commonwealth Childcare Programs

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Commonwealth Childcare Programs</td>
<td>$4,028,880</td>
<td>$4,033,624</td>
<td>$4,435,414</td>
<td>$4,285,262</td>
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</thead>
<tbody>
<tr>
<td>Recurrent Funding</td>
<td>$38,445</td>
<td>$294,353</td>
<td>$37,555</td>
<td>$16,062</td>
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<tr>
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</thead>
<tbody>
<tr>
<td>Total</td>
<td>$4,067,325</td>
<td>$4,327,977</td>
<td>$4,472,969</td>
<td>$4,301,324</td>
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</table>

Income Support Payments (*see notes below)

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Age Pension</td>
<td>118,919,000</td>
<td>119,612,000</td>
<td>123,652,000</td>
<td>14,536,426,000</td>
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</tbody>
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<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Austudy</td>
<td>(b)</td>
<td>(b)</td>
<td>876,000</td>
<td>297,717,000</td>
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<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Care Allowance</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>399,885,000</td>
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<tbody>
<tr>
<td>Carer Payment</td>
<td>2,713,000</td>
<td>2,574,000</td>
<td>370,971,000</td>
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<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Child Disability Allowance</td>
<td>1,872,000</td>
<td>2,200,000</td>
<td>2,257,000</td>
<td>(i)</td>
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</table>

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</thead>
<tbody>
<tr>
<td>Double Orphan Pension</td>
<td>11,000</td>
<td>12,000</td>
<td>16,000</td>
<td>1,860,000</td>
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</thead>
<tbody>
<tr>
<td>Disability Support Pension</td>
<td>41,606,000</td>
<td>40,604,000</td>
<td>5,479,037,000</td>
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</tr>
</thead>
<tbody>
<tr>
<td>Family Allowance</td>
<td>53,539,000</td>
<td>53,798,000</td>
<td>53,721,000</td>
<td>6,758,582,000</td>
</tr>
</tbody>
</table>
### Department of Family and Community Services: Cost of Y2K Compliance (Question No. 1893)

**Senator O’Brien** asked the Minister for Family and Community Services, upon notice, on 21 January 2000:

1. What was the total cost of work undertaken by the department to ensure that all systems were year 2000 compliant.
2. (a) Who were the consultants selected as part of the above work; and (b) what was the cost of each consultant.
3. Where consultants were engaged, were they selected through a tender process; if not, why not.

#### Table: Annual Expenditure

<table>
<thead>
<tr>
<th>Program/Benefit</th>
<th>Funding appropriated nationally for 1999-2000 (k)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>(l)</td>
</tr>
<tr>
<td>(1) Program/Benefit</td>
<td>(2) Annual Expenditure (b) (k)</td>
</tr>
<tr>
<td>Family Tax Payment</td>
<td></td>
</tr>
<tr>
<td>2,783,000</td>
<td>5,156,000</td>
</tr>
<tr>
<td>Mature Age Allowance</td>
<td></td>
</tr>
<tr>
<td>5,058,000</td>
<td>4,752,000</td>
</tr>
<tr>
<td>Mobility Allowance (d)</td>
<td></td>
</tr>
<tr>
<td>358,000</td>
<td>385,000</td>
</tr>
<tr>
<td>Newstart Allowance</td>
<td></td>
</tr>
<tr>
<td>42,971,000</td>
<td>45,619,000</td>
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<tr>
<td>Parenting Payment Partnered (e)</td>
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</tr>
<tr>
<td>19,939,000</td>
<td>44,874,000</td>
</tr>
<tr>
<td>Parenting Payment Single (f)</td>
<td></td>
</tr>
<tr>
<td>23,823,000</td>
<td>21,998,000</td>
</tr>
<tr>
<td>Partner Allowance (g)</td>
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</tr>
<tr>
<td>4,132,000</td>
<td>3,793,000</td>
</tr>
<tr>
<td>Sickness Allowance</td>
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<tr>
<td>903,000</td>
<td>564,000</td>
</tr>
<tr>
<td>Special Benefit</td>
<td></td>
</tr>
<tr>
<td>128,000</td>
<td>50,000</td>
</tr>
<tr>
<td>Widow Allowance</td>
<td></td>
</tr>
<tr>
<td>1,984,000</td>
<td>1,781,000</td>
</tr>
<tr>
<td>Widow B Pension</td>
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</tr>
<tr>
<td>916,000</td>
<td>1,082,000</td>
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<tr>
<td>Wife Pension</td>
<td></td>
</tr>
<tr>
<td>9,076,000</td>
<td>6,568,000</td>
</tr>
<tr>
<td>Youth Allowance</td>
<td></td>
</tr>
<tr>
<td>1,506,000 (h)</td>
<td>1,430,000 (h)</td>
</tr>
</tbody>
</table>

(a) Total expenditure has been calculated by applying the national rate of expenditure per customer for each payment type at the postcode level

(b) From 1 July 1998 Austudy payment replaced payments made to students aged 25 or over who were paid the former AUSTUDY (Dept of Employment, Education, Training and Youth Affairs)

(c) Carer Payment actuals unavailable as payment was previously reported under Age Pension and Disability Support Pension

(d) Due to system limitations in 1996-97 no expenditure details can be calculated for Gippsland

(e) Parenting Payment Partnered was previously called Parenting Allowance

(f) Parenting Payment Single was previously called Sole Parent Pension

(g) In 1997-98 Parenting Payment Single figures are included in the Parenting Payment Partnered Figures

(h) Youth Allowance was previously called Youth Training Allowance

(i) In the 1999-2000 allocation Carer Allowance combines Child Disability Allowance and Domiciliary Nursing Care benefit

(j) Parenting Payment for the financial year 1999-2000 includes both Parenting Payment Partnered and Parenting Payment Single

(k) All figures have been rounded to the nearest thousand

(l) All amounts are the annual national level of funding allocated to the program/benefits for the 1999-2000 financial year. No allocations are made below the national level. Accurate figures per electorate for the current financial year will not be available until the end of the current financial year.

(2) Refer to the tables above.

(3) Refer to the tables above.
(4) Have there been any problems with any systems within the department or any agencies since 1 January 2000; if so: (a) what was the nature of each problem; and (b) has each problem been corrected.

**Senator Newman**—The answer to the honourable senator’s question is as follows:

1. The total cost for the Family and Community Services portfolio is estimated to be $23,479,000. However, final costs will not be known until the project is completed and accounts checked. The estimated figure includes work to make computer systems, communication networks and buildings compliant and provide for related contingencies.

2. (a) (b) The following consultants took part in the portfolio’s Year 2000 effort (at a cost of $413,895 which is included in the amount above): Unisys Australia ($166,535), Interim Technologies ($96,773), Reengineering Australia ($30,240), Deloitte Touche Tohmatsu ($30,000), Acumen Alliance ($30,000), Brightstar ($23,800), Software Improvements ($15,000), Walter & Turnbull ($11,430), World Wide Webster ($7,845), Compaq ($3,000), Chubb Security ($1,272).

3. For the following reasons, none of these eleven consultants were selected by tender: extension of existing contracts (6); based on knowledge of capabilities where request for tender resulted in no responses (2); request for proposal of services based on a proprietary methodology (1); selection from OGO approved panel of auditors (1); selection from panel of approved internal auditors (1).

4. (a) (b) A small number of very minor problems occurred and were corrected (for example, needing to re-set dates in some equipment where backup batteries were exhausted; date display problems on some local computer software packages). Centrelink and Child Support Agency customers were unaffected by the Year 2000 issue, with all payment systems operating as required. Final sign-off of Year 2000 issues will not occur until after 29 February 2000 (which non-compliant systems may not recognise).

**Fisheries Management**

(Question No. 1915)

**Senator O’Brien** asked the Minister for the Environment and Heritage, upon notice, on 10 February 2000:

1. How many officers employed by the Great Barrier Reef Marine Park Authority have formal qualifications in the management of fisheries.

2. In each case: (a) what are the qualifications held; and (b) how long has each officer been employed by the authority.

3. Since January 1997, how many consultants have been engaged by the Minister or the authority to provide advice on fisheries management.

4. In each case: (a) what was the name of the consultant; (b) what was the nature of the consultancy; (c) what was the period of the consultancy; (d) what was the cost of the consultancy; and (e) was the consultancy the subject of a tender process; if not, why not.

**Senator Hill**—The answer to the honourable senator’s question is as follows:

1. Many staff members at the Great Barrier Reef Marine Park Authority (GBRMPA) have tertiary qualifications in the field of natural resource management, including marine biology, ecology, geography, zoology, botany, fisheries science, economics and social science.

2. (a) and (b) Staff in the Fisheries Issues Group (FIG) at the GBRMPA are employed on the basis of their qualifications, expertise and experience in whole-of-ecosystem management, of which fisheries management is a component.

The Executive Director of the GBRMPA has a Bachelor of Economics degree, with Honours in geography, from the James Cook University of North Queensland. He is a former Chair of the Queensland Fisheries Management Authority and has some twenty years experience in natural resource management, which has included the provision of policy advice at Commonwealth and State Ministerial level. He has twice served with GBRMPA, in total for four and a half years.

The Director of the FIG has a Bachelor of Arts degree (with Honours) in natural science from the University of Oxford, and a Doctor of Philosophy degree in fish ecology from the University of Canterbury (NZ). He has over 25 years experience as a fisheries scientist and fisheries manager, working primarily in Victorian and Queensland fisheries agencies. He has been with the GBRMPA for 18 months.
The Senior Project Manager of the FIG has a Bachelor of Science degree (with Honours), majoring in marine biology and zoology, from the James Cook University of North Queensland. He has nine years experience as a fisheries manager with the Australian Fisheries Service and the Australian Fisheries Management Authority. He has been with the GBRMPA for 14 months.

The Fisheries Policy and Liaison Officer in the FIG has a Bachelor of Science degree, majoring in marine zoology, ecology and fisheries biology, from the University of Queensland. He has 13 years experience with Queensland and Commonwealth fisheries agencies. He has been with the GBRMPA for 12 months.

The Project Officer in the FIG has a Bachelor of Applied Science degree in fisheries from the Australian Maritime College and has been with the GBRMPA for 4 years.

(3) Since 1997, the GBRMPA has engaged one panel of consultants to provide independent advice on fisheries management.

(4)(a) The panel comprised Mr Dennis Hussey of ACIL Consulting Pty Ltd, Professor Stephen Hall of the Flinders University of South Australia, and Mr Alex Schaap of the Tasmanian Department of Primary Industries, Water and Environment.

(b) The panel was required to report to the Chair of the Great Barrier Reef Marine Park Authority on the following matters:

. Advise on whether the management arrangements to be included in the Queensland Fisheries Management Authority’s East Coast Trawl Fishery Management Plan would ensure that trawling in future would be conducted in an ecologically sustainable manner, consistent with the objectives of the Great Barrier Reef Marine Park and the Great Barrier Reef World Heritage Area;

. Advise on whether the proposed capped level of effort would be ecologically sustainable in terms not only of target species but also in terms of non-target and bycatch species and the environment in general;

. If the current level of effort was not ecologically sustainable, identify an ecologically sustainable level taking into account the precautionary principle;

. Identify a mechanism for reducing effort; and

. Taking into account the proposed management arrangements for the Queensland East Coast Trawl Fishery, provide advice on the adequacy of these measures and on other reforms that are necessary to ensure ecological sustainability.

(c) The period of the consultancy was 10 days.

(d) The cost of the consultancy was $40,470.

(e) The consultancy was not subject to a tender process. Under the guidelines for engaging consultants this project was exempt due to the specialist expertise required. Rather than calling for expressions of interest for people to be part of the panel, people with known expertise and experience in the particular skills required, e.g. natural resource economics, impacts of fishing, and fisheries stock assessment and management, were specifically targeted to be part of the panel. Furthermore, it was important that the members of the panel were indeed independent and not associated with particular interests.

Department of the Environment and Heritage: Gavin Anderson and Kortlang

(Question No. 1922)

Senator Robert Ray asked the Minister for the Environment and Heritage, upon notice, on 17 February 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm, Gavin Anderson and Kortlang since March 1996.

(2) In each instance: (a) what was the purpose of the work undertaken by Gavin Anderson and Kortlang; (b) what has been the cost of the contract to the department; and (c) what selection process was used to select Gavin Anderson and Kortlang (open tender, short-list, or some other process).

Senator Hill—The answer to the honourable senator’s question is as follows:

No contracts have been provided to the firm Gavin Anderson and Kortlang by my department, or any agency of my department, since March 1996.
Department of Immigration and Multicultural Affairs: Gavin Anderson and Kortlang
(Question No. 1933)

Senator Robert Ray asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 17 February 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm, Gavin Anderson and Kortlang since March 1996.

(2) In each instance: (a) what was the purpose of the work undertaken by Gavin Anderson and Kortlang; (b) what has been the cost of the contract to the department; and (c) what selection process was used to select Gavin Anderson and Kortlang (open tender, short-list, or some other process).

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

(1) There is no record of any contracts with the firm Gavin Anderson and Kortlang
(2) Not Applicable

Department of Agriculture, Fisheries and Forestry: Gavin Anderson and Kortlang
(Question No. 1934)

Senator Robert Ray asked the Minister for Agriculture, Fisheries and Forestry upon notice, on 17 February 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm, Gavin Anderson and Kortlang since March 1996.

(2) In each instance: (a) what was the purpose of the work undertaken by Gavin Anderson and Kortlang; (b) what has been the cost of the contract to the department; and (c) what selection process was used to select Gavin Anderson and Kortlang (open tender, short-list, or some other process).

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Nil
(2) N/A.

Department of Agriculture, Fisheries and Forestry: Commonwealth Electoral Act
(Question No. 1963)

Senator Faulkner asked the Minister representing the Minister for Agriculture, Fisheries and Forestry upon notice, on 23 February 2000:

Has the department, or any agency of the department, provided an annual return of income and expenditure for the 1997-98 and 1998-99 financial years pursuant to section 311A of the Commonwealth Electoral Act 1918; if so, can a copy of those statements be provided; if not, what, in detail, are the reasons for not providing those statements.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

Yes. The Department of Agriculture, Fisheries and Forestry has provided this information in its annual report, as required by section 311A of the Commonwealth Electoral Act 1918. The information can be found at Appendix 3 (pages 189 – 194) of the 1997-98 annual report and Appendix 7 (pages 147 – 152) of the 1998-99 annual report. The information has been tabled in Parliament and is also available on the department’s website (www.affa.gov.au).