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The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 12.30 p.m., and read prayers.

DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2000
In Committee
Consideration resumed from 31 August.

The CHAIRMAN—The committee is considering the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 and is working through revised running sheet No. 2 of 4 September 2000. We are on opposition amendment No. 5. The question is that opposition amendment No. 5 on sheet 1895 be agreed to.

Question resolved in the affirmative.

The CHAIRMAN—The next amendment is Democrat amendment No. 2 on sheet 1893 revised.

Senator BOURNE (New South Wales) (12.32 p.m.)—The Democrats, having thought about expiration of the act and the sunset clause, have come to the conclusion that the shorter the better. As a result of that, I will not be moving this amendment and will vote for the next one, which is a shorter sunset clause.

The CHAIRMAN—The next amendment is amendment No. 1 from the Australian Greens and Pauline Hanson’s One Nation.

Senator HARRIS (Queensland) (12.33 p.m.)—I move:
(1) Page 2 (after line 2), after clause 3, insert:

4 Expiration of Act

This Act ceases to be in force on and from 1 January 2001.

The One Nation amendment, if passed by the committee, will bring into effect a sunset clause on the bill that will terminate the bill on 1 January 2001. I have had overwhelming correspondence in relation to this bill, and the entire substance of that correspondence has been by way of concern, alarm and in some cases demands for the Senate to defeat this bill. This is coming from people right around Australia; it is not confined just to Queenslanders. Opposition to this bill is widespread and comes from all states of the Commonwealth. The concern varies. It goes to issues of this parliament passing a bill that will bring about an instance where the Australian defence forces may be called upon to fire upon Australian citizens with lethal force. It goes to whether the bill itself is constitutional. It also speaks quite consistently to the fact that again the Commonwealth government is enacting legislation that is eroding the rights of the states.

I would like to briefly go to the report of the Senate Foreign Affairs, Defence and Trade Legislation Committee, which looked into the bill. During that inquiry, we had concern from the New South Wales government relating to this bill, particularly that they had not been consulted. Section 1.24 of that report said:

The NSW Government submitted that it was ‘concerned that the Bill may operate to override the National Anti-Terrorist Plan, which [it understood]—

that is, the New South Wales government—was intended to operate over the period of the Olympics’.

The Victorian Premier wrote to the Senate committee as well. Section 1.25 of the report said:

In a late submission, the Victorian Premier wrote:
A significant reason for the delay is that the Commonwealth has not consulted with Victoria on this Bill, which I find concerning given that the Bill directly affects the States’ roles and responsibilities when responding to terrorist and emergency scenarios. It is disappointing that my Government first became aware of such a critical Bill from a Senate inquiry.

So there we have the Premier of Victoria finding out about the bill during a Senate inquiry. The Premier went on to say:

Victoria is not going to be in a position to consider whether to endorse the policy encapsulated in proposed section 51A, until the Commonwealth engages in a dialogue. The Commonwealth must explain why it is necessary to have legislated powers to intervene in State matters without a request for assistance from the State, and why the Defence Force warrants receiving the significant powers provided in the Bill. The Commonwealth also needs to clearly explain why its objective of streamlining call out procedures cannot be
achieved by the Commonwealth amending its own relevant legislation and regulations and/or engaging the States and Territories in a rewrite of the SAC-PAV NATP protocols. None of these issues are dealt with in the Second Reading Speech or the Explanatory memorandum to the Bill.

So the New South Wales and Victorian governments have clearly articulated that they were not consulted in relation to this bill. It is with these concerns that I have moved One Nation’s amendment to the bill. It has been clearly indicated by the Australian people that their first preference is not to have the bill in the first place. Their second preference is that if the bill is going to be in place for the Olympic Games, the Paralympics and the World Trade Organisation meeting in Melbourne, then so be it. But if the bill is necessary to provide security not only for the Australian people but also for the participants in all of those functions then when it has done its job it should cease to have effect.

The bill itself, as I said earlier, raises issues relating to conflict with the Constitution. The Constitution clearly says in section 119 that the Commonwealth is required to provide security to the states. Quick and Garran go on to say:

The Federal Authority is not required or empowered to interfere to protect a State against domestic violence, except on the application of the Executive Government of the State.

So, when the Constitution was drawn up, the position of our founding fathers was that section 119 could only be triggered at the request of a state. They go on further to say:

But even if the State is unable to cope with domestic violence, the Federal Government has no right to intervene—

and I emphasise ‘no right to intervene’—

for the protection of the State or its citizens, unless called upon by the State Executive. If, however, domestic violence within a State is of such a character as to interfere with the operations of the Federal Government, or with the rights and privileges of federal citizenship, the Federal Government may clearly, without a summons from the State, interfere to restore order.

It goes on further to clarify that by saying:

Thus if a riot in a State interfered with the carriage of the federal mails—

and federal mail is a responsibility of the Commonwealth—

or with interstate commerce—

again, a federal government responsibility—

or with the right of an elector to record his vote at federal elections, the Federal Government could use all the force at its disposal, not to protect the State, but to protect itself.

That is the essence of why section 119 was inserted in the Constitution. It clearly articulates that the Commonwealth can only interfere where a state has requested such assistance. It also very clearly says that if the Commonwealth is going to interfere within a state it can only do so to protect Commonwealth property or, as Quick and Garran have articulated, it can only interfere within an area for which the federal government has responsibility.

The bill that we have before us carries none of those provisos other than the state police commissioner can request of the Governor-General for the ADF to be called out. There are other inadequacies in the bill which I will highlight later that go to, I believe, a lack of consultation or ability for the Federal Police to be involved in the process. Later I will be moving amendments to the bill in an attempt to rectify what I believe are those deficiencies. So the intent of One Nation’s amendment is that, should the bill be carried, the bill would cease to operate at the applicable date, 1 January 2001.

Senator BROWN (Tasmania) (12.45 p.m.)—The Australian Greens also proposed to move that amendment. This whole debate on the eve of the Olympics began for the Olympics—that is, the bill before us could give the politicians in Canberra the ability to call out the armed services if something went wrong at the Olympics. Moreover, it could do so with or without a request from the state government if the Commonwealth felt that its international interests were at stake. Mr Moore, Minister for Defence, in the early part of the public debate said that the bill was for the Olympics, but we find that that is not the case. This bill is for ever and a day. Both the Labor and Liberal parties want at their disposal the power to bring out the Army for some foreseen or unforeseen future event. Effectively, they believe that the Army, act-
ing as a police power, should be able to help them keep the peace, presumably over some domestic political issue in which they have a point of view in government to defend.

I will not recount the points that were made during the debate last Thursday. I will add some points as we come to each of the amendments before the house. I cannot understand why Labor is not supporting this amendment. Labor is today saying that it has forced the government 4-0 to adopt its amendments. It seems to me that what, in effect, has happened is that Labor has gone a long way towards meeting the government and the government has gone a little way towards meeting Labor. The two big parties have made an agreement which sells out the public interest. It certainly sells out the huge number of people who have been sending mail to my office and who do not want the Australian Defence Force put at the disposal of federal politicians for unspecified events for ever and a day.

I repeat that, if this was an antiterrorist bill, okay—but it is not. This bill opens up the field in the future for politicians to use the Australian Defence Force against Australian protestors—peaceful or otherwise—and against strikers. It says that there has to be a likelihood of violence—we will get to that in a moment. I cannot believe that the Labor Party is supporting such legislation, but it is. It has made the required political manoeuvres, as far as it is concerned, to help it feel warm about something that it should feel a rush of horror about. However, the big parties have got together.

I believe that this is against the Constitution—that will be tested further down the line, no doubt. When we get to the appropriate juncture, I will read out one of the opinions as to why it is against the Constitution. In the meantime, I commend this amendment for a sunset clause, so that this bill, which will be there for the Olympics, the Paralympics and the World Economic Forum in Melbourne in a week’s time, will become inoperative after that. In fact, it would become inoperative on 1 January 2001. The fact that both Labor and Liberal oppose—and we are going to lose—this amendment shows that they want these powers available for ever and a day. They say that they want to codify the circumstances in which the military is used against terrorists in Australia. I would have no problem with that, but this does not codify it at all. It sets out some wide parameters. The code is in the manual—which we have not seen; we were told that we would see it this week—that is going to replace the Manual of Land Warfare, which describes how civilians could be shot and how and when tanks could be used and describes a number of other things regarding the use of the armed forces. The unthinkable is the Australian Defence Force being arrayed against Australian civilians somewhere in the future at the behest of Commonwealth politicians.

I ask the Minister representing the Minister for Defence if his commitment of last week—that the new manual be made available to the Senate—can be made good today. Or is this going to be a case of, ‘We will show you the specific new arrangements for the use of troops after this debate is over,’ when the public can no longer have meaningful input into the legislation because Labor has helped to get it through the parliament?

Senator BOURNE (New South Wales) (12.50 p.m.)—The Democrats believe that the sunset clause is the most important amendment to this bill. Of course we will be trying to vote down the bill, but I do not think that we have the numbers. The reason I withdrew my own amendment on the sunset clause in favour of this amendment, moved by the two other senators, is that my original amendment was to take in CHOGM in Brisbane next year, and then do a report on that. Since then, the Democrats have been thinking about it, and we really think that the shorter the sunset clause, the better. This has a much shorter sunset clause.

I reiterate what I said last week: there is no need to hurry this through. There is very good security in place for the Sydney Olympics, and we do not expect it to be needed in the near future. It would be nice to get the rules straight, but we do not think that these are the rules that should be got straight. We think that we need different rules. We will be supporting this sunset clause, and we recommend it to everyone else in the chamber.
Senator HARRIS (Queensland) (12.51 p.m.)—In support of Senator Bourne, Senator Bourne raised the issue of the judgment for the sunset clause being inserted into the bill. In One Nation’s instance, it is because we firmly believe that there is an alternative. We are not saying to the Australian people that we want to go to a situation where there is no capability of protecting either the rights of the state or the rights of the Commonwealth—far from that situation.

Senators, in debating this bill, have referred quite substantially back to the bombing of the Hilton Hotel. As a result of that terrorist activity—and it cannot be labelled anything other than that; whether it was carried out by perpetrators within or without Australia, that was a terrorist attack—the Standing Advisory Committee on Commonwealth-State Cooperation for the Protection Against Violence was put in place. That is now commonly referred to as SAC-PAV. In questions to Senator Amanda Vanstone last week, I requested of the minister some information as to the history of SAC-P AV. The purpose was to put on the record what SAC-P AV was brought into existence for and how it has actually carried out that function. The minister chose to relay to the chamber that SAC-P AV was just a committee. I do not wish to misquote Senator Vanstone, but she gave no effective detail as to the functions that SAC-P AV carries out. So I am going to what their own documentation that is provided on the Internet sets out:

SAC-P AV is based upon national cooperation and it has established nation-wide capabilities in such areas as crisis management, command and control, intelligence, investigation, bomb response, technical support, bomb scene examination, negotiation—

however, they do not elicit how far those negotiations go or what issues they negotiate on—

VIP protection, police tactical response and media cooperation.

So the purpose that SAC-P AV was brought into existence for is very wide reaching, and I believe sincerely that SAC-P AV has the capacity to respond in a timely and efficient way to any necessities that we have or that should arise in the Commonwealth. SAC-P AV’s own information goes further to set out the development and training philosophy: SAC-P AV development and training are aimed at developing capabilities that are available for, and can demonstrably contribute to the countering of politically motivated violence.

Activities are conducted according to endorsed national priorities for the development and maintenance of counter-terrorism capabilities.

Activities are conducted as part of a coordinated national program—

so here we have an organisation already in place that has, as part of its development and training philosophy, ‘a coordinated national program’—

designed to ensure the orderly development of appropriate capabilities in each State—

and I emphasise ‘in each State’—

and the most effective use of limited resources. All training is to be subject to rigorous evaluation. So they have accountability and they have operations that effectively cover and work with all state organisations.

One question that I put to Senator Vanstone was in relation to what activities SAC-P AV had carried out. The answer was, ‘Well, the committee has not carried out any activities.’ The committee may not have, but the people who form SAC-P AV certainly have. Again, they set out in the information that is freely available:

Exercises are conducted to test national and local response plans and to practise participating organisations in their responsibilities. Smaller scale exercises test the internal efficiency of a single level of the response machinery while larger scale exercises practise several levels at working together.

In asking Senator Vanstone that question, I was looking for some practical instances where SAC-P AV had actually carried out those functions. What we are forced to rely on now is the information from SAC-P AV’s own web site. They are clearly saying that they conduct exercises in local areas to test local response; that they then have small scale exercises that can, and do, evaluate the efficiency of individual response teams—and that can be the state police, the Australian Federal Police, the Army, or the local emergency services; and that they carry out larger
scale operations that look at the ability of those organisations to work together.

So what is the government setting out, or claiming to set out, to do with this bill? I believe that it is setting out to do exactly what SAC-PAV does now. So we have the interesting situation where the government is saying one of two things: either that the operations of SAC-PAV are, in their way, insufficient to provide security for both states' rights and Commonwealth rights; or that the government knows something that it is not telling us about. It is with this in mind—the fact that SAC-PAV is there, that it is an efficient operating service and that it was put there to provide security for the Australian people and to protect them against any form of violence—that we are moving this amendment that will cause the government's bill to cease as of 1 January 2001. Therefore, we are not leaving Australia in a position of being vulnerable to any terrorist attack or of not having the ability, on a state basis, to control any domestic violence. In closing my remarks, I would just say this: I believe that SAC-PAV carries that role out efficiently, it is there and there is no need for this bill to continue beyond the proposed date that we have set for the cut-off.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (1.02 p.m.)—As the committee has heard from Senators Bourne, Brown and Harris, there is a certain logicality for those who are going to oppose this bill to support a sunset clause. That makes a little sense to me. It also makes sense to suggest that those who might oppose a sunset clause are senators in the chamber who are likely to support the passage of the bill. Having said that, let me say that the position of the opposition has been to support the bill if—and only if—adequate and appropriate amendments to the bill are passed.

We have maintained the position that we want a proper legislative framework for the exercise of the existing constitutional powers of the Commonwealth government to use the Australian Defence Force in domestic security situations. We have accepted in our approach to this legislation that the current situation is not a satisfactory one. That is why we have proposed amendments to this bill—very significant amendments—but we have done so from within the framework of trying to improve the current situation, because we find the current situation unsatisfactory.

The problem with a sunset clause in any piece of legislation is that, if you pass the clause, if you have a sunset clause, you then revert back to the situation that existed prior to the passage of the legislation. If you think the legislation is unsatisfactory, as I say, it is quite logical to support a sunset clause. The opposition's approach here is to try and improve significantly the government's bill. We do accept that legislation is needed in this particular area. It is for that reason that we have not found favour with the proposals that have been before the chamber—and a number of them do stand in a number of different senators' names. We have not found favour with those proposals for a sunset clause, because any sunset clause would have the effect of taking us back to the current situation, the status quo, which we have acknowledged we believe is unsatisfactory. If we did not have that approach, we would not vote for the legislation—unless the legislation were amended in a form that is acceptable to the Labor Party. I think I have outlined this approach to the committee previously.

But, having said that, I think it is important to note that the opposition certainly accepts that it is appropriate to examine the implementation and effect of this legislation. That is why the opposition has been so keen to have a thorough and adequate review process in place, which is a matter that the committee has dealt with previously. We have had this debate previously—it seems that we have been debating this matter now for a number of days—and I do not want to prolong the debate on this issue because I think some of the substantive questions before the chair, some of the arguments, are very similar to those that have been mounted previously. But I do think, on this important amendment for a sunset clause—and I do accept that it is an important amendment—it has been appropriate for me to outline the opposition's position.
Senator BROWN (Tasmania) (1.06 p.m.)—I note the coverage of a press release from the Labor Party today in which the relevant spokesman for the Labor Party, Stephen Martin, said to reporters:

With less than a fortnight to the start of the Sydney Olympics, pressure is mounting for legislation to enable the defence forces to be called out in a civil emergency and for personnel to be protected from legal proceedings if a civilian is shot.

I ask Senator Faulkner whether he could elaborate on that. What are the circumstances in which civilians can be shot and in which members of the defence forces should be protected from legal proceedings?

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (1.07 p.m.)—Perhaps for the first time ever Senator Brown finds himself in front of me on this issue. I have not seen the press release to which he refers, but if he cares to pass over a copy I will quickly scrutinise it.

Senator Brown, I am disappointed that you have given closer attention to an opposition press release than I have. I feel absolutely ashamed that that is the case.

Senator BROWN (Tasmania) (1.07 p.m.)—While Senator Faulkner is doing that, I should add that Ben Oquist in my office, who is faster than light, can take the credit for me having that available. But it does raise this question: what are the circumstances in which civilians can be shot and in which members of the defence forces should be protected from legal proceedings?

Senator HARRADINE (Tasmania) (1.08 p.m.)—This is the first occasion I have entered into this discussion, though senators will remember that on some previous occasions I have been very interested in the question of defence aid to the civil power. Even before the Hilton bombing inquiry, certain matters were being raised. But I want to put it very clearly on the record that my concerns are still there about the need to ensure horses for courses—the Defence Force is there mainly for a particular purpose.

I remind the Senate of a letter that was written to the Australian newspaper on 22 September 1989. I referred to that in a debate on 26 September 1989. It was a letter by Air Vice Marshal B.H. Collings. It raised a question as to whether the use of the Australian Defence Force is for the purpose of giving assistance to the civil community or whether it is an aid to the civil power. Of course, the distinction was clearly focused during the pilots’ strike, as honourable senators will recall. The pilots went on strike without reference to the ACTU, the central trade union movement, or to the labour councils of any state and contrary to the best interests of orderly industrial progress and certainly the orderly industrial progress for which the conciliation and arbitration system was established. You had the survival of the fittest.

On that occasion, you had the state of Tasmania absolutely out on its own. It was being slowly starved of essential services. Because of the lack of transport to and from Tasmania, people could not get to and from the state for urgent reasons, such as seeing dangerously ill relatives and the like. It was proposed after quite a considerable period that the RAAF could be used not for aid of a civil power but for assistance to a civil community. I distinguished that, of course, from other flights over the state of Tasmania.

Senator Brown, I am very interested—and you will excuse me for saying this—my concerns are still there about this business now about the use of defence aid to the civil power. I did not see that strength exhibited when the RAAF was ordered by ex-senator Gareth Evans to fly over Tasmanian dams to get evidence for a federal court case, uninvited of course by the state government or by anybody else. Former senator Gareth Evans was titled Biggles after that, I think. Nevertheless, I am glad to see that you have taken another view now, Senator Brown.

Senator Brown—I took the same view then.

Senator HARRADINE—Did you?

Senator Brown—Yes, I did.

Senator HARRADINE—My apologies. I did not hear it at that stage. But I would like to ask the minister about the distinction. Where is the dividing line in this legislation—that is, the dividing line, as Air Vice
Marshal Collings said at the time, between giving assistance to the civil community and providing aid to the civil power? By the way, I am inclined to vote for the sunset clause.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (1.14 p.m.)—Through you, Madam Chair, I will respond to Senator Brown’s question to me, and the minister will deal with the weighty issue that has been raised by Senator Harradine in his contribution. Senator Brown has been kind enough to give me a copy of what he described as a press release. It appears to me to be a wire story, Senator Brown, not a press release, under the heading ‘Labor confident anti-terrorist amendments will be accepted’. I think you quoted correctly from it. The story says:

With less than a fortnight to the start of the Sydney Olympics, pressure is mounting for legislation to enable the defence forces to be called out in a civil emergency and for personnel to be protected from legal proceedings if a civilian is shot. Senator Brown asked me what that actually means. I have no idea whether my colleague Mr Martin, the shadow minister for defence, who is quoted in this story, said that. Those words are not in inverted commas, and it does not say that Mr Martin said it. He may have; I do not know. I can deal only with the information that you have so kindly provided to me. However, let me take that at face value and say to you that the approach the opposition means is that there is an element here of providing protection to ADF personnel. You might ask: what is achieved in that regard? In simple terms, if this legislation is passed, it will become clear under which laws and military regulations ADF personnel operate if there is a call-out. That is one of the benefits of the legislation. I would be interested to hear your view, Senator Brown.

I do not know whether Mr Martin is quoted there—whether they are Mr Martin’s words or just a journalist’s words. The opposition have identified that there is a problem now, because the Commonwealth does have the power—as you are aware, Senator Brown—to call out the troops to protect the Commonwealth’s interests. That is the current situation. We are concerned about the fact that, once the troops are called out, they are covered by a mishmash of Commonwealth and state laws and military regulations. So there is that particular problem. Let me be absolutely clear: in the very unfortunate circumstance of a call-out, as far as the opposition are concerned, we are not ashamed to say that we would want and expect ADF personnel to act responsibly and to act only with reasonable and necessary force. I am sure that view would be shared around the chamber in the unhappy circumstance of a call-out. So the protection that I think is being referred to here—but I suspect that, at the end of the day, Senator Brown, you will have to check it out with the journalist who wrote the story—is the protection that is brought by clarity in the laws and regulations relating to a call-out in this instance.

I would point out that Senator Brown has been most persuasive in indicating to the committee, and to the Senate in the earlier stage of the bill, some of the weaknesses in the current situation. He has quoted at length from some of the manuals and some of the other regulations that apply in this instance. We all have a pretty fair understanding of the inadequacy of the current situation. That is why, Senator Brown, that point has been made. Who made it? I do not know. Whether Mr Martin made it, I do not know. A number of other comments have been made in this wire story report that indicate that Mr Martin has made some statements to AAP in this instance. I suspect that, if they are Mr Martin’s words—and time will tell; no doubt, he will let us know—he probably made them because of the sorts of issues that I have raised with you in response to your question and also because of some of the points that you have made about the inadequacy of the current situation. Beyond that, Senator Brown, on this important issue that you have raised in relation to the AAP story, I suspect I cannot give you further assistance.

Senator ELLISON (Western Australia—Special Minister of State) (1.20 p.m.)—The root of the answer to Senator Harradine’s question is found in section 119 of the Constitution, which states:

The Commonwealth shall protect every State against invasion and, on the application of the
Executive Government of the State, against domestic violence.

The question of domestic violence is really the basis of this proposed legislation—whereby you would have a call-out only if there were domestic violence or a situation which was totally beyond the control of the state or territory authorities concerned. That is described in clause 51C, which deals with a call-out, or clause 51A, which deals with a situation where Commonwealth interests are threatened. But it is very much an extreme situation, Senator Harradine, through you, Madam Chair. The proposed legislation in no way contemplates any scenario where you might have, say, the Australian defence forces involved in assisting the civilian community in the Katherine floods or where there might be an earthquake or some natural disaster of a similar proportion.

This proposed legislation clearly deals with the ADF potentially having to use force. As Senator Faulkner has indicated on behalf of the opposition, that would only be envisaged in those sorts of extreme circumstances. The government are certainly of a similar view. Nonetheless, we have to cater for these potential situations because, if we do not, it would be irresponsible not to. It would be an unhappy situation if it were to happen, but that does not stop us from catering for a situation of necessity such as is contemplated by this proposed legislation. There is a very distinct difference between the ADF helping in a general sense in a natural disaster and where there is domestic violence, referred to in section 119 of the Constitution. I will say for the record that the government oppose any sunset clause for much the same reasons that Senator Faulkner indicated earlier: the regime we have in place is imperfect, it was recognised by the Senate committee to be so, and the operation of the sunset clause would revert it back to this very imperfect situation. For those reasons, and the fact that we think we now have in place a review situation which is adequate, the government will oppose the sunset clause.

Senator BROWN (Tasmania) (1.23 p.m.)—The real problem, and Senator Harradine has raised this very well, is that there is a vast difference between the defence forces coming to the aid of civilians in the Katherine floods or in an earthquake and calling out the armed services against civilians who are protesting about something. That is the problem. And if we were to eliminate the second potential—

Senator Faulkner—That is what Labor’s amendments are trying to address.

Senator BROWN—Labor’s amendments have failed to address that. If Labor cared to support the Green amendments, they would fully address that situation. That is the problem. Labor are clearly leaving open the opportunity for a future government to call the troops out against civilians who are protesting about something or who are on strike about something, because the politicians think there is a likelihood of domestic violence. Then you have to bring into play a whole range of laws and regulations which govern the use of the troops against civilians under those circumstances. That is what is at the heart of what is wrong with this legislation.

I have circulated an opinion from Mr Gary Corr, a barrister from Canberra. I want to read it because it covers this situation. It is not long, and I hope the Senate will indulge me in allowing me to do that. One of the things that Senator Faulkner spoke about was protecting the Commonwealth interest. ‘Use of troops in civilian circumstances to protect Commonwealth interests’ is a very wide, unspecified term. I just want to read this opinion, which is contrary to an unspecified term like that being accepted for legitimate use under the Constitution.

The TEMPORARY CHAIRMAN (Senator Knowles)—Senator Brown, would you like to incorporate the document? The government have indicated that they would support incorporation, if you sought leave to do so. I do not know if Senator Faulkner wishes you to read it.

Senator Faulkner—I think he should incorporate it.

Senator BROWN—As it will expedite proceedings, I seek leave to incorporate a copy of the opinion given by Gary Corr.

Leave granted.
The document read as follows—

OPINION
I am asked to advise on the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000. In particular, I am asked to advise as to whether there is any constitutional impediment to this legislation.

Rather than examining the legislation to determine whether there is any constitutional impediment the better course of action is to assess whether there the legislation is supported by any head of power contained within the Constitution.

The obvious starting point is section 119 which provides:

The Commonwealth shall protect every State against invasion on the application of the Executive Government of the State against domestic violence.

The question is whether this section is an enabling provision or is proscriptive of the use of the Defence forces against civil unrest, or as it is described “domestic violence”. On one reading of the provision the Commonwealth can only come to the assistance of a State with the concurrence of that State. However, that might not preclude the Commonwealth from acting to protect Commonwealth institutions contained within a State from attack or disruption arising from domestic violence. An obvious example would be the ability of the Commonwealth to protect its own institutions and property arising from either the Executive power (Chapter II), the public service and public places power (section 52) and the incidental power (placitum 51 (xxxix)). These powers would not extend to cover the broad term “Commonwealth interests”.

It is my opinion that the legislation as currently drafted is not supported by any head of power under the Constitution.

And I so advise.

Gary Corr
Empire Chambers
29 August 2000

Senator BROWN—Mr Corr concludes that the legislation as currently drafted is not supported by any head of power under the Constitution. If I can give a layperson’s summary, the Commonwealth may be able to bring out the Australian Defence Force to protect installations, but when you get to the Commonwealth interest, which, unspecified, means almost any circumstance in Australian life, the Constitution does not provide for that. Under the heading ‘Protection of States from invasion and violence,’ section 119 of the Constitution says:

The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

The definition there is narrowed to domestic violence as civil insurrection—that is, tantamount to civil war.
There have been a number of occasions where state governments have in fact called for the Australian Defence Force to be on alert or brought in, most of them early last century. One of them involved the very fiery issue of conscription in the First World War, when the Tasmanian government of Premier Lee asked the then Labor Prime Minister, Billy Hughes, to have the troops on alert in Launceston for the referendum in November of that year. A bomb had gone off in Beaconsfield. It is not known exactly what transpired, but the troops were not brought out and, as far as we know, were not put on the ready. The same happened on a number of other occasions, because that is the role of the police and that is the role these days of the tactical defence organisations. We know that, where the police are in danger of being outnumbered, they are very capable of bringing in other state police from adjacent states and territories. In fact the Federal Police in the ACT brought in the New South Wales police to assist them during the Springbok tour in the early 1970s, if I have got the time right.

There are enormous opportunities for ensuring the peace. We do not have to go to this situation, where this chamber, or at least the big parties, are liable to be supporting legislation that I think is in breach of the Constitution. I do not know how that will be tested further down the line, but I think a matter so gravely important should be tested.

Senator Harris (Queensland) (1.28 p.m.)—Senator Brown has raised an issue in relation to the legislation being tested down the road. That is tantamount to shutting the stable door after the stallion has bolted. Senator Faulkner made a comment in responding to Senator Brown, saying that he hoped that the Australian Defence Force would act with responsibility and only use appropriate force. Every senator in this chamber would not only support Senator Faulkner but also like to ensure that that is a reality.

It is not in the best interests of the committee to allow this bill to proceed when there are so many uncertainties. Where do Defence personnel stand if, having been ordered to carry out an action, they then find themselves subsequently, down the road, possibly facing criminal action? I would like to again turn to the Bills Digest that was prepared on this bill. Just prior to the end notes, under 'Practicability', it says:

However, the greatest area of concern may be practicability. Even if the lines of authority were clear, there may be questions about the capacity and training of military personnel to perform law and order functions and their capacity to integrate seamlessly into the relevant criminal justice system.

The Bills Digest goes on to say:
Moreover, there may be a tension between discretion and personal liability.

And that is where the problem with this bill lies: between discretion, on the one part—that is, the bill is drafted so widely without being specific—and, in this case, putting these Defence personnel in a position of personal liability. Just the uncertainty of that situation is sufficient for this committee to recommend that the bill not even go ahead. But, even more paramount, if it does go ahead, we have to clarify where the personnel stand.

I will go back now to the Bills Digest. It continues:
As indicated, there are uncertain limits on the exercise of power by ADF members. If they fail to comply with statutory procedure, they are deemed not to have been entitled to exercise the powers. So no matter where the power comes from for the Australian Defence Force to carry out the action that they have been ordered to do, if they do not carry it out in the appropriate manner, there are concerns as to whether they were entitled to exercise the power in the first place. The Bills Digest continues:
In effect, their actions are reviewable, although it is unclear whether they would be open to—one—judicial review—two—internal disciplinary proceedings or criminal proceedings.

So we have an opinion expressed through the Bills Digest where, should a member of the Defence Force find themselves in a compromising situation, the bill may not even indicate where the jurisdiction lies. The Bills Digest goes on further to say:
They may be personally liable for the consequences of their actions as if they were civilians.

I return to an earlier question period that we went through with the minister in which we were trying to clarify very clearly where these Australian Defence Force personnel would stand. Will they be exposed to judicial review? Will they be exposed to internal disciplinary procedures, or will it be criminal proceedings?

Honourable senators interjecting—

Senator HARRIS—I take the minister’s interjection: ‘What are we going to do? Sit here for the rest of the week?’ That is definitely not contributing to the context of this debate. We are clearly asking the minister for an opinion as to where the Australian Defence Force stand if they are called out and if they are ordered to carry out an action and do so. The questions are: one, what are the instructions they are to follow; and, two, having followed those instructions, under what jurisdiction would they be assessed as to whether they carried out those instructions correctly?

Senator BROWN (Tasmania) (1.35 p.m.)—I think Senator Harris ought to get an answer to those questions. I just ask the minister, because he did not answer my question: is the operations manual that will come into play with the passage of this legislation available to the chamber so that we can see it while we are discussing the legislation, or is the government going to keep it undercover?

Senator ELLISON (Western Australia—Special Minister of State) (1.36 p.m.)—I answered that on Thursday.

Senator HARRIS (Queensland) (1.36 p.m.)—I would also put to the minister: have the Australian Defence Force ever been seconded to the Australian Federal Police? I may not have the technical level that they possibly have been seconded to, but have any members of the Australian Defence Force ever been made special constables under the Australian Federal Police?

Senator ELLISON (Western Australia—Special Minister of State) (1.37 p.m.)—I will take that on notice.

Senator HARRIS (Queensland) (1.37 p.m.)—I keep coming back to trying to establish this point with the government. We are looking at whether or not this bill should proceed, and I think it is reasonable to have an understanding from the government about the level of consultation that has taken place on the bill. That is one of the major problems I have. When we have state governments saying that they have not been consulted on this bill, that is one level of concern—and, I must express, the major concern. But when we have organisations—whose function it will be, primarily, to carry out the role set out in the bill—that have also not been consulted prior to the introduction of the bill, I have additional concerns. So my question to the minister is: was SAC-PAV consulted prior to the government introducing the bill?

Senator ELLISON (Western Australia—Special Minister of State) (1.38 p.m.)—Yes.

Senator HARRIS (Queensland) (1.38 p.m.)—Again I go back to the Senate Foreign Affairs, Defence and Trade Legislation Committee’s review of this bill. Section 1.21 of their report, ‘Consultation with States and Territories’, states:

Questions were raised during the Committee’s inquiry about the level of consultation with State and Territory Governments about the Bill. Mr Geoffrey Dabb, Executive Adviser, Attorney-General’s Department, told the Committee that “the problems addressed by the bill were discussed, and there were views expressed within SAC-PAV (State and Commonwealth Committee for Cooperation in Protection Against Violence) about the need for legislation.”

So there were views expressed about the need for legislation—there is clearly no doubt about that. Mr Dabb goes on to say:

“You will recall that, when it was raised at the last meeting of SAC-PAV, and the possible imminence of the bill was put to the committee, there was general support.”

Mr Dabb, the report continues:

... emphasised that the Bill itself had not been referred to SAC-PAV or other State or Territory authorities.

So, yes, there may have been consultation with the states and territories in the lead-up to this bill, but I expressly ask the minister whether, once the bill was formulated, the government then went back to the states and
Senators and to those agencies and consulted with them.

Senator ELLISON (Western Australia—Special Minister of State) (1.41 p.m.)—I understand there was consultation with SAC-PAV, as I indicated previously. The terms of the bill were not put to SAC-PAV at that time, but it has subsequently received from the Commonwealth the bill that is before us.

Question put:
That the amendment (Senator Harris’s) be agreed to.

The committee divided. [1.45 p.m.]

(The Chairman—Senator S.M. West)

Ayes………… 11
Noes………… 44
Majority……… 33

AYES
Allison, L.F. Bourne, V.W *
Brown, B.J. Greig, B.
Harradine, B. Harris, L.
Lees, M.H. Murray, A.J.M.
Ridgeway, A.D. Stott Despoja, N.
Woodley, J.

NOES
Abetz, E. Bishop, T.M.
Brandis, G.H. Calvert, P.H.
Campbell, G. Campbell, I.G.
Carr, K.J. Chapman, H.G.P.
Collins, J.M.A. Cook, P.F.S.
Coonan, J.L * Crossin, P.M.
Crane, A.W. Denman, K.J.
Crowley, R.A. Ellis, C.M.
Evans, C.V. Ferris, J.M.
Forshaw, M.G. Gibson, B.F.
Hogg, J.J. Hutchins, S.P.
Knowles, S.C. Ludwig, J.W.
Lundy, K.A. Macdonald, J.A.L.
Mackay, S.M. Mason, B.J.
McGauran, J.JJ. McKerron, J.P.
McLucas, J.E. O’Brien, K.W.K.
Patterson, K.C. Payne, M.A.
Reid, M.E. Schacht, C.C.
Sherry, N.J. Tchen, T.
Tierney, J.W. Troeth, J.M.
Watson, J.O.W. West, S.M.

* denotes teller

Question so resolved in the negative.

Senator BROWN (Tasmania) (1.49 p.m.)—I move opposition amendment No. 2, on sheet 1894:

(2) Schedule 1, item 3, page 3 (lines 27 and 28),
omit the definition of domestic violence, substitute:


domestic violence, in addition to the meaning given by section 119 of the Constitution, means significant armed violence.

This amendment is to give definition to the term ‘domestic violence’. As you will know, Madam Chairman, the bill refers to domestic violence as having the same meaning as in section 119 of the Constitution. Section 119 of the Constitution says:
The Commonwealth shall protect every State ... against domestic violence.

But it does not define it; this is a means of defining it. The definition under the Greens amendment would be that domestic violence means, in addition to the meaning given in section 119 of the Constitution, ‘significant armed violence’.

I have moved this amendment because this bill, as we all know, effectively says that three ministers in the government shall be able to call out the Army if they think it is likely that there is to be domestic violence. Neither ‘likely’ nor ‘domestic violence’ are defined. They are keywords. They should be defined. If the legislation is to avoid the pitfall of having at its core keywords that are undefined, then we have got to fix it up. This amendment is minimal, but it is absolutely crucial to ensure that politicians in Canberra do not send troops into a situation where there is not a significant risk of armed violence. I commend this amendment to the Senate.

Senator HARRIS (Queensland) (1.52 p.m.)—I would like to speak in support of Senator Brown’s amendment relating to the definition of ‘domestic violence’ and, in doing so, raise the issue of the intent of legislation. Ideally, bills that are being put through a chamber should be specific and the wording should bring clarity. The reason for that goes back to the separation of powers under the Constitution which sets out that there will be a parliament, an executive government and a judiciary. That separation of powers provision is there for very precise reasons. For that separation of powers to be able to operate, we require clarity in legislation, because it is the responsibility of this chamber and of the other house to give direction by way of acts of parliament.
If we go to one of the earliest acts in existence—that is, the Acts Interpretation Act 1901—that act speaks very clearly in relation to ambiguity. In doing so, it brings into reality a situation that the judiciary will have to face as a result of the government bringing this legislation through, because I believe it certainly does not deliver clarity. In fact, I believe it is ambiguous to a large extent. While the Australian Defence Force will be required to operate under this legislation, we are also looking at passing a bill that will have the same effect, to a degree, on the judiciary. How is the judiciary going to administer this bill once it is proclaimed as an act?

As I said earlier, the responsibility of the parliament is to produce acts that have clarity and direction. This act will cause situations for the judiciary because they are the ones who will have to sort out the mess in this bill that we are looking very much like passing eventually. The Acts Interpretation Act goes further and says that, where there are instances of ambiguity, the judiciary can take into account the debates within this chamber. Therein lies the basis for a considerable number of the questions that I put to the minister. They were put there so that, if we get into the unfortunate situation where Australian Defence personnel are brought before the judiciary in the Commonwealth, at least there will be some clarity and some direction for the judiciary in carrying out their duties.

What is domestic violence? Is domestic violence something as simple as a husband and wife or, for that matter, any couple having an argument? Is domestic violence people who have assembled in an area with a common belief that happens to be opposed to the particular position of the government of the day? Is it somebody who picks up a stick on the side of the road? I believe not. I believe that our understanding of domestic violence is one that pertains between citizens of a country.

As Senator Brown has articulated so well previously, this bill crosses two boundaries: it crosses the boundaries between domestic violence and acts of terrorism or threat to either state or Commonwealth property. Therefore, it is incumbent on this chamber to clarify very clearly what the government's intent on domestic violence is. I do not think that the government has in any way defined clearly what domestic violence is and I do not believe that it has clearly identified what a Commonwealth interest is. The two are intrinsically linked, because the bill clearly sets out that the Governor-General can, without a request from the state, call out the Australian Defence Force to protect Commonwealth property. The wording the government has chosen to use is 'domestic violence'. The Governor-General will be faced with the same problem that ultimately the judiciary will find itself in, in that the Governor-General will have to make a decision on these terms. The responsibility on the Governor-General will be enormous because it will depend on his decision as to whether the Australian Defence Force is called out. I believe that that is inappropriate and that the government should reconsider the definitions in this bill. (Time expired)

Progress reported.

QUESTIONS WITHOUT NOTICE

Computer Equipment: Losses

Senator HOGG (2.00 p.m.)—My question is to Senator Hill representing the Prime Minister. Is the minister aware that departmental answers to Senate questions on notice indicate that the Howard government has overseen the loss or theft of over $1.1 million in computer equipment in the last 20 months? Can the minister confirm that 235 laptop computers alone have been stolen—not lost, but stolen? Is it true that lost and stolen laptop computers have cost the Commonwealth over $830,000 since just January last year? How does the minister explain such gross mismanagement by the Commonwealth departments?

Senator HILL—I need to have those figures verified. I know there was a question on notice asking a number of departments to—

Senator Faulkner—It was a good question, too. I asked it.

Senator HILL—Yes, by Senator Faulkner, if I recall correctly. His question asked for details on lost or stolen computers. I know that I put in a response on behalf of my department. Certainly, some had been lost and stolen, but I do not know about the over-
all picture. I will get that clarified, and I will also ask my colleagues what sort of explanation might be given for the losses.

Senator HOGG—Madam President, I ask a supplementary question. Is the minister also aware that over $260,000 of other computer equipment has been lost or stolen from the Commonwealth since January 1999? Can the minister confirm that entire desktop computers, monitors, laser printers, keyboards, CD writers, speakers, projectors, digital cameras, hard drives and zip drives, RAM chips and central processing units have just walked out the door of government departments and agencies? What action will the government take to prevent any further waste of taxpayer dollars in this way?

Senator HILL—I have answered that in the primary question. I said that I was not sure of the totals and that I would seek an explanation as to the causes.

Aboriginals and Torres Strait Islanders: Policies

Senator BRANDIS (2.03 p.m.)—My question is directed to the Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron. The Howard government has a proud record of achievement in indigenous affairs, in stark contrast to Labor’s 13 years of wasted opportunities. Will the minister outline what the government is doing to benefit indigenous Australians? Is he aware of any alternative policies?

Senator HERRON—I thank Senator Brandis for the question; he is another fine, upstanding Liberal senator from Queensland with an interest in this field. The Howard government is proud of its record in achieving practical outcomes for Aboriginal and Torres Strait Islander people. We are doing this by spending a record $2.3 billion this financial year alone on indigenous specific initiatives which are targeting our priority areas of health, housing, education, employment and economic empowerment. For instance, since coming to office, Commonwealth spending on indigenous health programs has increased by 51 per cent and will have increased by 62 per cent in real terms by 2002-03. One of my first initiatives was to task the Army to build infrastructure—such as housing, roads, sewerage, clean drinking water and airstrips—for the most needy indigenous communities. This project has been so successful that we extended it to a $40 million ongoing program. Seven communities have been assisted across Australia, and another two in the Tiwi Islands are almost complete.

The Howard government has also demonstrated a strong and continuing commitment to reconciliation. In the past four years, as Minister for Aboriginal and Torres Strait Islander Affairs, I have been fortunate to be able to travel to hundreds of indigenous communities, and I have met and listened to many wonderful and talented indigenous Australians who are working towards significant improvements in building their communities. It has been a privilege for me to serve as minister; in fact, I asked to continue in this portfolio after the last election. I am a volunteer, and I am proud of it.

This is in stark contrast to the Labor Party, which squandered its 13 years in government with few outcomes for indigenous Australians. The Labor Party did not want to know about indigenous affairs then, and it still does not. The factional brawling within the Labor Party over who will fill the indigenous affairs portfolio shows it is not interested in genuine policy for Aboriginal and Torres Strait Islander affairs. Factions come first in the Labor Party. The Labor Party is continually giving us a moral lecture about our responsibilities to indigenous Australians, yet it is the Labor Party which is imploding about who does not get the indigenous affairs job. The Labor Party considers the portfolio ‘a poisoned chalice’. Senior left faction members have told the media that they are ‘tired of their faction being made to do all of the hard work on Aboriginal issues’. ‘We’ve been put out in recent years,’ a left source has reported today, and Senator Bolkus sent a telephone message from Turkey. He is over in Turkey and he is quoted in the media as saying that he was not interested in the job. He is the one who has been doing the moral pontificating over the last four years that I have been here, and he sends a telephone message from Turkey.
It is clear that nobody on Labor’s front-bench wants the portfolio, with one shadow minister making the disgraceful and offensive *Titanic* remark to ABC radio this morning. Even the Labor Party, I am pleased to say, is appalled at its own infighting, and former minister Gerry Hand has called for the Labor frontbencher responsible for the *Titanic* remark to be ousted, saying, ‘That person’s got no place in the federal parliament.’ Whoever ends up with the job as shadow minister will clearly not be committed to it and clearly will have privately rejected the first offer of that position. The division within the Labor Party led to the former shadow resigning his position in the first place. He became the sacrificial lamb on the altar of expediency. The lack of leadership is fuelling this current disgraceful display within Labor Party ranks. If anybody needs to be likened to a sinking ship, it would have to be Mr Beazley in his captaincy of the Labor Party.

**Department of Defence: Missing Computer Equipment**

**Senator Faulkner** (2.07 p.m.)—My question is directed to Senator Ellison, the Minister representing the Minister for Defence. Is the minister aware that a departmental answer to a question on notice reveals that the Department of Defence has had 78 laptop computers stolen, with a further 54 laptops being lost? Does the government have any explanation as to why 132 laptop computers, worth over $291,000, have just walked out the door of the department charged with maintaining Australia’s security? Given that the Defence offices are supposedly secure installations, how is it possible that so much Defence computer equipment gets stolen or misplaced?

**Senator Ellison**—As Senator Hill said in answer to a previous question, I will have a look at the detail of that question and take it up with the minister and get back to Senator Faulkner.

**Senator Faulkner**—Madam President, I ask a supplementary question. I am disappointed that the minister cannot provide more information to the Senate. While you are investigating that, can you ask the Minister for Defence to confirm that of the 132 laptops lost or stolen 33 contained departmental documents or information? Can the minister also confirm that of other computer equipment lost or stolen two contained departmental documents or information? Can he further confirm that in 12 instances this information was classified ‘Restricted’? Just what security classified information has been stolen from, or misplaced by, Defence officers? Did any of this lost or stolen information originate in a Defence security agency, any other Australian security agencies, or indeed any overseas security agencies?

**Senator Ellison**—Any allegation of breach of security is always taken very seriously. The government will look into the allegations as stated by Senator Faulkner.

**Environment: Murray-Darling Basin**

**Senator Chapman** (2.09 p.m.)—My question is directed to the Minister for the Environment and Heritage. Will the minister inform the Senate of steps being taken to combat salinity in the Murray-Darling Basin? How has the Howard government’s $1.5 billion Natural Heritage Trust assisted these efforts?

**Senator Hill**—The Natural Heritage Trust has played a major role in tackling the problems of the Murray-Darling Basin. I remind honourable senators of the mid-term review of the trust, which stated:

> The review provides strong evidence that funding has initiated work, catalysed action and expanded or sped up activity already under way.

Of course, we remember that Labor voted against funding for the Natural Heritage Trust. They voted against the interests of rural Australians, just as they voted against funding for better telecommunications in the bush and voted against cheaper diesel for rural producers. Unfortunately, Labor do not care about rural and regional Australia. Senator Faulkner, as we remember, said that the Natural Heritage Trust would never see the light of day. Once again, Labor’s negative policies were proven wrong, and the trust has now invested some $870 million in around 9,000 projects across Australia. The trust has helped the community in a range of on-ground projects in the Murray-Darling Basin, which is, of course, our most important agricultural production region. We have gone
even further than that, showing leadership and working through the Murray-Darling Basin Ministerial Council to develop the best policies to tackle problems such as salinity. Dry land salinity is a major threat to the region, with an estimated three to five million hectares of land within the basin likely to be affected.

As a response to last year’s salinity audit by the Murray-Darling Basin Commission, a draft basin salinity management strategy has been developed. The draft strategy will be released tomorrow. It sets a 15-year time frame for the implementation of a suite of programs to address this particular issue. It aims to contain salinity both in irrigation areas and dry land catchments at agreed levels across the basin. For the first time, salinity targets are set for each river system and for the end of each tributary system in the Murray-Darling Basin. This will maintain salinity levels at or below current levels, protecting urban water supplies, local industry and wetlands in the lower part of the basin. This is good news for the people of Adelaide, because it is a first step in ensuring the ongoing health of their drinking water.

Of course, we know what Labor’s plan for the Murray-Darling is. Mr Beazley says, ‘Labor will hold more meetings, employ more public servants and commission more reports.’ And they will do this because they have no money to fund the on-ground works that need to be done. Why? Because after roll-back there will not be funds for important causes such as the Murray-Darling Basin. If Mr Beazley wants to do something for the people, he can tell the Labor government in Queensland to introduce effective controls on land clearing and finalise their water management plans, which are now three years overdue. As we saw last year in the native title debate, Mr Beazley does not have the ticker to stand up to Premier Beattie. What the Murray-Darling Basin needs is national leadership, which has been shown by the Howard government—the sort of leadership Mr Beazley can only dream about.

Members of Parliament: Olympic Games Attendance

Senator O’BRIEN (2.14 p.m.)—My question is to Senator Ellison, the Special Minister of State. Has the minister seen the advice issued by the Senate Clerk Assistant, Corporate Management, on 1 September in relation to the minister’s circular on acceptance of Olympic hospitality? Does the minister agree with this advice? If not, where does the minister differ?

Senator ELLISON—As I understand it, the advice from the Clerk Assistant concerned was not approved by the Committee of Senators’ Interests and was subject to approval. I understand that there has been some correspondence between the Clerk and the committee on that. I have not yet seen that. I think it is a bit premature really to be saying that this is an official stance. I have seen the advice, but I can only say that it has not been approved by the committee, as I understand it. The government stands by the circular as put out by my office regarding ministers and others in relation to the Olympic Games.

Senator O’BRIEN—I ask a supplementary question, Madam President. With regard to the latter part of your answer, Minister, why was it necessary for the minister to issue a second circular on Olympic hospitality, given that he had already circulated guidance on 15 August? Was this due to the intervention of the Prime Minister or his office?

Senator ELLISON—It is no secret that there have been concerns raised. As Olympic hospitality was a topical issue, it was thought appropriate to issue a further circular to clarify matters.

United Nations Convention on the Elimination of All Forms of Discrimination Against Women

Senator STOTT DESPOJA (2.16 p.m.)—My question is addressed to the Minister representing the Prime Minister. Is there any evidence that the women of Australia—and, indeed, the women of the coalition—support the government’s stance on the United Nations participation in the Convention on the Elimination of All Forms of Discrimination Against Women? Isn’t the government being contemptuous of women by dismissing the view of one of the Liberal Party’s most senior stateswomen, Dame Beryl Beaurepaire, who is critical of the government’s stance? Can the minister confirm that that decision not to
sign the optional protocol was taken against the advice of the Office of the Status of Women and, indeed, against the advice of your own Minister Assisting the Prime Minister for the Status of Women, Senator Newman?

Senator HILL—I obviously cannot confirm the last two parts of that question concerning advice the government may or may not have received or the internal deliberations of cabinet. I can reiterate to the Senate the reasons why the government reached the decision that it did, which was announced last week. In the view of the government, the protocol creates a mechanism allowing complaints to be made to the CEDAW committee about alleged violations of rights under the CEDAW. While concerns about the current functioning of the treaty committee system remain, in the view of the government it would be inconsistent to sign up to yet another complaints procedure. The government’s view is that the rights of women in Australia will not be diminished as a consequence of this decision. Australia has already established a world-class regime of legislation and institutional mechanisms to protect women against discrimination.

Senator STOTT DESPOJA—I ask a supplementary question, Madam President. Minister, is this really the view that our Prime Minister, John Howard, will put to the Millennium Summit this week? Will he not acknowledge that this is a stance that leaves Australian women open to discrimination and totally undermines the principle of the universality of human rights? Does the minister agree with comments made by the Manager of Government Business, Senator Campbell, who said today that most Australians would give the United Nations and Dame Beryl Beaurepaire the ‘two fingers’ on the issue of the international protection of women’s rights? Does the minister agree with Senator Campbell’s analysis?

Senator HILL—I think the honourable senator fails to appreciate that the primary protection for Australian women from discrimination lies in Australia’s own laws and administration, which provide a regime of world leadership standard and should give Australian women confidence that their interests in this regard can be properly protected. The point is that Australian women do not need to go to the United Nations for protection against discrimination; we can provide for that within our own laws. The honourable senator has the opportunity in this parliament to contribute to the quality of those laws. That is where I suggest, with great respect, she puts her efforts. In relation to Dame Beryl Beaurepaire, she is a highly respected Australian and a good friend of mine.

Commonwealth Property: Management

Senator LUNDY (2.19 p.m.)—My question is to Senator Ellison representing the Minister for Finance and Administration. Is it true that government departments and agencies paid in excess of $1 billion in rent last financial year? Is it true this figure exceeds by at least $100 million the total proceeds of the sell-off of 57 government properties over the past three years? In light of these figures, has the government revised its earlier estimate of the point at which the benefits of the property sale are outweighed by the cost of property rental, or does the original estimate of 2003-04 still stand?

Senator ELLISON—This government has reformed the management of Commonwealth property, which was centralised and inefficient under the previous Labor government. The Commonwealth has always rented a large proportion of its offices. Taxpayer capital that is currently tied up in the ownership of buildings can often be better utilised in high priority areas such as health and education, which provide a better return to the community. The Commonwealth is a large organisation and, like any other large organisation, it has considerable and diverse accommodation needs to fulfil all of its functions. In some cases, more permanency is needed, and in others it is not. We have placed greater reliance on the established expertise of the private sector to provide and manage accommodation to the Commonwealth, and this is a great step forward compared with the centralised and inefficient system that existed previously. We reject entirely any criticism of the management of Commonwealth property. We have introduced a more efficient, modern way of dealing with taxpayers’ property and funds.
It is interesting that the opposition are attacking us. They might well look at Centenary House. I think Senator Ian Campbell was long on the trail of that, where we had a lucrative deal tied up with a government agency, and the ALP certainly did not mind receiving the rent from that.

Senator LUNDY—I have a supplementary question. Again, I ask the minister—and if he is not able to answer this, I would ask him to take it on notice—what is the government’s current estimate of the crossover point where the cost of rent outstrips the proceeds from the sale of properties? Is it still 2003-04, as it was in August 1997, or has it already been passed?

Senator ELLISON—The approach adopted by the government is a satisfactory one, in view of the efficiencies that are returned and the saving of taxpayers’ money. The government is firmly of the view that the policy that we have in relation to the management of taxpayer funded assets is a much more preferable one than the inefficient one that existed with the previous government.

World Economic Forum: Protests

Senator BROWN (2.22 p.m.)—My question is addressed to Senator Hill, representing the Prime Minister. Does the government support the right of peaceful protest at the World Economic Forum in Melbourne next week? Does the government support the positive aims of the S-11 protesters, which are:

... to put the implications of globalisation and corporate rule into wider consideration. S-11 is part of a global movement towards fairness, environmental sustainability and genuine democracy.

Does the government support global democracy—that is, one person, one vote, one value?

Senator HILL—Of course we support peaceful protests. That is a legitimate part of our democracy. The concern in relation to this grouping that Senator Brown seems to be endorsing is that it has been advocating non-peaceful protest—and that is, of course, something we abhor. It is not the Australian way. I would suggest to Senator Brown that, if he has any influence over this grouping, he use that influence to ensure that any political protest they wish to engage in in Melbourne next week is in accordance with the usual standard of Australian protests, and that is to make it with enthusiasm but make it without violence.

Senator BROWN—Madam President, I ask a supplementary question. I will be supporting the protesters and I will be supporting absolutely that that protest be totally peaceful. I ask the minister if he would go on to answer my final question: does he support the aims of S-11, which are to put forward the global movement towards environmental sustainability, fairness and genuine democracy? Does the government support global democracy—one person, one vote, one value—and can the government give a guarantee that it will not bring out the armed forces at any time during this process and that there are not contingency plans in place for such a call-out?

Senator HILL—In view of the suggestions across the Internet that, as I understand it, this group may well engage in violent protest—and, in that instance, I am sorry to hear that Senator Brown associates himself with them—I presume police forces have contingency plans to look after the issue. As I said, we support the right of non-violent protest and we support protest that does not damage the person or property and that respects the right of individuals to entry of buildings—I say this for Senator Brown’s benefit—but subject to that, of course, we support the building of democracy across the globe. We have strong credentials in that regard, and we also support both ecological and economic sustainability.

Estimates: Answers to Questions on Notice

Senator CONROY (2.26 p.m.)—My question is addressed to Senator Ellison, representing the Minister for Finance and Administration. Can the minister inform the Senate why virtually none of the questions that the Department of Finance and Administration took on notice at the budget estimates in May have yet been answered, together with some still unanswered from the additional supplementary round earlier that month? What is the reason for this breakdown in accountability to the parliament? When did the department forward these an-
answers to the minister’s office? Why hasn’t he cleared them?

Senator ELLISON—From my recollection, the committee dealing with the estimates that Senator Conroy refers to had the second largest number of questions on notice put to it. In relation to Employment National, there were many questions on notice which were taken earlier this year and subsequently at the second round of estimates. Senators will know that early this year there was a short space of time between two rounds of estimates, and there is absolutely nothing untoward in the department’s handling of this: there was no breakdown in accountability. In fact, the department has been endeavouring to answer these questions on notice which have been lengthy, complex and numerous. They will be answered, and there is absolutely no lack of accountability such as Senator Conroy is attempting to make out.

Senator CONROY—I have a supplementary question. Given that the industry department have apologised for the lateness of answers to their estimates committee, will the Department of Finance and Administration follow their lead?

Senator ELLISON—The Department of Finance and Administration has a very good record of answering questions at estimates, and in this case there was from opposition senators a great liberty taken in relation to the number of questions asked, the details taken and the absorbing of departmental time. The department is making every effort to get these questions answered and sent to the opposition.

Rural Transaction Centres

Senator LIGHTFOOT (2.28 p.m.)—My question is addressed to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. Rural transaction centres have revolutionised electronic services for rural and regional communities. Will the minister advise of progress with this successful program? Are there any recent examples of assistance to rural and regional Australians?

Senator IAN MACDONALD—Senator Lightfoot will be pleased to know that that very successful program, the rural transaction centres program, is again being expanded today in the small town of Beacon in Western Australia—in your home state, Senator Lightfoot, and I know you know it well. I announce that a rural transaction centre has been funded and will open in that community. There are an additional nine new rural transaction centres that are being announced today at Bulahdelah, Mendooran, Greta, Ulong and Bermagui in New South Wales; at Port Macdonnell in South Australia; at Agnes Water and the town of Seventeen Seventy in Queensland; at Newstead in Victoria; and at Nubeena near Port Arthur in Tasmania.

In addition to that, the program is going very well. Two existing rural transaction centres at Welshpool and Gulargambone have applied for additional funding so that they can do additional things in their communities. All of those very small communities will now have access to government services, telecentres, banking and financial services, Medicare Easyclaim, Centrelink services—the sorts of services that smaller communities have never held.

That brings to 35 the number of rural transaction centres approved. Over 260 communities are now involved in the program—a very positive one for small regional communities—and 113 business planning applications have been announced. This is a very beneficial program for small rural communities that, of course, was opposed by Labor. The Labor Party opposed funding for this program. But now Mr Beazley, when asked about it, says, ‘Oh yes, we have no problem with them now.’ I know that Senator Joe Ludwig was not around at the time the Labor Party voted against such centres, but he did go out to Yuleba and Wallumbilla where we just opened a couple last week, and Senator Joe Ludwig will know how beneficial they are to a small community. It is a pity the shadow minister does not get out and have a look at some of them. But Senator Joe Ludwig was there. He understands what a great benefit they are and what excitement and confidence they bring to a small community. Senator Ludwig, I suspect when you were out in western Queensland, you were coming back from Charleville, where I understand there has been a bit of a beefing up
of the local Labor Party branch. I hear, Senator Ludwig, that at Corones Hotel out in Charleville they are looking at applying for an RTC centre so that you can get some electronic transfers of signatures for new branch members. If that is true, Senator Ludwig, we will have a look at that, because we look very seriously at all applications for rural transaction centres.

Senator Lightfoot asked me whether there were other initiatives of this government for rural and regional Australia. I briefly just want to mention that, on Friday, the government announced an $83 million federal sugar assistance package to help Queensland, Western Australia and New South Wales—those sugar communities up and down the coast which, where I come from, are the life-blood and mainstay of those communities. That $83 million package will help farmers get their crops into the ground for the next plant. The package of Newstart Allowance equivalence for families doing it really tough will put some $39 million into those small communities. Not only will that help the farming families that are involved, but it will also circulate through those small communities up where I come from and help those communities, and all businesses in those communities, to weather the storm. The sugar package has been very timely in its help for that industry.

(Time expired)

Telstra: Share Ownership

Senator MARK BISHOP (2.33 p.m.)—My question is addressed to Senator Hill, the Minister representing the Prime Minister. I refer to the advice given by the Prime Minister last Friday that Telstra 2 receipt holders should take a long view on their Telstra investment. If that is good advice for minority shareholders, why isn’t it also good advice for the government as majority shareholder and for the nation?

Senator HILL—I think the point is—and we have had this debate over many, many years now—that the decision whether or not to retain an asset in public ownership requires a number of matters to be taken into account. These include: both the short-term and long-term economic gain; secondly, the efficiency of the service that is provided by that body, vis-a-vis the alternative of providing it through a non-government provider; thirdly, the potential to use capital for important matters of national reinvestment, such as we did through the Natural Heritage Trust, to reinvest capital from the sale of part of a telecommunications company into our natural capital, which is seriously in need of a capital infusion—in fact, the farmers of Australia are telling us now that we should be reinvesting some $67 billion into our natural capital to retain its health.

So the short answer is that the capital of interest to Australian taxpayers covers a range of different perspectives, and it has been the decision of the Australian government to sell two tranches of Telstra. Subject to the inquiries taking place that will hopefully verify that the commitments we have made in terms of provision of services to the bush are being met, we hope we will have the chance, with sales in the future, to reinvest capital for other purposes as well. The advice given by the Prime Minister in the circumstances of Australians who have bought shares is obviously sound. The advice he gives in relation to how the Australian government should manage its capital in the company is obviously sound as well.

Senator MARK BISHOP—Madam President, I ask a supplementary question. Isn’t it the case that, over the last three years, the government has saved $2.7 billion in interest payments from the sale of the first one-third of Telstra? Isn’t it also the case that the government has lost, over that same period, $2.8 billion worth of dividend payable on that one-third share? Won’t the loss of Telstra dividends be even worse if all of Telstra is sold?

Senator HILL—What the honourable senator fails to recognise are the benefits to those who have gained from the reinvestment by the government of that capital—those in the bush who now have better telecommunications as a result of it and a greater capacity to do business in a competitive way. I am not surprised that the Labor Party does not take that into account and does not regard that as important. But this government does—as it does reinvesting in the health of the Murray-Darling Basin, Australia’s premier agricultural region, in order that it can continue to
support Australian families carrying out agricultural pursuits and contribute to the on-going wealth of the country from sustainable agriculture. These are the reinvestments of the capital that the honourable senator has not taken into account. If he wants to develop a balance sheet, he should take into account all benefits and all deficits.

**Australian Taxation Office: Tax File Numbers**

Senator MURRAY (2.37 p.m.)—My question is to the Assistant Treasurer. Has the minister read last week’s House of Representatives report on the management—or rather mismanagement—of tax file numbers? Has the minister read ANAO report No. 37 on the same topic? Does the minister recognise that those reports show that the ATO has not attended to the basics and that many hundreds of millions of revenue dollars have long been at risk? Does the minister recognise that those reports expose a culture of proof of identity and other fraud that is in plague like proportions in Australia? Are the TFN, ABN, GST and other database systems at huge risk because of the ATO’s failure to properly manage those databases?

Senator KEMP—In answer to the question asked by Senator Murray, let me assure you, Senator Murray, that the government takes very seriously any questions and any concerns in relation to the integrity of the TFN system and has asked the Commissioner of Taxation to thoroughly consider the issues raised and the recommendations made by the committee. The management of identity records is a challenge being faced by revenue authorities in most developed countries.

By way of assurance to Senator Murray, let me also indicate that the ATO has already undertaken a number of measures to improve the TFN system, including the formation of the TFN improvement project in late 1998—I think that was actually recognised in the committee report. The ATO is actively looking at strengthening proof of identity processes across agencies, improving data matching and improving data quality. Let me assure Senator Murray that the ATO has also moved—and this deals with a number of issues which were raised in the report—to use so-called fact of death data from state registra-
arises from the government’s failure to provide the ATO with the people, resources, legislation, management and direction necessary—a failure which is responsible for the tax file number database debacle?

Senator KEMP—Senator Murray, this harks back probably a week or 10 days to when we had a debate in this chamber about the performance of the government and the Taxation Office in cutting down on tax fraud. I think an inspection of the Hansard will show that you very rightly and objectively praised the actions which this government has taken in relation to tax avoidance. I think, Senator Murray, you were even kind enough to contrast the vigorous action that this government has taken with the pathetic efforts of the Labor Party during their 13 wasted years in office.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from Sweden, led by the Chair of the Standing Committee on Civil Law, Ms Tanja Linderborg. On behalf of honourable senators, I have pleasure in welcoming you to the chamber and I trust that your visit to this parliament will be both informative and enjoyable.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Taxation Levels

Senator SHERRY (2.43 p.m.)—My question is to Senator Hill, representing the Prime Minister. Can the minister confirm that Commonwealth tax revenue as a percentage of gross domestic product was 21.8 per cent for the years 1990-96, has been 23.4 per cent for the past four years and, according to data from Budget Paper No. 1 for the year 2000-01, will be around 23.7 per cent over the next three years, including the net impact of the GST? Just who is the high taxing government, Minister?

Senator HILL—All Australians know Labor is the high tax alternative.

Senator Cook—Rubbish!

Senator HILL—They also know that Labor do not tell the truth about it. Reflect on the 1993 budget, Madam President, when we were told that there would not be tax increases. Come back into this parliament, and the re-elected Labor Party say, ‘We regret to advise we are putting up taxes yet again, putting up the wholesale sales tax.’ What is the current Labor Party policy on the wholesale sales tax? Are they for it or are they against it? We now know they are for the GST. Do they still want a wholesale sales tax? What is the answer? We do not know. If they are not going to deny that, they will presumably expand taxes to have some form of wholesale sales tax as well. That would not surprise us, because that has been the Labor Party way.

What did they do? They put up the wine tax as well, and then they put up petrol taxes. That is what you get from Labor, even when they promise they will not do it. All Australians know that, if you vote Labor, you get high taxes, you get high interest rates, you get high inflation and it leads to recession and misery. That is what happened in 1990—

one million Australians out of work because Labor could not manage the economy and because Labor leaders said that the best thing to do was to keep pushing up interest rates. They said that it was in the national interest—’Push up interest rates, because that will dampen demand.’ All Australians remember that. What did it do? It put thousands of small businesses out of business and one million Australians out of work. So all Australians know the alternative. You either vote for a government that is responsible in economic management, that will take tough decisions to reduce expenditure—

Senator Cook interjecting—

Senator HILL—Senator Cook, this government inherited a $10 billion deficit from Labor in its first year—$80 billion of deficit built up in the previous five years—and we turned that deficit around to a surplus through taking hard decisions and reducing public expenditure. We are proud of it, because it laid a foundation that enabled Australia to withstand the economic crisis in Asia and to come through with strong economic growth—growth that can give Australians the opportunity for jobs for the future and for all the benefits that wealth creation can provide.

Senator Cook—This is pathetic.
Senator HILL—Senator Cook keeps interrupting me. It was Senator Cook, as one of the finance group of ministers, who—just before the 1996 election—said, ‘The government is not in deficit and will not be in deficit.’ Yet we found out he was $10 billion wrong. It is that sort of economic incompetence that the Australian people do not want to experience again, and that is why they do not want Labor. They will vote in the government that took the tough decisions and that provided a sound economic base that has enabled strong economic growth to a background of low interest rates, low tax and low inflation. The Australian people want more of that.

Senator SHERRY—Madam President, I ask a supplementary question. Minister, your budget papers show that Liberal-National Party taxes will be 23.7 per cent of gross domestic product for the next financial year, whereas taxes were 21.8 per cent of gross domestic product under Labor in 1995-96—lower taxes. Can you confirm that the government’s claim to be a low tax government rests entirely on it falsely claiming that the GST is not a Commonwealth tax? Isn’t this just a shameless sleight of hand?

Senator HILL—I do not have long, so I say to Senator Sherry: go and have a talk with Mr Beazley, and see whether he might take a tough decision for once. (Time expired)

Education: Funding

Senator TIERNEY (2.50 p.m.)—My question is to Senator Ellison, the Special Minister of State and the Minister representing the Minister for Education, Training and Youth Affairs. Will the minister inform the Senate of the benefits of SES school funding? Is the minister aware of any criticism of this reform and any policy alternatives?

Senator ELLISON—This is a very important question from Senator Tierney, who has had a longstanding interest in education. It is amazing that the ALP have attacked this policy initiative. It deals with socioeconomic funding, something that they have in point No. 30 of their policy statement, which states:

... public resources must focus on core concerns about socioeconomic needs ...

That is precisely what the SES manner of funding is doing. For the first time, it looks at linking students’ address data to ABS national census data to obtain a measure of the capacity of the school community to support its school. We have now a major reform that will make education funding fairer and more transparent and will, importantly, give parents a choice—something sadly missing under the previous Labor government. This government has legislation which will deliver $22 billion of funding to schools, including a record $7.6 billion to government schools—26 per cent more than when this government came into office.

Over the same period the number of students in government schools has risen by 2.3 per cent, and those figures speak for themselves. Under these new arrangements there is funding to meet the neediest non-government schools. Their funding will be increased with the maximum funding set at 70 per cent of the average government school recurrent cost compared with about 56 per cent under the previous method of funding.

Senator Carr—Why is Wesley getting $3 million extra?
The PRESIDENT—Order! Senator Carr, you are shouting, and that is disorderly.

Senator ELLISON—Senator Carr is not only disorderly but also unsympathetic to needy schools and needy parents. What he does not realise is, of the 21 per cent of school students who come from families with an annual income of less than $26,000, one-fifth attend a non-government school. We have families with a low income who still make the choice to send their children to non-government schools. In relation to the new funding arrangements, Fergus Thompson of the Independent Schools Association says:

The new funding arrangements will enhance educational choice for all families and provide improved equity to school funding arrangements.

The Christian Parents Controlled School says:

The Government is to be congratulated. Low income Australian parents and their families have been given a real chance to exercise genuine choice in the education of their children.

All Australians would agree that that is a laudable goal. Peter Crimmins, Executive Officer of the Australian Association of Christian Schools has said that choice in schooling is now a reality for working-class Australian families, and Labor should wake up to that. We are providing those working-class families with a real choice. But what do we get from the member for Werriwa, Mr Mark Latham? A grubby attack on the Catholic Church where he links funding to the Catholic education system with support for the GST. Dr Peter Tannock, Chairman of the Catholic Education Commission, said:

It is disgraceful that he should make an allegation like that. It is just not true.

He said, firstly, that the national Catholic Education Commission acted, in his view, with great integrity and at all times with the needs of the Catholic schools systems and individual Catholic schools in Australia in mind. The second thing he said was:

To even suggest that there was some kind of trade-off between whatever he thinks was the official church attitude to the GST and this funding scheme is just a joke and a bad one.

We have from the member for Werriwa a total misunderstanding of and lack of regard for education in this country. (Time expired)

Goods and Services Tax: Petrol Prices

Senator COOK (2.55 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. What advice can the Assistant Treasurer offer to Bob Bongiorno, the manager of the Balladonia Hotel Motel, who is worried that there are fewer travellers on the Eyre Highway since the introduction of the GST and that fuel costs are killing them? What does he have to say to the roadhouse operators on the Eyre Highway who use diesel to generate electricity to run desalination plants for their water supply, who are having to pay an extra $100 a day on fuel? What explanation can the Assistant Treasurer give to these people as to why the Prime Minister failed to keep his promise that petrol prices would not rise as a result of the GST?

Senator KEMP—The advice I would give to him would be twofold. The first point I would give him is that fuel prices under the Labor Party would be higher than they currently are now. The reason for that is that the fuel grants scheme is going to be abolished by the Labor Party, and that helps cuts down the margin between city and country prices. Then I would point to the fact that, under the Labor Party, fuel excise rose from some 5c a litre to some 34c a litre over the 13 years of the Labor Party being in office. That is the first piece of advice I would give to him. The second is that what we have done in relation to tax reform, as we have done over a very wide range of reforms, is to improve the functioning of the Australian economy. Some months are good, and some months are bad in business; that is correct. It may well be, in the particular area this roadhouse is in, that this is a quieter month. But in the long term, and indeed in the medium term, there is no question that the reforms this government has pursued are good for the Australian economy. That is one of the reasons why Australia is one of the high growth economies of the world. Many countries have looked with great envy on the performance of the Australian economy. Some months are good, and some months are bad in business; that is correct. It may well be, in the particular area this roadhouse is in, that this is a quieter month. But in the long term, and indeed in the medium term, there is no question that the reforms this government has pursued are good for the Australian economy.
The final point I would make to him is that the GST, which Senator Cook raised with us, now forms part of Labor Party policy. The Labor Party have stopped talking about the ‘r’ word—roll-back—but if they pursue this policy of roll-back, we will see taxes rising substantially. The income tax cuts, which we provided to the Australian people, will certainly go if by some mischance Labor get back into office. They are a few of the points I would make. I would also ask him to think back to the recession we had to have, during which Senator Cook, who asked that question, was a senior minister. He has never apologised for the appalling performance of the Labor government during their 13 years—particularly during the period of the recession we had to have and for the damage it did to small business.

Senator COOK—Madam President, I ask a supplementary question. Given that the answers you have given, Minister, are an attack upon the Labor Party and are entirely untrue, would I not be justified in telling these constituents of mine that the government refuses to accept any blame at all for the exorbitant price of fuel and proposes to do nothing whatsoever to assist them to cope with its impact? Wouldn’t I be right in telling them that?

Senator KEMP—Senator Cook, you would be right in telling the head of this roadhouse that the high price of fuel in Australia is due to the high price of fuel on world markets. You would be right in telling him that if Labor got back into office the price of fuel would be even higher, because Labor would load the fuel with taxes.

Crime: CrimTrac

Senator PAYNE (3.00 p.m.)—My question without notice is to the Minister for Justice and Customs, Senator Vanstone. Will the minister please inform the Senate of progress with CrimTrac, the federal government’s $50 million initiative to fight crime in Australia?

Senator VANSTONE—I thank Senator Payne for the question. This morning I did have the great opportunity to officially open the CrimTrac new office on Northbourne Avenue. CrimTrac, as Senator Payne identifies, is a $50 million Commonwealth initia-tive to fight crime. Over the years of Labor being in power nothing was done to dramatically increase the sharing of information between police authorities around Australia and the Commonwealth. The national exchange of police information was basically let to fall apart and become not useless but certainly not as useful as it should be. It took a Liberal and National coalition government to come to power to recognise that something needed to be done, to put $50 million in it to give local police the capacity to fight crime—to give them the tools they need to do the job.

The results in the United Kingdom—where they have nothing quite as good as CrimTrac but they have one element of it—and in New Zealand have been quite exceptional. CrimTrac will have a national finger- and palm print database. It will be the biggest national finger- and palm print database in the world. Most countries keep the fingerprints, but not the palm prints. Even just matching the existing storehouse of information, we expect, would assist police to solve some crimes which are at this stage unsolved. Following the fingerprint database the DNA database will come online, and we expect when that comes online it will have similar success.

In the United Kingdom the database has over 750,000 profiles and achieves a hit rate of 92 per cent between crime scenes and the database each week. The New Zealand system, established in 1996, has only 9,000 profiles, but that has over 30 per cent of crime scene samples matching with the database. So when that comes online we will have something like 2.55 million fingerprint cards that can be matched in real-time—within a couple of seconds—we will have a DNA database that can be matched in record time, and we will be world leaders.

Following those two items coming on board we will then have a national paedophile database, which will be of great assistance to police in the states, sharing the information around Australia, because a paedophile who is currently living—and hopefully not active—in New South Wales may just as easily move to South Australia or Western Australia or the Northern Territory. So it is obvious to a Liberal and National
government that this information needs to be accessible by police on a national basis.

Following that, the fourth arm of CrimTrac, the Police Access to National Data Asset system—otherwise known as PANDA—will come online. That will mean that police will have access to records all around Australia of stolen motor vehicles, firearms licence registrations, domestic violence orders and information of that type. What that means is that when we send local police to a disturbance—a siege or something—at a house, the men and women of the police forces of Australia will know if a gun is registered to people who live in that house. It is perfectly appropriate that if these people are going to put their lives on the line protecting us and protecting our property we do not send them to places without having access to that sort of information, without telling them what they are walking into.

So opening the office today was a step, because it at least shows that there is a structure there. It is a Commonwealth initiative. We will be sharing the information, and the police around Australia will be sharing the information. They will have the tools they need to fight local crime. It is an example of people who have worked extremely well to deliver the government’s election commitment in 1998. It will be delivered in full. It will be the best thing innocent people have ever seen and the worst thing for the crooks.

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Information Technology: Outsourcing

Senator ELLISON (Western Australia—Special Minister of State) (3.04 p.m.)—I want to clarify a statement I made on 31 August in an answer to a question from Senator Lundy. I said:

The projected savings for contracts, with cluster 3 and group 8, are in the region of $265 million ...

In fact, the projected savings from the five contracts to date—beginning with cluster 3 and including the last contract to date, group 8—are in the region of $268 million. It should be noted that these savings are in addition to the projected savings of around $100 million over five years resulting from the outsourcing contracts let by the Department of Finance and Administration, the Australian Customs Service and the Department of Veterans’ Affairs.

JOANKNECHT, MR DWaine

The President (3.05 p.m.)—I am pleased to advise the Senate that an officer of the Joint House Department, Mr Dwaine Joanknecht, was named ACT Apprentice of the Year on the evening of 24 August 2000. He will represent the ACT at the national apprentice and trainee awards in November. Mr Joanknecht is an apprentice in the landscape services division of the Joint House Department and contributes to the excellent landscaping work undertaken around Parliament House. Dwaine commenced an apprenticeship in turf management with the Joint House Department in January 1997 and completed his studies in June 2000, six months ahead of schedule. During his apprenticeship he consistently achieved high grades in the theory and practice of his trade and has received the advanced apprentice rate of pay for his effort.

Dwaine’s hard work, superior work ethic and dedication to his trade have earned him the admiration and respect of fellow work colleagues. Dwaine has also played an active role on the public relations front, conducting Floriade tours of the Parliament House gardens as well as being involved with the Joint House Department’s display stand at the National Convention Centre during Science Week. Following the completion of his apprenticeship Dwaine was immediately appointed to a position within the landscape service section of the Joint House Department. After completing his studies in turf management, Dwaine has continued his career objectives and will complete his diploma in horticulture next year.

In June of this year Dwaine won the Turfgrass Association of Australia’s turf graduate of the year award. His prize was an all-expenses-paid trip to the Millennium Turfgrass Conference in Melbourne. On 9 August 2000, he was awarded the Canberra Institute of Technology highest academic pass over three years in turf management. I congratulate Mr Joanknecht and his supervi-
sor, Mr John Lloyd, who is manager of landscape services, on this achievement.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Department of Defence: Missing Computer Equipment

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.07 p.m.)—I move:

That the Senate take note of the answer given by the Special Minister of State (Senator Ellison) to a question without notice asked by Senator Faulkner today, relating to the theft of computer equipment from Commonwealth departments.

The quantum of theft and loss of computer equipment across the Commonwealth government is quite staggering. I think the Senate ought to take note today of the significance of this issue. In 18 months, $1,103,000 of mostly top-of-the-range equipment has been stolen or lost—that is, $835,887 worth of laptop computers and $276,508 worth of desktop computers and accessories lost or stolen. We have had answers to questions about thefts of computers from a range of departments, but answers from Environment, Foreign Affairs, and Prime Minister and Cabinet are still outstanding. They are 40 days overdue. Trade has already fessed up to seven stolen laptops worth $40,612, but the Foreign Affairs side of the operation has been suspiciously tardy on this issue.

Of the 10 departments and their agencies that have so far replied, the most concerning issue raised in answers on notice is the question of security. The Department of Defence admit to 274 computers lost or stolen. They are unsure whether the 49 computers and laptops in the ‘lost’ category were in fact not lost but stolen—and that is, $835,887 worth of laptop computers and $276,508 worth of desktop computers and accessories lost or stolen. We have had answers to questions about thefts of computers from a range of departments, but answers from Environment, Foreign Affairs, and Prime Minister and Cabinet are still outstanding. They are 40 days overdue. Trade has already fessed up to seven stolen laptops worth $40,612, but the Foreign Affairs side of the operation has been suspiciously tardy on this issue.

I think the Senate is entitled in these circumstances to at least an outline of the nature of the material that was on these computers—perhaps not the content but certainly the nature of the material. I want to know more about the investigation of these thefts as well. I note that only 87 of the 274 instances of theft in the defence department alone were properly investigated by police. I note a report in yesterday’s Sunday Telegraph that there have been ‘hardly any breaches of Defence computer security by hackers’. Of course that is an equally slipshod situation—‘hardly any’ means there have been some. What where they, and have they been properly investigated? If Defence spend $8 million to protect their systems against hackers, they obviously have lost the plot on the theft of secrets on hard disks when laptops are stolen. This is a serious situation. The Senate is entitled to answers about this, particularly in the current climate with the sort of legislation this chamber is now discussing. I ask the government to come clean on these serious issues of the theft of computer equipment and the material, some of it restricted, contained on that equipment. (Time expired)

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.12 p.m.)—We had here today one of the most incredible question times that I have witnessed in my time in this place. Senator Faulkner, I think, shortly after moving into opposition, became the chairman of the waste watch committee. I am not sure whether he still holds that title—he has lost most of the others he has held in his career; he loses portfolios like other people around this place lose hair. But putting Senator Faulkner in charge of waste watch, as we witnessed this quite puerile and pathetic effort he made in the Senate today about some stolen laptops—which, of course,
the department will be investigating as a matter of course; I do not think they need any assistance from this failed former Keating government minister—and as we hear him talking about security, makes one think that it is sort of analogous to putting Sergeant Schultz in charge of a review of security at stalag 13.

The DEPUTY PRESIDENT—You are aware that it is unparliamentary to reflect upon another member, so I would just urge caution, Senator Campbell.

Senator IAN CAMPBELL—I will of course heed that warning, Madam Deputy President. But it really is a bit of a joke to have someone who, while in government, spent so freely, spent with both hands—not only spent taxpayers’ dollars but went back for more to borrow money—and who contributed significantly to running up a $10 billion deficit being put in charge of waste watch. You do not see any serious work out of the waste watch committee because it is against the principles of people like Senator Faulkner not to spend money hand over fist, particularly when it is taxpayers’ money—particularly when they were in power.

What did we have under Labor? Senator Faulkner was a minister in the previous Labor government, and that government was in power for 13 long, dismal, dreary years. And what did we have, Madam Deputy President? You would recall better than most. We had 13 budgets, nine deficits, and the average of those deficits was $10 billion in 1999 constant dollars—$10 billion a year for nine years. That is why we had massive interest rates, that is why we had massive tax increases. We heard Labor asking questions about petrol today. What did they do with petrol excise? They put it up by 7½c a litre. If Senator Peter Cook wants us to go out to Balladonia to the Balladonia Roadhouse—that fine institution on the Nullarbor Plain; I urge people to visit it—what should we tell the proprietors of the roadhouses at Balladonia and across the Nullarbor? We should say that Senator Peter Cook, Senator Faulkner and all those other failed ministers along that dismal, dreary frontbench put the excise up by 7½c per cent. Have they repented or apologised for putting interest rates up to over 30 per cent for many of those businesses out there on the Nullarbor Plain? Of course not.

Senator Carr—This is on computer theft!

Senator IAN CAMPBELL—The Manager of Opposition Business says this is about computer theft. I ask the Manager of Opposition Business opposite to reflect on the motion that we are considering; we are to consider the answers given to all the questions to Senator Ellison today. And that takes me to Senator Lundy. Here we have another Labor senator who gets up and asks Senator Ellison—

The DEPUTY PRESIDENT—Senator, my understanding is that it was in relation only to the question relating to computer theft.

Senator IAN CAMPBELL—Fine, I will restrict my remarks to that. It brings into question, in this broad-ranging debate about waste in government that Senator Faulkner alludes to in his question and his own comments, the fact that we had Labor members opposite asking questions in question time today about property, for example, and the leasing out of—

Senator Carr—What has this got to do with computer theft?

Senator IAN CAMPBELL—We are talking about Senator Faulkner’s question. If we now want to interpret how you take note of answers in a narrow fashion, then we will do that if it is a new ruling. Are you taking a point of order?

Senator Carr—Madam Deputy President, I raise a point of order. This matter before the chair is on the issue of taking note of the questions put to Senator Ellison on computer theft and the loss of quite significant security documentation contained in those computers. I would suggest that it is appropriate that government speakers, like opposition speakers, confine themselves to the issue relevant to that question.

The DEPUTY PRESIDENT—There is a fair degree of latitude allowed in the taking note of answers debate. However, it is appropriate to endeavour to relate your comments in some way to the answers given to the question that was asked.
Senator Carr—All of this suggests you have nothing to say.

The DEPUTY PRESIDENT—Order, Senator Carr!

Senator IAN CAMPBELL—Madam Deputy President, on the point of order, Senator Faulkner, as I heard it—I am happy to be corrected by you on advice—moved to take note of questions put to Senator Ellison. If he put an epithet on that that was linked to one question then I do stand corrected and will relate my comments purely—

The DEPUTY PRESIDENT—It did relate, I am advised, to one question only.

Senator IAN CAMPBELL—I am not arguing the point now. I will now address my remarks to the motion, which referred to the questions put to Senator Ellison. If it was actually a question put to Senator Ellison, then that is a point. But, when it comes to waste watch issues, the government does not need to be reminded by a Labor Party which ran this country into deficit and which wasted billions upon billions of dollars of taxpayers’ money year after year when it comes to waste watch issues. This is what Senator Faulkner seeks to do. It is an outrageous act of hypocrisy by the Labor Party to seek to paint this government as having any question to answer in relation to the loss of these laptops that Senator Faulkner refers to. Any loss of Commonwealth property is a very important issue. It is being dealt with, as the minister quite properly answered, through the proper processes. For Senator Faulkner to seek to make cheap political mileage on an issue of security is one of the lowest acts I have seen in this place. (Time expired)

Senator HOGG (Queensland) (3.19 p.m.)—I think that this is a very important issue indeed, because if one looks at the questions that were put on notice by Senator Faulkner to the various departments and the answers that have been received back, one will see the magnitude of the problem that is before us. This is particularly the case if you look at the stolen laptop issue. You will find—on the summary that I have—that two departments are quite outstanding in terms of the number of laptops that have either been lost or stolen. I refer to the Department of Industry, Science and Resources, who say that they have lost 12 laptops and 51 have been stolen, and the Department of Defence, who say that 54 have been lost and 73 have been stolen. But out of that number that have been lost or stolen there has been a very poor recovery rate indeed. I think it is a poor day when we cannot stand up in this parliament and discuss an issue of such significance as this, because it goes to two issues: it goes to the issue of waste and it goes to the issue of security.

If you look at the recovery rate of laptops in Defence, four out of 127 have been recovered. That is a substantial loss indeed. In the Department of Industry, Science and Resources, the recovery rate for laptops is six out of 63. So the recovery rate is very low indeed. Not only are we talking about valuable items in terms of their individual price but also in the case of Defence, as was rightly pointed out, we are talking about items which in some instances have quite sensitive material placed on them. If this were confined to laptops alone, it would be one thing, but it goes across the questions today to the whole issue of stolen computer equipment. Whilst in answering the broader question of stolen computer equipment Defence did not break the issue up into component pieces such as whether they were monitor-speakers, power packs or whatever else they might have been, in computer equipment stolen or lost, which accounted for about 145 items, again the recovery in Defence is relatively low—some 16 items. So again we know that in that area we are looking at—as Senator Faulkner rightly pointed out—13 instances where the information is thought to have been classified. Of these instances, 10 are suspected to be restricted and three commercial-in-confidence.

It raises genuine security issues that need to be properly pursued in this particular place. If there are breaches of security as a result of the new technology that we are using today, the information technology that is accessible to so many people, we need to be reassured that that technology is being guarded, particularly when it has such sensitive material as one can only assume from the answers that were supplied to Senator Faulk-
I think Senator Faulkner made the point quite correctly that it is not a matter of getting the actual information that might have been contained but getting the assurances that the information was not of national security importance or was not of a top classified nature.

One fear that one always has today is that, with laptops being carted from place to place, they become a target for any person who wants to indulge in the theft of such an item, some hoping to take it for their own personal use, while others may be taking it for more sinister reasons. No-one is arguing that here today. One is raising the sheer question in this place today: what about the issue of security? What about the issue of waste? Clearly, coming out of Senator Faulkner’s questions on notice to the various departments—and, as he said, some have not answered the questions yet so we do not know the extent of the problem—we do know, at least in the case of Defence and Industry, Science and Resources, that there has been a major problem since 1 January 1999 of stolen laptops and stolen computer resources. I think it is quite fair and reasonable to ask the government to give the assurances that need to be made. (Time expired)

Senator MASON (Queensland) (3.24 p.m.)—I rise to acknowledge something important that Senator Faulkner has mentioned, as I am Chairman of the Finance and Public Administration Legislation Committee. Senator Faulkner has raised this issue on a number of occasions as well as Senator Ray and Senator Conroy. It is certainly an important issue that the government will have to pursue.

Senator Hogg mentioned the Department of Defence. Just to give a bit of background, in Defence a total number of 143 desktop computers have been reported lost or stolen from the period 1 January 1999 to 30 June 2000, and that actually represents less than 0.3 per cent of the approximately 55,000 desktops used by the some 66,700 largely full-time personnel and some 20,000 reservists across the Department of Defence. So it is less than 0.3 per cent. The total number of 129 laptops reported lost or stolen in this same period represents around 1.8 per cent of the approximately 7,000 used across the Department of Defence and, of course, it is departmental policy to investigate all losses and thefts.

What is the government as a whole doing about it? They were Senator Hogg and Senator Faulkner’s questions. They are quite right: DOFA is responsible for developing that policy. DOFA has whole of government responsibility for fraud control but is limited to its role under the Financial Management and Accountability Act and associated financial management and accountability orders. Under that act, agency heads are responsible for the implementation of a fraud control plan which meets Commonwealth standards and are responsible for reporting to the portfolio minister on fraud control within their agency. The financial management and accountability orders 1997 further require agencies to prepare a report giving recognition to the guidelines outlined by the minister for justice, which include important things such as an assessment of fraud risks, an assessment of any previous fraud control plan and a fraud control plan based on the assessment of fraud risks.

Recently, the Australian National Audit Office completed a report into Commonwealth fraud and concluded that the majority of APS agencies had a framework in place that contained key elements for effectively preventing and dealing with fraud in line with Commonwealth policy. The extent of these arrangements range from the majority of agencies having undertaken fraud awareness raising activities amongst staff to a lesser proportion having specific fraud policies and fraud control plans in place and having undertaken risk assessments. This clearly indicates that the majority of Commonwealth agencies take their responsibilities for fraud control very seriously. However, in a number of areas, the Audit Office concluded that a significant proportion of agencies did not have appropriate fraud control arrangements in place, and the particular issue the survey results highlighted was the fact that many agencies had not undertaken a recent risk assessment to identify the existing risks and those emerging as a result of the changing environment in methods of service delivery.
That is the context of computers. But there is broader context than this, and that might be welfare fraud. Fraud is part of it.

Senator Carr—When all else fails, bash the unemployed.

Senator MASON—This Senate might reflect on the fact that this government has saved the Australian taxpayer a fortune, and all the way along the road the Australian Labor Party have opposed the Commonwealth’s action with respect to fraud control. Why do they do that? Why do they protect rorters? As a social democratic party that used to have beliefs they believe that people should—

Senator Carr—You can do better than this.

The DEPUTY PRESIDENT—Order! Senator Carr, would you please cease interjecting.

Senator MASON—They should as a social democratic party believe this: those entitled to welfare should be given their welfare, those that are not should not. Why? It takes away money and entitlements from people that are not entitled to it. Everyone in your party, Senator Carr, should be in favour of the Commonwealth’s line on fraud control. This issue is going to have to be addressed, and you are quite right to raise it in this house. (Time expired)

Senator LUNDFY (Australian Capital Territory) (3.29 p.m.)—I really should be grateful to Senator Mason for making the point that we tried to make through question time today—that is, that the Department of Finance and Administration is responsible for financial management and accountability issues in the Commonwealth government. It is very clear from the responses to questions on notice that the department of finance has failed to cause the various agencies and departments of the Commonwealth government to take care with respect to accountability and fraud control—in this case, with a direct reference to the number of stolen laptops and computing equipment within agencies and departments. The issue of accountability is very dear to my heart, given comments made previously in this place in relation to the IT outsourcing program—which I will return to in a minute—but also in relation to general conduct and issues of commercial-in-confidence. We continually see the coalition government allowing agencies and departments to hide behind commercial-in-confidence as they outsource, contract out and continually divest themselves of doing the business of a public administration.

This is a very serious point, and it is quite astounding to see figures like this in a year when the opposition have continually drawn attention to the way the coalition government manage information technology. If you look through the list of departments and agencies, you will notice that a number of them have been outsourced to contractors over a period of time, including the Department of Finance and Administration itself, the Australian Electoral Commission, the Department of Immigration and Multicultural Affairs, the Department of Veterans’ Affairs, the Australian Customs Service and so on. All of these departments have registered some stolen equipment of one nature or another. It astounded me to hear Senator Mason stand up and say in Defence’s defence that it represents less than 0.3 per cent. I have no idea of the accuracy of these figures, but how pitiful is it when you hear a coalition senator stand up and defend some perpetration such as laptops or computer equipment being stolen on the basis that it represents only a minor percentage. I do not think we would get away with any such argument. I suspect if you actually draw out the same percentages in relation to the Department of Industry, Science and Resources—where no fewer than 51 laptops were stolen and 12 were lost and 22 PCs were stolen and one was lost—those percentages would look far worse than the flippant ones Senator Mason has been able to dredge up for the purposes of his contribution in this debate. I think an analysis of this demonstrates that over the last four years those questions of financial management and accountability, including how one manages the assets theoretically in the control of the departments and agencies, really do reflect badly not only on the respective ministers in those agencies and departments but certainly, as I pointed out before, on the Minister for Finance and Administration.
The final point I want to make is: what happens next? Do we continue to see a decline in this public accountability of the coalition government that we have experienced for the last four years? Or are they at the point of such a high level of arrogance that the government will just stand up and do what they did today—which was that, first of all, Senator Campbell tried to skirt the question and raise other issues in his response to our motion to take note of answers on the issue of stolen computers from government departments, and then there were a whole series of equivocations from the other senators responding to this motion—as we attempt to draw this to the attention of the public?

In closing, I would like to make these points. It is a demonstration of democracy that we were able to get this information through putting questions on notice. It is the responsibility of the government, the coalition in power, to not only draw some degree of acknowledgment of this disturbing theft of computer equipment but also reflect in the broader context on what happens when you lose strategic control of information technology, which as most senators will acknowledge is the core business of a Public Service seeking to effect services on behalf of the citizens of Australia.

Question resolved in the affirmative.

Australian Taxation Office: Tax File Numbers

Senator MURRAY (Western Australia)

(3.34 p.m.)—I move:

That the Senate take note of the answer given by the Assistant Treasurer (Senator Kemp) to a question without notice asked by Senator Murray today, relating to the administration of tax file numbers.

The question that I raised concerned the issue of the mismanagement of our tax file numbers. Over the weekend, I read the House of Representatives report inscribed Numbers on the run, which was a review of the ANAO report No. 37 for 1998-99. Frankly, I was alarmed at what I read. To use an old shopkeeper’s analogy, it is no point in having terrific merchandise, wonderful merchandising systems and great accounting systems if you have left the backdoor wide open. The government, in my view, have left the backdoor wide open. What I was concerned with when I was reading that report was that the responsibility was not sheeted home where it belonged, which was to the government themselves. It is the government who must take responsibility for a TFN problem. The government must take responsibility for it, because it is the government, in my belief, who have not provided the appropriate focus in terms of money, resources and management direction on the ATO to look out for a real problem in terms of lost revenue and the poor integrity that we are seeing attached to the TFN system situation.

It is not just that there are 3.2 million more tax file numbers than people in Australia, because that is possible due to many factors, such as the number of other legal entities. A principal problem emerges because of a plague-like situation where proof of identity fraud is widespread. The committee commented that they were aware that processes were under way, including consideration by the Office of Strategic Crime Assessment, a proof of identity working group chaired by AUSTRAC and the Australian Registrars Conference; initiatives of the Heads of Fraud Conference; and work by the Australian Bureau of Criminal Intelligence. The fact is that the Commonwealth has in other agencies very good database management. In their report, the ANAO noted—and this was two years ago—the ease with which false identity documents can be obtained and the difficulty that posed for government departments in terms of their proof of identity processes.

The report said that identity fraud is a significant issue for the Australian community, and it is getting worse as a result of electronic commerce. So then we have to ask ourselves the question: how widespread is this fraud? Indications of the extent of the problem, according to the report, were that 25 per cent—that is, one-quarter—of reported frauds to the AFP involved the assumption of false identities, that most fraud offenders had multiple identities, and that fabricated documents for a false identity are increasing in availability, particularly due to the ability of modern technology to generate forged documents of very high quality. But that is relative to the
number of fraud cases that came up. It might not be indicative of the problem across the community as a whole. But then in bold type they came up with this absolute gem, which terrified me. They said:

... in a pilot conducted by Westpac and the NSW Registry of Births, Deaths and Marriages of a Certificate Validation Service, that in ‘the particular instances where a birth certificate was tabled to the bank as part of the identification documentation, some 13 per cent were found to be false’

This statistic is not that of those people who are identified as having committed fraud; this is a representative sample of Australians giving identification to the bank. Over one in 10 Australians who were surveyed were found to be crooks. That is appalling—over one in 10 Australians presenting themselves for identification purposes were found to be crooks. What happens if that is true for the entire TFN situation? We are talking here of 3.2 million more tax file numbers than people in Australia at the last census. On that 3.2 million alone, that would be 320,000 crooked TFNs put before us. And the Assistant Treasurer wondered why I was concerned and wondered why I was concerned that it has just passed across to the ATO.

The DEPUTY PRESIDENT—Order!

The time for the debate has expired.

Question resolved in the affirmative.

PETITIONS

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

Workplace Relations Amendment Bill 2000

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

This petition of the undersigned draws to the attention of the Senate the unfairness of the Workplace Relations Amendment Bill 2000. This Bill, amongst other things, would restrict Australian workers from exercising choice in the manner of industrial agreement they wish to pursue at their workplace.

Your petitioners therefore request of the Senate that when this Bill is presented before the Senate, it is rejected as it is not in the interests of Australian workers.

by Senator George Campbell (from 117 citizens).
Committee has concern with two matters. First, there is no requirement that a record be kept of the names of the Customs officers who withdraw an article from the ordinary course of the post for the purpose of inspecting its contents. Secondly, paragraph 3B(b) provides that, if the article is referred to an agency other than Customs, there be recorded “details of that referral”, but the paragraph is silent as to the extent of the details required to be recorded.

The Committee would be grateful for your advice on these two matters as soon as possible but before 17 August 2000 when disallowance action may be initiated.

Yours sincerely
Helen Coonan
Chair

28 Aug 2000
Senator Helen Coonan
Chair
Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator Coonan

Thank you for your letter of 22 June 2000 seeking advice in relation to two aspects of the Australian Postal Corporation Amendment Regulations 2000 (No. 1), Statutory Rules 2000 No. 76 (the Regulations). The Regulations prescribe the details that must be recorded by the Australian Customs Service (ACS) when an ACS officer removes a postal article from the normal course of carriage for examination.

Specifically, you requested advice on:
(a) the lack of a requirement in the Regulations that a record be kept of the names of the ACS officers who withdraw an article from the ordinary course of the post for the purpose of inspecting its contents; and
(b) the lack of specifics in relation to the details of referral of an article by the ACS to another agency.

I have been advised that, as a matter of practice, the ACS records both the name of the ACS officer who withdraws an article from the ordinary course of the post for the purpose of inspecting its contents and, in the case of the transfer of an article, the names of the ACS officer and the officer of the agency to whom an article is being transferred. Accordingly, to ensure that it is clear the record keeping details are clearly understood, it would be appropriate for the Regulations to reflect this practice. Work to amend the Regulations will commence shortly.

I trust this will address the Committee’s concerns.

Yours sincerely
RICHARD ALSTON

Minister for Communications, Information Technology and the Arts

Senator Murphy to move, on the next day of sitting:
That the Economics References Committee be authorised to hold a public meeting during the sitting of the Senate on 5 September 2000, from 6 pm, to take evidence for the committee’s inquiry into the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies.

Senator McKiernan to move, on the next day of sitting:
That the time for the presentation of the report of the Legal and Constitutional References Committee on the Government’s response to the recommendations of the report, Bringing Them Home, be extended to 28 November 2000.

Senator Allison to move, on the next day of sitting:
That the Environment, Communications, Information Technology and the Arts References Committee be authorised to hold a public meeting during the sitting of the Senate on 6 September 2000, from 6.30 pm to 8 pm, to take evidence for the committee’s inquiry into global warming and the Convention on Climate Change (Implementation) Bill 1999.

Senator Tierney to move, on the next day of sitting:
That the Senate—
(a) welcomes a total of $345 400 in Federal Government funding for Rural Transaction Centres in Greta and Bulahdelah in New South Wales;
(b) notes:
(i) that this funding will restore services in:
(A) Greta, for access to credit union services, Medicare Easyclaim facilities, an Internet cafe, bill paying, e-commerce, skill enhancement and visiting accounting, and
(b) Bulahdelah, for access to banking services, Medicare Easyclaim fa-
cilities, business support, serviced office space and enhanced credit union services, and

(ii) that the Howard Government has provided funds for 250 towns across Australia under the Rural Transaction Centre Program;

(c) congratulates the Upper Hunter Business Enterprise Centre Ltd and the Bulahdelah Chamber of Commerce and Industry for looking at ways to restore services to the community; and

(d) condemns banks that fail to recognise the support that generations of families and business have given to them, by closing branches in small rural and regional communities across Australia.

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

That the Senate—

(a) congratulates the countries of Argentina, Austria, Belgium, Benin, Bolivia, Bulgaria, Chile, Colombia, Costa Rica, Croatia, Cuba, the Czech Republic, Denmark, the Dominican Republic, Ecuador, Finland, France, Germany, Ghana, Greece, Iceland, Indonesia, Italy, Liechtenstein, Luxembourg, Mexico, Namibia, the Netherlands, Norway, Panama, Paraguay, the Philippines, Portugal, Senegal, Slovakia, Slovenia, Spain, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Uruguay and Venezuela for being signatories to the Optional Protocol to the United Nations (UN) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);

(b) recognises:
(i) the CEDAW as the only woman-specific human rights mechanism at the international level,

(ii) that the Optional Protocol is a major step forward in realising governments’ commitments with regard to women’s human rights,

(iii) that the Optional Protocol creates procedures for the UN to promote the enjoyment of human rights to all women and the world-wide elimination of discrimination against women,

(iv) that signatories to the Optional Protocol reject all forms of injustice and systemic discrimination suffered by women world-wide, and

(v) that the Optional Protocol provides a significant opportunity for women who have suffered from discrimination to seek justice through the UN;

(c) expresses its concern at the significantly diminished role Australia is playing in the negotiations of the Optional Protocol and the low priority given to the protocol by the Howard Government; and

(d) calls on the Howard Government to:
(i) take an active role in the negotiation process and to promote a speedy ratification of the Optional Protocol, and

(ii) have Australia become a signatory to the Optional Protocol.

Senator Murray to move, on Tuesday, 31 October 2000:

That the Senate calls on the Government to introduce legislation providing for a tax on international financial transactions, in concert with the international community.

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

That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by the last sitting day in March 2001:

(a) the importance and value of the Western Australian Army Museum and Fremantle Artillery Barracks;

(b) whether the Fremantle Artillery Barracks is the most appropriate and suitable location for the museum;

(c) the reason for the disposal of the Fremantle Artillery Barracks;

(d) the disposal of the Fremantle Artillery Barracks and the probity of the disposal process;

(e) how the Australian Defence Organisation (ADO) decides whether property is surplus to requirements and the management or disposal of surplus property;

(f) the sale and lease-back of ADO property; and

(g) any other matter related to the above-mentioned issues.
Senator Brown to move, on the next day of sitting:

That the following bill be introduced: A Bill for an Act to implement Australia's human rights obligations under various international instruments with respect to the sentencing of people for property offences. Human Rights (Mandatory Sentencing for Property Offences) Bill 2000.

Postponement

Motion (by Senator Bartlett, at the request of Senator Lees)—by leave—agreed to:

That general business notice of motion no. 673 standing in the name of Senator Lees for today, relating to the full employment objective of the Reserve Bank, be postponed till the next day of sitting.

Items of business were postponed as follows:


General business notice of motion no. 663 standing in the name of Senator Cook for today, relating to commitments made by the Chair of the Economics Legislation Committee (Senator Gibson) in respect of questions taken on notice, postponed till 5 September 2000.

General business notice of motion no. 675 standing in the name of Senator Sherry for today, relating to captioning of television programs, postponed till 5 September 2000.

General business notice of motion no. 672 standing in the name of Senator Stott Despoja for today, relating to captioning of television programs, postponed till 5 September 2000.

General business notice of motion no. 622 standing in the name of Senator Harris for today, proposing an order for the production of documents by the Minister representing the Minister for Transport and Regional Services (Senator Ian Macdonald), postponed till 7 September 2000.

General business notice of motion no. 612 standing in the name of Senator Stott Despoja for today, relating to international trade, postponed till 5 September 2000.

General business notice of motion no. 613 standing in the name of Senator Stott Despoja for today, relating to unemploy-ment and worker protection, postponed till 5 September 2000.

WORK FOR THE DOLE: MUTUAL OBLIGATION

Motion (by Senator Stott Despoja)—as amended, by leave—agreed to:

That the Senate—

(a) notes that:

(i) the Dusseldorp Skills Foundation has released a background paper prepared by Curtain Consulting entitled, Mutual Obligation: Policy and Practice in Australia compared with the UK.

(ii) the paper contrasts the strong recognition of citizens' rights and entitlements under the United Kingdom (UK) model of mutual obligation with the 'tough rhetoric about the responsibilities of citizens but little focus on the obligations of government beyond ensuring the basic sustenance of its citizens' in the Australian model, and

(iii) the paper cites other important differences in the two models, including the greater role of personal advisers or case managers in the UK model, and the direct involvement of UK businesses to create jobs in partnership with mutual obligation schemes;

(b) affirms the finding of the paper that in the Australian mutual obligation context, 'a number of features of the operation of work for the dole undermine its capacity to achieve employment outcomes';

(c) urges the Federal Government to address the deficiencies in the Work for the Dole program, namely, that it does not aim to create employment opportunities for participants, that it does not offer training or skills development and that it provides neither adequate support for participants nor sufficient protection for their rights; and

(d) suggests that a better way to deliver employment opportunities for young Australians is through Intensive Assistance, which provides specialised and tailored assistance and ongoing support to job seekers in the context of a
partnership between the community and business sectors.

**GENERAL ASSEMBLY OF THE UNITED NATIONS: WORLD SUMMIT FOR SOCIAL DEVELOPMENT**

Motion (by Senator Stott Despoja) agreed to:

That the Senate—

(a) notes that:

(i) the Special Session of the General Assembly of the United Nations, the World Summit for Social Development and Beyond: Achieving Social Development for All in a Globalized World, is being held in Geneva in the week beginning 25 June 2000,

(ii) this special session will review the achievements made at the Copenhagen Social Summit in 1995 and look to developing and implementing new initiatives to reach the goals set then, and

(iii) these goals centre on the eradication of poverty, promotion of full employment, fostering of social integration and, most importantly, placing the human person at the centre of development; and

(b) endorses these goals and condemns the Federal Government for failing to send a representative to this landmark meeting, when it has been able to send the Treasurer (Mr Costello) to chair the meeting of the Organisation for Economic Co-operation and Development Ministerial Council in Paris in the week beginning 25 June 2000, and

(c) calls on the Minister for the Environment and Heritage to:

(i) move to incorporate further triggers in the Act to cover land clearing, greenhouse gas emissions and the construction of major water projects,

(ii) request the Environmental Resources Information Network to prepare geographically-based items of national significance by biogeographic, catchment and local government area, as defined in the Act, and

(iii) encourage local government to provide rate rebates for land covenant conservation management agreements.

**COMMITTEES**

Committee of Privileges

Reports

Senator ROBERT RAY (Victoria) (3.48 p.m.)—I present the 94th and 95th reports of the Committee of Privileges entitled Matters arising from 67th report of the Committee of Privileges—possible Senate representation in court proceedings and Penalties for contempt—information paper.

Ordered that the reports be printed.

Senator ROBERT RAY—I seek leave to move a motion in respect of each report.

Leave granted.

Senator ROBERT RAY—I move:

That the 94th report of the Committee of Privileges be adopted.

Honourable senators will recall that, on the last day of sitting in June, I tabled the 92nd report of the committee. That report drew attention to advices prepared by Mr Harry
Evans, Clerk of the Senate, and Mr Bret Walker, SC, commenting on the judgment of a justice of the Queensland Supreme Court in a defamation action brought by Mr Rowley against Mr David Armstrong. In that report, the committee indicated that it would give more detailed consideration to other matters in due course. The committee further sought advice from the Clerk as to any steps that might be taken in relation to Mr Rowley’s action against Mr Armstrong and also a new action against former Senator William O’Chee, who, as a senator, originally raised Mr Armstrong’s difficulty as a matter of privilege.

In his response, which is included in the appendix to this report, the Clerk suggested that, if either of the actions were to come to trial, counsel instructed for the Senate could seek to appear as amicus curiae to assist the court on privilege matters. The committee suggests that the Senate follow this advice should the need arise, and accordingly recommends that the Senate authorise the President, if required, to engage counsel as amicus curiae if either of the actions for defamation against Mr Armstrong or Mr William O’Chee is set for trial. It is unusual for us to ask for a resolution to be carried on the presentation of a report. It was an unanimous decision of the committee and, because of timing matters, the Senate needs to express a view to the President of the Senate.

Question resolved in the affirmative.

Senator ROBERT RAY—I move:
That the Senate take note of the 95th report.

This report is, in effect, a mechanism to publish what the committee has found to be a useful comparative account of penalties for contempt in Australia and several overseas countries. The paper was prepared by Mr David Sullivan from the Senate Procedure Office in response to a request from the committee to produce a paper on the range of penalties available and imposed in other parliamentary jurisdictions. The committee thanks Mr Sullivan for his work and also appreciates the assistance of all persons who provided information for the paper. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Australian Security Intelligence Organisation Committee Report

Senator CALVERT (Tasmania) (3.52 p.m.)—On behalf of the Parliamentary Joint Committee on the Australian Security Intelligence Organisation, I present a report of the committee entitled A Watching Brief: The nature, scope and appropriateness of ASIO’s public reporting activities, together with the Hansard record, the minutes of the committee’s proceedings, and submissions received by the committee. I seek leave to move a motion in relation to the report.

Leave granted.

Senator CALVERT—I move:
That the Senate take note of the report.
I seek leave to have the tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

The Australian public entrusts ASIO with extensive powers in order to provide security intelligence for the safety of our country and its citizens. It is therefore vitally important that ASIO is subject to appropriate accountability mechanisms and is required to report, in a general way, to the Australian public on its activities.

Last year this Committee looked at a package of legislation which made changes to the administrative and legislative framework under which ASIO operates.

As part of that review, we received evidence from a number of groups and individuals arguing that ASIO should be more open about its activities. Because of the short timeframe in which we were required to look at the ASIO Legislation Amendment Bill, the Committee could not, at that time, explore further the question of whether ASIO should be more open in its public reporting.

We sought a further reference from the Attorney-General on this issue and in February this year he asked us to undertake this inquiry into the nature, scope and appropriateness of ASIO’s public reporting activities.

Our inquiry looked at how ASIO currently reports to the Australian public on its activities, how this might be improved, and whether more information should be provided by ASIO.

We received submissions from ASIO, the Attorney-General’s department, the National Archives of Australia, the Privacy Council of Australia, and
a number of other groups and individuals. We also held a public hearing in Canberra which included witnesses from interstate.

While ASIO has perhaps not been as open as it could have been in the past, the Committee found that ASIO's public reporting activities have improved substantially over the last decade.

ASIO now produces an annual report, which is censored to exclude sensitive information, a number of public information brochures, and in June this year launched a comprehensive internet site.

In particular, the addition of the internet site has greatly improved the amount of information available to the public about ASIO. It includes information about ASIO's role, the limitations on its activities, its accountability mechanisms, history, and employment with ASIO.

However, the Committee recognises that not all Australians have access to the internet, and we have recommended that all the information on the internet site is also available in hard copy format.

Another area in which ASIO could improve its public reporting is in its communication with ethnic communities. ASIO currently does not produce any information in languages other than English.

It was recently reported in newspapers that ASIO has approached a number of ethnic community leaders to help in identifying any potential overseas threats to the Olympic Games. In this situation, it is vitally important that community members understand the role of ASIO.

We have therefore recommended that ASIO should produce general information about its role in a number of community languages.

The languages should be chosen along generic guidelines – for example, the same languages in which the Department of Immigration and Multicultural Affairs, or Centrelink, publishes information, so that inferences cannot be drawn about why ASIO is publishing information in some languages but not others.

Our final recommendation deals with frustrations that historical researchers have encountered when dealing with ASIO and the National Archives of Australia. At present, researchers do not have access to a list of ASIO files over 30 years old. This makes it difficult for them to pinpoint the particular files they are interested in.

We have recommended that ASIO release to the National Archives a list of all its files over 30 years old – excluding those in which the file name would reveal sensitive information.

In summary, the Committee found that ASIO's current public reporting activities are adequate. The total package of information available to the Australian community about ASIO exceeds that available to citizens in other countries about their domestic intelligence agencies.

However, this is not to say that ASIO should be complacent about its public reporting activities. The Committee's recommendations are aimed at ensuring ASIO continues to look at how it can improve the way that it communicates with the Australian public.

Finally, I would like to thank my colleagues on the Committee for their hard work in producing this unanimous report.

I commend the report to the Senate.

Senator CALVERT—I seek leave to continue my remarks.

Leave granted; debate adjourned.

BUDGET 2000-01

Consideration by Legislation Committees

Additional Information

Senator CALVERT (Tasmania) (3.53 p.m.)—On behalf of Senator Crane, I present additional information received by the Rural and Regional Affairs and Transport Legislation Committee, relating to hearings on the budget estimates for 2000-01.

COMMITTEES

Foreign Affairs, Defence and Trade Committee: Joint Report

Senator CALVERT (Tasmania) (3.53 p.m.)—On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present a report of the committee entitled From Phantom to Force: Towards a more efficient and effective army, together with the Hansard record of the committee's proceedings and submissions received by the committee.

Ordered that the report be printed.

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

Leave granted.

Senator CALVERT—I move:

That the Senate take note of the report.

I seek leave to continue my remarks.

Leave granted; debate adjourned.
Senator CAL VERT (Tasmania) (3.53 p.m.)—On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present a report of the committee entitled Building Australia’s Trade and Investment Relationship with South America, together with the Hansard record of the committee’s proceedings and submissions received by the committee.

Ordered that the report be printed.

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

Leave granted.

Senator CAL VERT—I move:

That the Senate take note of the report.

I seek leave to have the tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

This report of the Joint Standing Committee on Foreign Affairs, Defence and Trade – Building Australia’s Trade and Investment Relationship with South America – is a report that is eagerly awaited by the countries of South America, Australian business chambers and businesses themselves.

There is little doubt that South America is dynamic and developing, leading to a multitude of business opportunities. This was reinforced when members of the Committee’s Trade Sub-Committee visited eight South American countries in March-April this year. Members came away with the clear view that Australian business is really well placed to move into the market and capture market share.

One’s perceptions of South America being a place that would not be attractive to Australian business are dispelled when this report is read. There are powerful reasons for the market to be looked at seriously by Australian exporting firms. With South America emerging as a region of considerable economic significance there is great scope for Australian companies to do business there.

The first focus on South America as a region of considerable potential for Australia was back in 1992. While Australia’s trade and investment relationship has grown with South America, it has not been a high priority. Through the Government’s annual Trade Outcomes and Objectives Statements, there is now a focus on Chile, the Mercosur countries and Peru as important emerging markets for Australia. The direct air links with South America, established nearly two years ago, provide both the means and the catalyst for developing and improving business links.

Time is of the essence! Australia’s competitors, including New Zealand, are well and truly in the market. If Australia is serious about increasing its trade and investment relationship with South America then it must go beyond the promotional rhetoric and take positive action as its competitors are doing in the region.

The Committee’s recommendations are focused towards putting legs under the relationship with the ultimate aim to improve Australia’s export performance.

The CER-Mercosur dialogue, the central mechanism for progressing Australia’s trade and economic relationship with Mercosur must be reinvigorated. It is necessary for the Australian Government to pursue, as a priority, the development of an Australia-Mercosur free trade agreement to allow Australia to tap into the Mercosur common market of some 215 million people. Australia’s competitors are reaping the benefits of such trade agreements with Australia losing any competitive edge. Australia has to be in it to win it and energise trade initiatives and trade activities.

Australia has a critical link that is of significant value to South American countries – it is our Asia link. Australia, as a bridge to Asia, is a concept that is big enough for the Government to take seriously as an initiative and the Committee recommends that a strategy be developed to establish Australia as a bridge to Asia for the economies of South America.

The Committee, as did the Trade Sub-Committee on its visit to South America, found that awareness or more correctly a lack of awareness is the single biggest issue impacting on the relationship. In Australia there is little awareness of South America, including the nature and the size of the markets there, the scope of the opportunities, the complementarities with Australia and the move by the South American countries to be more competitive in the global economy.

To raise awareness and provide a long term focus on South America the Committee sees it is as vital for the Australian Government to establish a body that has the capacity to deliver initiatives and build the relationship. The Committee recommends that an Australia-South America Foundation be established to initiate and support activities that promote substantial and enduring collaboration between Australia and the countries of South America, and serve Australia’s long term interests in the region.
The Committee found it an anomaly that within the Foreign Affairs and Trade department South America and Canada are put together. The size and dynamism of South America warrant that it has its own focus and priority and that Canada is moved and made part of North America.

In all, the Committee made thirty recommendations to build Australia’s trade and investment relationship with South America. Other initiatives include the formation of a South American Working Group; high level visits to the region; additional resources for our mission in Caracas; an exchange program for young executives; the development of a program to capture the expertise and skills of Australia’s retired workforce; an increase in the Australian Tourist Commission’s effort; double taxation agreements with more South American countries; Australian membership of the Inter-American Development Bank; and the provision of a budget allocation by AusAID for development projects in South America in cooperation with the World Bank and the Inter-American Development Bank.

Madam President, it is important that there be a significant focus at government level on the South American region as this will encourage people to go to South America and trade in South America. This strategy has proved to be very successful in relation to Asia and the same commitment is required for Australia to reap the rewards in the markets of South America.

I commend the Report to the Senate.

Senator O’BRIEN (Tasmania) (3.55 p.m.)—In speaking to the Joint Standing Committee on Foreign Affairs, Defence and Trade report entitled Building Australia’s Trade and Investment Relationship with South America, let me say that, having been part of the committee process to take evidence here in Australia and also having been one of a group of senators who took it upon themselves to arrange to travel to South America and visit a number of countries— together and in two groups, if I can put it that way—it is very pleasing to see the product of the work that has been done being presented so well by the committee secretariat. I thank Ms Jane Vincent, who has done so much organisation of the work of the committee: its hearings, our visit to South America and, of course, the preparation of the report and all her work performed on the document itself. I commend the report to honourable senators as a very worthwhile text which sets out contemporaneous material about the trade and investment opportunities which do in fact exist between this country and the various countries of South America.

One of the other things I should say is that, on the visit by members of the committee to South America, we were accompanied by an officer of the Department of Foreign Affairs, Defence and Trade, Ms Sharyn Minehan—or I should say Her Excellency, because she has become the Ambassador to Argentina since that time. I express the committee’s gratitude to the department and to Her Excellency for the assistance that she provided to the committee, which made the work of the committee as productive as it was, and particularly for her knowledge of Spanish and Portuguese, which assisted us so much in South America.

Appendix D to the report sets out on pages 233 to 258 the itinerary of the South American visit—quite an extensive itinerary. One can see that we spent a great deal of time in meetings, talking to government and business representatives, both Australian and Argentinian business people, assessing the opportunities for investment and trade in both directions. One of the things that the committee did discover is that there is an unfortunate lack of awareness, both here in Australia and in South America, of the trade and investment opportunities across the Pacific Ocean. As we look to our north, to Asia, for all of our opportunities and to Europe and the North Americas, it is likewise with the South Americans looking to the United States and the European Union, with neither of us looking at opportunities for investment and trade that do exist—opportunities that the committee believes will be welcomed between the businesses of this country and the businesses of South America.

In relation to the environment in which we trade, it is important to note that there are opportunities which need to be freed up by the action of the government—and several of those are recommended by the committee. This is obviously a bipartisan report—which, I think, lends it great weight. One of the things the committee is at pains to draw the attention of the government to is the need to negotiate further with countries of South America, particularly on double taxation
agreements, which are serious impediments to business dealings. In terms of particular countries, the absence of the negotiation of double tax agreements will see existing trade dry up because of our lack of competitiveness arising from that circumstance with countries like Canada.

Having mentioned Canada, I should say that the Canadians are quite proactive in developing their trade links with South America. Tables in the report show honourable senators the sorts of investments that the Canadians—and, indeed, those in other countries—have made in seeking to access the markets of South America. Canada, being a country of similar economic capacity to Australia, outdoes us significantly in terms of exploring the opportunities for business. That is a matter which obviously lies in the hands of the government to address.

There are significant criticisms in this report, particularly of the Department of Immigration and Multicultural Affairs, which I think should attract the attention of the government as quickly as possible. My colleague Senator Carr has an interest in education, and here there are opportunities for bona fide students to access our great educational system. However, the barriers placed in the way of those students from South America who are seeking to access our educational facilities are enormous when compared with the lack of barriers that exists if those same students seek, as an alternative, to access the United States or Canada for similar educational opportunities.

The fact of the matter is that, in an educational sense, we have a lot to offer South America. Unfortunately, when it costs some students up to $US500 to have Australian visa applications processed compared with the negligible amounts it costs to have United States or Canadian visa applications processed, that is a trade barrier of our own making. The criticisms of the department do not simply go to the issue of the cost to students but go to the way in which the department approached the inquiry—and I commend to senators the passage of the report which deals with that. They are some of the most strident criticisms of a department that I have seen in a report, particularly a report which is bipartisan, as I stressed earlier. That is, the terms of this report in criticising the department are signed up to by both the government and the opposition members of the committee.

Having said that, I think this is a report which I will take some pride in distributing to members of the business community and others in my state—and I hope that other senators, whether they were involved or not, take the same opportunity. It is important that we do play a part in extending the awareness that is lacking at the moment—the awareness of trade and investment opportunities—because we are talking about a continent with in excess of 300 million people, a great many of whom would be prepared to buy our goods and trade with us if they knew the opportunity existed. Indeed, that is the position for Australians as well. I commend the report to the Senate.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (4.04 p.m.)—I too rise to speak to this report, entitled Building Australia’s Trade and Investment Relationship with South America. As Senator O’Brien has said, this is a significant report. It is a report of the Joint Committee on Foreign Affairs, Defence and Trade, and I am a member of that committee. I did not participate in the hearing of evidence and the writing of this report but, as a member of the committee, I do want to congratulate those who did. Senator O’Brien has named the particular staff member concerned. I join my remarks with his in acknowledging the fine work that she has done in connection with this report.

With those remarks, perhaps I can just say a couple of words about the subject. For historic reasons, the biggest ocean in the world, the Pacific Ocean, at its widest point has for so long separated South America from Australia. As well as that tangible separation by one of the world’s most outstanding geographical features, there has been a cultural separation as well. Those on the South American continent speak Portuguese or Spanish, and we speak English. It is part of the non-English speaking world, and our news and information of what is happening in that area of the world containing 300 million people is sparse indeed. It is
conveyed by caricature more often than understanding. Indeed, the historical link is quite significant. Many of the earlier explorers who made their way around Cape Horn called at Rio de Janeiro and other ports along the South American coast before moving into the Pacific. Indeed, that is where Captain Cook had his vessel the *Endeavour* careened before it moved into the Pacific and he discovered the east coast of Australia.

But in modern times we have been separated by the LOTE, the Pacific and the cultural differences between our two countries. This report removes the mists of that separation. It is not the first step to do so that has been taken. I think a significant advance was when the airlines in Australia, together with the Latin American airlines, opened, at first, a regular weekly service to Buenos Aires—a service which has now grown to be a daily service with increasing demand. Our two peoples are being brought together by the speed of air travel and the frequency of the interchange. As well, Australian businesspeople have been travelling to Latin America and finding worthwhile investments. This report follows in their wake in an effort to try to comprehensively assess the likely opportunities in that market and commend those opportunities to Australian businesses.

Before going into any detail about that, I would like to acknowledge and congratulate the ambassadors from the Latin American countries. In the diplomatic corps in Canberra, they form quite an enthusiastic and cooperative group. They are very energetic in promoting the interests of their region, and they have been a catalyst in stimulating the activities of this committee to at last give in and examine the virtues of and the opportunities offered by their countries, which they kept rightly and in reasonable tones preaching to us about. The Latin American ambassadors need to be acknowledged.

Australia’s diplomatic ties with South America became stronger with the launch of the Uruguay Round of world trade negotiations in 1984 and with the formation of the Cairns Group at the same time. The Cairns Group is a group of countries which negotiate jointly, of which Australia is the chair. They are all agricultural exporting nations. In the main, the Cairns Group consists of Australia, New Zealand and Canada, all of the ASEAN countries and just about all of the Latin American countries. I think the fact that we work as a unit, as a group of nations, provides substantial countervailing influence in world trade negotiations so that, as well as the super-economies—the economies of the United States, Japan and Europe—we have a union of smaller economies able to unite around the common goal of liberalising agricultural trade and opening market opportunities for all of us as exporters. Without the presence of the Cairns Group, our ability to negotiate just outcomes in international trade would be considerably less but, because we have worked together on the diplomatic front, arguing real issues and cooperating with each other, we have found a way at that level of being drawn closer together by a common cause that affects the livelihoods of people in all of our countries. That too has served to break down some of the barriers between the South American nations and Australia. The Cairns Group has been quite important.

Just a month or so ago, a retired trade minister from Argentina visited Australia in order to have informal discussions with the government, with me as the shadow spokesman on trade and, I am sure, with Australian industry. The informal discussions were about whether it is possible to create a trade treaty involving South America, South Africa, Australia and New Zealand, the major economies of the Southern Hemisphere, in such a way that, by cooperating together, we can grow all of our economies mutually. It is at this stage an embryonic idea. It is an ambitious idea. It is an idea worth following through. I believe the government gave the former minister a warm and positive reception, as did I.

The significance of trade in South America cannot be underestimated. I cast my mind back to the 1960s, when there was a high level of antipathy between the major countries of Argentina and Brazil and it was suspected that this traditional rivalry had taken the form of an underground nuclear arms race in which large portions of the national budgets of both those countries were being invested in the development of nuclear weap-
It is significant to note that, when that underground arms race reached a critical point and both of those countries renounced their bids to obtain nuclear weapons status, they embraced each other in a common trade agreement, which is now the Mercosur agreement, and began to unite their economies and advantage each other with the mutual growth and bigger market that a trade zone creates. If there is an object lesson in the world about trading with people rather than finding a basis for conflict with people, it is the example of what has occurred between Argentina and Brazil. We now have not only a peaceful border but also a cooperative economic relationship, which brings people in those countries together and which means that market opportunity in one nation creates jobs in the other nation. It is an example that could be commended to border conflicts in other parts of the world, such as that of Pakistan and India.

There are different levels of economic development in Latin America and different levels, therefore, of opportunity. For Latin American companies, there are opportunities as well in developing trade links with Australia. As many Latin American economies come out of Third World status and are now better classified by the IMF and other international institutions as economies in transition—moving to First World status or emerging economies moving up the economic ladder—their growth rates present greater opportunities for growth in Australian industry. There is a compatibility between our economy and theirs. It serves to make this fundamental point about trade, particularly trade with developing countries: the more we contribute to their economic growth, the more people are lifted out of poverty or straitened economic circumstances and the bigger the market for our exports. It is an object lesson in improving the lot of humanity as well as economic circumstances. I think this report will play a significant role in broadening the horizons of Australian industry, awakening them to the opportunities in South America and setting in place a series of constructive steps to ensure ongoing application and success on both sides of the Pacific.

This report will also be a bit of an object lesson to other parts of the world where, if studied in the same detail with the same diplomatic backup, they could create the same results. (Time expired)

Question resolved in the affirmative.

Migration Committee

Report

Senator McKIERNAN (Western Australia) (4.14 p.m.)—On behalf of the Joint Standing Committee on Migration, I present a report of the committee entitled Not the Hilton: immigration detention centres—inspection report.

Ordered that the report be printed.

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

Leave granted.

Senator McKIERNAN—I move:

That the Senate take note of the report.

I seek leave to have the tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

Madam President, the Joint Standing Committee on Migration has a responsibility to Parliament to monitor the immigration and multicultural affairs portfolio. This responsibility extends to inspecting and monitoring detention centres established under the Migration Act.

During its latest Inquiry the Committee inspected one of the “people smuggling” boats. It also witnessed a boat with suspected unlawful non-citizens on board being towed to a detention site by the Royal Australian Navy and the subsequent processing of the passengers.

Committee members were therefore able to see for themselves the conditions under which the “boat people” had arrived and to appreciate the labour-intensive nature of the initial arrival processing.

The Committee did not formally meet with or talk to people detained at centres under the Migration Act. It is important to note that the report focuses on the infrastructure and services at each of the detention establishments.

The Committee’s report covers management, staffing and security at the centres. It also examines the physical amenities and interpreting, health, education, recreation and cultural services available to the detainees.

The Committee’s inspections took place from November 1999 to May 2000. During this time
increasing numbers of people were arriving illegally on Australian territory by boat. In the year just past a record total of 4174 people had arrived in this way, compared with 3071 in the previous five years.

The Committee visited the new centres established at Curtin and Woomera to accommodate the increased numbers of arrivals. In addition it inspected the facility on Christmas Island used to accommodate such illegal arrivals temporarily prior to their transfer to other mainland centres.

On the mainland the Committee also inspected Maribyrnong, Perth, Port Hedland and Villawood. These are permanent, long-established and relatively large premises which the Committee had previously visited and reported on in 1998.

At Darwin and Broome the Committee inspected the arrangements for the accommodation of small numbers of illegal fishers, held temporarily under the Migration Act.

The diversity of the detention centres meant that the Committee’s recommendations are equally diverse.

At both Woomera and Curtin the Committee considered that there had been a creditable response to the demands of establishing new centres in isolated areas. At the time of the Committee’s visits it considered that the medical facilities should be expanded at both sites.

Christmas Island does not receive many illegal entrants. However, prior to their transfer to the mainland, their presence can have a considerable impact on the limited resources of the small local community. The Committee has recommended that stocks of equipment be established to cushion the demands made on the Island’s resources.

At Maribyrnong the Committee recommended that the perimeter security should be upgraded, so that the recreational areas could be re-opened and thus ease pressure on the other communal areas.

Perth detention centre is small, and was considered to be overcrowded. The Committee therefore recommends that it be used only for short-term detention, and that there should be more toilet and washing facilities.

At Port Hedland the influx of “boat people” had brought it close to capacity, but the Committee did not consider it overcrowded. The Committee recommended that the centre be better screened to minimise photographic intrusion on the detainees’ privacy.

Upgrading of Villawood had been announced when the Committee last visited in 1998. The Committee noted that this had not yet occurred. In view of the volatility in the numbers of illegal arrivals, the Committee recommends that the redevelopment of Villawood detention centre proceed.

At Darwin and Broome the Australian Fisheries Management Authority (AFMA) uses the provisions of the migration legislation to detain fishers who have infringed Australia’s borders. The range and nature of facilities provided is therefore different from the other centres which the Committee inspected. The committee was concerned with the standard of the facilities and the poor security at the centres.

In Darwin the detained fishers remain on their boats, which are moored in a quarantine area in the harbour. The Committee inspected the site of a proposed on-shore facility. The Committee notes that the facility proposed would not be suitable for the detention of suspected unlawful non-citizens.

At Broome there are some on-shore facilities, but the Committee was told that the fishers prefer to remain on their boats, and are permitted to do so. The Committee was concerned about the obvious safety risks from incomplete structures at the site. It recommended that this issue be addressed immediately and that DIMA and AFMA monitor the operation more closely. In the longer term, the Committee recommended that AFMA examine the desirability of a new facility at Broome, and assess the costs and benefits of centralising the Darwin and Broome detention centres.

Madam President, although each of the detention centres was unique, the Committee was able to reach some broad conclusions in the course of its inspections.

Overall, the Committee found that:

- the detention administration is appropriate and professional;
- the facilities provided for the detainees are adequate; and
- the cultural sensitivities of the detainees are being accommodated.

In short Australia is taking seriously its responsibilities for those in its care.

Madam President, I commend this report to the Senate.

Senator McKIERNAN—The report that we have just tabled in this place, which was earlier tabled in the other place, is a very useful and pertinent report but, regrettably, it is somewhat dated. The inspections occurred in November last year at the detention centres located in Perth, Port Hedland, Curtin, Willie Creek and Darwin. That was some nine
months ago. The inspections at Woomera, Villawood and Maribyrnong occurred over six months ago, in January and February of this year. The effluxion of time has dated the content of the report, but events that have occurred have also dated the content of the report. I do not say this in a critical sense. I am a member of the committee, and I endorse the content of the report and the recommendations contained in it. Nonetheless, it is a factor that a number of events have occurred since the committee collected its evidence to put into the report which have, regrettably and unfortunately, dated it prior to its presentation in this place.

I refer particularly to events such as the break-outs and escapes that occurred in June this year from Woomera, from Port Hedland and from Curtin. All of those escapes and break-outs were contained at the time—although the Woomera break-out went on for some days, with quite a deal of media attention attracted to it. The break-outs that occurred in my home state of Western Australia, at Curtin and at Port Hedland, were contained a lot earlier than the events at Woomera. I figure the location of the centres contributed to this. There was some concern about the break-out from Port Hedland, but one can only commend the authorities in Port Hedland—the persons in charge of security at the detention centre, ACM, and the local police force—and the others involved in containing it. The detention centre is in a residential centre of Port Hedland, and all of the individuals who escaped from detention were contained and were brought back into detention in quite a short period of time. Similarly, at Curtin—although it is a more remote and isolated area—the escapees were returned to detention in a very short period of time. Some injuries occurred during those break-outs, which is a matter of great regret.

Another event that has occurred since the collecting of information for the committee’s report is the presentation of a report from the Human Rights and Equal Opportunity Commission—that is, their report No. 10, Report of an inquiry into complaints of acts or practices inconsistent with or contrary to human rights in an immigration detention centre. I spoke about this matter in this place on Thursday of last week, and I refer persons to that speech. I want to raise the issue of the riots that occurred two weeks ago at the Woomera Detention Centre—riots and happenings that I had hoped we would never see in Australia. We have seen that the authorities used water cannon, and we have heard reports that tear gas was also used to contain the detainees. We have also seen graphic pictures on our television screens of smoke billowing from the detention centre at Woomera, with a number of buildings in that facility being destroyed by a fire which, we are told, was wilfully lit.

There have been many suggestions as to the reasons for the events that occurred at Woomera two weeks ago. I am not one of those who will conjecture about it because, quite frankly, I do not know who the persons were who were involved in the riots. A number of people have been taken into further detention—brought to Adelaide and held there—and have been charged with crimes associated with the events that we have seen so graphically portrayed in our media. I do not know who the individuals were, although we are told by the minister that the main instigators of the riot were people who had failed in their application for refugee status in this country and, because of that, they were frustrated, and they were taking their frustration out on the facilities at the Woomera range. I do not know that for a fact. Others have suggested that it was because of the lengthy periods of detention that the individuals were subjected to and the lengthy periods of time it took to process their applications. Again, I do not know whether this is true.

If ever there were a need for an inquiry into happenings in detention centres in Australia, that was the catalyst for it at Woomera some two weeks ago. There should have been an independent inquiry into what occurred at Woomera. From my point of view, Woomera is the least attractive of any of the detention centres the committee visited—not that any of the detention centres are particularly attractive; nor, perhaps, should they be. As I have said in this place previously, I stayed in the facility at Port Hedland before it became a detention centre—when it was used as sin-
gle men’s quarters for the Mount Newman Mining Co. some years ago. It has been a detention centre for a number of years now. There are a number of repercussions from what occurred at Woomera last week—and, indeed, from the earlier break-outs. They can be, in part, summed up by an editorial that appeared in the *West Australian* on Monday, 12 June 2000. This editorial was in relation to the break-outs that occurred locally, but it is also pertinent to the riots that occurred at Woomera. One paragraph from the editorial states:

Two significant conclusions can be drawn from the mass break-outs of boat people from detention centres in South Australia and WA.

One is that they clearly were misinformed about what to expect when they got to Australia. The other is that they have no idea of the level of resentment among Australians of breaches of the nation’s sovereignty by interlopers.

That latter part needs to be reflected upon by the detainees themselves and, more importantly, by their supporters outside in the community. After all, if people are going to suffer and be convicted as a result of the events in Woomera last week, it will be the individuals inside. It will not be the likes of Ian Rintoul, a spokesman for the Refugee Action Collective, who was quoted in the Australian Associated Press statement of Friday 1 September. Mr Rintoul is quoted as saying:

We wholeheartedly support and understand why this happened as refugees have been denied their rights in every way. There is no other way to make their voices heard and we are here to tell Ruddock that he’s going to continue to see riots in detention centres and protests on the streets.

I do not know how Mr Rintoul gets the information he is able to quote in that fashion. I think it is very unfortunate that an individual such as this is giving support to a continuation of rioting—rioting which damages Australian property. The damage that occurred was to items Australian taxpayers paid for, and the cost of it is said to be in the region of $1 million. It has also deprived many of the other detainees in that centre of the facilities that they want to enjoy: the mess hall for eating in, the schools where the children went for their education and other facilities in the place. By going on the rampage that they did, they were actually damaging their fellow detainees, including the children. As I understand it, the building that is used for the schools was also damaged.

Another individual quoted in the same statement said that the detention centres were like Nazi camps. The individual who made that remark has never seen a Nazi camp. I have, and I have seen all of the centres in Australia. There is no comparison between the conditions of Australian detention facilities and what were Nazi detention centres in the other part of the world. I hope that there will be a full and detailed inquiry into the events of Woomera and that the truth will out. (*Time expired*)

Question resolved in the affirmative.

Membership

The ACTING DEPUTY PRESIDENT (Senator Knowles)—The President has received a letter from a party leader seeking variations to the memberships of committees.

Motion (by Senator Ellison)—by leave—agreed to:

Economics Legislation Committees—
- Discharged: Senator Greig as a substitute member.
- Substitute member: Senator Allison to replace Senator Murray for matters relating to resources.

Economics References Committee—
- Discharged: Senator Greig as a substitute member.
- Substitute member: Senator Allison to replace Senator Ridgeway for matters relating to resources.

**AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (No. 1) 2000**

**VETERANS’ AFFAIRS LEGISLATION AMENDMENT (BUDGET MEASURES) BILL 2000**

First Reading

Bills received from the House of Representatives.

Senator ELLISON (Western Australia—Special Minister of State) (4.27 p.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been ad-
journed, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator ELLISON (Western Australia—Special Minister of State) (4.27 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT BILL (No. 1) 2000

The purpose of this Bill is to amend the Quarantine Act 1908 and the Australian Wine and Brandy Corporation Act 1980.

A new Part VA will be introduced into the Quarantine Act 1908 to cater for the use of a computerised system for the quarantine clearance of imported goods.

The Government, in its Response to the report, Australian Quarantine: A Shared Responsibility, accepted recommendation 63 of the report which proposed the development and increased use of electronic information systems to speed the clearance of cargo, subject to the development of satisfactory quality assurance systems and audit procedures.

The Australian Quarantine and Inspection Service (AQIS) has made considerable advances in the development of a computer based system for the quarantine clearance of imported goods.

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The amendments recognise that quarantinable pests and quarantinable diseases may themselves be matters of quarantine concern by amending sections 18, 35, 48AB and 66AA of the Act. At present the Act only recognises the risk arising from goods infected with a quarantinable pest or a quarantinable disease. The amendments confirm that for the purposes of section 46A of the Act, offences against the laws of a State or Territory (in addition to offences against the laws of the Commonwealth) may be relevant to a person’s suitability to manage a place where goods subject to quarantine may be treated or otherwise dealt with.

The amendments also allow for directions to be given to the person in control of a vehicle under section 48AB of the Act. The present situation, that directions may only be given to the owner, is impractical as the person in control of the vehicle may not be the owner and searching for the owner could interfere with the timely and efficient management of the quarantine risk.

The amendments also clarify that arrangements with persons under section 46A and 66B of the Act may extend to the performance of certain quarantine activities in respect of vessels.

The amendments allow seizure notices to be given to consignees under section 68 of the Act. At present the notice of seizure must be given to the importer. However, particularly in the case of mail items, the only person with any interest in the item in Australia may be the person to whom the item is addressed. In practice, this person (the consignee) is not always the importer. This amendment will ensure that the requirements of section 68 are satisfied by the giving notice of the seizure to the consignee.
The amendments to the Australian Wine and Brandy Corporation Act 1980 are to address inconsistencies between the voting arrangements for payers of the wine grapes levy and payers of the wine export charge at the Australian Wine and Brandy Corporation’s Annual General Meeting. These inconsistencies arose in 1997 when the wine export charge was introduced and inadvertently not all relevant sections of the Australian Wine and Brandy Corporation Act were amended at that time.

The repeal of Section 29Z and amendments to subparagraph 46(1)(a) allow rules on voting arrangements to be made by regulation.

It has always been the intention that the payers of the wine export charge have the same voting rights at Annual General Meetings as the payers of the wine grapes levy. These amendments will ensure this occurs.

VETERANS’ AFFAIRS LEGISLATION AMENDMENT (BUDGET MEASURES) BILL 2000

Australia owes perhaps its greatest debt to the men and women who have served their nation and given their lives in times of war and conflict. This bill gives effect to a range of measures announced in the Budget as part of this Government’s commitment to honouring that debt.

It includes initiatives to respond to the findings of the Vietnam Veterans’ Health Study and to properly recognise the service of veterans in a number of conflicts and deployments in South East Asia.

The Vietnam Veterans’ Health Study found that Vietnam veterans and their children are more likely to have some adverse health conditions than the general population.

In response the Government has developed a range of treatment and support initiatives to meet the long term health needs of Vietnam veterans and their families.

The Department of Veterans’ Affairs will fast-track access to treatment for Vietnam veterans diagnosed as suffering major clinical depression and severe anxiety disorders. This will enable Vietnam veterans to receive help when it is needed, irrespective of whether the veteran has made a claim for pension or the outcome of any such claim.

Veterans’ partners will be given access to free psychiatric assessments. Until now, dependent partners have had access to counselling services, but not to psychiatric assessments. This initiative will ensure that partners have access to appropriate mental health assessment and counselling.

And, in recognition that the need for counselling does not end with the end of a relationship, access to counselling services will be extended to include former partners of Vietnam veterans for up to five years after the end of the relationship.

The tragic problem of suicide is one of the most important and most difficult issues facing Australia today.

The Vietnam Veterans’ Health Study indicated that the incidence of suicide among Vietnam veterans’ children is three times that found in the general community.

But, suicide is not only a Veterans’ Affairs issue – it is something that must be addressed through a coordinated approach by Federal, State and Local Governments working with the community.

Therefore, in addressing the findings of the Health Study, the Department of Veterans’ Affairs has extended the focus of its support programs, to bring them into line with the National Suicide Prevention Strategy and National Mental Health Strategy.

Access to counselling services will be extended to cover Vietnam veterans’ children up to their 36th birthday. Free psychiatric assessments will also be provided to these children until their 36th birthday to ensure they are referred to the most appropriate treatment and support.

Education and educational support have been shown to play a crucial role in suicide prevention. Therefore, the Repatriation Commission will extend eligibility for the Veterans’ Children Education Scheme to include Vietnam veterans’ children who are identified as vulnerable to self harm or suicide.

There are other important measures, not requiring legislative change, that substantially increase the number and range of programs directed at improving the health, in particular the mental health, of these veterans and their families. These include health promotion and other preventive strategies to address lifestyle illnesses, such as heart disease and alcohol abuse in veterans. Burial services will be provided to assist children to enter tertiary study. Additional group programs will address the needs of veterans and their families.

This bill also gives effect to the Government’s decision to rectify a series of anomalies affecting the service eligibility of certain veterans of conflicts in South East Asia between 1955 and 1975, following the review by Justice Robert Mohr.

The Government has decided to grant qualifying service to more than 2600 veterans of a number of conflicts, including the Malayan Emergency and the Indonesian Confrontation.
This means that they will be eligible to apply for full repatriation benefits, including the service pension.

An additional 1500 veterans will become eligible to apply for a disability pension in respect of their service aboard HMAS Sydney, Vampire, Parramatta and Yarra in Malaysian waters during the Indonesian Confrontation.

These extensions of qualifying service and operational service in this bill will align service in South-East Asia with the criteria of "warlike" and "non-warlike" service applied to modern Australian Defence Force deployments.

It will also change some dates of eligible service to align them with the dates of the actual operations.

In other areas of the Veterans' Affairs portfolio, this bill includes a change in the calculation of the fortnightly payment of the disability pension and war widow’s pension, to align the calculation of grants and increases with the service pension and other income support payments.

This bill also excludes ABSTUDY allowance payments from the income test for the service pension and other income support payments.

The veteran community deserves our greatest admiration, gratitude and assistance for their contribution to this nation. This Government is firmly committed to honouring their service and to ensuring that their needs are met.

Debate (on motion by Senator Ludwig) adjourned.

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

DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) LEGISLATION

Referral to Committee

Senator BROWN (Tasmania) (4.27 p.m.)—I move:

That the constitutional validity of the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 be referred to the Legal and Constitutional References Committee for inquiry and report by 11 October.

This is a very serious matter. This legislation has not been referred to this committee. It has been referred to the Foreign Affairs, Defence and Trade Legislation Committee and, in my scanning of that, the matter of constitutional validity was not canvassed. It certainly was not canvassed in any depth. I have acquainted the Senate with legal advice that has put a very big question mark indeed over the constitutional validity of this defence legislation.

I am of the understanding that the government and opposition will not support this motion, and I ask them to reconsider. I think this is a very grave matter. The time has gone for me to be able to get a committee to look at the constitutional validity of this bill, which gives the Commonwealth the ability to call out the armed forces against Australian civilians before the bill goes through the Senate, which it appears destined to do some time today or tomorrow. But the matter of its validity remains.

I put to the Senate that we should not allow this to move on with a question mark hanging over its head. I contend that this legislation is in defiance of the Constitution. I contend that this legislation is not within propriety when it comes to the Constitution or a proper reading of the Constitution, and I have the legal advice from barrister Gary Corr to back that up. I incorporated that advice into Hansard during this morning’s debate, and I have had nobody come back and say this is invalid. If the government has advice to the contrary, let us see it. But then we are left with a position of dispute as to the constitutional validity of this epoch-making legislation. We should be ensuring that the proper Senate committee looks at the legislation, gets a determination as to whether or not it is constitutionally valid and then reports back to the Senate.

I put this to the Senate: what if my advice is correct? What if we have—here in this legislation for the call out of the Army at the behest of Commonwealth politicians in the future—legislation which goes outside the bounds of the Constitution, whether you are looking at section 51 or at section 119? If we do not discover that now, we leave it to some future time when our inheritors, as elected representatives of parliament, do call out the armed services to discover that they have acted unconstitutionally and that this parliament now has acted unconstitutionally—in a situation which is almost beyond imagine-
tion, where Australian troops have fired upon
Australian civilians for the first time in our
nation’s history.

I judge this matter, as I said, as most
grave. The government and the opposition
may say, ‘Your advice is wrong.’ They have
not said that, but they may do so in the
course of this debate. Even then, surely pro-
priety says, prudence says, that we should
have the matter looked at, and we should
send it to the Senate Legal and Constitutional
Affairs References Committee, as in my mo-
tion, to report back in October as to whether
this advice is wrong or right. With any
luck—and, I believe, just fair sailing—noth-
ing untoward will have happened in the
meantime, and we will be able to put it to
right, if Mr Corr’s advice is correct.

But to leave this matter hang in the face of
that advice is not a proper way for us as a
Senate to proceed. We should not be doing it.
We should be remembering that it is not Mr
Corr that stands alone in this matter, that
these misgivings about the constitutionality
of this legislation were flagged to the previ-
ous Senate inquiry by the New South Wales
government and the Victorian government,
and the matter has not been clarified. We
have here not just the opportunity but an ob-
ligation to clarify the matter, an obligation
because we want to ensure that as a parlia-
ment we do stay within the Constitution. We
want to ensure, moreover, that we do not find
ourselves opening the way to some future
unconstitutional act through legislation which
is not valid.

I do not bring this matter lightly before the
Senate. For the third time I say that this is an
extremely serious matter. I cannot under-
stand, if that is the case, why the opposition
does not support this motion, does not block
the bill, cannot block the bill. But it does say
that there is a doubt about constitutional
matters in the bill. Let us, as responsible
senators, put that doubt to the test, absolve
ourselves of that doubt when next we come
back into this place after the Olympics and
the Paralympics.

I do not have anything more to say on this.
The case is very clear. I believe it is an un-
questionable case of acting with propriety
about the way in which we honour and re-
main true to the Constitution in passing leg-
islation which at its heart is very much about
that historic balance between state and
Commonwealth powers that the Constitution
itself is the arbiter of. I ask both the govern-
ment and the opposition to consider this
matter with utmost care. I ask them to sup-
port this motion. I ask: what harm can be
done in supporting this motion? And I point
out that potentially grave harm can be done
by not supporting it and choosing instead the
course of studied ignorance.

Senator BOURNE (New South Wales)
(4.36 p.m.)—The Democrats will be sup-
porting Senator Brown’s motion. I must say I
agree with pretty well everything he has just
said. The last committee that looked at this
bill did not specifically look at its constitu-
tionality, so they could not find whether or
not it was constitutional. It would be a great
pity if we were to find, once action had been
taken specifically under the amendments
brought in by this bill, that the bill itself was
unconstitutional. No harm can be done by
doing at this; no harm can be done by de-
termining whether or not this bill is constitu-
tional. Even if it passes today or tomorrow,
there is still no harm in a committee looking
at this. In fact it would then probably be more
to the point and more urgent that a committee
look at whether or not this is constitutional.
We will certainly be supporting that.

We lost today the idea of a sunset clause in
the bill. We were told that, if the sunset
clause were agreed to, we would be back to
1903—that is, we would be back to where we
are now. We were there in 1903 and we have
been there ever since—we are still there now.
So we do not see a problem with us being in
the same situation in which we were in 1903.
Despite that, I checked with the library and
the Scrutiny of Bills Committee and nobody
in either of those places could remember a
time when a bill which had had a sunset
clause in it had reverted to the original. Every
government always brings up a bill to replace
the bill that has the sunset clause in it, and
they bring it up in time for there to be some-
thing else in place. It was a real pity that
amendment did not go through earlier. De-
spite that, we think the bill probably will go
through in the next day or so. But it is almost
essential that we look at its constitutionality
and I think this is probably the best way of
doing it. We are going to have to do this
sooner or later anyway, even if it is a depart-
mental thing, and it is much better if we do it
like this. So we will be supporting this mo-
tion.

Senator HARRIS (Queensland) (4.39
p.m.)—I also rise to speak in support of
Senator Brown’s motion that the bill be re-
ferred to the Senate Legal and Constitutional
References Committee. As late as four days
ago in the upper house of the New South
Wales parliament, in answering a question
regarding the defence bill that we are debat-
ing here today, the leader of the government,
in reply, said:

As I indicated yesterday, I have only recently be-
come aware of the legislation and that this state
and other states have some concerns about it.

So just four days ago the leader of the gov-
ernment in the upper house of New South
Wales said they have concerns about the bill.
If we look at the Constitution itself—and that
is what this motion is being based on—in
essence the federal government can claim no
power not granted to it by the Constitution.

Powers actually granted must be such as are
given expressly or by necessary implication.
In other words, the only powers that the
Commonwealth government can assume are
expressly or necessarily implicated powers.
They must be clear and defined. The instru-
ment also has to be reasonably constructed
according to the import of its terms—in other
words, it must be clear and concise—and,
where a power is expressly given in general
terms, it is not to be confined to particular
cases. So if the Constitution expressly im-
plies that a power is for a specific purpose,
that power cannot be used in another area. I
believe that the necessity for this bill to go
before the Senate Legal and Constitutional
References Committee is proper and correct.

There are too many questions relating to this
bill and its constitutional head of power. We
will accordingly support Senator Brown’s
motion for the reference of this bill to that
committee.

Senator ELLISON (Western Australia—
Special Minister of State) (4.42 p.m.)—The
government opposes the motion proposed by
Senator Brown. It has advice from the So-
llicitor-General that this proposed legislation
is constitutional and it does not agree with
the opinion put forward by Senator Brown.
The Solicitor-General has stated that he is in
no doubt that the incidental power of the par-
liament under section 51(xxxix) of the Con-
stitution to legislate for the use of the De-
fence Force to protect Commonwealth prop-
erty or Commonwealth interests covers this.
It is also clearly within the individual powers
of the parliament under other provisions of
section 51 to legislate for the use of the De-
fence Force to protect interests covered by
those provisions. The Solicitor-General has
advised that the bill is constitutionally valid.
There is no uncertainty in relation to it. The
government therefore opposes the motion
proposed by Senator Brown, which in any
event would delay the passage of this impor-
tant bill. It is needed to remedy the current
situation and, importantly, it is needed for the
onset of the Olympic Games, which ap-
proaches us in next fortnight.

Senator FAULKNER (New South
Wales—Leader of the Opposition in the Sen-
ate) (4.44 p.m.)—On behalf of the opposition,
I wish to indicate that the opposition will not
be supporting the reference of this matter,
standing in Senator Brown’s name, to the
Senate Legal and Constitutional References
Committee. I must say that, in relation to the
general question of a committee reference, I
think Senator Brown is pretty late off the
mark. We have had a situation where there
has been a great deal of commentary in the
media about this bill. There certainly has
been a lot of discussion in the general com-
community about this legislation. I do think that
is, in large measure, due to the fact that the
opposition took the initiative to ensure that
attention was drawn to it. It was the opposi-
tion that first publicly raised concerns about
the bill, and that was at least a fortnight be-
fore the first media reports occurred on those
matters. Labor were first to issue press re-
leases noting concerns with the bill that we
were keen to see the Senate committee sys-
tem investigate and report upon. I think it is
fair to say that was long before we heard
from Senator Brown on this issue. It was the
opposition that sought, successfully, to have a
Senate inquiry into this bill so that the sorts
of concerns we had could be investigated and so that recommendations could be made to improve the bill we are currently debating in the chamber. I think it is fair to say that it was at that time that we should have had this debate. It was at that time that we should have talked about which Senate committee could deal with the bill, the appropriateness of that, and what matters could be dealt with by the Senate committee system.

It is the opposition that has recognised that currently there is no protection of civil liberties or proper processes to ensure that the Commonwealth does not abuse the very broad constitutional powers that it has in relation to the call-out of Australian defence forces. The Senate has now been engaged in debating this matter for quite some time. I think it is fair to say that it is the opposition that has taken the responsible approach of ensuring that any abuse in the future by a Commonwealth government in using these powers is prevented. I acknowledge that others are very concerned about those issues, and we heard from a number of them during the committee stage debate. I would be the first to say that those concerns are genuinely held. But certainly the opposition has moved key amendments to the bill to ensure that civil liberties are protected.

I must say that the opposition has not got massive concerns about the Commonwealth power to legislate for the call-out of Commonwealth troops under section 51(39) of the Constitution in order to protect Commonwealth interests. I think that there is ample material available on the public record which confirms that the bill is constitutional. Senator Brown tells us that this may be tested at some later stage—which can be the case with legislation that passes the parliament, as all senators would be aware. Earlier in the committee stage debate I heard Senator Harris read an extract from Quick and Garran which confirmed the Commonwealth’s capacity to protect its own interest. I hear what the minister says about the advice of the Solicitor-General. I understand the minister to have said that the Solicitor-General has considered this particular issue. Is that correct, Minister? I think that the minister at the table has indicated that and has provided advice that section 51A is constitutionally valid and not void because of uncertainty. The opposition has no reason not to accept that advice that has been provided. The government might consider that, in these circumstances—although it is not always the case—it may be useful to table that advice. That may go some way to assuring Senator Brown on the issue that he raises. I hope the minister will give some consideration to that, if formal advice is available, particularly given that earlier in today’s proceedings of the Senate committee Senator Brown incorporated in Hansard some advice from senior counsel on this particular question.

I do think that the problem the Senate faces here is that a Senate committee has already inquired into this particular bill. It is always a bit difficult if you decide to come back for a second bite at the cherry after a committee has dealt with legislation in accordance with the forms of the chamber. That report is, I think, an important one, because by and large the recommendations of that committee are likely to be picked up by the committee of the whole, which indicates, I think, the thoroughness and the efficacy with which the Senate committee dealt with these particular matters. I say to Senator Brown, through the chair, that it is a very significant departure from normal practice, in circumstances where a Senate committee has inquired into the provisions of a bill, to have a second hearing.

The opposition understand and appreciate the government’s imperatives in terms of the Olympic and Paralympic Games, but we also accept that if we are going to do this then we ought to get it right. I believe that is even more important in the context of the opposition not supporting an amendment for a sunset clause in the bill. They are the considerations that, as far as the opposition are concerned, are before us on this matter. That is the balance we have to bring to any judgment on this question before the chair.

I think in this circumstance that the forms of the chamber should prevail and that one thorough Senate committee inquiry into a bill is adequate. I think it is too late in the day to have another committee hearing into matters, however important they might be. I say to
Senator Brown through the chair that there is an opportunity to explore these issues in the committee of the whole and I suspect, given what has occurred over recent hours and days, that he is likely to do that. He is entitled to do that so that he is satisfied on these questions. I do not in any sense criticise Senator Brown’s intention and serious commitment in bringing these matters to the attention of the Senate. But the decision for the Senate in these circumstances is whether such a course of action to have another Senate committee inquiry will effectively be tantamount to a delay in finalising this legislation on the eve of some important international events that will be taking place in this country.

As far as the opposition is concerned, we have properly identified the weaknesses with the current situation, and that is what we continue to stress in debate on this particular issue. We are dissatisfied with the current arrangements. The status quo is not satisfactory and is not adequate as far as the Labor Party is concerned. Although we will not support the motion for this reference to the Legal and Constitutional References Committee, we are certainly happy to listen to the debate as it progresses in the committee stage and argue as strongly and as persuasively as we can the position that the opposition has taken on this matter from day one.

Senator BROWN (Tasmania) (4.55 p.m.)—I thank senators for their contribution, but how disappointing it is. I made it clear in introducing this debate that this motion would not delay the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000. The legislation will be going through this week—I understand that—because the government and opposition have the power of numbers there. But, notwithstanding that, I believed it was extremely important and prudent that, over the coming months, the constitutional validity of this legislation be tested, not least because it was a Labor Attorney-General from New South Wales who suggested to the committee that looked into this matter that the ‘legislation broadens the scope of the Commonwealth’s power in a manner which gives rise to doubts about its constitutional basis.’ The Labor Party says, ‘Well, we now know the government has got an opinion from the Solicitor-General.’ Is this not the Solicitor-General that the Labor Party has repeatedly criticised and found wanting in judgment on other legal matters?

Senator Faulkner—Did you hear that I suggest it be tabled?

Senator BROWN—The Labor Party says, ‘Well, that is available now.’—

Senator Faulkner—It is not available.

Senator BROWN—‘through the government, and we may see it tabled. That is okay by us.’ It is not okay by me. When the previous committee brought its findings into this place, it did not have the benefit of the Solicitor-General’s opinion.

Senator Faulkner—So you don’t want to see that?

Senator BROWN—I do want to see that advice—the Labor Party is in a hole over this, in a mess over it—but the Labor Party is effectively closing the door on the avenue to seeing that advice, which is to support this motion, because Labor is unconscionably weak on this matter. It should be taking the position I am taking on this, but it is not. Even when we get to the position of clearing the air about the constitutional validity, Labor says, ‘No, too late. We made a decision on that when we didn’t have the information. Now the information is available, we’re going to press ahead regardless of what that information is.’ What an argument for the Labor Party in opposition to bring forward into this chamber! It is not valid; it is not right; it is way short of the mark; and the government itself ought to be accepting this motion of mine.

I am not saying that committee will make a determination one way or the other. I am saying there are very real and important arguments to be settled about the constitutional validity, and those arguments have not been resolved by either the findings of the Senate Foreign Affairs, Defence and Trade Legislation Committee or by the deliberation in this house. We cannot get that resolution without expert advice. I have come in here with a reasonable proposition to the Senate, knowing that the bill is going to go through: that
is, let us in the calm after the debate about the bill determine the matter of constitutional validity. The opposition joins the government and says, ‘No, we won’t support that determination being made.’ That is compliance, not opposition. I believe it is muddle-headed at best. I do not believe the opposition has taken a serious look at the potential consequences of this legislation—and the constitutional consequences—or it would be taking a far more forward looking position in support of this motion.

Well, so be it. A question mark hangs over this legislation and its employ. If, God forbid, it is employed in the future against Australian citizens, then the matter may be resolved in the High Court but it will be too late, I submit—too late because members in this chamber have not taken it seriously enough now. Here is the opportunity to clear the air on this matter, but that opportunity is not being allowed. I think this is a pretty poor day for the proceedings of this place, and I do not think the opposition has taken the role it should in this matter.

Question put:
That the motion (Senator Brown’s) be agreed to.

The Senate divided. [5.05 p.m.]
(The President—Senator the Hon. Margaret Reid)

Ayes………… 10
Noes………… 47
Majority…….. 37

AYES
Allison, L.F.
Bourne, V.W. *
Greig, B.
Murray, A.J.M.
Stott Despoja, N.
Ludwig, J.W. *
Macdonald, J.A.L.
Mason, B.J.
McKernan, J.P.
Murphy, S.M.
Patterson, K.C.
Ray, R.F.
Schacht, C.C.
Tchen, T.
Vanstone, A.E.
West, S.M.

NOES
Bishop, T.M.
Brandis, G.H.
Campbell, G.
Chapman, H.G.P.
Conroy, S.M.
Cooman, H.L.
Crane, A.W.
Crowley, R.A.
Eggleston, A.
Evans, C.V.
Gibson, B.F.
Hogg, J.I.
Knowles, S.C.
Lundy, K.A.
Mackay, S.M.
McGauran, J.J.J.
McLucas, J.E.
O’Brien, K.W.K.
Payne, M.A.
Reid, M.E.
Sherry, N.J.
Tierney, J.W.
Watson, J.O.W.

* denotes teller

Question so resolved in the negative.

INTERACTIVE GAMBLING (MORATORIUM) BILL 2000

Report of the Environment, Information Technology and the Arts Legislation Committee

Senator CALVERT (Tasmania) (5.09 p.m.)—On behalf of Senator Eggleston, I present the report of the Environment, Communications, Information Technology and the Arts Legislation Committee on the Interactive Gambling (Moratorium) Bill 2000, together with the Hansard record of the committee’s proceedings, documents and submissions received by the committee.

Ordered that the report be printed.

Senator Lundy—I wanted to make some comments to the Labor senators’ minority report.

The PRESIDENT—It is not normal to debate a bill at this stage under the Selection of Bills report.

DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2000

In Committee

Consideration resumed.

The TEMPORARY CHAIRMAN (Senator George Campbell)—The committee is considering Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 and the amendment moved by Senator Brown, Australian Greens No. 2 on sheet 1894.

Senator BOURNE (New South Wales) (5.11 p.m.)—The Democrats will be voting for this amendment because we see any tighter definition of ‘domestic interests’ as being a plus and a step forward with the bill.
Even though this is still a pretty loose definition, it is better than what we have already. So we will be agreeing with Senator Brown on this amendment.

Senator HARRIS (Queensland) (5.12 p.m.)—Prior to question time, I made reference to the Acts Interpretation Act 1901. I would like to return to that and expand on section 15AB, which clearly refers to the use of extrinsic material in the interpretation of an act. It goes on to say:
Subject to subsection (3), in the interpretation of a provision of an Act, if any material not forming part of the Act is capable of assisting in the ascer
certainment of the meaning of the provision, con
sideration may be given to that material:
It goes further under section 1(b) to say:
to determine the meaning of the provision when:
(i) the provision is ambiguous or obscure; or—
and this was the issue I raised earlier in the day—
(ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act leads to a result that is manifestly absurd or is unreasonable.
The act then goes on to clearly define what sections of an act or what extrinsic material can be used. It states:
(a) all matters not forming part of the Act that are set out in the document containing the text of the Act as printed ...
(b) any relevant report of a Royal Commission, Law Reform Commission ...
(c) any relevant report of a committee of the Par
liament or of either House of the Parliament that was made to the Parliament or that House of the Parliament before the time when the provision was enacted; ... ...
(f) the speech made to a House of the Parliament by a Minister on the occasion of the moving by that Minister of a motion that the Bill containing the provision be read a second time in that House;
My reason for raising this in the context of the debate pertaining to definitions is that I believe that the definitions in this act are, as Senator Brown has so clearly set out, at best ambiguous and at worst obscure. We have a history of situations where acts are not clearly defined and where there are different opinions in the community, in both houses of parliament and also in the judiciary. One only has to look at the Native Title Act as an example. In relation to extrinsic material, the leader of the government’s second reading speech that was incorporated refers to a section pertaining to the validity of extinguishing native title. The previous Prime Minister, Paul Keating, made the following statement:
Only validated freehold grants, residential, commer
cial and pastoral or agricultural leases, and validated Crown actions basically involving per
manent public works, will extinguish native title.
So we have a statement by a previous Prime Minister on a bill that would have left the Australian people with the greatest dilemma in not being able to ascertain how an act was to be interpreted and applied. I believe the defence bill we have before us at this point in time is of a similar construction. It has the ability in the future to create the same uncer
ty because of the lack of definitions. In the report from the foreign affairs committee at section 1.66, we see that the New South Wales government also had concerns about definitions. I quote:
The New South Wales government expresses con
cern about the term ‘likely to occur’.
This phrase ‘likely to occur’ is an issue that has not been raised in this debate to any ex	ent whatsoever. Is that defined? No, it is not. Regarding section 51A, the New South Wales government went on to say:
The authorising ministers are to be satisfied that domestic violence is occurring or is likely to occur in Australia before they can make an order for calling out the defence forces.
We do not even have to have an actual situation where somebody is in danger or where there is domestic violence. Under this bill with the definitions that we have at the mo
ment, the Governor-General can call out the Australian Defence Force on something that is ‘likely to occur’. So I support very strongly the Greens amendment.

In the Bills Digest, another section refers to ‘lawful protest or dissent’. Again, we have no definition of ‘lawful protest or dissent’ in the bill. In supporting the Brown amendment, which helps to define domestic violence in a more certain manner, I ask the minister, through you, Mr Temporary Chairman, whether the references to ‘lawful protest or dissent’ can actually be defined and added
into either the bill or the regulations and whether the reference to ‘likely to occur’ can also be defined and added to the bill or the regulations.

Senator ELLISON (Western Australia—Special Minister of State) (5.20 p.m.)—Through the Temporary Chairman to Senator Harris, I simply say that the words are capable of the ordinary meaning. The committee which considered this was of a similar view—that the terms were appropriate and that there was no need to expand on them.

Senator BROWN (Tasmania) (5.20 p.m.)—Can the minister give us a rendition of what the ordinary meaning of domestic violence is?

Senator Faulkner—You mean definition, don’t you? I don’t want to hear one of his renditions!

Senator ELLISON (Western Australia—Special Minister of State) (5.21 p.m.)—Nor do I want to give one! In relation to domestic violence, I have answered previously. I was answering the other part of Senator Harris’s question in relation to ‘likely to occur’. We rely on the ordinary meaning attributable to that. I ask Senator Harris, through the Temporary Chairman, to look at the committee report which dealt with that and to see the comment made by the committee, which the government would concur with.

Senator WOODLEY (Queensland) (5.21 p.m.)—I want to speak on this and give reasons for the Democrats supporting this particular amendment of Senator Brown. In addressing the issue of a definition of domestic violence, let me say that we are not debating semantics here. It is not simply that this is an issue of whether it should be defined more carefully in words. There are some critical issues that hang off the whole definition of domestic violence and off the whole of this bill.

I am not going to speak for very long, but I want to put on the record some work done by a person in Brisbane who has for many years been a researcher in defence issues and peace issues. His name is David Fisher. He has drawn to my attention a number of historical precedents and historical issues that arise out of this whole issue of definition. The first issue to be considered is that any army, in defending a nation—and, after all, that is its role; or at least that is what we believe to be its normal role—needs to be trained in order to kill an enemy. While there are some soldiers who can do this automatically, most soldiers in fact have to be trained to do that. Having had some military training myself, I am aware of that and of how that takes place. The problem is, however, that, in training an army to kill the enemy, if ‘enemy’ is identified as ‘neighbour’ or as ‘fellow citizen’, this creates immense confusion for the soldiers in any army. No army can really afford for its soldiers to become sensitised by contact with citizens.

There are many historical examples of this happening and confusing an army quite significantly. One example was the demoralisation of the German army during the Second World War: when they were asked to be involved in the extermination of Jews and others, many of the soldiers became completely demoralised and very confused—and we understand that that was the reason for the formation of the death squads to carry out that work. In the Hungarian revolution in 1956, Soviet soldiers who had been in Hungary for some time were unable to quell the revolution, and it was because of their contact with ordinary citizens. It was not until the Soviets brought in some new troops from, I believe, Mongolia that they were able to quell that revolution. In more recent times, in the events in Tiananmen Square about 10 years ago, the Chinese authorities had the same problem in trying to get the soldiers who had had contact with the students to carry out orders. It was not until they brought in a fresh batch of soldiers from outside of Beijing that they were able to carry out their murderous intent. So there is a confusion, in terms of definition, when we take the fundamental definition of the purpose of an army—which is to defend its own country and nation and, in order to do that, to learn to kill an enemy—when that enemy is identified as ‘fellow citizen’.

But there is another problem, and that is the primacy of civilian authority. In Australia, of course, we have always held to that as a fundamental part of our democracy. The
involvement of an army against its own citizens confuses completely the chain of command. There is, once you do this, the possibility of a coup. Once you put an army against a nation’s own citizens, the chain of command transfers from the civilian authority to the army, and that cuts across the civilian authority and causes great confusion about who it is that the soldiers should obey. The recent Fijian coup itself really illustrates how citizens can become confused about what is the nature of democracy and who is defending it. In that case, terrorists were seen to be the defenders of a particular kind of democracy—and, of course, that confusion remains and has still not been sorted out.

I do not want to delay the chamber, but I did want to put on the record this research which has been done. It is not research which is way out of left field; it is mainstream, and I pay tribute to the person who drew this research to my attention. In conclusion, one of the problems in any war is psychological stress in soldiers, and that stress is significantly escalated when they have to act against their own citizens. The only way that, in fact, they can act against their own citizens is if they are trained to be automatons—and Australian soldiers certainly are not that and never have been. Using soldiers against our own citizens makes them less effective as soldiers, because of the blurring of the function of having to defend the country or having to attack citizens. The army is trained essentially to defend the country, not to attack the citizens of their own country.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (5.27 p.m.)—Mr Temporary Chairman, I would indicate the opposition’s position on the amendment that is before the chair. The opposition will not be supporting this particular amendment. In fact, I am not convinced that by inserting this definition of domestic violence—or, if you like, by setting this benchmark for domestic violence—we will not have a situation where the benchmark will in fact be too low—lower than it has been set by convention for the last century. The term ‘significant armed violence’ is a very general one, and I am concerned that that would facilitate the Commonwealth being able to deploy troops in situations where they are not required and should not be used.

Senator Brown asked questions of the minister. I could equally ask what ‘significant armed violence’ actually means. I suspect that state police forces would probably tell you that they deal with significant armed violence frequently. But I have to say that, when they do, it is certainly not a scenario for the calling out of troops. The problem with an amendment like this is that you might have a situation where that could actually occur.

It is with that spirit I say to the committee that the opposition cannot support this particular amendment substituting a definition of ‘domestic violence’. It seems to me that, in many ways, this is pulling against the general thrust of many of those changes that Senator Brown has embraced in this particular bill. But, anyway, that is the position that the opposition will take, and we will vote accordingly.

Amendment not agreed to.

Senator Ellison (Western Australia—Special Minister of State) (5.30 p.m.)—by leave—I move government amendments Nos 2 and 5 on sheet DG223:

(2) Schedule 1, item 3, page 5 (after line 25), at the end of subsection (2), add:

Provided always that the Emergency Forces or the Reserve Forces shall not be called out or utilized in connexion with an industrial dispute.

(5) Schedule 1, item 4, page 9 (after line 21), at the end of subsection (2), add:

Provided always that the Emergency Forces or the Reserve Forces shall not be called out or utilized in connexion with an industrial dispute.

These amendments were canvassed in the Senate committee’s report. The committee recommended that the bill be amended by inserting the words ‘provided always that the Emergency Forces or the Reserve Forces shall not be called out or utilized in connexion with an industrial dispute’ to form a proviso to proposed subsections 51A(2) and 51C(2). These amendments extend those provisos to those subsections that I have mentioned and bring them into line with sec-
tion 51B. These are amendments that I think the committee canvassed well. It was a constructive suggestion by the committee, might I say, and I commend the amendments to the Senate.

Senator BROWN (Tasmania) (5.32 p.m.)—The amendments do not solve the problem—and here there will be a real test for Labor. I noted the comments on domestic violence. I think it is much better to try to define something than to leave it floating in the air for the determination of some misperforming politician further down the line. But here is the real test. The government and Labor are moving towards some sort of lowest common denominator of acceptance.

Senator Faulkner—That’s not right in Labor’s case. I cannot speak for anyone else.

Senator BROWN—That is how I see it, Senator Faulkner. But let me say this, through you, Chair: Senator Faulkner has said very, very determinedly that what the Labor Party stands for is to never see the troops brought out against Australians, and Australian workers in particular. There is only one way to fix that, and that is to say that the troops cannot be brought out against Australian protesters or Australian workers. But that is not what the Labor Party is going to do here. It is coming up with one of these indeterminate definitions that Senator Faulkner was just having a go at me about: a series of words that is wide open to definition because it is not able to be pinned down. Labor should call a spade a spade. Labor should back the Green amendments coming down the line. We are in this invidious position where there are very weak amendments coming from the government. But let me say to the rest of the committee that, despite the running sheet, it does not—even if the government amendments go through—prevent the committee from then considering the Green amendments, voting on those and hopefully endorsing them. I hope that is what the Labor Party will be doing.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.35 p.m.)—These particular government amendments are ones that the opposition will support. We believe that they are an improvement to the bill. They extend the restriction on the Commonwealth using emergency or reserve forces in industrial disputes, which is one of the amendments that were recommended in the Senate committee report—and, of course, we will also be supporting a similar amendment to clause 51C. These amendments will ensure that the current restriction in section 51 of the Defence Act is continued.

Perhaps I can say to the committee that we will be moving a separate amendment to section 51G of the bill to prevent any Defence Force personnel being used to stop or restrict protest, dissent, assembly or industrial action. I think there is a point in these committee debates when you should not continue to repeat yourself, so I will not, except to say, as I have said before, that this is an essential safeguard of civil liberties, and I commend that approach to the committee.

Senator BOURNE (New South Wales) (5.37 p.m.)—I rise to say that the Democrats will be supporting these amendments.

Amendments agreed to.

Senator BROWN (Tasmania) (5.37 p.m.)—by leave—I move Greens amendment Nos 4 and 8 on sheet 1894:

4) Schedule 1, item 3, page 5 (after line 25), at the end of subsection (2), add:

Provided always that the Defence Force shall not be called out or utilized in connexion with an industrial dispute.

8) Schedule 1, item 4, page 9 (after line 21), at the end of subsection (2), add:

Provided always that the Defence Force shall not be called out or utili-
ized in connexion with an industrial dispute.
These amendments put the matter beyond dispute. They could not be clearer. They cover reserves and the defence forces. They are in black and white, and they should be supported.

Senator BOURNE (New South Wales) (5.38 p.m.)—The Democrats will be supporting these amendments.

Question put:
That the amendments (Senator Brown’s) be agreed to.

The committee divided. [5.42 p.m.]

(The Chairman—Senator S.M. West)

Ayes............. 10
Noes............. 43
Majority........ 33

AYES
Allison, L.F. Bartlett, A.J.J.
Bourne, V.W * Brown, B.J.
Greig, B. Harris, L.
Murray, A.J.M. Ridgeway, A.D.
Stott Despoja, N. Woodley, J.

NOES
Bishop, T.M. Brandis, G.H.
Calvert, P.H * Campbell, G.
Carr, K.J. Chapman, H.G.P.
Collins, J.M.A. Cooney, B.C.
Crane, A.W. Crossin, P.M.
Denman, K.J. Eggleston, A.
Ellison, C.M. Evans, C.V.
Ferris, J.M. Forshaw, M.G.
Gibson, B.F. Heffernan, W.
Hogg, J.J. Hutchins, S.P.
Knowles, S.C. Ludwig, J.W.
Lundy, K.A. Macdonald, J.A.L.
Mackay, S.M. Mason, B.J.
McClauran, J.J. McKiernan, J.P.
McLucas, I.E. Murphy, S.M.
O’Brien, K.W.K. Patterson, K.C.
Payne, M.A. Ray, R.F.
Reid, M.E. Schacht, C.C.
Sherry, N.J. Tambling, G.E.
Tchen, T. Tierney, J.W.
Troeth, J.M. West, Watson, J.O.W.

* denotes teller

Question so resolved in the negative.

Senator BROWN (Tasmania) (5.46 p.m.)—by leave—I move Australian Greens amendments Nos 5, 7 and 9 on sheet 1894 together:

(5) Schedule 1, item 3, page 5 (after line 25), at the end of subsection (2), add:

And further provided always that the Defence Force shall not be called out against people who are engaging in peaceful protest or civil disobedience.

(7) Schedule 1, page 7 (after line 22), after item 3, insert:

3A After the proviso in former section 51
Insert:
And further provided always that the Defence Force shall not be called out against people who are engaging in peaceful protest or civil disobedience.

(9) Schedule 1, item 4, page 9 (after line 21) at the end of subsection (2), add:

And further provided always that the Defence Force shall not be called out against people who are engaging in peaceful protest or civil disobedience.

These are more crucial Greens amendments. Amendment No. 9 says that the defence forces ‘shall not be called out against people who are engaging in peaceful protest or civil disobedience’. Surely we are, here, at the heart of the matter. This says: ‘Let us not have lack of clarity, lack of definition or lack of direction through legislation in a matter so crucial as the use of Australia’s armed services against Australian civilians.’ Such a use is unconscionable. It goes against a century of this nation’s ideals and how it sees itself.

I find it incredible that we may not have the Labor Party supporting this amendment, for goodness sake. I find it remarkable that we could pass legislation which leaves the door open even a little, and which leaves it to the good offices of some future government that the troops will not be sent in to things like the Franklin blockade, which was illegal; Vietnam moratorium marches, which were illegal and—as some in power at the time thought—un-Australian; or an S11 protest. At least the government today said that it endorses the right of S11 demonstrations to proceed as a peaceful protest against the upcoming World Economic Forum. Surely, the amendments that say that the Australian defence forces shall not be used against Australians who are engaging in peaceful protest or civil disobedience should have the support not just of the opposition but of every mem-
ber of this place. It is not complicated; it is bedrock. You cannot cavil with that. Where are we in this parliament, in this democracy and in this country which values freedom if we cannot pass these simple amendments in defence of civil rights, in defence of peaceful protest and in defence of 100 years of practice in this great country of ours? Surely, the government and the opposition will have to support these amendments.

Senator BOURNE (New South Wales) (5.49 p.m.) — The Democrats are in favour of these amendments. We have been told pretty often that the probable reason this bill would ever need to be used is to fight against terrorism and, if that is the case, we can see absolutely no reason why anybody would vote against these amendments. They seem very basic. Keep in mind that the amendments do not say that there is nothing you can do if someone is engaging in a peaceful protest or civil disobedience; you can still send the police in. They just say that you cannot send the armed forces in, and I think that is a very good suggestion. We will be supporting the amendments.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.50 p.m.) — These particular amendments, and the one we have been giving consideration to on industrial disputes, do warrant a comment from the opposition. Let me make one now, going to amendments Nos 5, 7 and 9 and, also, to the similar matter in relation to industrial disputes that was quickly dealt with before. Amendments Nos 4 and 8 essentially replicate the amendments that were moved by the government on this matter in line with the Senate committee’s recommendations. I made clear to the committee—but let me state it again—that the opposition will be moving a separate amendment to clause 51G of the bill to prevent any Defence Force personnel being used to stop or restrict protest, dissent, assembly or industrial action. We believe that is vital to safeguard civil liberties. We believe the opposition’s approach will be more effective in protecting civil liberties than will be the approach that Senator Brown is currently pursuing in this committee.

The bill as it stands does not in fact allow for troops to be called out to deal with peaceful protests and dissent. The opposition’s amendment will ensure that, even if troops have been called out, they will not be able to stop or restrict protests or industrial action that do not pose a threat of injury or death. That is an important distinction, and I would ask the committee to give that distinction some consideration. We consider that our approach is more effective in protecting civil liberties, and that is why we have determined not to support the amendments now before the chair and the previous amendment. The opposition consider that the word ‘peaceful’ is simply too vague a qualification to use in attempting to prescribe the use of defence forces in protest or civil disobedience. I believe—and I think a strong argument can be mounted for this—that the opposition’s approach will be much more effective in protecting civil liberties. For that reason we are pursuing our alternative approach, and for that reason we are not supporting these amendments before the chair.

Senator BROWN (Tasmania) (5.53 p.m.) — I just do not accept that, and nor would any reasonable person. If the opposition believe that and there is no conflict between the amendments we are putting forward and what they are putting forward—theirs goes further—they should have no trouble supporting these amendments. Senator Faulkner says that the bill does not allow for troops to be called out in peaceful civil protest. So what is the problem with these amendments? They are not in conflict with the bill, and they are not in conflict with what Labor want, but Labor are not going to support them.

When we look at the Labor amendment which is coming down the line, we find that it is not quite what Senator Faulkner says it is at all. He said that the Labor amendment would ensure that the defence forces cannot be used to:

... stop or restrict any protest, dissent, assembly or industrial action that does not pose a direct and immediate threat of serious injury or death to a person, ...

The rest reads:
... except where there is a reasonable likelihood of the death of, or serious injury to, persons ...

A very big difference! There is a reasonable likelihood of death or serious injury when we drive to work or go into a big surf or each time we catch the plane home from this place, depending on what you think 'reasonable' is. A few minutes ago, Senator Faulkner took umbrage with me for bringing that into a failed Greens amendment which was trying to tie down the situation in which politicians in this place can use the wide-open door, created by Labor and the Liberals, to bring the troops out against Australians in the future. Labor are not closing that door. Labor are not closing the door to some aberrant government in the future calling the troops out against strikers or against peaceful protesters in this country—against proper civil disobedience. In short, Labor are not closing the door to some future government—coalition, Labor or otherwise—bringing the troops out because it has a political dispute with opponents who are protesting. That is what is very wrong with this.

All the nuances of this have been considered in the backrooms, and Labor have decided they do not want to give up their ability to call out the troops in future in such circumstances—what a terrible pass that is—otherwise what is the problem with a very clearly worded amendment that says ‘No troops against peaceful protesters in Australia, ever; no troops against workers striking in this country, ever’? But Labor are not going to have that on because they see themselves in office one of these days wanting to be able to use the troops as their police, just the same as this coalition foresees that potential somewhere at the back of its mind—it does not know the circumstances—in the future. As Senator Bourne has just said, and I have said frequently in this debate: if this bill were about terrorism it would be a different matter. But this bill is about abusing, or leaving in place the ability to abuse, the time-honoured convention in this country that troops cannot be called out against civilians, in particular peacefully protesting civilians, and Labor are not going to support that tenet in the year 2000.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.58 p.m.)—Senator Brown has got this quite wrong; at least, he has got the opposition's motivation wrong. The opposition have worked very hard to apply proper constraints to any future government in the event of a proposal to call out the troops. Ascribing the motivation to the Labor Party that you do, Senator Brown, is both grievously unfair and quite wrong. Having said that, I believe and the opposition believe—through you, Mr Temporary Chair, to Senator Brown—that your amendments reduce the benchmark for a call-out. That is what we believe, and that is why we do not want to support them. Ask yourself the key question: when does a peaceful protest become a non-peaceful protest? Ask yourself that. Think about it. Contemplate the sort of interpretation that is required.

I say to you, Senator Brown, very clearly that we believe that your amendments actually reduce the benchmark for call-out. I think this is an error. I understand your motivation, and I accept it. I am sorry that you do not accept the Labor Party's motivation in this regard. You are just wrong about that. Our intentions here are proper and genuine, and I have no difficulty in defending them and embracing them in this committee discussion. I do not question your motivations at all. I believe that you are approaching this question with goodwill. So I am not questioning your motivation, though you are questioning the opposition's. But I really believe you are mistaken here, Senator Brown. I think you have made a blunder. I think that your amendments will reduce the benchmark for call-out. For that reason and that reason only we will not support it. We do not want to see this situation made any easier, with less protection for civil liberties, under the administration of any future government, of whatever political colour or persuasion they may be.

Senator BROWN (Tasmania) (6.01 p.m.)—The difference between the Labor Party and the Greens—and I think other parties in this corner of the Senate—is that they support the bill and will see it through into law and we oppose the bill and will vote
against it. The amendments are a refining process in the middle of all that. I just do not accept what Senator Faulkner has just said. If the Labor Party—which are going to see this bill going to the law and, therefore, bear the responsibility for it—believe that the Greens' amendments have shortcomings, where is the argument that it is in conflict with their own amendments?

I agree that once you start to support the legislation you are in great difficulty. Labor is now getting to the point where it has to put in some definitional words about violence and talk about the threat of serious injury or death occurring. As I have just explained to the house, that does not just apply to protests in industrial dispute; that can apply to much that we do in everyday life. In other words, it does not put a constraint on the use and abuse by politicians of the huge powers that become available under this legislation. Remember, by codifying these powers we cut through a century of convention which says you cannot do it. By codifying this we are saying—and the government and opposition are both the same in this—through this legislation, 'You can do it, and here are the parameters of that.'

The Labor amendment—and the Liberals are edging in their direction, and the two are going to come together on this—is saying, 'Let us talk about some ill-defined level of violence which we think could occur before we send in the troops.' That is what is wrong with this legislation. The definitions ultimately do get left in the minds of the three ministers of the government of the day—and then of the field commander of the troops, once they are sent in, who has to think under Labor's prescription that there is a likelihood that somebody is going to be seriously hurt or killed if they do not intervene.

If I were to levy that judgment on the grand prix, that would stop it. Who is going to tell me that many people do not go to the grand prix because they think there is a likelihood that somebody is going to be injured or killed? A lot of people would turn in their tickets if they did not think that was a possibility. So the grand prix becomes a vehicle for this sort of thinking, which is unimaginable.

Senator Faulkner—Has anyone been killed in a grand prix in Australia?

Senator BROWN—I do not know about that. But the likelihood has always been there, Senator Faulkner.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—Senator Brown and Senator Faulkner, you may care to address your comments through the chair.

Senator Faulkner—Mr Temporary Chairman, I think he is being a bit unfair about the motivation of people attending grand prix. Not that I would know, because I—

Senator BROWN—I did not say 'all people'; I said that the ticket sales would drop. We can have that argument somewhere else. The point I am making here is that Labor's caveats do not hold water. They do not alter the fact that Labor is here today supporting the government in bringing in a law which codifies the use of the Australian armed services with a right to shoot to kill against Australian protesters and strikers. That is what is wrong with it. Labor's amendments do not alter that fact, and I do not believe they put a halter of any real effect on the use of this power by either the politicians or the field commander over and above that which the government intends.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (6.06 p.m.)—I think that Senator Brown has used some silly arguments in support of his case. I think it does his case no benefit to use those sorts of arguments. I have no idea what the motivation of people going to grand prix might be. I have not been to one of the Australian grand prix. I must say I do not think that is central to the matters un-
der discussion with this legislation—I make the point to the committee that the opposition will support this legislation if, and only if, it is amended in such a way that we believe it improves the current situation, the status quo. That is the test for the opposition, that is the ruler we are going to run over this legislation and that is the reason we have been so serious in moving amendments to this legislation. I reject the comments that have been made about the approach of the opposition, which I think is not only defensible but very principled and proper.

The problem with the amendments before the chair at the moment is that they reduce the benchmark for call-out. That is a very good reason why they should not be supported, and a very good reason why they will not be supported by the opposition. I commend that approach to the committee. But be under no illusions. No-one should be under any illusions about our general approach—that is, we are dissatisfied and concerned about the current situation, about the capacity for call-out of the ADF willy-nilly. We want to put a proper legislative framework in place—but I stress ‘proper’ and ‘appropriate’ and ‘with safeguards’—to defend the principles that our party hold very dear. That is the spirit in which we come to this debate—in which we are participating in it and will continue to participate in it.

I believe that this is a self-defeating proposal from Senator Brown—self-defeating amendments. I do not want to engage in a long and drawn-out debate with Senator Brown. He is entitled to his view. I respect people in the chamber for holding views other than those the opposition holds. He is entitled to his view and he is entitled to put it. I am merely indicating that it is not shared by the opposition, because it will reduce the benchmark for call-out. All senators have to consider this question. Look at the amendments before the chair, look at this question of ‘peaceful protest’ and consider whether that term is too vague when you attempt to use it to prescribe the involvement of defence forces in protest or civil disobedience. We think it is too vague. I am very concerned about it. I do not think it improves the bill; I think it weakens it dramatically. It will not be supported by the opposition for that reason.

I can say no more about that. I hope I have explained that position clearly to the committee—what the approach of the opposition has been within the general framework that I have laid down now on the very many occasions I have been on my feet during this committee stage of the debate. While I commend the approach of the opposition to the committee, I accept that others have different views. I just make the point that I think the opposition’s motivation in this cannot be questioned. We want to improve the current situation. We want a legislative framework and protection in place and we will only support such a legislative framework if it gives greater protection to the civil liberties of ordinary Australians than does the current situation.

Senator BROWN (Tasmania) (6.11 p.m.)—I ask the opposition: does it believe that there is no reasonable likelihood of serious injury to anybody in Australia in the coming century in industrial disputes or protest situations?

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (6.11 p.m.)—I await Senator Brown’s definition of when a peaceful protest becomes ‘non-peaceful’. That is the problem, Senator Brown. I think you are being churlish not to accept that what the Labor Party is putting forward here is a significant—

Senator Brown—You are ducking the question.

Senator FAULKNER—I am not ducking it. This is a significant improvement to the bill. I think you ought to examine this from the perspective that I have tried, as clearly as I can and as succinctly as I can, to put before the committee. You have to look at this in the context of when a peaceful protest becomes non-peaceful and what that means for a call-out. You are lowering the benchmark and, as far as the Labor Party are concerned, we are trying to ratchet it up and ratchet it up considerably. That is our intention, and I believe we have been effective and have fulfilled that intention in the amendments we have moved.
Senator BROWN (Tasmania) (6.13 p.m.)—They haven’t, Chair. The point is that Labor are supporting this legislation and we are opposing it. So the amendments are where the matter will end, and they are on the head of the Labor Party. When I have challenged Senator Faulkner to say, in Labor’s amendment words, that ‘there will not be a reasonable likelihood of serious injury to persons in future disputation, industrial or political, in this country’, he ducked the question. He ducked it because the Labor amendment applies to the commander in the field after the politicians have sent in the troops and it is then in the mind of the commander of the troops as to whether there is going to be a reasonable likelihood of injury in a dispute, including an industrial dispute or a peaceful protest. If that commander takes it into their mind that there is a reasonable likelihood of serious injury to persons, then they can send their troops in against Australian citizens. The bar is negligible in that situation.

Can you imagine Pangea establishing a nuclear waste dump in Australia, in your home state of Western Australia, Mr Acting Deputy President Lightfoot, against the wishes of the state government? Can you imagine a huge, peaceful protest of 50,000 people out there in the desert, with the Commonwealth saying, ‘We’ve got to end this blockade,’ and sending troops over? Can you imagine the commander of troops, facing 50,000 people out in the desert in Western Australia in summer, looking at this Labor amendment to this legislation and saying, ‘Is there a reasonable likelihood of death or serious injury to persons if this goes on?’ Of course there is, of course there will be and of course the excuse is there, written in this legislation. That is why we should oppose this legislation, and that is why we should be saying, ‘You can’t use the troops in industrial disputation and you can’t use the troops against peaceful protest.’ I will go along with Senator Faulkner and drop the word ‘peaceful’—‘you cannot use troops against any protest by Australians’. Let us have it that way. But that is not what Labor is going to do; Labor is effectively agreeing with the thrust of the government’s legislation, which in those circumstances will give the commander in the field the authority to send in troops—with the authority to kill if necessary—against protesting Australians. We should not be doing that.

Senator HARRIS (Queensland) (6.16 p.m.)—I would like to come back to the essence of what we are discussing; that is, the two amendments that we are looking at in light of the fact raised by the opposition that they consider that their amendment is an improvement on the amendments moved by the Greens. Senator Faulkner said in his comments earlier that Senator Brown’s opposition is self-defeating. I do not believe it is. The wording of Senator Brown’s amendment is:

And further provided always that the Defence Force shall not ...

I take note of the comments that have been made regarding the word ‘peaceful’. I have some concerns about Senator Brown’s amendment referring to ‘or civil disobedience’. I would not like it to go on record that One Nation is supporting civil disobedience—we are not. But I believe that the essence of what Senator Brown is raising here is the essence of the entire bill. One solution would be that, as Senator Brown has put to the committee, we support both sets of amendments. In reading both the opposition amendment and those of Senator Brown, I see no conflict between them. In actuality, to a large degree they complement each other quite well. The Labor Party also is saying that our defence forces should not be allowed to ‘stop or restrict any protest, dissent, assembly or industrial action’, so I do not see that the amendments that are proposed are in conflict. Where I believe there is a problem is with opposition amendment No. 3, because they have revised their original amendment to again introduce uncertainty into the bill. The situation has been further complicated by the government circulating an amendment—and the one that I have carries the word ‘draft’ on it; I will seek clarification from the minister afterwards as to whether this is the amendment that the government will be putting—to Labor’s amendment No. 3 to add the words:

After ‘persons’, insert ‘or serious damage to property’.
If Senator Faulkner is raising the issue that Senator Brown’s amendment has the capacity to lower the standard of the call-out, then the government’s amendment would have to be viewed in all sincerity as totally scuttling the opposition’s amendment in its essence.

We have other problems associated with this section of the bill, and again they go to the fact that the bill does not clarify the situation sufficiently. I would like to briefly speak on section 51I, in relation to recapturing premises. We will leave aside all the scenarios that people could surmise where you would need this. The point I am raising is that, in 51I(1) of the government’s bill, it says:

Subject to this section, a member of the Defence Force who is being utilised in accordance with section 51D may, under the command of the Chief of the Defence Force ...

So the bill does not even define who the member of the Defence Force is in this particular section. Again, this raises concerns that flow back to the essence of both Labor’s and the Greens’ amendments. We need to seek a clarification from the minister in the context that we are discussing amendments relating to whether the Defence Force can be called out in relation to an industrial event.

Who is the bill actually speaking to in section 51 when it refers to a ‘member of the Defence Force’? We need clarification of this to have an understanding of who is going to be able to carry out the actions that may in effect result from a group of Australian protesters involved in an industrial action moving into, and taking up residence in, a building—whatever the entity may be that controls that. Can the minister clarify for us who that member of the Defence Force would be that would carry out that action?

Senator ELLISON (Western Australia—Special Minister of State) (6.23 p.m.)—I think I understand Senator Harris’s question in that, when he asks who it refers to, he is asking who it is in effect this bill directs or restrains—perhaps more importantly in relation to activities related to the call-out. The proposed legislation does say what the Chief of the Defence Force can and cannot do, and it also stipulates what a member of the ADF can and cannot do. It is quite clear in that.

The government is quite satisfied that the directive of the bill as to firstly what the Chief of the Defence Force can do and what any member of the ADF can do in relation to the subject of a call-out is very clear indeed. That is what it is directed at, Senator Harris. I think you can put it no other way than that. The bill is quite clear as to who it restricts in relation to behaviour. I do not think I can take it much further than that.

Senator HARRIS (Queensland) (6.24 p.m.)—I beg to differ with the minister. I will refer again to this draft amendment that the government has put around that refers very clearly to amending Labor’s amendment R3 by saying that, if there is serious damage to property, the Army can be called out, as the bill stands, in an industrial dispute. I do not believe the bill goes anywhere near defining in that case who that member of the Defence Force would be. The bill merely says that he is under the command of the Chief of the Defence Force. So do we have a member of the Defence Force who is of the rank of a soldier or a corporal or a sergeant who would have the power to enter that building that is being occupied by the group of industrial dissidents—for want of a better word? I do not believe the bill does define what rank makes that decision; and, if it does, could the minister direct me very clearly to it?

Senator ELLISON (Western Australia—Special Minister of State) (6.26 p.m.)—This is pre-empting the amendment which is proposed by the opposition and which the government seeks to make slight amendment to. Proposed section 51G says:

(a) stop or restrict any lawful protest or dissent ...

That is quite clear. It is a direction to the Chief of the Defence Force in relation to stopping or restricting any lawful protest or dissent. What is proposed by the opposition—and we are jumping ahead of ourselves, but I will accept it is relevant to the debate here—is that paragraph (a) be changed to include

(a) stop or restrict any protest, dissent, assembly or industrial action, except where there is a rea-
reasonable likelihood of the death of, or serious injury to, persons ... 
And there it ends. The government is proposing to add to that: ‘or serious damage to property’. If both of those amendments were passed, you would very clearly have a situation where the Chief of the Defence Force would be directed, when utilising the ADF, to have regard to those provisos. There would be very clear restrictions imposed on the Chief of the Defence Force by the opposition amendment. Those provisos would require that it be considered whether there was a reasonable likelihood of the death or serious injury to persons or serious damage to property.

It may assist Senator Harris to also look at what is contained in proposed section 51D, which is headed ‘Chief of the Defence Force to utilise Defence Force as directed’. In that proposed section is a direction of how the Defence Force is to be used, including the fact it has to be utilised ‘in such a manner as is reasonable and necessary’. So you have a qualification in proposed section 51D, and then in proposed section 51G(a) you have a further proposed qualification proposed by the opposition to which the government would then seek to make an addition. The provisos and qualifications that apply are quite clear. In proposed section 51GA, it is clearly the Chief of the Defence Force who is restricted in his or her behaviour.
position does not support the defence forces being used against protest, dissent, assembly or industrial action that does not pose a threat of serious injury or death to a person. It is the view of the opposition that this amendment is absolutely vital for the protection of the civil liberties of Australians, the civil liberties that Australians currently enjoy. I believe this is the most important amendment that will be moved to this bill; it is certainly the most important of the opposition amendments.

There must be no misunderstanding about the fact that we do not want troops being used against people who are simply exercising their democratic rights. We accept that there are no such restrictions in place at the moment. I stress that point for the benefit of the committee: there are no such restrictions in place at the moment. But in the process of this parliament developing a legislative framework for the use of this Commonwealth power and in attempting to define the circumstances in which the Commonwealth government should be permitted to use this power, we believe that it is fundamental that the limits of this power should be carefully defined.

The opposition does not believe this power should extend to preventing or restricting protest, dissent, assembly or industrial action. As far as the opposition is concerned, we want to ensure that our defence forces are never used in an inappropriate way, that they are never used for anything other than to protect Australians. The Australian defence forces should only ever be used to protect Australians. They should never ever be used to prevent Australians from exercising their democratic rights. That is a fundamental principle. It has guided the approach of the opposition on this bill. I believe that this is an essential amendment to the bill, and the carriage of this bill will only be considered by the opposition in the event of this amendment being accepted. I urge all senators to support the amendment, and I commend the amendment to the committee.

Senator ELLISON (Western Australia—Special Minister of State) (7.45 p.m.)—At this stage, I think it is important for the government to make its position clear, and that is it will move an amendment which will seek to add some words to the amendment proposed by the opposition. The opposition at 51G(a) is introducing a limitation in relation to the activities of the Australian Defence Force in a call-out. It says:

In utilising the Defence Force in accordance with section 51D, the Chief of the Defence Force must not:

(a) stop or restrict any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of the death of, or serious injury to, persons ...

The government seeks to add to that ‘or serious damage to property’. I take on board the comments that Senator Faulkner has made on behalf of the opposition. This is indeed a very serious part of the debate in this committee in relation to this proposed legislation, which deals with the call-out of the Australia Defence Force in extreme circumstances. I can well understand the points made by the opposition and, in particular, Senator Faulkner as to why the opposition would want these qualifications made in relation to 51G(a).

The government believes, however, that it is appropriate to include the words ‘or serious damage to property’. On the face of it, ‘or serious damage to property’ may not sound great. In fact, you might say that this seems rather trite when you are talking about the threat to life and limb which is contained in the opposition’s amendment. I ask anyone who is thinking in those terms to go back section 51D in the proposed legislation, which deals with the direction given to a Chief of the Defence Force in the utilisation of defence forces, and I mentioned this previously. If there is a call-out order, then the Chief of the Defence Force must ‘utilise the Defence Force, in such manner as is reasonable and necessary’. And that is applicable to the three different call-outs: the call-out by the Commonwealth, the call-out by the state and the call-out by the territory. But, of course, if you go back further than section 51D, you are talking about the very basis for a call-out, and that is where you have a situation where the territory or state is unable to deal with the domestic violence that it is confronted with. Section 51A(1)(b) says, ‘the State or Territory is not, or is unlikely to be,
able to protect Commonwealth interests against the domestic violence’.

There has been much debate about this, and for very good reason, because this forms the basis of the call-out. There must be such an extreme situation that the authorities in the state or territory cannot deal with it themselves. If there is a call-out and that first criterion is met, the Chief of the Defence Force then has that extra qualification that, in utilising the defence forces, they must act in a reasonable and necessary fashion. If that is not enough, then that further limitation is placed upon that action in this amendment proposed by the opposition, and that is that this action cannot be to stop or restrict any protest, dissent, assembly or industrial action except in those extreme cases of threat of death or serious injury to persons. And that really is as extreme as it gets.

All throughout the logical process of the bill, you have these qualifications and these criteria which need to be met—not one of them on their own is sufficient. They all act in concert. We are saying that you need to have the words ‘or serious damage to property’ looked at in this context. You might have a situation where there is the burning of houses, the destruction of a power plant or the destruction and looting of buildings. We recently saw this situation in East Timor—although a foreign place—where property was destroyed. And it could happen without the threat of serious injury to persons or death—for instance, in a neighbourhood which has been evacuated there could be serious looting, burning and destruction on a grand scale. That is the sort of situation that this addition envisages. Normally you would say that, if there is such serious damage to property, there would be threat to life and limb. That would certainly be conceivable, but we want to cover here all possible scenarios. We want to make sure that, in bringing in this legislation, we get it right.

Senator Faulkner quite properly pointed out that there is no restriction at the moment. There is no qualification in existence at present. In fact, what we currently have is this imperfect situation, which the Senate committee even acknowledged. What we are doing here is providing the Australian community with assurances in relation to the activities of the Australian Defence Force in such dire circumstances, and they are circumstances that the government would hope would never, ever have to happen. It is not a case where this is envisaged as being an easy occurrence—it would be in only those most serious circumstances that you would have such a call-out.

There is also the added aspect that in such a call-out, the defence forces would respond to a request by the police force in relation to a particular task and, if that request were withdrawn, the defence forces would have to desist from that action. So you have in this proposed legislation a number of safeguards, a number of qualifications in relation to the behaviour and activity to be undertaken by the Australian Defence Force, all of which point to the preservation of the liberty of Australians at large—and I accept the tenor of the amendment moved by Senator Faulkner in this regard.

However, the government would say that we do need to make this addition, which relates to property. It is not something which can be read in isolation. It has to be read in the overall context of this bill. To those people who say, ‘Look, on the surface it does not seem to be much: serious damage to property could be when a vehicle is your own possession and someone destroys it,’ we would say, ‘Not so. This has to be looked at in the whole context of the legislation.’ It is in that context of the amendment, especially moved by the opposition, that the reasonable likelihood of the death of a person or serious injury to a person is considered. For those reasons, the government would commend the amendment to the opposition and other senators. It appreciates the constructive approach that the opposition has adopted in this regard. Once again, we would ask other senators to consider supporting us. I therefore move:

After “persons”, insert “or serious damage to property”.

Senator BROWN (Tasmania) (7.54 p.m.)—Mr Temporary Chairman, there we have it! What the government now says is this: we want to cover here all possible scenarios—nothing outside the limits on when this government or some future government
can bring in the troops in a political situation where so-called dissidents, according to the manual, are disagreeing with the government of the day. On top of Labor’s sell-out clause—which talks of any threat of serious injury to a person when the politicians have already sent out the troops—the commander in the field can order the troops to take violent action against those who, it is presumed, may cause or occasion serious injury. We are talking here not about the government and its actions; we are talking about the situation for the commander of the defence forces. All he or she has to do is to ascertain in their mind that there is a likelihood of death or serious injury to persons, under the Labor amendment.

Chair, I will not tempt you by asking you, but who here on the Labor benches will name a great strike of the last century or a great civil protest in which that situation did not pertain and could not be countenanced by a military officer? I will tell you that no-one will get up and answer that question because, as Senator Ellison has just told the chamber, this legislation aims now to cover all possible scenarios in the future—all protest situations and all strike situations—and Labor is feeding that option to the government.

This is a further remarkable derogation of the duty, I believe, of the government and the opposition to uphold the spirit of the Constitution, but it is also an opening of the doors to the abuse of proper practice by a future government against the citizens of Australia. On top of the option that the Labor Party brings in, the government brings in the garden gnome option, which is that, if there is a risk of serious damage to property and somebody is going to attack your property—there is a ‘risk’ of it; it does not have to happen—call in the Army. This is incredible. While I might tempt the government to believe it has been misunderstood, it is not. We are dissecting this legislation not only for what it is but for what the government intends it to be. In this, the opposition has become a fellow traveller.

If you believe that the Australian people want this legislation available so that politicians, having brought out the armed forces, can then give to the chief of those forces the option of sending the troops in against peaceful protesters or strikers—because they believe that there could be the threat of serious injury to persons or to property—you are wrong. You are wrong. The government is being shepherded by the opposition, and the opposition is taking this opportunity on the eve of the Olympics, knowing that the public is not aware of what is going on here.

I challenge you again to name which of the great strikes of the last century, or which of the great civil protests of the last century, were indemnified against the risk of serious injury to people or property. None of them. So all of them could have become—and will become, if replayed in the future in some other parallel or analogous way—the opportunity to send in the troops. We have to say this yet again: if this were legislation against terrorists and were confined to that, it would be a different debate: I have no problem with that. But this is legislation which opens the door to politicians in Canberra bringing out the troops against Australians who protest. The word in the Army manual is ‘dissident’.

The Oxford Dictionary definition is that a dissident is somebody who disagrees with the government. The government and the opposition might sit there and say ‘Oh, but we’d never do that.’ If you would never do that, then support the amendment that says that you cannot do it. I think Senator Harris has an amendment coming up in a moment that will effectively do that—and we will see how you vote.

The government’s added amendment to Labor’s amendment—both amendments frittering away all the safeguards, all the checks that are supposed to be in this legislation—somehow really gets around to what is at the heart of this matter, and that is the defence of property. In a century of inordinate and gross wealth and the taking of property by the minority against the interests of the majority, we have the situation on this planet where three people have more wealth than 600 million others. We have the situation in this country where the gap between the have and the have-nots grows bigger every day—under this government’s policies and under the previous government’s policies.
Laws are there to protect property, and they are becoming harsher all the time in defence of property against rights. This law has become an enormous erosion of rights in the interests of the property of the few. So the government says, ‘Send in the troops if there’s a risk of damage to property’—not in the view of some august, independent authority, not in the view of the Governor-General anymore, not even in the view of the three ministers who allow the troops to be called out, but in the view of a field officer in charge. I ask you: is the trampling of gardens serious damage to property? Is the crashing of cars chased by police, or otherwise, not serious damage to property? Is the knocking down of barricades through crowd panic, or whatever, not serious damage to property? Is the possibility that all those things could happen not a serious threat of damage to property? Of course they all are. This is ‘throw all caution to the wind’ stuff. I cannot help but believe that behind it there is an inherent, if not a worked out, strategy that the government will put this up so that the opposition’s amendment will not seem too bad after all.

The opposition’s amendment is heinous if you look at what it does to the concept that we are a freedom loving country, that we respect authority, that we respect the police for keeping the domestic peace and that we respect our armed services for defending us from outside aggression. This bill is all about blurring those lines. At the end of it, we find that it is because the government—and I quote Senator Ellison—‘wants to cover all possible scenarios’ in the defence of property. That is what we have come to with this legislation. This is an incredible night in terms of legislation that is not only, I submit, in breach of at least the spirit of the Constitution but also an affront to the values of Australia.

Senator WOODLEY (Queensland) (8.04 p.m.)—I want to address some of the remarks made by the minister. I think he was just plain wrong, and I believe that that should be drawn to the attention of this chamber. Then I do not want to talk about hypothetical situations but I want to give you a bit of history, particularly of Queensland and how these kinds of laws have been applied against Queenslanders—and not so that the army could be called out. They have been applied in such a way by the authorities that, had the army been called out, we would have seen serious loss of life and serious injury to people. But, in this instance, it would be injury to protesters—and that is what I am worried about.

The minister seemed to be saying that this amendment about serious damage to property had to be taken in concert with the rest of the bill. He then gave the illustration that the Labor amendment about death or serious injury to persons had to be taken together with serious damage to property. But that is not what the amendments say. They are alternatives. There is no sense in which they are to be held together; they are alternatives. So it is in the case of death, or in the case of serious injury, or in the case of serious damage to property. They are not to be taken together; they are alternatives to one another.

Let me then give you a few illustrations from reality. I go back to the late 1970s in the time of the Bjelke-Petersen government in Queensland when we had a ‘right to march’ law. I have to say to you that there was serious damage all right—to both property and people—and injury. But it was damage that was caused by the police and their activities. Nevertheless, had Bjelke-Petersen had an army, I think the serious injury to people and the serious damage to property would certainly have been much more serious.

Let me tell you what happened in the end. The law was used in a ridiculous way. We had a group of Christians called ‘Concerned Christians’. One of our members who lived in Bundaberg, a rural town in Queensland, applied for a march permit to march at 3 a.m. with his dog through a cane field, and that was refused. That is the extreme to which laws can be taken in these kinds of situations. I do not think I will invite the minister to comment, but let me place on the record that in another series of protests during the Bjelke-Petersen years there was very serious industrial action taken by workers of the South East Queensland Electricity Board, SEQEB, which resulted in about two weeks of very serious unrest in Queensland. I attended a number of the pickets at the time.
There was one instance where some workers were trying to gain access to the electricity board’s property. One of the protesters placed a large rock on the road and a worker drove over the top of it and seriously damaged the underneath of his car. That caused great consternation. Again, I would suggest to you that, in these kinds of situations, that would certainly be regarded by authorities in that place as serious damage to property.

I suppose the most ridiculous situation was when, as a group of concerned Christians, we had a cross that we took to a number of the pickets. We used to erect it and stand by it. Finally, the police were so threatened—particularly the Premier, who was himself a Christian and was most angry at Christians protesting against him—that at the end of one of the protests the cross was ‘arrested’ and ‘taken into custody’. We asked the police what the charge was. They said, ‘It’s a dangerous weapon, and we believe that you may threaten us with it.’ That again illustrates the kinds of situations which come into play in these kinds of protests—or at least they do in Queensland; it may be different in other states.

So I am not reassured by the minister. He is saying that such action would be taken only in very serious and extreme circumstances. I have to tell you that in some of these protests extreme circumstances can occur very quickly indeed. If my experience during the premiership of Sir Joh Bjelke-Petersen is anything to go by, extreme circumstances can even be quite ridiculous but they can escalate. The thought that the Premier of Queensland could have had troops to assist him in his putting down of industrial disputes and other protests in those days fills me with very serious dread.

Senator MURRAY (Western Australia) (8.11 p.m.)—Swirling about me and about those who are opposed to this bill are the emotion and the history of our peoples, and it is to history that we need to turn in our fear of excessive discretion and excessive authority. In our blood is the memory of the Black and Tans. In our blood is the memory of all those who have abused power and who, at the time of taking it, said, ‘You can trust us. It will be all right.’

This amendment to me is typical. The discretion and the authority that the amendment seeks to grant within the ambit of a bill with extraordinarily wide discretion and authority are self-evidently apparent. The bill refers to ‘serious damage to property’. Why is the property not qualified in law? It is not qualified in the definition and the interpretation. It is not qualified in the amendment. Why is it qualified only in the words of the minister? If the minister were able to find a qualification which said that what they were referring to in ‘serious damage to property’ was perhaps a power plant or the destruction of a 30-storey skyscraper in a crowded city, we could all understand that. But look where the qualification is. The qualification is to ‘damage’, not to ‘property’. The adjective is ‘serious’ damage.

What about a substation and not a power plant? That is serious damage. What about a bungalow and not a 30-storey building? That is serious damage. But, in property terms, that is a police matter. If you are talking about property in the major, significant sense, you have to qualify it if you are ever going to get away with this. If you are not talking about that, you are expressing—through your amendments—the real value that applies,
which is that you want the widest discretion of all, because this is a conservative agenda and its primary object is property. If you trample on the freedoms of the individual, if you affront the values and the protections we cherish in this country and if you oppose the memory of the history that runs through the blood of all our peoples, you do us an injustice. I do not think you truly understand why a small group of people—the cross-party benches, in particular, but also the Labor Party, on certain issues—feel so strongly about this bill. It infringes every element that we should value. It is an emotional issue for us.

If you want to get the conservative coalition—not the liberal coalition—excited, talk to them about owning a company. Talk to them about owning Telstra or something. They will appear, the passion will rise and they will flood the room with excitement and joy. Why? Because it is about property and money. Here, we are talking about something possibly falling into the hands of the wrong government—not into the hands of Minister Ellison, whom I judge to be a man of decency. In the hands of the wrong people, bad laws come with bad consequences; that is the point Senator Woodley was making. That is why he outlined those ridiculous examples. Everybody says, ‘It can’t occur.’ It has occurred in this country, under certain laws and circumstances, and it has occurred in many other countries.

That is the basis of our opposition. You present us with a simple amendment which, to me, just exposes the appalling values at the base of this. It is why there is a sense of horror amongst us—because you are affecting our liberties. The heart of my appeal to you, Senator Faulkner, is to turn down this bill. Nothing that has come through so far is going to result in the unnecessarily wide discretion being limited to protect our peoples. None of us is opposed to the bill in its intent. If you want to sort out terrorism, we are with you. If you want to prevent damage to a power plant, we are with you. If you want us to support something which allows you to call out the troops without consent and where it might affect a substation and not a power plant, we are against you. It is a matter of degree. We will oppose this amendment, but we are still, at heart, distraught by the values which are coming through in this bill. I do not think sufficient numbers of people yet understand the dangers attached.

Senator COONEY (Victoria) (8.18 p.m.)—Senator Murray has been talking about history, and that is a fair thing to look at when looking at a bill like this. It is something that the courts take into account when they are looking at issues—as the minister would know, from a statement of Justice Dixon in the case of the Australian Communist Party v. the Commonwealth, where the issue of Defence powers was much considered and where the great man said:

Just as courts may use the general facts of history as ascertained or ascertainable from the accepted writings of serious historians ... and employ the common knowledge of educated men upon many matters and for verification refer to standard works of literature and the like ... so we may rely upon a knowledge of the general nature and development of the accepted tenets or doctrines of communism ...

History is a matter to look at, as Senator Murray has said. As you would realise, the expression ‘or serious damage to property’ is an expression that you might find in a summary offences act, so I can understand the problems that arise. I might just talk about the Australian Communist Party v. the Commonwealth case, which was decided in 1951, as Mr Dabb would remember. It gives me the occasion to refer to a person who played a major part in that. I do not refer to Dr Evatt; I refer to Mr Ted Laurie. Mr Laurie was, amongst other things, junior to Fred Paterson, who was badly injured by the police in a march on St Patrick’s Day. That happened in 1948—unfortunately, in a way, a time I can remember.

The Communist Party Dissolution Act went through parliament in 1950. It was taken to the High Court, and it was thought that the High Court would uphold it. The tactic was to use the High Court as a forum for protesting about the evils of the act and how it was a dreadful thing to try to disband a political party in Australia—the first time it had been tried. Fortunately, it was not successful. Ted Laurie was telling me that, when the people went in there, they quickly de-
ected that the High Court was taking it very seriously. So, instead of making a statement and using the court as a forum, they argued it, and they argued it successfully. The only person that held against them was Justice Latham. He was a great advocate, as you know—gone to God, as have all the great advocates involved in that case. They were the days—I hope there are still days like this—when people like Ted Laurie proclaimed as lawyers the great values of life, and I think they are still there. He was a most honourable man, and I would like to place that on record now and then get back to the amendments.

I am trying to think what Ted Laurie, Dr Evatt, Fred Paterson, or Maurie Ashkanasy, who was in that case, would say. I think they would say that they were somewhat concerned about the breadth of the statement or ‘serious damage to property’. It is almost inconsistent with the first part of the amendment. If the amendment is carried without the added amendment, it would read:

In utilising the defence forces in accordance with section 51D, the Chief of the Defence Force must not:

(a) stop or restrict any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of the death of—

and nobody wants to see death—

or serious injury to, persons ...

and people can understand that. But adding ‘or serious damage to property’ seems to, as it were, reduce the weight of the earlier part of the proposed amendment. These are matters to be concerned about, as other speakers have said.

Senator HARRIS (Queensland) (8.24 p.m.)—For clarification, has the temporary chairman ruled that the minister has moved the amendment circulated in his name?

The TEMPORARY CHAIRMAN (Senator Murphy)—That is correct.

Senator HARRIS—A further clarification: will the temporary chairman put the government’s amendment before the opposition’s amendment?

The TEMPORARY CHAIRMAN—That is correct.
Brown said this is a situation where the government is widening things to say we have to cater for any possible scenario. Legislation, by its very nature, has some form of prognostication, of looking to the future, of looking at what might arise and what might not. What we are looking at here is circumstances which might arise—but hopefully never. What we are doing is putting forward a bill which has to cover these sorts of circumstances—albeit within the very restricted operation of this bill, albeit within the very restrictions which act upon the call-out, which act upon those people who may be called out; the restrictions which impose upon their behaviour. That is what I was saying when I said that we look to the possible scenarios which might occur. It is not a situation of a willy-nilly call-out.

Senator Woodley said that I had said that these provisions have to be read in concert. But what I said was this: that possibility of death or injury to people might be entwined with serious damage to property. That is obvious. But there may also be the occasion where there is no threat of death to persons where you have serious damage to property on a grand scale, as I said. I said ‘on a grand scale’. I am talking about a situation where you have widespread damage to property; it is not just one individual’s item of property. I would say to Senator Murray that we are not talking in terms of Tory values of property; we are talking in terms of property which is to the mutual benefit of the community—things like power stations, buildings, public facilities; things like widespread damage to residential areas. I cited this very instance in the case of Timor, quite tragically, where there was damage to property which did not go hand-in-hand with death or injury.

Senator Brown—This is not East Timor.

Senator ELLISON—I cite this as an example. Senator Brown, because we thankfully have not got any examples to rely on in Australia, and hopefully we never will. What I am saying is that we are talking about property—

Senator Faulkner—This is why people are asking the questions: because the examples don’t exist. That’s a reasonable point to make, isn’t it?

Senator ELLISON—The fact is that we have to look to the future of possibility and, as Senator Faulkner says, there has not been an example in Australia. He is quite right, and the question is quite properly put. At the same time, because something has never happened does not mean to say that legislators do not have to cater for the potential occurrence of that. When we come to this chamber with legislation we have to look at its operation in years to come—not just next year, and not in a vacuum, and not on the basis that there has never been an example.

What senators who have commented on this are overlooking is that to call out you need— and I go back to the very words in the bill that I used when I cited this previously—a situation where the state or territory ‘is not, or is unlikely to be, able to protect itself against the domestic violence; that is, the state is incapable of coping with a situation. That is quite an extraordinary situation. It is not just a protest, it is not just damaging an item of property; you firstly have to get over that hurdle that the state or territory cannot itself deal with the situation. That is a huge qualification.

Senator Brown—You’ve removed that provision.

Senator ELLISON—That is not being removed. That is squarely in the bill. You can only have your call-out if there is a situation where the state or territory is not able to cope with the situation itself—an extraordinary circumstance. Senator Brown referred to demonstrations in the last century. What we had was demonstrations which did not fit this bill at all, because they were situations where the state or territory was able to cope with the situation, where we had large peaceful demonstrations which did not pose any problem at all to the governance of the states or territories where they occurred. That is why this bill would be not able to be brought into operation in those circumstances; because none of those protests could come near to meeting the requirements of this bill, because the requirements of this bill are so strenuous. The high jump bar is set so high that you would need to have this extreme situation before you could have a call-out. And when you do
have a call-out there are these provisos which operate.

This serious damage to property is in that context—such a damage to property that the state or territory could not cope with it, a widespread destruction. It follows from the very operation of how the call-out happens—that is, there is domestic violence of such a nature that the state or territory cannot cope. What we are looking at is serious damage to property that the state or territory cannot cope with. It is not just burning a couple of vehicles; it is destruction on a scale which cannot be dealt with by the state or territory concerned. That is why I said it had to be read in conjunction with the act and those other provisions.

Senator Woodley misunderstood that, because he thought that I was saying that it had to go hand in hand with death or injury, or the possibility thereof. Of course, in most cases it would, but what we are catering for is where you might get a scale of destruction which does not have that death or likely injury entwined in it—for instance, an area which has been evacuated where there is wholesale destruction, an area where perhaps public buildings are being damaged on a grand scale and the police force of that state or territory cannot cope. They may well have evacuated the area. They may well have it contained, but they cannot contain the destruction that is taking place. That is the scale we are talking about here. It is only for the common good to have that sort of control in that sort of extreme situation. It is not based on Tory principles of property. I respect very much the comments Senator Murray makes. He always makes a useful contribution, especially when it goes to things such as personal liberties. But what we are envisaging here is such a draconian circumstance, such a dire circumstance, that the state or territory cannot cope. It is only then that you look at these provisions, with the qualifications they have. And in some part those have been brought in by the amendment that Senator Faulkner has been talking about.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (8.36 p.m.)—I would like to follow up a good point that has been made by Senator Murray. I think it is the same point that Senator Brown has been pursuing, albeit perhaps through the disorderly mechanism of interjection. The committee deserves a very clear response from the minister, and that is certainly important as far as the opposition is concerned. I know my colleagues the shadow minister for defence and the shadow Attorney-General are giving serious consideration to what they hear in this committee stage debate. I think the point that my colleagues in the chamber have made to the government is that an ordinary person’s definition of ‘serious damage to property’ varies quite greatly. There are very different views—it is in the eye of the beholder.

For some, serious damage to property might be breaking some windows or damaging cars; for others, it might be knocking over the side fence or damaging the doors of Parliament House or hurling bricks through plate glass windows or very serious damage to infrastructure, and so on. The question that is asked by senators in the chamber—and one that I would like to ask so we can get a very clear response on the *Hansard* record, which is important from the perspective of the Labor Party—is: what precisely is the government’s definition of ‘serious damage to property’? I think it might assist the committee, given that the government is moving this amendment to the opposition amendment, if we could have a clear response to that question from the minister, and I might follow through. I think that would assist the committee, and I ask the minister that question accordingly.

Senator ELLISON (Western Australia—Special Minister of State) (8.39 p.m.)—As I said previously, serious damage to property cannot be taken in isolation for the reasons Senator Faulkner has outlined. It varies from person to person. I mentioned previously the example of a motor vehicle that someone might have as their only possession, and damage to that would be very serious indeed. We have here a situation where serious damage to property constitutes damage on such a scale as for a government, such as a state or territory government, not to be able to handle the damage involved. Again I go back to the bill and say that it is where a government is
unable to protect itself against such domestic violence. Let us carry that through to serious damage to property. It is where the government concerned, being a state or territory government, is unable to protect itself from serious damage to property. We have here damage on such a scale that it meets the requirements of the call-out. It has to be damage which is public in nature. When I say ‘public’, it has to be across the board—that is, it has to be something which affects the community and damage of such a nature that it poses a threat to government good order in the place where it is occurring.

So it is serious damage to property on a public scale. It is not something which happens in isolation or privately or which affects one person’s particular goods; it is something which occurs in the community and which affects the community. That is the sort of serious damage to property we are talking about. It is not just affecting one person’s item of property; it is affecting the community at large. That is the sort of scale you have to look at in this regard. It is in the context of the bill that it has to be of that nature because, if it was occurring only as an isolated case or affecting only one person, it would hardly be likely to be beyond the control of the state or territory government.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (8.42 p.m.)—There are a number of questions I would like to ask the minister to get some clarity on this. I will come back to this question of the definition of ‘serious damage to property’. In fact I am minded now to ask the minister for a definition of ‘property’, but we may come back to that. Let me, however, ask this question, Minister—and I think it is an important one for the committee: is there any reason why a definition could not be included in the bill itself?

Senator FAULKNER—We understand that, Senator Brown.

Senator BROWN (Tasmania) (8.43 p.m.)—While the minister is looking into that matter, let me say that I find it extraordinary that Labor is entertaining this amendment. Let me go back to what the minister has just had to say. First of all, he has got his amendment wrong. He has got the pattern of events wrong and he does not understand his own legislation. The minister is saying that this situation would apply only where a state police force has been overrun and where there is serious damage and it is getting out of hand. No, that is not the case. That decision has already been made, whether or not the states like it, by a triumvirate of federal ministers who have called out the troops. What we are dealing with here—and let me remind the minister of this—is not any longer a judgment by state police, state authorities or federal ministers. We are dealing with section 51G, which states:

In utilising the Defence Force in accordance with section 51D—

the troops are out there—

the Chief of the Defence Force must not:

(a) stop or restrict any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of the death of, or serious injury to, persons; or

(b) serious damage to property.

So we are dealing here with a clause which empowers the Chief of the Defence Force to determine in his or her mind whether there will damage to property. I say to the Labor Party that it is no longer a matter of serious threat of injury or death; the word is ‘or’ damage to property.

Senator Faulkner—We understand that, Senator Brown.

Senator Faulkner interjecting—

Senator BROWN—Senator, you said a little while ago that interjections were disorderly, so I will ignore yours. What I am saying is that the Labor Party is seriously entertaining an amendment here which is about the Chief of the Defence Force being able to send in armed troops, with the ability to shoot to kill, against an Australian crowd because he believes there is a threat of serious damage to property. It is almost as if the police no longer exist. As Senator Murray said, this is the wording you will find in a summary offences bill or in a criminal code in a state. But that has been taken out of the equation now. This is a group of federal politicians using the armed services as a police
force at their behest and empowering the Chief of the Defence Force to move in against civilians because he or she thinks there is a threat to property. As Senator Ellison said, ‘What we want to cover here is all possible scenarios,’ and this does cover all possible scenarios. There is no definition, and there will be no definition. Even if there were definitions, we would still be left with a situation where the opposition is entertaining a definition of what is serious damage to property as a reason to allow a troop commander to send in the troops. It is extraordinary stuff.

Senator HARRIS (Queensland) (8.47 p.m.)—I would like to go back to the minister’s comment during this last portion of the debate. He emphasised—twice, I believe—the words: in the situation of serious damage to property, we have to get to where the state cannot cope. The minister is clearly indicating that the situation where troops would be brought in is when the Commonwealth has made the decision that the state cannot cope. The minister also went on to say that they want to protect property. So this debate has all of a sudden made a right-hand turn. The essence of the bill is supposed to be for the Commonwealth to protect Commonwealth property. All of a sudden, the minister is telling us that the Commonwealth will, in its own mind, assess where the state cannot cope.

I come back to my earlier question to the minister: in this situation where the Commonwealth have moved their amendment to Labor’s amendment No. R3, will the minister give us an assurance that the three ministers who have the power to order the troops or, as I pointed out earlier on, the officer—whomever that may be—on the ground at the time, will not use that power if the state has not asked for it to be used, and will the minister clarify very clearly that the power most definitely will not be used if the state objects?

The TEMPORARY CHAIRMAN (Senator Lightfoot)—The question is that Senator Ellison’s amendment to opposition amendment R3 be agreed to.

Senator HARRIS (Queensland) (8.50 p.m.)—It is obvious that the minister is not going to clarify for us the government’s proposed amendment to Labor’s R3 in relation to serious damage to property. By the minister not giving us a clear indication, there can be only one conclusion: that the government does intend to bring the troops out in instances where the state objects.

Senator ELLISON (Western Australia—Special Minister of State) (8.51 p.m.)—I am advised in relation to Senator Harris’s point that, where there is a Commonwealth call-out dealing with Commonwealth interests, the objection of the state is different from the situation where there is a call-out by the state. In the latter case, if the state objected—and you are talking in the context of serious damage to property—the ADF could not act. The situation is, however, different in the case of a Commonwealth call-out where there is a Commonwealth interest at stake. I add one point: in both cases you need a request by the state so to act. I think that that assists you even further; that is, in the case both of a Commonwealth call-out and a state call-out, you need a request by the state for the ADF so to act in accordance with the problem at hand, and we are talking here about serious damage to property.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (8.52 p.m.)—I wonder if the minister could now formally indicate to the committee why a definition cannot be included in the bill itself.

Senator ELLISON (Western Australia—Special Minister of State) (8.52 p.m.)—The government believes that, in the context of the bill and in the way that serious damage to property is contained in the opposition amendment, an amendment would serve to confuse matters even more, because you could well have a situation where a definition—we have this had before during the debate in this committee stage in relation to the definition of ‘domestic violence’ proposed by Senator Brown—really might do it an injustice. The best and appropriate way to define serious damage to property is as it occurs in the context of the bill; that is, having regard to the basis of a call-out being that the state or territory is unable to protect itself against the domestic violence at hand, and in that would be the serious damage which is being
contemplated by this amendment. So what I have said basically before stands: it would have to be serious damage of such a public nature that the state or territory cannot protect itself from it. But the government believe that, if we constrain that by a definition, we could run into more problems instead of solving them.

**Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (8.54 p.m.)**—I assume that in the new call-out manual, which the minister indicated to us at an earlier stage in the committee debate will replace the Manual of Land Warfare—we do understand that that is the situation—there will need to be some form of guidance or definition to provide the appropriate guidance to field commanders who might find themselves in a situation contemplated by the bill. I assume that is a reasonable conclusion to come to; I do not know; I would like to hear from the minister on this point. But if that is a reasonable assumption, I wonder how it fits with the advice in relation to a capacity for this to be defined further in the bill itself. Could the minister give the committee some information in relation to the implications of guidance in the call-out manual on the issue that I raised in relation to further defining this issue in the bill?

**Senator ELLISON (Western Australia—Special Minister of State) (8.56 p.m.)**—The point that Senator Faulkner makes is a valid one. There is the manual that we will be looking at to replace the Manual of Land Warfare that we have been discussing. I would say that two things must be remembered. Firstly, what we have in proposed section 51F entitled ‘Assistance to, and cooperation with, State’ is the situation where the state tasks the ADF with a mission, if you like, or with a job to be done. What would be contained in the manual would be a provision which says, ‘You would have to relate your activity to the task which has been requested of you by the state or territory authority.’ That is the first aspect to it.

I envisage that the manual would then go on to deal with what sort of serious damage would be contemplated and how to deal with that, saying that the force must be reasonable and necessary, as is contained in proposed section 51D, which I mentioned earlier; for instance, in cordonning off an area, ensuring that people did not enter an area where there were buildings ablaze where the force was necessary to bar public entry. You might have people wanting to rush in and retrieve goods from their homes, and the forces would be saying, ‘No, you can’t go there, it is too dangerous.’ That would be one aspect of how to deal with the serious damage to property. So you would have to ask, firstly: what is the task under 51F that you have to look at that has been requested of you by the state; secondly, how do you deal with this? The force has to be necessary and reasonable.

Then the third aspect is the sort of damage that might be contemplated, and that is more relevant to the question asked by Senator Faulkner. It would touch on the sort of widespread damage that I have been talking of—if the neighbourhood is ablaze, if the power plant is ablaze or if there are explosions taking place. So there would be three aspects you could envisage the manual touching on: the extent of the damage, the behaviour that could well be required to be reasonable and necessary under proposed section 51D; and, importantly, the task which is being requested by the police under proposed section 51F. That is important because it really is quite a limiting factor. Let us look at what proposed section 51F says:

... the Chief of the Defence Force must, as far as is reasonably practicable, ensure that:

(a) the Defence Force is utilised to assist the State or Territory specified in the order and cooperates with the police force of the State or Territory; and

(b) the Defence Force is not utilised for any particular task unless a member of the police force of the State or the Territory specified in the order requests, in writing, that the Defence Force be so utilised.

You have to tie that to the circumstance as well so that, if there is a public utility which is being destroyed, the police force can say, ‘We can’t handle this. This is the request we’re making of you. Please contain that area and ensure there’s no further damage done.’ I have tried to answer Senator Faulkner as comprehensively as I can about what sorts of
things the manual might have in relation to serious damage to property.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (9.00 p.m.)—I thank the minister for trying to answer that question comprehensively. I come back to the second part of my question, which is in relation to a definition in the bill. If this material can be included in the manual in the way you have described, why is it not possible to frame some form of definition in the bill that may in fact get us over this particular hurdle? That is where I am trying to come from, Minister. I hear what you say about the manual, and that gives me greater confidence that it might be possible to frame an appropriate definition for the bill.

Senator COONEY (Victoria) (9.01 p.m.)—Minister, you are absolutely right when you say that the expression ‘serious damage’ has to be looked at in the context of the bill. We are talking about major issues here, and it has to be looked at in that way. Just as the bill puts the phrase in context, so does the phrase affect the bill. Senator Faulkner is quite right: you do need a definition of serious damage to property. If you used the word ‘catastrophic’ instead of ‘serious’, that affects the way you look at all of this. It has to be remembered that the scheme set up under this legislation is the scheme where the executive does all the decision making, and that is normal. The executive runs the Army, in the sense of turning it out and what have you, but I think parliament has to have a serious input into this. The only way it can have a serious input is through such things as definitions. You say that we will have the manual, and no doubt we will, and I am sure the training will be quite strict in all this. But that is not parliamentary action; that is action by the executive, writing the manual and setting out the guidelines. I think what has been asked is: why can’t you get a definition, for example, that serious damage means catastrophic damage or that the word ‘catastrophic’ is used where ‘serious’ is now used? If parliament were able to do that, that is an input it has in this very serious business of trying to work out how the Army is to be turned out.

Senator ELLISON (Western Australia—Special Minister of State) (9.03 p.m.)—In answer to the second part of Senator Faulkner’s question—and I think the nub of the question is, ‘If you can put it in a manual, why can’t you have a definition?’—of course the manual constitutes general orders for Australian defence forces. Those manuals detail across-the-board behaviour by the ADF in certain circumstances. To contain those sorts of provisions in an act of parliament would be quite burdensome and, the government would contend, impractical. The manual is really like the guidelines which are often made pursuant to a lot of Commonwealth legislation. One that would be familiar to senators is the office guidelines for running your electorate offices pursuant to determinations which are made in the Parliamentary Entitlements Act. What you have further down the chain is this manual which sets out how you run certain things in your electorate offices. Similarly, the defence manual is there for the personnel who are implementing orders, and they are in a more compendious general nature than a tight definition in an act of parliament. Therefore, although you may have descriptions of events and actions required by personnel, that would not really be appropriate for a definition in the definitions section of an act of parliament where you are looking at one or two, or at best several, lines to define something.

Senator BROWN (Tasmania) (9.05 p.m.)—The reality is that we are not talking about running an office here; we are talking about a bloody conflict between armed forces and Australian civilians. That is an entirely different set of circumstances, and that is what you get when you send in the troops. I want to pick Senator Ellison up on something he said 10 minutes ago, because I think he may have misled Senator Harris. In the situation in which the Commonwealth interest is at stake and the troops have been called out, you do not need the authority of the state or the state police to then have the troops employed. The implication from Senator Ellison that that was the case is quite wrong. Let us be clear about this: this legislation in the main, if it is ever used in the situation where we find the armed services of Australia against the unarmed people of Australia, will
be used when the ‘Commonwealth interest’ is alleged to be at stake. I do not believe this is going to occur where it is a state interest that is at stake, because the state have their police forces and their tactical response groups and for a century they have been able to cope and for the next century they will be able to cope. This is an evolving situation where the Commonwealth wants to use the armed services as its police force in a situation where property is at stake—a very, very different matter.

I would counsel the opposition strenuously against supporting this amendment from the government. I am opposed to the opposition’s amendment. We should be making it clear that this legislation is wrong and that there should be no circumstances in which the commander of the armed forces could stop or restrict any protest, dissent, assembly or industrial action in this country. That is not the place for the armed forces to be used. We have heard good debate about that all the way through here. There is a philosophical gap that has opened between the crossbenches and the rest of the Senate in this matter, and it is not going to be closed by further debate on the matter. We cannot state it any more strongly. It has been put as vigorously and strongly as it can. However, I cannot believe that the opposition would entertain this amendment which allows the armed services chief in the field to use guns against civilians on the pretext or on the belief that property damage is likely to occur.

Senator ELLISON (Western Australia—Special Minister of State) (9.08 p.m.)—I must clear up one thing—that is, I did not belittle or in any way seek to lessen the severity or seriousness of what we are debating here by using the manual under the entitlements act as an example. So for any senator to say that I was is seriously misleading the Senate about what I was saying. I merely used an example of something which I thought senators would be well acquainted with to show how a manual might work vis-a-vis the legislation we are talking about. There are other more serious examples in existence that could be used. Through the chair to Senator Brown, in no way was I saying that this is similar in substance; of course it is not, and it would be absolutely ridiculous to suggest that. What I was saying was that in process and operation there is a similarity between a piece of legislation which may then have a manual and regulations which follow which operate pursuant to it, and they are expressed, particularly a manual, in very different terms. That is what I was saying, through the chair to Senator Brown.

Senator COONEY (Victoria) (9.10 p.m.)—I accept Senator Ellison’s last point. But I think that illustration can be looked at in another way. I think what has been said is that parliament should have an input into the rules. Take the example that you gave about the regulations or the guidelines for electorate offices regarding postage and what have you. There is no direct input by parliament there. I think that illustration was a very good one. I think what is being said is that parliament, given the catastrophic events that might follow this legislation, should almost write the manual. It clearly cannot do that completely, but it could do a lot more than it is presently doing. Indeed, Senator Faulkner’s amendment goes to that point. This is a direction given to the officer in the field as to what he or she might not do. There is great scope to take that further.

Even more alarming than that is the issue about ‘serious damage’ to property. Serious damage to property in some context could be damaging the front wheel of a bicycle. Clearly, in the context of this legislation, that would not be—let’s hope it would not be—the occasion for the Army to come in on the attack. A threat to blow up an atomic station would clearly be a situation you would want the Army to do something about. Then we get to the proverbial issue of when it is suitable for the Army to come in on the attack. A threat to blow up an atomic station would clearly be a situation you would want the Army to do something about. Then we get to the proverbial issue of when it is suitable for the Army to come in and when it is suitable for the Army to stay out. As the legislation now stands, that decision has been left to the military commander in the field. At least the guidelines for electorate offices are written in such a way that we know specifically what we can and cannot do. But the officer in the field—and I think this is the point that Senator Brown has made again and again—has got no guidance at all about a situation which could bring death and destruction to people. That is a very serious
matter, and I do not think it has been satisfactorily dealt with yet.

Senator ELLISON (Western Australia—Special Minister of State) (9.13 p.m.)—I apologise to Senator Cooney if I have misunderstood what he has said. If I can put it this way: the manual would have to reflect the intention of parliament in the passing of this bill. There is no question of that. The manual could not be used to do something else. I think that might allay some concerns. The problem is though that this manual is detailed; it looks at the carrying out of orders; and it constitutes general orders for the Australian Defence Force. So these general orders as such are appropriately contained in the manual; they should not be contained in an act of parliament.

This manual, which will be rewritten insofar as it is affected by the passage of this legislation, is something which really describes the appropriate carrying out of orders and how the Defence Force should act. I think, in that circumstance, it is a public document where security provisions are not infringed. I have already said that those matters dealing with division 3 are going to be made public, so there is that aspect to it. It will reflect the parliamentary intention with the passing of this bill. And it will have to be couched in terms that ADF personnel can readily understand and follow. I do not know whether that answers or addresses entirely the concerns of Senator Cooney. If it does not, no doubt he will put me right.

Senator COONEY (Victoria) (9.16 p.m.)—Thank you, Senator Ellison, for that answer. I understand what has been said about the general orders. If the Army was fighting overseas, then I think that the scheme you have set out is the sort of thing that we would want. In other words, the Army should be able to very much run its own show—if I can use that expression—when it is defending our shores. But I think there is a big jump—and this is a point that has been made again and again—when on shore, as it were, the Army, specifically modelled for a particular task, is brought out for this purpose. This is the sort of great constitutional issue which was fought in the 17th century—I am going very much by memory now. The contest between parliament and the king—

Senator O’Brien—Do you remember the 17th century?

Senator COONEY—My father told me about it! Remember, it was Charles I that raised 8,000 men on the pretence that he was going to use them overseas or against the Scots. Senator Mackay, they were giving the Scots a very bad time, but the good Presbyterian Scots won in the end. There was a great reaction to that. When the Bill of Rights was passed, the parliament was put very much into the picture. I do not think that you could get a standing army without the right of parliament, and certainly parliament would not let the troops be used against anybody except rioters. As the Clerk, Mr Harry Evans, said the other day, the rioters were really the papists. That is probably the reason why I have a great objection to this bill, when it is all said and done. Senator Mackay, being a Scot, I do not know whether or not you have a Presbyterian background, but if you do, you could look at this with much more ease. But having a papist background, I have some concerns about this bill. Is it going to be used against the papist rioters outside St Patrick’s Cathedral? I do not know. Be that as it may, I think that, if you are going to use it against the papists or anybody else, the papists ought to know about it. It ought to be in the act so they can read it.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—I do not think the bill discriminates, Senator Cooney.

Senator COONEY—Thank you, Mr Temporary Chairman. You have relieved my mind. I have not got the bill here; I left it in my room. You have helped me on that point—it does not discriminate against papists, and that is a good thing. I think the problem remains that parliament ought to say a lot more about what the Army does within the shores—not without the shores—and for a variety of reasons. Is it going to be used instead of the police? The police are restrained by a number of acts, and we can point to those acts. There is a long tradition of the relationship between the police and the public, which there is not between the Army and the public.
Right throughout this debate—since I have been listening to it, in any event—honourable senators have been saying, ‘We as a parliament are worried. We would like a little bit more in the act.’ And you say—and I can understand, Minister, why you say it, too—that, traditionally, this is the way things go. You say, ‘Do not worry about the act. It will be in the guidelines, the regulations and the standing orders. We cannot show you those standing orders yet, but you can trust us.’ I certainly trust you. I assure everybody here that you are a man of the highest integrity, but we cannot go out to the public and say, ‘We have agreed to this bill. We have agreed to this expression “serious damage to property.” We do not really quite know what it means, but you can trust the relevant ministers now and forever into the future. You can trust whoever is in command of the troops at the time, you can trust the Army and you can trust the manual will be right.’ They might say to us, ‘We paid you to do a bit better than this for us.’ And they might be right. I do not know whether you can say anything more than you have said about that, but it seems to me that that is the situation. We do not know how the Army is going to act, because it has been very rarely used in Australia. As I said the other day, the Eureka Stockade was the only time that I could find that it had been used together with the police. The question remains: who was worse on that occasion—the police or the Army?

We have no tradition of this. In a certain sense, this is breaking with tradition by bringing it up now. You say, ‘It’s in the Constitution,’ which it is in; and ‘It’s in the act,’ which it is in. But it is brought up now, I think, in the context of the Olympics. But Minister Moore and Attorney-General Daryl Williams have written to the Australian a letter which I read and which said that the Olympics are certainly an element, but by no means the principal element. So I think there is legitimate confusion, on the part of those who are objecting to this bill, about what this is all about.

**Senator Ludwig (Queensland) (9.23 p.m.)—**I am coming back to the amendment before us. You have spoken a number of times about the Manual of Land Warfare. As I understand it, you are actually intending to reflect a better definition of what it is that we are currently talking about. I was curious about how that will actually sit: will it sit above or below, in terms of being the primary piece of legislation? Will it be subordinate to the act; and, if it is subordinate to the act, will the current definition as provided hold, or will the Manual of Land Warfare definition that you then rewrite guide or lend itself to the interpretation to allow the provision to be more fully canvassed, Minister?

**Senator Ellison (Western Australia—Special Minister of State) (9.23 p.m.)—**If I could describe it in descending order of things, we have the legislation, then the regulations and then the manual. So most certainly the manual is subordinate to the legislation, and we would be tabling the manual in parliament. The regulations are a step up, if you like, and of course they are disallowable; and we know the provisions that relate to regulations and the disallowance of regulations. Then, in ascending order, you have the legislation which, of course, is the primary source of power. I think that puts it fairly squarely in relation to how this manual sits in the scheme of things.

I might say that the manual, which will need to be reworked, is very much a public document, as I said. There are some security provisions in relation to antiterrorist procedures which understandably are not public, and that is for very good reason: we do not want to foreshadow them to any potential terrorists. We are saying that, in that circumstance, obviously there is a security issue; but in all other respects the manual that I am referring to is a public document and one which will be tabled in the parliament.

I might deal slightly with an aspect of the manual. A manual is something that in these circumstances describes the carrying out of things. It needs to be understood that it relates to how things are to be done, and that constitutes general orders. It does not necessarily take the place of the substance. That is what you find in your legislation and then in the regulations; and finally the manual is basically how they are put into effect. There were some instances which have been cited in the previous debate, and I do not want to
go into them again, Senator Brown—through the chair. We have dealt with those at length. But that demonstrates exactly what I am saying in relation to direction of implementation. The instances that Senator Brown referred to, of course, relate to the current manual, which will be replaced on the passing of this bill; that is, those provisions which are relevant to the passing of this bill.

The government, in proposing this amendment, has thought through and has addressed very carefully this provision dealing with property. I would ask those senators with concerns to reconsider that aspect of it.

The government is saying here that there could well be a scenario where there is serious damage to property, damage which is beyond the control of the state or territory and which meets the provisions of a call-out—that is, the state or territory does not have the ability to control it and, under 51F, the police force concerned has asked for a particular task to be met in dealing with serious damage—and the chief of the Defence Force must act with reasonable and necessary force. Then you have a situation where the ADF acts, but only then. So there are all these hurdles which have to be negotiated.

Senator Brown—Where is that in 51A?

Senator ELLISON—No; in 51F you have it that the Defence Force is not utilised for any particular task unless a member of the police force of the state or territory specified in the order requests in writing that the Defence Force be so utilised.

Senator Brown interjecting—

Senator ELLISON—You have the situation where 51F applies generally, Senator Brown; but the point you are making in relation to 51A is that there is a way of circumventing, I understand, the provisions of the call-out, whereby the state or territory does not have to—

Senator Brown—That is where the liaison with the police disappears.

Senator ELLISON—Perhaps you should make your point now and I can address that.

Senator COONEY (Victoria) (9.29 p.m.)—Can we just go through that again, Minister? Let us use an example. Suppose you have a sergeant or a lieutenant—I suppose a lieutenant would be more likely—charged with using excessive force or charged with an offence and you want to argue through the amendments to the defence legislation. All you would have to show, I suppose, is that the occasion was there for the call-out and that the proper process was gone through: the three ministers concurred in the call-out, you had the request from the state and you had a cordoned off area. Suppose you come right down to it and everything is proved. So you have that situation and you say, ‘Look, what happened here is that someone threw a match into a haystack.’ That would be serious damage, and everything has been satisfied. In other words, I am putting probably the reverse of what you were putting before. You were saying, ‘Look, if you get to the final act, the act of serious damage to property, then you have to look at that in the light of all these other provisions in the act and, therefore, it will only be the serious bit of property damage that counts.’ But I am not sure that you do have to do that.

If you were defending a lieutenant who has been charged, what you would do is show that all the provisions of the act were complied with. Then I think the issue of serious damage would be divorced from the rest. So perhaps a match into a haystack would be sufficient to bring the provisions in so that he would then be acquitted. If you look at it in that way—and I think that is the way you would have to look at it: taking each step at a time and putting the Crown to the proof, in that it has to prove beyond reasonable doubt that this did not happen—then you would have to prove beyond reasonable doubt that this was not serious damage to property. I am not too sure that that will give much protection to people who are worried about this.

It has been said throughout this that a soldier could be prosecuted if he or she went beyond the act. But as the act is presently framed, you would have to be pretty unlucky not to get your man or woman off, even if the damage were the sort of thing about which you would think, ‘I wouldn’t call the army out to protect this.’ In other words, the army is called out—if I can think aloud again—and all that is established. But, in amongst all these instances that make up the general
movement of people, a person may carry out an act which is, to the lieutenant’s mind, ‘serious damage’ and therefore he or she shoots or whatever else happens. Yet, when we look at it in the cold light of day, we would say, ‘This act was never meant for that purpose.’ When you look at it in terms of making a defence for a soldier who has gone beyond the pale in what we would estimate is a frolic of his or her own, it might be pretty hard to prove that he or she had done the wrong thing.

Senator HARRIS (Queensland) (9.34 p.m.)—I would like to come back to the essence of the amendments that we have before us. The government has proposed an amendment relating to serious damage of property. That is an amendment to the opposition’s original amendment that would delete (a) from 51G and replace it with the preferred opposition wording relating to restricting ‘any protest, dissent, assembly or industrial action’. Through you, Chair, or the previous chair, I asked for clarification from the minister relating to the process if the states did not wish the ADF to be called out. I believe that the minister then clearly articulated that, as it is set out under 51F, that would be the case.

Could the minister also clarify section 51G(b) for me? That refers to utilising the emergency forces or the reserve forces, unless the minister has consulted with the Chief of the Defence Force and is satisfied that sufficient numbers of the permanent forces are not available. So (b) is talking about an assessment of whether there are sufficient permanent forces or not. I ask whether the minister can give the committee an absolute assurance that, in relation to industrial action, and taking into consideration the government’s amendment to also include damage to property, neither the emergency forces nor the reserve forces would be called out in relation to a protest relating to industrial action. Through you, Chair, I will just articulate that again for the minister: the assurance I ask for is clearly directed to the emergency forces or the reserve forces not being called out in relation to any protest, dissent, assembly or industrial action.

Senator ELLISON (Western Australia—Special Minister of State) (9.37 p.m.)—That was quite a convoluted question, which was mainly a statement made by Senator Harris. As I understood it, Senator Harris is querying the use of emergency or reserve forces in relation to the protests as mentioned in 51G(a).

Senator Harris—that is the clarification I am seeking.

Senator ELLISON—The clarification that Senator Harris is seeking is about what circumstances those reserve or emergency forces would be used in. Is that right?

Senator Harris—that is correct.

Senator ELLISON—as I understand it, it states that the minister would have to consult firstly with the Chief of the Defence Force and would have to be satisfied that there were insufficient personnel from the regular forces—that is, the permanent forces—to deal with the situation before calling in the emergency forces or reserve forces. However, I will take further instructions on that process and see whether there is anything else to it.

Senator HOGG (Queensland) (9.38 p.m.)—I have questions in respect of the same thing, Minister. Do we have an emergency force? Where is the emergency force? Who comprises the emergency force? It is my understanding that there is no standing emergency force.

Senator ELLISON (Western Australia—Special Minister of State) (9.39 p.m.)—It might help matters if we say that there is no standing emergency force but there are a couple of units that could possibly be described as that and could well be trained for that purpose.

Senator HOGG (Queensland) (9.39 p.m.)—On the same issue, are the reserve forces referred to here the same Army Reserves, or are they a different force comprising people from within the permanent Defence Force?

Senator ELLISON (Western Australia—Special Minister of State) (9.40 p.m.)—It is not just Army Reserves; it is the reserves for all three services. I thought it was just Army Reserves, but of course we must not forget the Navy and the Air Force, which also have
very good reserve forces. We do not want to leave them out. But it is the reserve forces as they are commonly known across the country—Army Reserves, Air Force Reserves and Navy Reserves—who are referred to in the proposed subsection.

Senator HOGG (Queensland) (9.40 p.m.)—Minister, when was the emergency force last called together or last used, and when were the reserve forces last called together or last used in instances that are encompassed by this bill?

Senator ELLISON (Western Australia—Special Minister of State) (9.41 p.m.)—I understand that the emergency force, which I have said is not a standing one, has never been used. The couple of units that I referred to are mainly units which give technical advice. The emergency force has not been employed, and there is no standing emergency force.

Senator HOGG (Queensland) (9.41 p.m.)—What about the reserve forces? Have the reserve forces ever been used in a manner that may be encompassed by this bill? If so, when? Where are those reserve forces stationed?

Senator ELLISON (Western Australia—Special Minister of State) (9.41 p.m.)—My advice is that the reserves have not been called out and that—to go back to your prior question, Senator Hogg—the current Defence Force legislation is being drafted in terms to eliminate reference to emergency forces. But the short answer to your question is that the reserve forces have not been called out previously.

Senator HOGG (Queensland) (9.42 p.m.)—I seek further clarification on that point. Minister, are you saying that there is no contingency plan to call the reserve forces together to operate in a situation envisaged in this bill?

Senator ELLISON (Western Australia—Special Minister of State) (9.42 p.m.)—My understanding is that the reserves have varying capabilities.

Senator Schacht—Under your government they have no capability at all.

Senator ELLISON—I think the reserves do a very good job, actually.

Senator Schacht—Yes, but you give them no support.

Senator ELLISON—I was a member of the Army Reserves myself in the regiment at the University of Western Australia. Regarding their varying capabilities—whether it be in the north of this country or in other areas and whether it be Air Force or Navy—it really does depend on the situation at hand as to whether the reserves might be employed. That is something about which a decision has to be made depending on the circumstances at the time. You could not say, ‘We’re going to call in the reserves willy-nilly.’ It really is a case of whether the call-out involves a situation where the reserves could make a contribution.

Senator HOGG (Queensland) (9.43 p.m.)—On the issue of reserve forces, are there any contingency plans in existence for the use of reserve forces under this bill, or is that just a term that appears unfortunately in the bill as presented to the parliament?

Senator ELLISON (Western Australia—Special Minister of State) (9.44 p.m.)—I understand there are call-out contingency plans for reserves, but no units are specified as such. In relation to the general question of serious damage to property, which was mentioned previously, I might be able to assist the committee further. The government is envisaging damage to infrastructure by way of damage to power stations, dams, telecommunications facilities and the like—public hospitals or transport systems like airports and train stations being disabled, damaged or destroyed—and the attendant wanton damage to buildings and the looting of buildings. That sort of reference or description could well be contained in the manual—which will be tabled, in any event.

Senator HARRIS (Queensland) (9.45 p.m.)—On the issue of the reserve forces and the emergency forces being used, which goes to clause 51F, can the minister clearly convey for the committee’s benefit that the words ‘reserve forces’ in no way refer to what we would colloquially speak of as the CDF, or Citizens Military Forces, and that the words ‘emergency forces’ in clause 51G(b) of the bill in no way refer to the personnel involved in the state emergency services? If I could
have that clarification, I would greatly appreciate it.

Senator ELLISON (Western Australia—Special Minister of State) (9.46 p.m.)—I can say very clearly that the words ‘reserve forces’ here do not refer to the CMF, as mentioned by Senator Harris, and I can say that the emergency forces, as mentioned, do not refer to the various state emergency services that exist around the country.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (9.46 p.m.)—I note the comments the minister made a moment ago—his summation of the government’s intention in the amendment to add the words ‘or serious damage to property’. In noting those, Minister, I think I am correct in saying that the words you used in relation to those is that they could be contained in the manual—the manual here being the new manual, which will replace the Manual of Land Warfare. Can you be a little more specific on that issue? I am concerned about the use of the word ‘could’. You have said that they ‘could’ be contained in the manual. I ask the minister for a more definitive assurance on that particular point.

Senator ELLISON (Western Australia—Special Minister of State) (9.47 p.m.)—The references I made will be contained in the manual, and the manual will be tabled.

Senator COONEY (Victoria) (9.47 p.m.)—On that point, if you leave the act as it is now—I am not quite sure of the nature of the manual—how do you prove beyond reasonable doubt that a particular piece of damage was not serious damage? You talk about the electric power stations and those sorts of places, but that is not what the act says. The term ‘serious damage’ is going to be left to a court and, if you wanted to prosecute somebody for doing something you say that he or she should not be doing, they would have to prove beyond reasonable doubt that that was not serious damage. That is not much protection for the citizen.

Progress reported.

NOTICES
Presentation

Senator CALVERT (Tasmania) (9.49 p.m.)—by leave—On behalf of Senator Crane, I give notice that on the next day of sitting he shall move:

That the Senate—

(a) recognises that on 4 September 2000, Mr Andrew Snedden, the current Secretary of the Rural and Regional Affairs and Transport Committees, had been employed by the Senate for 25 years;

(b) acknowledges the commitment that Mr Snedden has shown by remaining with the Senate for this length of time and the professionalism and dedication with which he has carried out his duties; and

(c) records its sincere appreciation for the high standard Mr Snedden has maintained since becoming Secretary of the Rural and Regional Affairs and Transport Committees in March 1996.

ADJOURNMENT

The DEPUTY PRESIDENT—Order! It being 9.50 p.m., I propose the question:

That the Senate do now adjourn.

Truscott Air Base

Senator EGGLESTON (Western Australia) (9.50 p.m.)—In May I was fortunate enough to be invited to attend a reunion of veterans and relatives at the former Truscott air base on the north Kimberley coast. I would like to inform the Senate of the history of Truscott and some of the events which took place there during the reunion. Truscott air base is located on the Anjo Peninsula of the northern Kimberley region of Western Australia and was named in honour of Squadron Leader ‘Bluey’ Truscott, who met a premature death on 28 March 1943 aged 27 when his Kittyhawk plunged into the waters of the Exmouth Gulf during training manoeuvres while he was escorting a Catalina flying boat. ‘Bluey’ Truscott had previously distinguished himself as an RAAF fighter pilot in Britain and as a squadron leader in Papua.

Truscott air base played a crucial role in the allied offensive against the Japanese in the Pacific. At the time it was operational, Truscott was shrouded in secrecy. In writing
of the history of Truscott, John and Carol Beasy said:

Former members of units serving at Truscott remembered returning to Darwin to find that most people they spoke to had never heard of a base in the Kimberleys, let alone on the Anjo Peninsula or Truscott ... Often, personnel at Truscott never knew the identity or even existence of neighbouring units ... Photography was strictly forbidden and no one was allowed to own a camera. News of the outside war was also scarce and mostly came as hearsay and innuendo: very little got in and even less got out.

Construction of the airstrip, consisting of a steel metal runway, commenced in early 1944 and was completed by the middle of that year. From July 1944 until October 1945 hundreds of missions were flown from Truscott. The airfield essentially served as a staging base for medium and heavy bombers such as B24 Liberators. The base extended the range of the bombers and afforded crews an opportunity to rest. From Truscott, aircraft could attack the enemy in places such as Java, Timor, Sumatra, Borneo and the Celebes. There were no bombers actually based there; instead, the bombers were located at inland air bases, which were more difficult for the Japanese to attack.

Royal Australian Air Force, Royal Air Force, United States Air Force and Dutch air force units all operated from Truscott. Sixteen RAAF squadrons launched missions from the base during its period of operation, with aircraft including Beauforts, Mitchells, Liberators, Venturas and Catalinas. There were often more than 1,500 personnel stationed at Truscott performing a range of different roles. For example, there was a mobile works squadron, a supply depot company, a signals unit, a survey and design unit, engineers, an anti-aircraft regiment and radar personnel. In 1948 the RAAF abandoned Truscott, and in 1959 the land on which Truscott lies was handed over to the Western Australian government. In 1989 Santos, an oil exploration company, refurbished the strip at Truscott for their own use as a supply base for their rigs in the ocean north of the Truscott base.

This year, on 18 May, a group of veterans and relatives were flown from Kununurra on board an RAAF Caribou to Truscott airfield and were joined late on the Friday afternoon by me, Senator Lightfoot and Barry Haase, the federal member for Kalgoorlie. As the tropical sun set in the western sky a dedication service was held, and a plaque dedicated to the fitters and motor drivers transport crews was fixed to an obelisk which is outside the main building on the base. The plaque complements those already on the obelisk which are dedicated to various categories of servicemen who served at the base during the Second World War. On the next morning, all present gathered before dawn at the wreckage of a Liberator which had crashed fully laden on take-off, killing all on board. Poignantly, the now middle-aged niece of one of the crew, Flight Sergeant Easton, read a memorial poem as the dawn light broke through the gum trees and the bugler of the Norforce detachment played the last post and reveille at the end of two minutes silence.

Indeed, the reunion afforded an opportunity for those present to commemorate the sacrifices of the service men and women throughout the war, including those who made the ultimate sacrifice by laying down their lives in the service of our country. Significantly, Truscott was the location of the final Japanese aeroplane to be shot down over Australian soil. On 20 July 1944, a Japanese Dinah left Timor on a reconnaissance mission to photograph significant sites in the Kimberley. The aircraft was detected by the radar station at Truscott, and at 8.45 in the morning the three Spitfire pilots on duty at Truscott were alerted and placed on standby to scramble. A few minutes later the pilots were ordered to take off and, shortly afterwards, the Dinah was shot down.

The reunion at Truscott, although it was very simple and not attended by a great number of people, provided a unique opportunity to meet the Truscott veterans and gain an impression of what it must have been like to serve at this isolated, tropical base in the dark days of the Pacific war when our homeland was under threat of invasion. The weekend is one I will long remember. I would especially like to thank Howard Young of Kununurra, who was involved in organising this event and was responsible for inviting me to join the reunion weekend. The Truscott experi-
ence led me to reflect on the importance of our freedom and democratic traditions and of how close we came to losing them within living memory. It is said that the price of maintaining freedom and democracy is eternal vigilance. Surely the lesson of Truscott is that we, the Australians of today, have an obligation to those who fought so valiantly, particularly those who made the ultimate sacrifice, to preserve our freedom and to maintain equal vigilance in the world of today to protect our democratic traditions. It is naive to believe that there are no threats to them in this modern world.

Goods and Services Tax: Aged Care

Senator FORSHAW (New South Wales)  
(9.59 p.m.)—In early July I received a phone call in my electorate office in Sydney from an elderly lady living in Mosman. She was rather concerned that she had just received a letter from a company in New South Wales called VitalCall which informed her that her VitalCall service would, from the beginning of July, be subject to a GST. She was informed that the full 10 per cent GST would be applied to the cost of the monitoring that is provided as part of VitalCall. As I said, she was an elderly lady, and she was most concerned about this and was looking for some indication as to whether we could do something about it. I contacted the company, and I have to say that they have been most helpful and forthcoming in providing information to me regarding, firstly, the nature of their service and, secondly, their attempts to have this service granted a GST exemption.

Just for the record—but I would believe that many, if not all, senators would be familiar with the service I am talking about—VitalCall is a 24-hour medical monitoring service. It operates in this way. Elderly people or people with disabilities who continue to live in their own homes can purchase an answering service which includes a button-controlled device which they can press in an emergency. Immediately there will be an answer from a monitoring centre requesting the type of assistance the person needs. The service, I am advised, comprises two components. Firstly, there is the infrastructure—that is, the machinery itself that is placed in the home, next to the bed or near the telephone, and the device the client generally wears around their neck or around their arm like a wrist band with the button on it. Secondly, there is the actual monitoring service, which is available on call 24-hours a day.

VitalCall is a company that in New South Wales is a division of Chubb Security Australia. For quite some time they have been supplying this service, also called VitalCall, and similar services, such as one called Safe-t-net, to people with disabilities and other infirmities. Previously, the equipment itself was not subject to any sales tax or any other similar taxes. Of course, there was no tax applicable to the monitoring service. The Taxation Office has ruled that VitalCall must charge their clients a GST on the monitoring service. However, it appears that for similar services—one in particular that I have been informed of is called Vitalink, which is provided in Victoria—in situations where there is HACC funding provided or where there is constant medical care provided to the person living in their home the monitoring charges may be eligible for a GST exemption. The relevant determination is the GST-free Supply (Care) Determination 2000.

The company have gone to great lengths to try to get a satisfactory outcome from the Taxation Office to ensure consistency across the entire industry providing this service. They have endeavoured to assist their clients as much as possible in this regard. They have approached various professional organisations, both legal and accounting, to assist them in making out a case to the Taxation Office. They have also been supported by an association which I understand is called the Association of Social Support Monitoring, which comprises member companies involved in providing similar services. But to date, the Taxation Office remains resolute and will not extend the GST exemption to this service. I asked a question of the Assistant Treasurer on 29 August about this, and I am yet to hear any response.

Just by way of coincidence, I was reading my local newspaper—the St George and Sutherland Shire Leader—on 20 July, which was two to three weeks after I had had the phone call about this matter, and I noticed an article in the paper which was headed ‘Vital-
Call saves pensioner: Home invader scared away by woman’s alarm. I will just read a little extract from that article. It says:

A personal alarm potentially saved an elderly woman’s life when its high-pitched ring scared off an intruder who threatened her with a knife in her Bexley home on Tuesday.

Francis Bell, 88, reached for the personal alarm pendant hanging around her neck and sounded the alarm after the bandit held a knife to her face in her George Street house at 4.15pm.

Further on in the article it said:

The intruder fled when Ms Bell pressed a button on the VitalCall pendant, a radio transmitter which triggered the alarm in a talk back device on her telephone.

The telephone device connected to a response room where staff talked to her and alerted police and her family.

‘It makes a considerable row,’ Ms Bell said.

This is not some opposition scare tactic, as the minister might allege or the government might try to throw back at us, as they do whenever we raise a GST issue. This is a real-life situation, where a vital service—and hence the name ‘VitalCall’—is provided to elderly people and people with disabilities in their own homes. For the life of me, I cannot understand how any government could allow the situation to develop where such an important service became subject to a GST.

The government might say, ‘This is a service and we cannot distinguish,’ but the fact is there is a determination which exempts the provision of medical care services from the GST. As I have already mentioned, a similar service—where it is provided with HACC funding support—is GST exempt. Further, as many would know, patients or residents in a nursing home, hostel accommodation or a hospital will invariably have an emergency button beside their bed or in their room that they can press to call up emergency help or emergency support. But because they are resident in that facility, that service is not charged to them with GST. It is provided as part of normal medical care.

We have a situation here where elderly people, particularly those living in their own home—and, by virtue of that, clearly saving taxpayers’ dollars that might otherwise be expended on accommodation in aged care centres, for instance—need this facility, but they are going to be hit with the GST because they use it. The fact that it might provide security, as was the case in the example I referred to, and not just health support should be no reason to bar this service from the GST exemption. At the end of the day, the security of our elderly people in their own homes is important to their health, welfare and wellbeing. I urge the minister to take some action to remove the GST from this vital service. It will be a demonstration of some compassion, and I urge him to take this matter up. (Time expired)

Electoral and Political Party Reform

Senator MURRAY (Western Australia) (10.09 p.m.)—In an address to the Sydney Institute on 17 August Labor’s Carmen Lawrence opened the way for Labor to support a clean-up of politics. Liberal minister Chris Ellison has put a crucial reference on electoral fraud to the Joint Standing Committee on Electoral Matters. The Democrats excepted, no-one has yet seemed to connect the threads of a strategy that could see a sea change in political standards. Although it is proper and necessary to attack specific and particular political ills, it is the corporate political structure that has to be addressed if real change is to occur in our political culture. It is my view that the key need is for political governance. The key elements required to achieve that are the regulation of political parties, the introduction of ‘one vote, one value’ as a mandated principle in political parties, making the serious version of branch stacking a crime and the introduction of much stronger political donations laws.

There are only minimal requirements for registering a political party. The internal rules and procedures of political parties are almost entirely self-regulated. Political parties are much less regulated than corporations and unions, which is a dangerous state of affairs. As political parties are powerfully involved in public life in every way, this lack of regulation is not in the public interest. The electoral act needs to require that standard items be set out in a political party’s constitution and that basic standards of political party governance be mandated.
Turning back to Dr Lawrence’s speech, an editorial on 29 August in the *Sydney Morning Herald* commented:

But there is no interest, unfortunately, from Australia’s political leaders. No-one wants to reform outdated party practices that serve their narrow interests.

‘Dr Lawrence is a lone voice,’ said the editorial. It continued:

... to the politicians, it seems, reform is only appropriate for organisations and procedures outside politics.

I draw your attention to the June 2000 Australian Democrat minority report on the 1998 federal election. Dr Lawrence’s August suggestions are Democrat June recommendations. Over many years Democrat submissions, minority reports and, regrettably, failed amendments show that our record on electoral and political party reform is second to none. Carmen Lawrence said that substantial political donations are leading to Australia becoming a corporate democracy, whereby the number of shares purchased in a political party determines the amount of influence the donor can exercise. She claims:

... there appears to be a conspiracy of silence on the issues among Australian politicians.

This is an oddly uninformed opinion, given our long-term Democrat efforts, our June JSCEM minority report and the article ‘The dangerous art of giving’ by Marilyn Rock and I in a recent edition of the *Australian Quarterly*.

The fight to close loopholes in the laws governing donations to political parties has been going on for at least two decades, with genuine effect. Carmen Lawrence joins the Democrats in at least some of their calls for the full and transparent disclosure of donations by foundations, trusts and clubs, and for the full approval of donations or fees by members of organisations such as unions or shareholders in companies. In our *Australian Quarterly* article we warned:

... as long as there continues to be inadequate transparency over the funding of political parties, there will be justified disquiet over the perceived overt and covert links between donations and policies. Governments tend to be formed according to the party with the best bagman. Funding disclosure returns by the major parties between 1992 and 1998 reveal a six-year average of just on $22.5 million a year. Public funding is available for political parties for four of our nine governments.

A new financing model is required to reconnect Australian citizens to the political process. The Democrats have recommended political donations be banned unless below $1,500 and that the monies normally received from private donations be replaced by public funding at the federal and state level for both administrative and electoral expenses. If that were not to happen and a mixture of public funding and private donations were to be retained, as at present, at least the political donations system should be made absolutely transparent. Should much greater transparency and much better political party regulation not occur, the notion of the corrupting influence of money and policy direction will continue.

Not long after Dr Lawrence’s speech, Minister Ellison referred allegations of electoral fraud and vote rigging to the Joint Standing Committee on Electoral Matters following the conviction of Labor’s Karen Ehrmann in Queensland on 24 counts of forgery and 23 counts of uttering under the Crimes Act. Branch stacking and electoral fraud are soul mates. Revelations of fraudulent electoral process are the catalyst for what will undoubtedly be a broad inquiry. An even broader question is this: does the government finally mean to get serious about punishing the fraud and immorality of branch stacking and electoral fraud, and will Labor support it? In the April edition of the *Bulletin*, Labor’s Gary Johns, a former minister in the Keating government, now researching a PhD on preselection procedures, was quoted:

His research reinforced the view that Western Australia’s Labor Party had the most “crooked” preselection of any ALP branch. “Local branch members have no say in pre-selection, there is no sense of democracy in WA. . .”

Labor’s Carmen Lawrence also criticised these practices in her 17 August speech. The Democrats made a strong recommendation that closer scrutiny be given to branch stacking and preselection abuses, in its June JSCEM minority report. These practices cor-
rupt our political processes. Labor has had well publicised problems in Queensland, New South Wales, South Australia and Victoria. The Liberal Party has had real problems in Queensland, New South Wales and Western Australia. This is not just a major party concern; every political party faces these dangers. Even where electoral fraud does not apply in the criminal sense of fraud, a member or senator who has won their seat through branch stacking or preselection abuse is undoubtedly morally corrupt. There are members in every political party deeply concerned about the scourge of branch stacking and preselection abuse. It is time for action. The act should define branch stacking and preselection abuse and make the serious version of it a crime. Carmen Lawrence also broke ranks with the Labor machine over Labor’s malapportioned voting system. She said:

Unions—honourable contributors to Labor history and policy—exercise disproportionate influence through the 60:40 rule and through their affiliated membership, many of whom have no direct connection to the party. One vote, one value—the prime condition for a democracy—is not observed in the party’s rules.

Lawrence’s telling remarks repeat the trenchant criticism by Peter Reith of the farce of Labor’s rigged 60-40 union dominated annual conference. The Democrats’ JSCEM June minority report calls for all political parties to be required to enshrine the principle of one vote, one value in their political party processes. They, too, believe it is the prime condition for a democracy.

In 1964, the United States Supreme Court gave specific support to the principle of one vote, one value. Labor took up the call for national and state elections, first introducing federal legislation in 1972. By the nineties, the principle was in all Australian electoral laws except those of Western Australia. Despite a strong contrary recommendation by WA’s Commission on Government, conservatives in WA have conspired to ensure that a country vote is still worth twice a city vote, a condition applying nowhere else in Australia. Labor unsuccessfully took the matter of the disgracefully malapportioned Western Australian electoral system to the High Court. In August, in a speech at Macquarie University, Gough Whitlam described democracy in WA as a ‘monstrous misnomer’. One vote, one value should be an automatic dictate of democracy, both in public elections and in political party processes. Carmen Lawrence deserves our thanks for saying so.

Education: Queensland Curriculum

Senator BARTLETT (Queensland) (10.15 p.m.)—I wish to speak tonight about an issue of significance to my electorate of Queensland; an issue which is, I think, of concern to many people. Despite the fact that these people might not be listening at this particular point in time, I think putting these words on the record is important. The issue is the newly developed curriculum in Queensland called studies of society and environment, SOSE. Whilst I certainly do not have a problem with debate and analysis of school curricula—or anything else, for that matter—the single-minded ferocity and selectivity of some of the ongoing attacks on this new curriculum ring disturbing alarm bells for me. I am old enough—only just—to remember some of the hysterical attacks that were made by extremist forces in Queensland on another education model called SEMP back in the 1970s. These attacks were led by arch-conservative woman called Rona Joyner, who has been a regular candidate for the Call to Australia Party, and subsequently the Christian Democratic Party in Queensland. I certainly do not denigrate her for expressing her concerns as an individual, but the views that she expressed back at that time—which were quite clearly at the very extreme level of what might be called fundamentalist Christian, with a capital ‘C’, conservatism—were very concerning to many people. All the more concerning was the fact that those attacks were successful in the undermining and eventual scrapping of a progressive school curriculum which had been developed around that time. This was back in the days when Joh Bjelke-Petersen was Premier of Queensland, and I suppose that in that circumstance
one could understand how such an outcome could occur. I have experienced a sense of deja vu about this brand-new curriculum that has been developed, given the very similar sounding attacks made upon it. Apparently those attacks are starting to get some currency in Queensland, with significant amounts of media coverage, and that causes me a great deal of concern.

The first article printed about the new curriculum appeared in the newsletter of the National Civic Council in June this year. The NCC claimed that this curriculum would have a cumulative effect on a child’s thinking causing them to be able to ‘deconstruct the Western Tradition with its Judeo-Christian value base, which has shaped Australia as we know it today’. I do not usually pay terribly much attention to what the NCC puts in its newsletter.

Senator McGauran interjecting—

Senator BARTLETT—I am sure Senator McGauran pays much more attention than I do to what they put in their newsletters.

Senator McGauran—You said Bob Santamaria was one of your heroes, in your maiden speech.

Senator BARTLETT—that is a completely false assertion, Senator McGauran. I invite you to go back and read my first speech, and you will see what I actually said.

The next I heard of this curriculum was when my office was approached by a Liberal Party member who warned of the dangers to Queensland children because they were being asked to study Ho Chi Minh but not Captain Cook. Then my good friend—but nonetheless I think in this case mistaken colleague—Senator Mason from the Liberal Party got in the picture when he claimed that the curriculum would feed children ‘a steady diet of crude leftism masquerading as knowledge’.

Then what followed these attacks was an all-out assault by the main paper in Queensland, the Courier-Mail, on anyone who appears to favour the curriculum and a stream of ridicule for those who developed it. We saw over the weekend terms such as ‘Armani Marxists’ being used to describe proponents of the new curriculum, and an editorial claiming that it has ‘searched in vain for any-other than those involved in the development of the curriculum who praise or even defend the approach it has adopted’. I am in no doubt why proponents of this curriculum would question the paper and those criticising it. If you look at the direction the criticism has come from, it appears to be based significantly and predominantly on politics, bearing little relationship to the real and very important world of education.

Let us take a look at the schools which have actually adopted this curriculum. It will be compulsory for all state schools when it is adopted, but what surprises me is the range of excellent independent schools which have already taken up the curriculum and which, according to reports—even in the press in Queensland—are happy with the results so far. They include independent schools such as St Hilda’s on the Gold Coast, Anglican Grammar School in Brisbane, Toowoomba Grammar School and the Christian Brothers school, St Lawrence’s, at South Brisbane. I would not necessarily seek to put all of those schools in the same box but I certainly would not see any of them as breeding grounds for Armani Marxists—or any other sort of Marxist for that matter. Just in case we think that, somehow or other, the critics have got it wrong and it really is a curriculum for conservatives, it also has the support of the Queensland Teachers Union, the Queensland Council of Parents and Citizens, and the Independent Parents Association of Queensland.

This new curriculum does offer significant flexibility. Those who support it welcome the opportunity for children to learn about culture, government and civics as well as history and geography. Developing a curriculum is a difficult task, and there will be always be critics—I certainly do not have problem with people voicing concerns or criticisms—but the extent, and detail, of some of the criticism of this curriculum has, frankly, left me quite astounded. It is always a balance trying to figure out the best way forward as we try to ensure that our children have an understanding of the range of issues in an increasingly complex society. Without trying to revisit my sadly somewhat long distant youth, it is crucial to try to give our children the most
broadly based education possible. Back when I was at school, while I am sure many of the issues that I had to examine—the fine detail of maths, physics, et cetera—were very valuable, they were not necessarily of much use to me. It is a concern that I was not able to have exposure to some other subjects relating to history, biology and geography in the detail that I think would have been of benefit to me.

Today I spend as much time as possible speaking to school students at high school level, as I am sure many parliamentarians do. A frequent concern expressed is that students do not have a full enough understanding of our system of government, of our electoral system and of what are broadly called living skills and social issues. I think the attempt to develop a curriculum that provides some exposure to some of these issues should not be seen as some sort of social engineering, left-wing experiment but as an important attempt to try to expose our children to a range of issues that they need to have an understanding of and at least some exposure to.

Unfortunately, at the moment we seem to be having a debate with a range of people criticising the fact that the curriculum mentions Ho Chi Minh and Mao Tse Tung and does not mention Captain Cook, and a few bizarre examples like that. Plus, there are some others who are concerned that the curriculum does not pay significant attention to history and geography in their own right but tries to squeeze those two together. It is always going to be difficult to try to cover every aspect in sufficient detail. Why try to throw out a curriculum that has been developed over a long period of time with extensive consultation—a curriculum which encourages analytical learning, is focused and intellectually demanding in terms of the way students are expected to learn, and is in tune with the more dynamic way of history and the changes that we are continually experiencing today—when all those things are important? To try to basically throw out that entire curriculum because of concerns such as those that have been expressed is incredibly shortsighted. In many ways it is very dismissive of the enormous amount of work and the enormous amount of expertise that have gone into the development of this particular curriculum.

I in no way wish to suggest that the whole curriculum is perfect in every way. Indeed, I do not even want to suggest that I have a perfect answer. In some ways, there are many people more qualified than I am. But, both from my own perspective and from many of my constituents who have contacted me, I know that many people involved in education have expressed concern about the quite extensive attack that has been made on this new curriculum. I think it is time to say that we need to pull this debate back into perspective. We need to pull it back into a recognition of what is best for students today, for our children today. We need to take it out of the ideological, extremist straitjacket that has characterised much of the debate today. We need to recognise that we live in a fast-changing, very dynamic world, and our students need as comprehensive an education as possible. Ridicule and scaremongering are not the way to go. (Time expired)

Liberal Party of Australia: Tasmania

Senator CALVERT (Tasmania) (10.29 p.m.)—I wish to correct the record once again. On 29 August 2000, the Labor member for Denison sought to correct the record in relation to allegations that he made against me concerning certain events in the Liberal Party in my home state of Tasmania. Mr Kerr, in retracting his accusations against me, outrageously and unfairly simply shifted the focus of his accusations off me and on to one of my colleagues. Whilst I thank Mr Kerr for acknowledging the fact that he was incorrect in making those accusations against me, I would not wish for any of those comments that I made on Wednesday, 30 August to be interpreted as supportive of Mr Kerr’s new-found and unsustainable allegations against one of my colleagues, which I absolutely reject.

Olympic and Paralympic Games

Senator LUNDY (Australian Capital Territory) (10.30 p.m.)—For some the Olympics and Paralympics are a dream come true. For others it is a chance to watch their heroes. For others still it becomes a logistical challenge. It is a spectacle for sports lovers the
world over and, whatever your perspective, it will be an incredible event. The moment will be magical for many, and I hope many Australian citizens get to play a part in the Sydney 2000 Olympics. For many that part will be watching the torch go by in the torch relay, as a spectator at the Games itself or just surviving and drawing inspiration from the many performances of our sporting heroes.

With the Olympics here in less than two weeks, I think it is an appropriate time to reflect on the event and what its legacy will be for Australia. Over the last couple of years I have been very critical of the Minister for Sport and Tourism, Miss Kelly, with respect to sports policy, especially her inability to provide a blueprint for elite and participatory sport after the Games are over. This is important because the Olympics more than anything else provide an opportunity for such an incredible sporting legacy, the same legacy that the 1956 Olympics in Melbourne left as it made such a strong impression on a whole generation of young sports people that they have carried with them throughout their lives. I am worried that this lack of vision on behalf of the coalition government about the future of sport will impact negatively on the hopes and aspirations of not only our athletes and our coaches of the future but sports administrators now—be they sports scientists at the Australian Institute of Sport or the intensive training centre coaches within a range of national sporting organisations—who are feeling the pressure of not knowing where their future lies. Specifically, the Shaping Up report, which was commissioned almost two years ago, lies dormant on the minister’s bookshelf while our athletes and administrators ponder their future.

But this evening, rather than dwelling on those negative aspects—the lack of policies and the minister’s refusal to provide the long-term structures that are needed to provide security for those in sport—I want to spend my time reflecting on the positives that the Olympics bring to Australia. First of all, I would like to talk about the Australian Sports Drug Agency, particularly the fact that this agency has developed a world-class standard in the prevention of drugs in sport. I would like to recognise the work of Natalie Howson, who heads ASDA and recently announced that she intends to retire from that position. Natalie Howson was named Australian Businesswoman of the Year in recognition of her contribution towards tackling illegal performance enhancing drugs. It will be largely due to the work of ASDA that our Olympics will be such a success. I would like also, as I know Ms Howson did in a recent public appearance, to acknowledge the diligent and hard work of her staff in achieving such a positive outcome from the Australian Sports Drug Agency.

I would also like to acknowledge the work of Australia’s sports administrators, sports scientists and specialists. In particular, the Australian Institute of Sport has built up over a decade now to become the premier sports institution in the world. Countries around the world come to Canberra and to Australia to look at the model of the Australian Institute of Sport, with the hope that they too can develop their sporting prowess as a nation. Because that has not happened overnight, we also need to recognise the commitment of so many people over so many years that has culminated in the peak of Australian sport with the hosting of the Olympics in 2000.

I hope that the Paralympic commitment remains as strong as it has been in the lead-up to the Olympics. There is no doubt that the Paralympics is a premier event equal to the able-bodied Olympics. It will be very interesting to see, and I hope that Australians turn out in the same sorts of numbers to support our Paralympic stars as they will for the Olympics. I am very much looking forward to the Paralympic events and know that Paralympians around the country will be watched closely by their friends and family as they try to achieve their personal best.

I am also looking forward to seeing Australia’s Aboriginal and Torres Strait Islander athletes representing Australia on the international stage. Last month Professor Colin Tatz and his son Paul launched their book, Black Gold: The Aboriginal and Islander Sports Hall of Fame. I have to declare an interest here in that my policy adviser, Simon Tatz, is the son of Professor Colin Tatz. This book features many of our well-known athletes, including Cathy Freeman, Nova
Peris-Kneebone, Michael Long, the Ella brothers, Evonne Goolagong-Cawley, Mal Meninga and many more. These athletes helped shape Australia’s identity as a great sporting country. There are 172 athletes in the Aboriginal and Islander Sports Hall of Fame, representing 30 sports and spanning 132 years. These 172 athletes have represented Australia at state, territory or national level or have held a national title. There are many more athletes being recognised all the time, including the magnificent achievement of the late Jason McFadyen, who represented his country at the highest level ever achieved by an Aboriginal in the sport of rowing. Sadly, many of the 172 hall of fame athletes are victims of the stolen generation, whilst many others came from remote settlements where sporting facilities were little more than a dirt track with a couple of posts. So it is more than impressive—more than inspiring—to see these achievements of indigenous athletes come forth out of this experience.

At the end of the day with this wonderful event coming up, it is important to reflect on what legacy the Olympics leaves for this country. It is not just about medal counts and who wins the most gold, silver or bronze. It should not be about those things; it should be about a legacy that resonates through the entire community and about value adding to community sport and recreation. It should be about participatory sport, because elite sport is not born in a vacuum and the stars of tomorrow need to be identified, nurtured and encouraged. The public policy aim should be to create a sporting structure in which young sporting aspirants can grow into success through their participation.

Finally, I convey my warmest best wishes to those volunteers and professionals alike who have made a commitment and sacrifices to ensure the Paralympics and Olympics are a success. I also convey my warmest best wishes to the support teams, including coaches, sports administrators and the families and friends of the athletes competing at the games. I also welcome to Australia athletes and their teams that are participating in the Olympics and hope that the time they spend here is not only valuable in terms of their efforts but also fun and recreational for their own personal enjoyment. However, it is the athletes that carry the enormous pressure of performance. So to all the athletes in the Australian Paralympic and Olympic teams, I wish you all well as you strive for your personal best and, in doing so, inspire generations of young Australians.

In closing my comments tonight, I would like to say that the Olympics are so much more than what they seem to be during the actual time of the event. I think it was last year in this place that I reflected on the coming together of circumstances that allowed not only Australia to present itself to the world but also all of our sporting heroes to reach the pinnacle of their performance and have the opportunity to show their talents before a home crowd.

United Nations: Human Rights Committee System

Senator McGauran (Victoria) (10.39 p.m.)—The United Nations was born in 1945 into a world yearning for peace and security, and that is its primary mission statement. Its charter encapsulates the best and most hopeful ideals of the human race. High minded as these beginnings may be, essentially the United Nations has been a success, and it is as relevant today as it ever has been. However, the United Nations should not be above criticism or review, nor should it have the power to override the domestic laws of a democratic country like Australia. The principles on which the United Nations operates—that is, peace, security and human rights—are built on a cornerstone, and that is democracy. To quote the former Secretary-General, Boutros Boutros-Ghali:

... there is an obvious connection between democratic practices—such as the rule of law and transparency in decision making—and the achievement of true peace and security in any new and stable political order.

It is worthy of note that no democracy has ever gone to war against another. For this reason alone, it would be in everyone’s interest to safeguard and extend democratic processes throughout the world. A good example of late has been Taiwan’s move to democracy, which will no doubt greatly enhance its security and support throughout the world against a threatening China. In the demo-
cratic stakes, Australia rates at the top. To quote the member for Wentworth, Mr Thomson, ‘We are a gilt-edged democracy. This country has its democratic institutions enshrined in its Constitution, law and customs. We have the most open, equal, free democracy in the world. We have the most numerous checks and balances on the possibilities of abuse of power over the citizens of Australia, none less than the doctrine of the separation of powers—that is, the executive government, bicameral parliament, the judiciary and our law enforcement arms, both state and federal. We also have elections every three years or, in some cases in the states, every four years. Therefore, Australia meets the most fundamental criteria of the United Nations wish for peace, security and human rights. We are, as the member for Wentworth said, a ‘gilt-edged democracy’.

I refer to an article in the Australian Financial Review which I think succinctly puts the points I have just made and explains why we are very justified in a call for a review of the very cumbersome United Nations committee system. An article by John Bolton states:

Review of the international treaty system is long overdue. The idea that expert bodies or even bodies of the United Nations member states should review the human rights performances of democratic governments is wrong both philosophically and operationally. It is wrong philosophically because it persists that an essential element of democracy, competition among ideas and the interests of legitimate political authority simply does not work.

It is worthy to note that not so long ago Australia was described by the Secretary-General, Kofi Annan, as a model United Nations member, following Australia’s very brave and courageous deployment of peacekeepers to East Timor in the name of human rights. Therefore, the point should be made that our objection is not to the principles underlying the covenants into which this country has entered but to the operation of the committee system. We have entered into those covenants more thoroughly than some of the nations you would have expected to do so. For example, Australia has signed up and adhered to all six principal human rights treaties. Yet the United States—the host country of the United Nations—has not ratified all six principal human rights treaties. Nor has Ireland—another country you would naturally have expected to do so. They have not, for their own particular sovereign domestic reasons. But Australia has adhered to all six—a worthy point.

Our calls for change are not just of late. We had them as far back as 1998. Australia, with Canada and New Zealand, I should add, submitted a joint paper to the Human Rights Committee looking at the five areas of reform in which to improve the committee rules. Australia, Canada, New Zealand and, most recently, Norway have made statements relating to treaty body reform to the General Assembly and to the Commission of Human Rights. So these are not new calls; they are longstanding concerns. The changes we propose would ensure adequate recognition of the primary role of democratically elected governments and the subordinate role of non-government organisations, and they would ensure that the committees and their individual members work within their mandates.

That brings me to three examples where, we believe, the committees have not been performing to their mandate. Back in 1998, a United Nations world heritage mission visited this country to report into the Kakadu National Park and whether mining threatened it in regard to world heritage. The report claimed that the Jabiluka mine posed a threat to world heritage values. The mission said:

... seriously questions the compatibility of mining and particularly uranium mining in close proximity to a world heritage property.

But the point is that the proposed uranium mine at Jabiluka is not and was not even in a world heritage area. The Jabiluka lease has never been part of the Kakadu National Park or heritage area. If I remember that visit correctly, it was simply a fly-in, fly-out visit—a weekend visit. Only one side of the argument was listened to, and it was quite obviously and blatantly waging an ideological war against uranium mining.

The other more celebrated example comes from the Convention on the Elimination of Racial Discrimination committee, which de-
clared that Australia had a racially discriminatory legal system. I believe it was, in fact, referring to the Northern Territory’s mandatory sentencing laws. This chairman of this committee came from Egypt. It had members from China and Romania. I should add that the member from Romania was a diplomat under that Ceausescu regime. The point, of course, is that the rating we received from that particular United Nations committee rated Australia more discriminatory than countries such as China, Pakistan and Cuba. We had a worse rating than those countries. That is illogical, utterly discredited and insulting to this country.

In conclusion, Australia’s political and legal system is the best in the world, and it is sovereign. We reject any proposition that any of these committee rulings are to take a higher place and that they can operate under appeal where our legal system has ruled. This country’s domestic laws and legal system are sovereign.

Senate adjourned at 10.49 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

Aboriginal and Torres Strait Islander Heritage Protection Act—Aboriginal and Torres Strait Islander Heritage Protection (Boobera Lagoon Amendment) Declaration 2000.


Fisheries Management Act—Australian Fisheries Management Authority Temporary Order No. 3 of 2000.


Primary Industries Levies and Charges Collection Act, Primary Industries (Customs) Charges Act and Primary Industries (Excise) Levies Act—Regulations—Statutory Rules 2000 No. 239.

Remuneration Tribunal Act—Determination—

2000/06: Travelling Allowance Rates.

2000/07: Remuneration and allowances for holders of public office.

2000/09: Remuneration and allowances for holders of public office.

Indexed Lists of Files

The following document was 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 January to 30 June 2000—Statements of compliance—

Comcare.

Department of Defence.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Aboriginal and Torres Strait Islander Commission: Involvement in Australia Week Visit to the United Kingdom
(Question No. 2190)

Senator Faulkner asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 26 April 2000:

Has the department, or any agency within the portfolio, had any involvement, or expect to be involved, in the preparation for the Australia Week trip to the United Kingdom in 2000; if so:

(a) what is the nature of that involvement;
(b) what is the total cost, or expected total cost, of this involvement;
(c) what are the specific components of the cost;
(d) how many staff will be involved with these preparations and are these staff based in Australia or overseas;
(e) how many portfolio staff are expected to travel overseas, and will this be with the official party, or prior to that party’s travel;
(f) what is the purpose for the involvement of these officers; and
(g) will the department/agency budget be supplemented for these costs, if not, how will the department/agency involvement be funded.

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

Aboriginal and Torres Strait Islander Commission has provided the following information:

(a) The Commission has had some involvement at officer level in discussions with Departmental representatives on matters expected to be addressed by the Prime Minister in discussions with the British Government;
(b) A small amount of senior officer time in discussions;
(c) N/A;
(d) One to two officers at various points for minimal time, based in Canberra;
(e) Nil;
(f) N/A;
(g) N/A.

Australian Electoral Commission: Provision of Electoral Rolls to the Attorney-General’s Department
(Question No. 2346)

Senator Robert Ray asked the Minister representing the Attorney-General, upon notice, on 13 June 2000:

(1) Has the National Crime Authority (NCA) used an electronic version of the Electoral Roll provided by the Australian Electoral Commission (AEC); if so: (a) when did the AEC provide the Electoral Roll; and (b) for what purpose(s) has it been used.

(2) Has the NCA ever sought legal advice as to the lawfulness of using the Electoral Roll for those purposes; if so, from whom has this legal advice been sought.

(3) Following the provision of the legal advice, was the NCA satisfied that the use of the Electoral Roll was in fact lawful; if so, on what basis was the NCA satisfied that the use of the Electoral Roll was lawful.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) Yes.
(a) The NCA has received electronic access to elector information since 1995.
(b) The information has been used for the purpose of enforcement of the criminal law and of laws imposing pecuniary penalties and for security vetting of staff.
(2) No.
(3) Not applicable.

**Australian Electoral Commission: Provision of Electoral Rolls to the Australian Government Solicitor**

(Question No. 2348)

Senator Robert Ray asked the Minister representing the Attorney-General, upon notice, on 13 June 2000:

(1) Has the Australian Government Solicitor (AGS) used an electronic version of the Electoral Roll provided by the Australian Electoral Commission (AEC); if so, (a) when did the AEC provide the Electoral Roll; and (b) for what purpose(s) has it been used.
(2) Has the AGS ever sought legal advice as to the lawfulness of using the Electoral Roll for those purpose; if so, from whom has this legal advice been sought.
(3) Following the provision of the legal advice, was the AGS satisfied that the use of the Electoral Roll was in fact lawful; if so, on what basis was the AGS satisfied that the use of the Electoral Roll was lawful.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) No.
(a) Not applicable.
(b) Not applicable.
(2) No.
(3) Not applicable.

**Australian Electoral Commission: Provision of Electoral Rolls to the Australian Security Intelligence Organisation**

(Question No. 2351)

Senator Robert Ray asked the Minister representing the Attorney-General, upon notice, on 13 June 2000:

(1) Has the Australian Security Intelligence Organisation (ASIO) used an electronic version of the Electoral Roll provided by the Australian Electoral Commission (AEC); if so, (a) when did the AEC provide the Electoral Roll; and (b) for what purpose(s) has it been used.
(2) Has ASIO ever sought legal advice as to the lawfulness of using the Electoral Roll for those purpose; if so, from whom has this legal advice been sought.
(3) Following the provision of the legal advice, was ASIO satisfied that the use of the Electoral Roll was in fact lawful; if so, on what basis was ASIO satisfied that the use of the Electoral Roll was lawful.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) No.
(a) Not applicable.
(b) Not applicable.
(2) No.
(3) Not applicable.
Australian Electoral Commission: Provision of Electoral Rolls to the Australian Federal Police

(Question No. 2352)

Senator Robert Ray asked the Minister representing the Attorney-General, upon notice, on 13 June 2000:

(1) Has the Australian Federal Police (AFP) used an electronic version of the Electoral Roll provided by the Australian Electoral Commission (AEC); if so, (a) when did the AEC provide the Electoral Roll; and (b) for what purpose(s) has it been used.

(2) Has the AFP ever sought legal advice as to the lawfulness of using the Electoral Roll for those purpose; if so, from whom has this legal advice been sought.

(3) Following the provision of the legal advice, was the AFP satisfied that the use of the Electoral Roll was in fact lawful; if so, on what basis was the AFP satisfied that the use of the Electoral Roll was lawful.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) Yes.

(a) The AFP has received elector information in electronic form since 14 July 1999. Prior to this date limited access was obtainable through a Department of Immigration and Ethnic Affairs computer link. That link has been discontinued for a number of years. Access was also available through microfiche.

(b) The information has been used for the purpose of investigating criminal offences, enforcement of the criminal law, enforcement of laws, imposing pecuniary penalties, integrity checking, ensuring officers safety and security vetting of staff.

(2) No.

(3) Not applicable.

Australian Electoral Commission: Provision of Electoral Rolls to the Director of Public Prosecutions

(Question No. 2354)

Senator Robert Ray asked the Minister representing the Attorney-General, upon notice, on 13 June 2000:

(1) Has the Director of Public Prosecutions (DPP) used an electronic version of the Electoral Roll provided by the Australian Electoral Commission (AEC); if so, (a) when did the AEC provide the Electoral Roll; and (b) for what purpose(s) has it been used.

(2) Has the DPP ever sought legal advice as to the lawfulness of using the Electoral Roll for those purpose; if so, from whom has this legal advice been sought.

(3) Following the provision of the legal advice, was the DPP satisfied that the use of the Electoral Roll was in fact lawful; if so, on what basis was the DPP satisfied that the use of the Electoral Roll was lawful.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) No.

(a) Not applicable.

(b) Not applicable.

(2) No.

(3) Not applicable.
Australian Electoral Commission: Provision of Electoral Rolls to the Australian Customs Service
(Question No. 2357)

Senator Robert Ray asked the Minister for Justice and Customs, upon notice, on 13 June 2000:

1. Has the Australian Customs Service (ACS) used an electronic version of the Electoral Roll provided by the Australian Electoral Commission (AEC); if so, (a) when did the AEC provide the Electoral Roll; and (b) for what purpose(s) has it been used.

2. Has the ACS ever sought legal advice as to the lawfulness of using the Electoral Roll for those purposes; if so, from whom has this legal advice been sought.

3. Following the provision of the legal advice, was the ACS satisfied that the use of the Electoral Roll was in fact lawful; if so, on what basis was the ACS satisfied that the use of the Electoral Roll was lawful.

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

1. Yes.
   a) The electronic version was first provided in May 1993.
   b) It was used for the purposes for which access was granted, namely, risk assessment and operational planning for areas involved in interception of prohibited goods, and, in collection of customs and excise revenue.

2. No.

3. Not applicable.

Residential Aged Care Advocacy Services: Funding
(Question No. 2396)

Senator Chris Evans asked the Minister representing the Minister for Aged Care, upon notice, on 26 June 2000:


2. Where funding was not increased annually, how were advocacy services expected to maintain service levels while covering increases in costs.

3. What level of funding has been provided for these advocacy services in the 2000-2001 financial year.

Senator Herron—The Minister for Aged Care has provided the following answer to the honourable senator’s question, in accordance with advice provided to her:

1. The Commonwealth funding provided to residential aged care advocacy services between 1996-1997 and 1999-2000 was $6,940,949.

2. Funding has increased annually since 1997/98.

3. $1,904,209 has been approved for Advocacy Services in the 2000-2001 financial year.

Federation Guard and Royal Military College Band: Deployment
(Question No. 2491)

Senator Faulkner asked the Minister representing the Minister for Defence, upon notice, on 28 June 2000:

1. (a) Who made the decision to deploy the Federation Guard and the Royal Military College (RMC) Band to the United Kingdom in July 2000; and on what date was that decision made.

2. What training or other benefits does the Australian Defence Force expect to accrue from this ceremonial deployment.

3. (a) Who made the request that the Federation Guard and the RMC Band undertake this ceremonial deployment; (b) when was the request made; and (c) has any Minister or their office been
involved in the decision as to whether this deployment would occur, or in relation to the nature of the duties undertaken during the ceremonial deployment.

(4) Did the Defence portfolio provide any advice on the proposed deployment of the Federation Guard and the RMC Band to the Australian High Commissioner in the United Kingdom, Mr Phillip Flood, prior to his public statement on the matter on 17 May 2000; if so, (a) who provided this advice to the High Commissioner; (b) on what date was it provided; (c) how was the advice conveyed; (d) who asked for this advice to be provided to the High Commissioner; and (e) when was this request made.

(5) Will the Federation Guard and/or the RMC Band be deployed in any way at the arrival in the United Kingdom of the Prime Minister and/or the Prime Minister’s party; if so (a) what will be the nature of the duties be; (b) who requested the duties; and (c) when was the request made.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Following the receipt of a formal invitation from the United Kingdom Ministry of Defence, I approved the original request by the Chief of Army through the Chief of the Defence Force and Secretary on 20 February 2000, with variation approval given on 13 June 2000.

(2) The training and other benefits accrued from this deployment include: enhanced performance of Australia’s Federation Guard following high profile guard duties in the United Kingdom; operational training benefits, particularly for the Royal Australian Navy and the Royal Australian Air Force; showcasing of Australia and the Australian Defence Force to a worldwide audience; and enhancing the strong military links between Australia and the United Kingdom.

(3) (a) The United Kingdom Chief of the General Staff (UKCGS)
(b) 19 January 2000
(c) Yes, but not involved in decisions about the nature of duties.

(4) Yes.
(a) Head Australian Defence Staff, London
(b) to (e) In October 1999, the High Commissioner sought advice from all Branches in the High Commission as to how Australia Week in the United Kingdom could be enhanced. The suggestion that Australia might provide the guard performing public duties in London was one of several ideas put forward. This proposal was informally perused from October 1999 until January 2000 when the UKCGS formally requested Australia to provide the guard. During this period the High Commissioner was kept informed of developments.

(5) No.

**Federation Guard and Royal Military College Band: Costs of Deployment**

(Question No. 2492)

Senator Faulkner asked the Minister representing the Minister for Defence, upon notice, on 28 June 2000:

(1) What is the date of departure from Australia and the date of return to Australia of the members of the Federation Guard and the Royal Military College (RMC) Band for the upcoming ceremonial deployment to the United Kingdom.

(2) What are the expected costs of: (a) the total deployment; (b) the airfares of the Federation Guard unit; (c) the airfares of the RMC Band; (d) the airfares of support staff; (e) the transport of equipment, including musical instruments within the United Kingdom; (f) internal transport within the United Kingdom; (g) accommodation; (h) food; and (i) travel allowance.

(3) Given that the deployment is not for peacekeeping or exercise operational purposes, what class of airfare will apply for the members of the Federation Guard and the RMC Band on international flight sectors.

(4) Where will the members of the Federation Guard and the RMC Band be accommodated for the duration of the ceremonial deployment.

(5) Who will be responsible for the provision of meals for the members of the Federation Guard and the RMC Band during the ceremonial deployment.
Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:


(2) 
(a) $773,794
(b) $307,530
(c) $74,370
(d) $16,080
(e) $92,400
(f) $1,200
(g) nil
(h) $4,500 (extra messing)
(i) $271,464

(3) Economy class

(4) Guard and Command Group at Royal Artillery Barracks, Woolwich and band at Chelsea Barracks.

(5) HQ London district, with the exception of the extra messing charges.

Department of Finance and Administration: Missing Laptop Computers
(Question No. 2507)

Senator Faulkner asked the Minister representing the Minister for Finance and Administration, upon notice, on 28 June 2000:

(1) Since 1 January 1999, have there been any laptop computers lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) how many have been lost; (b) how many have been stolen; (c) what is the total value of these computers; (d) what is the average replacement value per computer; and (e) have these computers been recovered or replaced.

(2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action been commenced; and (d) in how many cases has action been concluded and with what result.

(3) How many of the lost or stolen computers had, on their hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

(5) (a) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the computers referred to in (1) or in relation to the documents etc. referred to in (3) or (4).

Senator Ellison—The Minister for Finance and Administration has supplied the following answers to the honourable senator’s questions:

Department of Finance and Administration (DOFA)

(1) Yes
(a) 4
(b) 2
(c) $42,402
(d) $7,067
(e) None have yet been recovered. One (1) was replaced.

(2) Yes
(2) (a to d) Police were advised of the thefts. We have not been advised by the Police of any arrests or conclusions of investigations.

(3) 2

(4) None

(5) None.

(6) N/A.

**Australian Electoral Commission (AEC)**

(1) Yes.

(a) N/A.

(b) 2.

(c) $3,782.78.

(d) $2,500.

(e) The stolen laptops were not replaced

(2) Yes.

(a) 2.

(b) 1.

(c) None

(d) None

(3) Only one held some electoral education Powerpoint presentations.

(4) None

(5) (a) None

(b) None

(6) N/A.

**Commonwealth Grants Commission (CGC)**

(1) Yes

(a) None

(b) 1

(c) $0.

(d) $5,823.

(e) The stolen laptop computer was recovered by Police.

(2) (a to d) The Police were contacted and investigated the break in. No arrest or apprehension of the perpetrator has eventuated.

(3) The stolen laptop had Commission specific information on the hard drive.

(4) The information was classified at the 'protected' level.

(5) All documents have been recovered.

(6) N/A.

**ComSuper**

(1) Yes

(a) None

(b) 1.

(c) $2,500.

(d) $4,600

(e) The stolen computer was not recovered and has since been replaced.

(2) Police were called to investigate the break in and a police report was obtained. The perpetrator of the break in has not been identified nor has the computer been recovered.
(3) The hard drive of the laptop contained operating software and routine office information, ie draft text for information leaflets and draft information for annual reports.

(4) N/A
(5) None
(6) N/A.

Office of Asset Sales and IT Outsourcing (OASITO)

(1) Yes
(a) None
(b) 1
(c) $2,744
(d) $7,500
(e) No

(2) The theft was reported to the Police
(a) 1
(b-d) Nil
(3) None
(4) N/A
(5) N/A
(6) N/A.

Department of Finance and Administration: Missing Computer Equipment
(Question No. 2526)

Senator Faulkner asked the Minister representing the Minister for Finance and Administration, upon notice, on 28 June 2000:

(1) Since 1 January 1999, have there been any desktop computers, or any other item of computer hardware, other than laptop computers, lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) what and how many have been lost; (b) what and how many have been stolen; (c) what is the total value of these items; (d) what is the normal replacement value per item; and (e) have these computers been recovered or replace.

(2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action been commenced; and (d) in how many cases has action been concluded and with what result.

(3) How many of the lost or stolen items had, on their hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

(5) (a) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the items referred to in (1) or in relation to the documents etc. referred to in (3) and (4).

Senator Ellison—The Minister for Finance and Administration has supplied the following answers to the honourable Senator’s questions:

Department of Finance and Administration (DOFA)

(1) Yes
(a) 1, IBM 300 PL CPU
(b) 1, IBM 300 PL Standard desktop unit
(c) $6,500
(d) $3,888
(e) Both were replaced.

(2) Yes
(a to d) Police were advised of the theft. We have not been advised by the Police of any arrests or conclusions of investigations.

(3) None
(4) None
(5) None
(6) N/A.

Australian Electoral Commission (AEC)

(1) Yes.
(a) 1 Ipex266 PC (including its 17” Monitor), 1 Ipex 400 PC (also including its 17” Monitor), 1 Lexmark Printer.
(b) 3 CPU’s.
(c) $9,080.
(d) $5,950.
(e) All were replaced.

(2) Yes.
(a) One incident (theft of three CPU’s).
(b) One investigation has been completed.
(c) Legal action was not commenced.
(d) N/A.

(3) Our policy dictates that all documents be stored on the network on either the Personal (H), State (a), Branch (R) or Section (S) directory. There were however work-related material on the three CPU’s that were stolen.

(4) None
(5) (a) None
(b) None
(6) N/A.

Aged Care: Accreditation Costs
(Question No. 2548)

Senator Chris Evans asked the Minister representing the Minister for Aged Care, upon notice, on 30 June 2000:

(1) Has the department done any analysis of the cost of accreditation on small facilities; if so, what were the findings of that analysis.

(2) What accreditation fees are paid by facilities with: (a) 30 beds; (b) 35 beds; (c) 40 beds; and (d) 45 beds.

(3) How much, in total, has been collected in accreditation fees from facilities with 45 beds or less.

(4) Apart from the direct cost of accreditation fees, what are the department’s best estimates of the costs associated with accreditation in terms of staff time and training, etc.

(5) Have residential aged care facilities received any funding specifically to compensate them for the costs associated with accreditation.

(6) Does the Government expect residential aged care facilities to use funding from care subsidies to cover the costs associated with accreditation.

Senator Herron—The Minister for Aged Care has provided the following answer to the honourable senator’s question, in accordance with advice provided to her:
(1) The Commonwealth Government is subsidising the Accreditation process to ensure that no undue burden is placed on the industry. All services will benefit from Commonwealth Government subsidies, and no facility will be paying the full cost of accreditation. The fee structure for accreditation has been carefully developed to take into account the diversity of the industry, including the very different operating constraints that impact on smaller, and rural and remote facilities. The resultant are comparable with other commercial accreditation arrangements in similar industries.

The Government will provide a 100% accreditation fee subsidy for services with less than 20 places. This means that services with between 1 and 19 places will not be required to pay any fees at all for accreditation. Additionally, services with between 20-25 places will receive a tapered subsidy. These measures will be particularly beneficial to facilities in regional and rural Australia. This subsidisation by the Commonwealth Government of the costs of accreditation represents a major commitment by the Government to the new system of accreditation.

(2) Accreditation fees are set in accordance with the Accreditation Grant Principles 1998.

All fees are subsidised and represent less than 1% of funding received by each facility from the Commonwealth. Fees for existing facilities with 30 to 45 beds are as follows:-

<table>
<thead>
<tr>
<th>Beds</th>
<th>Fee</th>
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<tbody>
<tr>
<td>30</td>
<td>$5,400</td>
</tr>
<tr>
<td>35</td>
<td>$5,875</td>
</tr>
<tr>
<td>40</td>
<td>$6,350</td>
</tr>
<tr>
<td>45</td>
<td>$6,825</td>
</tr>
</tbody>
</table>

Accreditation is an opportunity to invest in quality care.

(3) By 30 June 2000, in excess of $7 million.

(4) See answer to question (1).

(5) All accreditation fees are subsidised in part or in full to ensure that no undue burden is placed on the industry. The Government will provide $6.4m over 4 years to subsidise all or part of the fee for smaller facilities as announced in the budget.

(6) Government funding for residential aged care has increased from $2.5 billion in 1995-96 to $3.9 billion in 2000-2001. This is a very large increase in funding by this Government. The Government expects residential aged care services to use this funding to improve care for their residents and, in so doing, to meet accreditation standards.

Irrigation and Resettlement Project, Dulan, Tibet: World Bank Deliberations

(1) Senator Brown asked the Minister representing the Treasurer, upon notice, on 30 June 2000:

(1) What instruction will the Australian World Bank Director, Mr Neil Hyden, take, or what instructions has he taken to the Bank’s deliberation on the controversial irrigation and resettlement project for the Dulan area in Tibet.

(2) How will Australia vote, or how has Australia voted on this issue on each occasion a vote has been or will be taken.

(3) What is Australia’s reaction to the executive summary of the inspection panel set up to investigate this issue.

Senator Kemp—The Treasurer has provided the following answer to the honourable senator’s question:

(1) Australia’s position on the World Bank’s China Western Poverty Reduction Project has consistently been that the processes for considering the project should be in line with the Bank’s policies and mandate, and that the project should be assessed on its development merits. When the Qinghai component of the project was considered by the World Bank Board in July this year, Australia’s position was that the Board should re-examine the project once further work had been completed to bring relevant processes into line with the Bank’s safeguard policies.

(2) Last year the constituency of which Australia is a member supported reference of this matter to the Inspection Panel. On 7 July 2000, the constituency, along with a majority of the Executive Board,
voted against the proposal by Bank management to proceed without further consideration by the Board after management had brought the Qinghai component of the project into line with Bank policies.

(3) Australia accepted the Panel’s conclusions that Bank policies had not been fully observed.

Department of Agriculture, Fisheries and Forestry: Drought Aid to India

(Question No. 2583)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 19 July 2000:

Was the Minister consulted before the Government provided $4 million for drought assistance to India; if so, what was the nature of the consultations and what was the basis on which the severity of the drought was determined; if not why not.

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

The Government provided $2 million in emergency humanitarian relief to India, which I understand was channelled through the relief efforts of the United Nations International Children’s Emergency Fund (UNICEF) and the World Food Programme. I was not consulted because the matter is not related to my portfolio.