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NOTICES
Presentation
Senator Stott Despoja to move, on the next day of sitting:
That the Senate—

(a) notes that:
(i) the Australian Council for Overseas Aid will convene a one-day seminar in Melbourne on 7 September 2000 titled, ‘Development Challenges in the Global Economy’;
(ii) this seminar will examine ways of bringing about more socially equitable, environmentally and culturally sustainable alternative global development to the market-driven globalisation promoted by the World Economic Forum, and
(iii) this seminar is one of a number of events being held in the lead-up to the meeting of the World Economic Forum from 11 September to 13 September 2000, with other events, including the community-based, ‘Other voices: other values’, on 10 September 2000; and

(b) acknowledges that these alternative meetings have been organised in response to the ‘closed-door’ and ‘invitation-only’ proceedings of the World Economic Forum, which have refused many community organisations any opportunity to participate in the discussions which will take place between government and international business.

Senator CALVERT (Tasmania) (9.30 a.m.)—On behalf of Senator Coonan and the Standing Committee on Regulations and Ordinances I give notice that 15 sitting days after today I shall move that the following delegated legislation, a list of which I shall hand to the Clerk, be disallowed.

The list read as follows—
(1) Hearing Services Providers Accreditation Scheme Amendment 2000 (No.1) made under subsection 15(1) of the Hearing Services Administration Act 1997.

Senator CALVERT—I seek leave to incorporate in Hansard a short summary of the matters raised by the committee.

Leave granted.

The summary read as follows—
Hearing Service Providers Accreditation Scheme Amendment 2000
Item 3 of Schedule 1 inserts a new subsection 6(5) which makes a decision to accredit an entity conditional on the entity not providing false or misleading information to the Commonwealth in connection with the accreditation scheme or the provision of hearing services to voucher holders. There is no indication whether this item imposes a form of strict liability on the entity.

Hearing Services Rules of Conduct 2000
Rule 5 provides that a contracted service provider must not refuse or fail to supply hearing services to a voucher-holder unless ‘it is reasonable to do so’. Rule 13 provides that a contracted service provider must ‘take reasonable steps’ to ensure that a voucher-holder’s consent to the supply of services is informed. Rule 16 provides that a contracted service provider must ‘take reasonable steps’ to ensure that a voucher-holder understands the effect of and liability arising from a document which is to be signed by the voucher-holder. Rule 17 provides that a contracted service provider must give the voucher-holder any information the contracted service provider ‘reasonably believes the voucher holder reasonably needs’. Rule 36(2) provides that a contracted service provider must not recommend a top-up device (as defined in rule 3(5)) to a voucher-holder unless ‘it considers on reasonable grounds’ that the device will meet the voucher-holder’s hearing rehabilitation needs in an appropriate way. The reliance on a standard of reasonableness in each of these rules appears to offer little guidance to contracted service providers and consequently an uncertain level of protection for voucher-holders.

Rule 31 provides that the Minister may refuse to approve or register a person if the Minister is satisfied that the person should not perform hearing services to voucher-holders. Rule 34 provides that the Minister may revoke an approval or registration. There is no indication whether these decisions are subject to reconsideration or review.

Rule 38 deals with complaints procedures established by a contracted services provider. The Rule
does not specify what procedures apply if the complaint is not resolved to the satisfaction of the complainant.

BUSINESS

Government Business

Motion (by Senator Ian Campbell) agreed to:
That the following government business orders be considered from 12.45 pm till not later than 2 pm this day:
No. 5 Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 1) 2000,
No. 6 Protection of the Sea (Civil Liability) Amendment Bill 2000, and

General Business

Motion (by Senator Ian Campbell) agreed to:
That the order of general business for consideration today be as follows:
(1) general business notice of motion No. 685 standing in the name of Senator Conroy relating to Rural Transaction Centres; and
(2) consideration of government documents.

NOTICES

Presentation

Senator McKiernan to move, on the next day of sitting:
That the following matter be referred to the Legal and Constitutional References Committee for inquiry and report by the first sitting day in August 2001:
The operational arrangements and adequacy of funding of the Australian Federal Police (AFP) and the National Crime Authority (NCA), with particular reference to:
(a) the current operational capability of both agencies in terms of:
(i) staffing issues (including overall numbers, resignations and recruitment programs),
(ii) appropriateness and adequacy of the allocation of staff across crime investigation units and across locations,
(iii) information technology capability and hardware, and
(iv) other resource issues;
(b) the current constraints on the ability of the AFP and the NCA to carry out each agency’s articulated priorities or core functions to optimum capacity;
(c) the impact the AFP and NCA 2000-01 budget forward estimates will have on each agency’s ability to carry out core functions, investigations and operations, and to develop the staff levels and expertise necessary to combat future law enforcement trends and threats;
(d) the impact which the new AFP certified agreement is having upon the AFP budget and any other issues associated with the implementation of the agreement;
(e) the appropriateness of any performance indicators or other mechanisms used to measure the overall effectiveness and efficiency of the AFP and the NCA, and to measure the effectiveness and efficiency of each operation carried out by each agency;
(f) the mechanisms, if any, which are in place for long-term strategic law enforcement policy decision-making and oversight of Commonwealth law enforcement agencies’ priorities, operations and budgets;
(g) the recommendations of, and the Government’s response to, the Ayers Report; and
(h) whether the requirement the Government placed on the AFP, following the Ayers Report, to find $50 million in internal savings has, in fact, been achieved and if it has, if this was at the expense of operational capacity.

Senator Allison to move, on the next day of sitting:
That the time for the presentation of reports of the Environment, Communications, Information Technology and the Arts References Committee be extended as follows:
(a) global warming and the Convention on Climate Change (Implementation) Bill 1999—to 12 October 2000; and
(b) telecommunications and electromagnetic emissions—to the Thursday of the fourth sitting week in 2001.

Senator Murphy to move, on the next day of sitting:
That the Senate notes:
(a) with continuing concern, the failure of the Assistant Treasurer (Senator Kemp) and the Department of the Treasury to provide all answers to questions taken on notice at the most recent Treasury estimates hearings;

(b) despite commitments given by the Chair of the Economics Legislation Committee (Senator Gibson) that all answers to questions would be provided within 30 days, the total and willful failure of the Minister and the department to ensure that Senator Gibson’s commitment was honoured; and

(c) that, in the absence of commitments given by the chair being met, it is increasingly difficult for the spirit of cooperation and goodwill to exist between committee members.

Postponement

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator O’Brien for today, relating to the reference of a matter to the Rural and Regional Affairs and Transport References Committee, postponed till 3 October 2000.

General business notice of motion no. 686 standing in the name of Senator Ridgeway for today, relating to the establishment of reconciliation committees, postponed till 4 October 2000.

General business notice of motion no. 689 standing in the name of Senator Ridgeway for today, relating to Aboriginal deaths in custody, postponed till 4 October 2000.

General business notice of motion no. 562 standing in the name of Senator Allison for today, relating to the proposed Albury-Wodonga bypass, postponed till 5 October 2000.

EDUCATION: SES SCORES

Motion (by Senator Carr) agreed to:

That the Senate—

(a) notes the failure of the Minister for Education, Training and Youth Affairs (Mr Kemp) to comply fully with the orders of the Senate of 17 and 29 August 2000; and

(b) resolves that there be laid on the table by the Minister representing the Minister for Education, Training and Youth Affairs (Senator Ellison) by immediately after question time on 3 October 2000, documents containing the following information:

(i) the individual actual SES scores for 2000 for each school, identified by the name of each school,

(ii) enrolment numbers, according to the 2000 census, for each of the schools identified in subparagraph (i), with primary and secondary enrolments identified separately, where applicable,

(iii) the equivalent education resource index (ERI) score for each school with an actual SES score for 2000, and

(iv) the Commonwealth funds that would have flowed to each school, listed and named, in 2001 under the current ERI arrangements, and the funds that will now flow to each school, listed and named, under the new SES funding arrangements in 2001, 2002, 2003 and 2004.

WORLD ECONOMIC FORUM

Motion (by Senator Brown) agreed to:

That the Senate supports the right of people to join the S11 protest at the World Economic Forum in Melbourne in the week beginning 10 September 2000.

COMMITTEES

Community Affairs References Committee

Reference

Motion (by Senator Murray) agreed to:

That the resolution of the Senate of 20 June 2000, referring matters to the Community Affairs References Committee, be varied as follows:

Omit paragraphs (a) to (i), substitute:

Child migration to Australia under approved schemes during the 20th century, with particular reference to the role and responsibilities of Australian governments and to the issues listed in the following paragraphs:

(a) in relation to government and non-government institutions responsible for the care of child migrants:

(i) whether any unsafe, improper or unlawful care or treatment of children occurred in such institutions, and
whether any serious breach of any relevant statutory obligation occurred during the course of the care of former child migrants;

(b) the extent and operation of measures undertaken or required to assist former child migrants to reunite with their families and obtain independent advice and counselling services;

(c) the effectiveness of efforts made during the operation of the child migration schemes or since by Australian governments and any other non-government bodies which were then responsible for child migration to:

(i) inform the children of the existence and whereabouts of their parents and/or siblings,

(ii) reunite or assist in the reunification of the child migrants with any of their relatives, and

(iii) provide counselling or any other services that were designed to reduce or limit trauma caused by the removal of these children from their country of birth and deportation to Australia;

(d) the need for a formal acknowledgment and apology by Australian governments for the human suffering arising from the child migration schemes;

(e) measures of reparation including, but not limited to, compensation and rehabilitation by the perpetrators; and

(f) whether statutory or administrative limitations or barriers adversely affect those former child migrants who wish to pursue claims against individual perpetrators of abuse previously involved in their care.

**Community Affairs Legislation Committee**

**Meeting**

Motion (by Senator Knowles) agreed to:

That the Community Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 4 October 2000, from 3.30 pm, to take evidence for the committee’s inquiry into the provisions of the Child Support Legislation Amendment Bill (No. 2) 2000.

**Legal and Constitutional Legislation Committee**

**Extension of Time**

Motion (by Senator Payne) agreed to:

That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on the provisions of the Administrative Review Tribunal Bill 2000 be extended to the first sitting day in 2001.

**NATIVE VEGETATION: CLEARING**

Senator BROWN (Tasmania) (9.39 a.m.)—I ask that general business notice of motion No. 697, standing in my name for today and relating to the clearing of native vegetation, be taken as a formal motion.

Leave not granted.

**NATIONAL THREATENED SPECIES DAY**

Motion (by Senator Bartlett) agreed to:

That the Senate—

(a) notes that:

(i) 7 September is National Threatened Species Day,

(ii) National Threatened Species Day is held to coincide with the date that Australia’s last thylacine (Tasmanian Tiger) died in captivity in Hobart Zoo,

(iii) more than 1 400 of Australia’s threatened species are now at risk of extinction and at risk of disappearing along with the Tasmanian Tiger unless urgent action is taken to assist in the protection and recovery of these species and their habitat, and

(iv) more effort is required on the part of the Commonwealth, state, territory and local governments to ensure the preservation of our biodiversity and to assist threatened species; and

(b) expresses support for increased funding for community organisations to undertake project work aimed at reducing the threats to populations of nationally-listed species or remnants of threatened ecological communities through enhanced stewardship and management.
Wool Services Privatisation Bill 2000

Referral to Committee

Motion (by Senator Crane) agreed to:
That, upon its introduction in the House of Representatives, the provisions of the Wool Services Privatisation Bill 2000 be referred to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 10 October 2000.

Cassowary Habitat

Motion (by Senator Bartlett) agreed to:
That the Senate—
(a) notes that:
(i) the cassowary is a threatened species and has protection under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999,
(ii) the past 12 months has seen an increase in land clearing on freehold land in Queensland, which has included the destruction of cassowary habitat, causing the number of cassowaries to further decline,
(iii) in the past 12 months, 70 hectares of freehold land has been cleared in the Mission Beach area of Queensland, including land that was prime cassowary habitat and breeding ground, and
(iv) a current survey on cassowary numbers in the Mission Beach area suggests that cassowary numbers have halved since 1988 and it is estimated there may now be as few as 40 cassowaries left in the area; and
(b) calls on the Queensland and Federal governments to work together to achieve tighter controls on the clearing of freehold land, particularly where it affects the habitat of threatened species such as the cassowary.

Committees

Rural and Regional Affairs and Transport References Committee

Extension of Time

Motion (by Senator Bartlett, at the request of Senator Woodley) agreed to:
That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on air safety be extended to the last sitting day in December 2000.

Fuel Quality Standards Bill 2000

First Reading

Motion (by Senator Ian Campbell) agreed to:
That the following bill be introduced: A Bill for an Act to regulate activities involving fuel and fuel additives, and for related purposes.

Motion (by Senator Ian Campbell) agreed to:
That this bill may proceed without formalities and be now read a first time.

Bill read a first time.

Second Reading

Senator Ian Campbell (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (9.42 a.m.)—I table the explanatory memorandum and move:
That this bill be now read a second time.

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

Leave granted.

The speech read as follows—
The Fuel Quality Standards Bill 2000 is the first step in implementing quality standards for fuel supplied in Australia. The bill establishes the framework for setting national standards. The second step will be the progressive setting of standards for a range of fuels that are used in Australia. The first standards, for petrol and automotive diesel, will be on the books shortly after this bill is enacted.

This is important legislation for Australia. The enactment of the Fuel Quality Standards Bill 2000 will permit the first mandatory, national fuel quality standards for Australia. Standards do exist already. However, they are not mandatory or seriously monitored, and, in the case of petrol, they have not been reviewed in 10 years. If Australia is to reap the environmental benefits of evolving emission control and fuel efficiency technologies, fuel standards need to keep pace with vehicle standards.

This legislation arose from commitments, which were made by the Prime Minister as part of the Measures for a Better Environment (MBE) component of the new tax system. In May 1999, the Prime Minister announced a package of incentives to encourage the switch to lower sulfur die-
gases, of which about 89% of about 16% (72.6 million tonnes) of total greenhouse emissions to 8% above 1990 levels by 2008-2012. By 1998, the transport sector was responsible for about 16% (72.6 million tonnes) of total greenhouse gas emissions, of which about 89% of emissions were from road transport. Projections indicate that, without significant and sustained abatement measures, transport emissions will increase by 50% (to 110 million tonnes) of 1990 levels by 2015. This is of serious concern to the Government.

Although the task of reducing greenhouse emissions from road transport is difficult, particularly in view of Australia’s high dependence on motor vehicle transport, it is one that the Government is tackling through a package of strategic measures. One element of our approach is to improve the fuel efficiency of motor vehicles. The Fuel Quality Standards legislation will pave the way for ensuring the provision nationwide of cleaner fuels that not only reduce air pollution but also help reduce greenhouse gas emissions from motor vehicles. Legislated fuel quality enhancements, such as higher octane and lower sulfur content, will provide the certainty required for the deployment of advanced engine and vehicle technologies by automotive manufacturers and their uptake by consumers. Advanced engine technologies will result in improved fuel consumption, which in turn will translate to greenhouse benefits. The Fuel Quality Standards legislation will help realise the maximum potential greenhouse benefit from fuel use in vehicles by complementing fuel quality and vehicle technology.

Further, this bill provides the framework for determining the fuel specifications of alternative and renewable fuels, thereby paving the way for these fuels to take a bigger share of the transport task in the future.

Alternative transport fuels, or fuels beyond the traditional petrol and diesel, are a major priority of this Government. This is reflected in the Renewable Energy Action Agenda launched in June this year, which includes an initiative to promote the development of the renewable transport fuel industry. In recognition of the important role that alternative and renewable transport fuels will play in minimising the greenhouse impacts of the transport sector, this Government has provided unprecedented funding for the uptake of these fuels. The Measures for a Better Environment Statement provided $75 million for the Alternative Fuel Conversion Program over four years, and $9 million for alternative fuels under the Diesel and Alternative Fuels Grants Scheme in 2000-01, increasing to $12 million in 2001-02.

The focus of fuel quality initiatives needs to be broadened to cater for the changes occurring in fuel use. While we are promoting alternative transport fuels for the benefits they have in terms of the common pollutant and greenhouse emissions, we do not want to create alternative pollu-
While the main driver for the legislation is to achieve improvements in air quality by reducing pollution from motor vehicle use, the legislation will also enable the Commonwealth to achieve a number of other objectives.

The objects of the bill spell out the intention to enable the effective operation of engines. During the public consultations on setting petrol and diesel fuel standards, stakeholders have repeatedly called for standards to ensure that fuel sold in Australia is safe and suitable for vehicles.

Following the finalisation of petrol and diesel fuel standards with an "environmental" focus, the next priority will be to include standards relating to the operability of vehicles using these fuels.

The Fuel Quality Standards bill is not intended to address consumer protection as such, although it does include substantial penalty provisions. For example:

- the bill creates two fault element offences, punishable by up to 500 penalty units for an individual and 2500 penalty units for a corporation, for the supply of fuel that does not meet a relevant standard under the Act;
- the bill creates a fault element offence prohibiting the alteration of fuel covered by a standard. This carries a maximum penalty of 500 penalty units for an individual and 2500 penalty units for a corporation;
- the bill creates two fault element offences concerning the supply and import of prohibited fuel additives. These carry a maximum penalty of 500 penalty units for an individual and 2500 penalty units for a corporation; and
- a failure to provide documentation certification that fuel being on-supplied complies with relevant fuel standards carries a maximum penalty of 60 penalty units for an individual and 300 penalty units for a corporation.

These offences and significant penalties are consistent with Commonwealth criminal law policy and are entirely justified by the adverse effects of motor vehicle emissions on urban air quality, human health and enhanced greenhouse effect.

Most recent cases of large-scale fuel adulteration have been about excise evasion or cost cutting, and there is legislation in place to address tax evasion. The Fuel Quality Standards legislation will, when it commences, provide an additional means to address deliberate or reckless supply of fuel that does not meet the standards.

Clearly the Commonwealth legislation is limited in scope. Constitutionally, the Commonwealth has no direct control of fuels. The focus of this legislation is therefore on corporations who supply fuel in Australia, whether importers or producers. This will capture the bulk of fuel sold in Australia.

Our next step will be to work with the States and Territories. The national standards will provide a benchmark for fuel quality, a starting point from which State consumer protection agencies can work. The Commonwealth will continue to involve the States in the development of fuel standards with a view to achieving a seamless national regime.

Vehicle manufacturers and refineries have been generally enthusiastic about creating single, uniform national standards. They have legitimate concerns about the potential compliance costs if different standards proliferate in the absence of national fuel standards.

Some states have, or are in the process of developing state regulations for petrol and diesel. This is a positive step, and has benefits as an interim measure leading up to the commencement of the Commonwealth standards. The vehicle and fuel markets are, however, essentially national. There should be no uncertainty about when a standard applies. It is also irrational for refineries to produce differently for different states, unless there is a strong justification.

The bill is therefore intended to override a State standard on the same matter. The Commonwealth recognises that there may be circumstances in which a more stringent standard is desirable for a particular area. For example, elevated levels of a particular pollutant which threaten environmental or health quality may be best addressed through a stricter fuel standard. The process for setting such an area-specific standard must, however, be objective and transparent. The bill provides for this by permitting standards to apply differentially, provided they do not breach the Australian Constitution by discriminating in favour of a region, or impeding interstate trade. Under the bill, the Minister responsible would be required to publish guidelines to be followed in making such a standard.

The bill creates a consultative committee made up of representatives of each State and Territory, the Commonwealth, fuel industry representatives, environment and consumer representatives. The Minister may add further members as there is a
need, for example to cover the interests linked to a type of fuel being regulated.

The Committee will advise the Minister before he or she creates a standard. This mechanism will ensure that the Minister has available to him/her the views of the major stakeholders.

The Fuel Quality Standards Bill has been drafted with the intention of providing the flexibility necessary to address fuel quality issues arising in relation to any fuel supplied in Australia, for any use. Fuels used in road transport are the obvious initial target, because of the significant role that vehicle emissions play as a source of pollution, and the increasing concern that fuels are available which don’t meet the operational requirements of vehicles. The legislation has the potential, however, to be used to manage the environmental, health or performance characteristics of fuels used for domestic, marine, industrial or other purposes.

This will be the first national legislation designed to make fuel suppliers legally responsible for the quality of fuel that they provide.

The new fuels legislation should not be considered as a measure being taken in isolation from the Government’s industry policy objectives as they relate to the refining sector. Rather, it provides a mechanism for continuing the move to cleaner fuels that the industry itself recognises as necessary and to which it has already begun to contribute.

The Downstream Petroleum Products Action Agenda launched last November by Senator Minchin, has as its vision a strong and efficient refining industry that is environmentally responsible and supplies the majority of the nations refined petroleum product needs. This legislation is consistent with that vision.

In the process of delivering Australians cleaner fuels it is important, however, to ensure that the refining sector is provided with sufficient options to restructure their activities. The provision of flexibility in the transition to mandated fuel standards is therefore being given careful consideration in the standard setting consultative process currently under way for petrol and automotive diesel.

The Government wants to have a local refining industry that can supply high quality, clean fuels to Australia at the lowest possible cost.

**Conclusion**

Passage of the Fuel Quality Standards Bill 2000 will play a significant role in giving effect to the Government’s commitment to improve the environmental and greenhouse performance of the transport sector.

The bill will allow the Commonwealth to set the benchmark for fuel quality in Australia, and provide national leadership as fuel quality issues emerge.

Passage of the bill will also remove uncertainty, equity and trade concerns that may arise from different fuel standards applying in different States.

Ordered that further consideration of this bill be adjourned to the first day of the 2000 summer sittings, in accordance with standing order 111.

**NATIONAL THREATENED SPECIES DAY**

Motion (by Senator Bartlett) agreed to:
That the Senate—

(a) notes that:
  
  (i) 7 September is National Threatened Species Day;
  
  (ii) the new Environment Protection and Biodiversity Conservation Act 1999 provides significantly enhanced powers to the Minister for the Environment and Heritage (Senator Hill) to protect threatened species, and
  
  (iii) six categories of species are now listed in the Act in line with IUCN categories, which include: extinct, extinct in the wild, critically endangered, endangered, vulnerable, and conservation dependent; and

(b) calls on the Minister to use these powers to do all that is necessary to further protect threatened species throughout Australia and its territories.

**NOTICES**

**Postponement**

Motion (by Senator Harris)—by leave—agreed to:
That general business notice of motion no. 622 standing in his name for today, proposing an order for the production of documents by the Minister representing the Minister for Transport and Regional Services (Senator Ian Macdonald), be postponed till the next day of sitting.
BUSINESS

Days and Hours of Meeting and Routine of Business

Motion (by Senator Ian Campbell) agreed to:

That on Thursday, 7 September 2000:
(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to adjournment;
(b) the routine of business from 7.30 pm shall be government business only;
(c) divisions may take place after 6 pm; and
(d) the question for the adjournment of the Senate shall not be proposed till after the completion of consideration of the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 and any messages from the House of Representatives relating to the bill.

COMMITTEES

Publications Committee

Report

Senator CAL VERT (Tasmania) (9.44 a.m.)—On behalf of Senator Lightfoot, I present the 18th report of the Publications Committee.

Ordered that the report be adopted.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Message received from the House of Representatives returning the following bill without amendment:

Therapeutic Goods Amendment Bill (No. 3) 2000.

PATENTS AMENDMENT (INNOVATION PATENTS) BILL 2000

First Reading

Bill received from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:

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

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (9.45 a.m.)—I table a revised explanatory memorandum relating to the bill. I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The major objective of the Patents Amendment (Innovation Patents) Bill 2000 is to introduce the new innovation patent system to replace the current under-used petty patent system. The new innovation patent system will provide a more accessible and effective protection for lower level or incremental inventions.

This bill also meets two further objectives. The first is to facilitate streamlining the mechanisms available for payment of fees under the Patents Act and the second is to provide a number of minor amendments to correct unintended ambiguities in the Patents Act.

The innovation patent

In 1979 the Government introduced the petty patent system to assist Australian small to medium business enterprises. The Government intended the system to provide a quicker and cheaper form of patent right for inventions with a short commercial life. However the petty patent system has had limited success in meeting its objectives and has not been well used.

In 1994 the Government commissioned the Advisory Council on Industrial Property (ACIP) to conduct a review of the Australian patent system. The objective of the review was to assess the coverage provided by Australia’s current intellectual property regimes for incremental and lower level inventions.

ACIP’s report Review of the Petty Patent System was released in August 1995. The review identified a ‘gap’ in the protection provided by current intellectual property regimes. This ‘gap’ related to incremental innovations that did not meet the inventive threshold requirements of the current standard or petty patent systems and were not appropriate for protection under the registered designs system. Many of the innovations developed by small to medium business enterprises fall within this gap. These innovations are often directed at improving, adapting and refining existing technology and although they may not represent major inventive advances they do have commercial value and play an important part in the commercialisation and application of technology.
In addition, although a single innovation may not equate to a significant inventive advance, over time a series of innovations may comprise the essential steps culminating in a major breakthrough. A system that protects lower level inventions enables small and medium business enterprises to realise the value of their contributions in an on-going inventive process and also rewards innovative developments as they occur, without imposing the long lead-times often associated with major breakthroughs.

The ACIP report recommended the implementation of a new “second tier” patent system to fill the ‘gap’ in current intellectual property protection regimes. Following consultation with a range of stakeholders, including the business community and professional groups, ACIP recommended the introduction of the innovation patent system.

The Government has acted on these recommendations and devised a “second tier” patent system to better address the needs of business, particularly small to medium enterprises. The innovation patent will be relatively inexpensive, quick and easy to obtain. It will provide the same scope of protection as the standard patent, however it will require a lower inventive threshold than that required for a standard or a petty patent. An innovation patent will have a maximum patent term of eight years, compared to a twenty year term for a standard patent.

A major factor contributing to the reduced cost of obtaining an innovation patent will be the grant of a patent without substantive examination – the time consuming and costly process during which an application is assessed against relevant statutory criteria. Substantive examination will only occur if directed by the Commissioner of Patents or requested by the patent owner or a third party. However, to reduce the scope for unsubstantiated threats the owner of an innovation patent may only take action to exercise their rights if their patent has been substantively examined. This will give innovation patent owners the option of putting their claims on the public record without the need to go through the costly substantive examination process.

Although innovation patents will be available for most of the types of invention currently covered by standard patents, they will not be available for plants and animals, or biological processes for the generation of plants and animals. This exclusion does not include microbiological processes and innovation patents will be available for processes such as cheese and wine making and the synthesis of industrial compounds using microorganisms.

Over forty-eight other industrialised countries, including Japan and Germany, have already introduced second-tier patent systems. Overseas experience suggests that the innovation patent should provide better access to intellectual property rights and foster innovation by local enterprises.

Other amendments to the Patents Act

This bill will also move many of the fee payment requirements from the Patents Act to the Regulations to enable this administrative function to be handled more efficiently by the Patent Office. This will enable greater flexibility in handling these administrative functions in the rapidly changing e-commerce environment.

The final objective of this bill is to introduce a number of minor amendments, some of which are technical in nature. These amendments remove a number of potential ambiguities and minor inconsistencies in the Act.

I believe that this bill reflects the Government’s commitment to providing Australia with a strong intellectual property system that meets the needs of Australians. The innovation patent will provide a greater incentive for Australians, particularly individuals and small and medium business enterprises, to invest in innovation and the marketing of their good ideas. The amendments to the fee payment provisions of the Act will enable the Government to provide a modern fee payment system for users of the patent system.

Debate (on motion by Senator O’Brien) adjourned.
I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

I am pleased to introduce this bill which will enable Australia to ratify the Convention on the Safety of United Nations and Associated Personnel. The object of the Convention is to give greater protection to the men and women who under the auspices of the United Nations put themselves at risk while serving the international community. Recent events overseas have unfortunately once again demonstrated the significant dangers which can face the men and women associated with UN operations.

While violent attacks against UN personnel in Australia are unlikely, the bill is clearly a desirable measure. Domestic laws of this kind underline the determination by a significant part of the international community to deter such attacks and to do everything possible to bring offenders to justice. The bill assists the attainment of these ends by strengthening the ability of Australian authorities to take action against alleged offenders.

This bill deals with the individual criminal responsibility of persons who attack UN and associated personnel. It adds a new division, Division 71, to the Commonwealth Criminal Code which makes the crimes set out in the Convention offences in Australian domestic law.

Proposed section 71.16 describes the circumstances in which Australia will be able to exercise jurisdiction in respect of the offences established by the bill. The offences will apply to attacks against UN and associated persons occurring outside Australia where there is an Australian connection, for example if the victim or the alleged offender is an Australian. Subject to a provision which prevents Division 71 overlapping with State and Territory criminal laws, the bill will also apply to attacks committed in Australia.

I might point out that, in accordance with provisions of the Convention, the proposed offences will not apply where the UN or associated persons are connected with authorised enforcement operations in which UN personnel are engaged in combat against organised armed forces and to which the law of international armed conflict applies.

I am pleased to say that the governments of the States and Territories have been consulted about the Convention and that there is general support for Australia becoming a party. The bill reflects this cooperative approach by expressly preserving State and Territory criminal laws. In addition, it will not be possible to convict a person in a State or Territory court for an offence under Division 71 if the relevant conduct is the subject of a criminal penalty under a law of that State or Territory. This means, in effect, that the offences created by this law will not operate in relation to conduct that occurs in Australia where the relevant State and Territory law implements Australia’s convention obligations. The Commonwealth law will operate primarily in relation to conduct outside Australia as well as being available to cover any gap in local criminal laws.

I hope that the proposed legislation will receive broad support. The Convention was signed for Australia under the former Government. I am pleased that the present Government is able to complete the steps necessary for Australia to become a party to the Convention.

Ordered that further consideration of this bill be adjourned to the first day of the 2000 summer sittings, in accordance with standing order 111.

**DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2000**

In Committee

Consideration resumed from 6 September.

The TEMPORARY CHAIRMAN (Senator McKiernan)—Order! The committee is considering the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 and Democrat amendments (R4), (R5) and (R6) and Australian Greens amendment (1).

Senator BROWN (Tasmania) (9.48 a.m.)—I seek leave to amend my amendment.

Leave granted.

Senator BROWN—I amend my amendment in the following terms:

Omit “under 51G(a)”.

There was some difficulty with leaving those words in my amendment, because it made it appear to relate to orders being given in the field by the defence leader rather than to the call-out order by the federal government. By making that change, the amendment is now absolutely clear. The amendment would make operative the Democrats’ recall of parliament within two days if the defence forces were called out in relation to any protest,
dissent, assembly or industrial action. We would remember from yesterday that the Labor Party had some difficulty with the potential of a call-out for terrorists being flagged. This gets around that difficulty, but it also provides for the very important role of parliament to be brought into session as expeditiously as possible to deal with a call-out by the executive of the armed services against Australian civilians.

Senator Harris (Queensland) (9.50 a.m.)—I would like to compare the amendments that were moved initially by the Democrats, taking into account Senator Brown’s amendment to them, with an amendment that will be put forward by the opposition in relation to this same section of the bill. Labor’s amendment No. 4 on the running sheet says that, within 24 hours of a declaration being made, notification will be given to the Presiding Officer of each house of parliament for tabling in that house. I support the essence of Labor’s amendment, but I foresee a problem in that, if the houses are not sitting, that notice is merely forwarded to the Presiding Officer and there is no action whatsoever to recall the parliament. That is why I prefer the amendment that has been put forward by the Democrats, because it clearly articulates and covers the situation if parliament is not sitting—that is, it must be summonsed within two days of making the order. We know that there are periods when both houses of parliament can rise for up to six weeks, and two or three weeks is not uncommon. So if there is a situation within Australia that is severe enough to require the calling out of the troops to support the state police, then I believe it is equally important that the parliaments are recalled to assess that issue.

There are two reasons to recall parliament. Firstly, it would very quickly provide support for the minister’s actions if the order were passed by both houses. So it would shift the responsibility from the ministers or the Governor-General or whoever made the order to parliament. Secondly, it would expose the decision to debate in both chambers. We have to look at this particular amendment in light of the development of this bill. As the bill has progressed and has been amended, the issue we have been continually raising is the rights of the states. So the amendments that have been agreed to by both the government and the opposition have, in essence, removed the rights of the states to object. Therefore, the only other option now available is for the federal parliament to take the role in place and in support of the states. This is particularly relevant to the Senate, because senators are elected to this house on the basis that they are here to represent the states from which they are elected. The reason I find this particular amendment so pivotal in the development of this bill is that I believe it is the last chance in this legislation to put in place a mechanism for the states, through their representatives in this chamber, to assess the decisions of the executive government. I commend the Democrat amendments and also Senator Brown’s amendment to the chamber.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (9.56 a.m.)—It is the opposition’s intention to circulate a further amendment, which I have just given to the clerks and which deals with the same issue that is addressed by Senator Brown’s amendment.

Senator Bourne—Is this an amendment to Senator Brown’s amendment or to my amendments?

Senator Faulkner—No, Senator Bourne. This is a separate amendment, and the opposition will be pressing the other amendment which stands in my name, which is yet to be dealt with. I have not seen the new running sheet, Senator Bourne, but let me check it if I can. The opposition is pressing amendment 4, notification to parliament of general security area declaration. So we are pressing that amendment and we will be moving a further amendment, which I have just finalised and I am circulating to senators in the chamber now. That amendment has been handed to the clerk and other senators, and obviously you will receive that as soon as possible.

The opposition have looked long and hard at the question that is before the chair, the issues raised by Senator Bourne in her substantive amendment, and the proposal that stands in Senator Brown’s name. The oppo-
sition are concerned about the drafting of the amendment that stands in Senator Brown’s name. I do believe that it is a little confused and would not in fact achieve Senator Brown’s objective. I appreciate that I missed the first part of Senator Brown’s contribution, but I believe he might have also proposed a change to the amendment that currently stands in his name. I will have a close look at that in very short order.

Given the preconditions that must be satisfied prior to a call-out order lawfully being made—that is, that a state or territory is unable to protect itself against extreme violence—a call-out, as I think the committee is aware, could only occur in the most extreme circumstances of violence. A situation of extreme domestic violence justifying a call-out would be of such moment that it is inconceivable that parliament should not be recalled. The opposition believes categorically that parliament would have an important role in these extraordinary and highly unusual circumstances. There would be an obligation on the parliament to reassure the Australian public that matters justifying the call-out were being appropriately dealt with.

As I have said, the wording of the agreed amendment to the Democrat amendments, with respect to parliamentary recall and oversight, is unacceptable and unworkable. The Labor amendment that I have had circulated and will move at the appropriate time would ensure that parliamentary recall is triggered by a very clear event—that is, the declaration of a general security area made by the authorising ministers under division 3. I think Senator Bourne would recall the sorts of comments that I made earlier in the committee stage debate about Labor’s concerns with the amendments she has moved. Labor accept the force of a number of the arguments that have been presented to the committee. I think the spirit or the intention of the amendments that Senator Bourne and Senator Brown have moved in relation to the recall of parliament is one that we share, but we, of course, do not want to find ourselves in a position of supporting what we think are flawed amendments and a flawed approach.

Parliamentary recall should not be required for the exercise of powers under division 2. I have said before—but let me make it clear again for the record—that for operational and strategic reasons we recognise that it would be counterproductive, or it may be counterproductive, to put terrorists on notice that a Defence Force call-out has occurred, and that in some circumstances Defence Force personnel, such as SAS officers, have been mobilised to respond to a terrorist threat. The approach of the opposition, which is contained in the amendment that I have now circulated, would provide the reassurance that is needed in relation to the exercise by Defence Force personnel of the Commonwealth’s constitutional powers in this particular area.

The opposition have tried to respond in a very sensible and purposeful way to an important issue that has arisen during the committee stage debate of this bill. We think our approach is very balanced and strong. In our view, an absolutely essential accountability measure is the prompt recall of the Australian parliament in the appropriate circumstance—namely, a call-out under division 3 of this act.

In taking this step to move this amendment in response to the arguments that have been mounted in the chamber I want to make this point on behalf of the opposition, and it is a very important one that I think would be accepted around the chamber, but let me make it absolutely clear for this committee and the Senate. The opposition do not contemplate, and would not give the parliament any responsibility for, operational control over the defence forces. I think that would be generally accepted, but I think it is an important point that, as far as the opposition are concerned, I want to see in the Hansard record.
I indicate the opposition’s approach here in debate on Senator Bourne’s and Senator Brown’s amendments, because this means a further opposition amendment will be moved at a later stage. In indicating that the opposition do not favour the approach that is currently advocated by Senator Bourne and Senator Brown, I want to place on record what the opposition’s alternative approach is, understanding the spirit of the amendments that have been moved in this committee. As far as the opposition are concerned, we accept that, with a division 3 call-out—or, in other words, let us be clear, a major domestic conflagration but not terrorist threats or terrorist incidents, which is the distinction we are making—when, of course, parliament is not sitting, which I think senators understand, the parliament would be recalled and must sit within a period of six days after the Presiding Officers receive a statement that is forwarded in accordance with paragraph 2F.

I believe that this is an important amendment. It outlines a new approach that the opposition is taking in relation to this important element of the bill. We believe it means that there will be, in the circumstances of a division 3 call-out, appropriate, proper and immediate parliamentary accountability. I would commend the time frame that I have spoken about. I think it is more sensible in the circumstances. I think it is achievable. I think it is fair to say that the opposition embraces—I think I used these words before—the ‘spirit’ of the amendments that have been moved by Senator Bourne and Senator Brown. I think we have come up here with a formulation that is watertight and is worthy of support by the committee.

Senator BOURNE (New South Wales) (10.09 a.m.)—While we are discussing my amendment and an amended version of Senator Brown’s amendment to amend mine, I should make a few points about the amendment of the opposition’s which has just been distributed. Senator Faulkner says that the opposition under no circumstances wants to give operational control over the defence forces to the parliament, and that that should belong with the executive. My amendment does not do that. It gives operational control in essence to the parliament over the executive—and not even the executive, and not even the cabinet: over the Prime Minister, the defence minister and the Attorney-General, if they sign that call-out warrant.

I understand your problems with division 2. I do not think that they are actually the problem you think they are. But I understand that you have a legitimate problem with that. I therefore think that Senator Brown’s amendment is a good one and, subject to having another look at it, I am quite happy to accept it to my amendment. I am not happy, however, to accept the opposition’s alternative. I do not know what sort of water it is tight from: maybe it is watertight if you are in the executive. But, if you are in the parliament, the whole ocean could get into this.

It says that each house must sit within six days—that is a long time. It does not say that the houses have to discuss this: they can just sit and do ordinary business. It does not say the houses have to agree. So I do not know why we are even sitting, really. And it is badly drafted, I have to say, because there was a major problem with my own, which I had to have fixed, which was about what happens in the event of prorogation of the parliament. This does not address that at all—which is why mine is so long. If you have a look at the three amendments that I am moving, they are huge; and this is two lines. The reason they are huge is that there are problems with the drafting that had to be fixed, and those problems exist with this. Pathetic as this is, the problems still exist with it: in the event of prorogation of the parliament, there is no provision in here. So we have drafting problems; and I can understand that, because it has been done so quickly. And that is the problem, basically, with the entire bill. We have huge problems because it has been done so quickly.

This bill is watertight if you are the Prime Minister, the defence minister or the Attorney-General. It is watertight for them, all right; and this will make it even more watertight for them. But, if you are anybody else in the entire country, it is a problem. There are drafting problems with this, because it has been done so quickly. There are drafting
problems with the whole bill, because it has been done so quickly. There are huge problems with the whole bill, because it has been done so quickly. I am not getting phone calls for nothing to my office from people in the defence forces and people in the Labor Party—but they were not in the defence forces—saying, ‘Please do what you can about this.’ We had calls yesterday. I keep getting emails about it: ‘We do not want to be put in this position.’

There is a reason I am getting those calls: the population of Australia is not coming along with this. The population of Australia likes the constraints that are on the calling out of the defence forces now; they like the fact that they are constrained by the fact that they do not know how far they could go. They like the fact that the constraint is that, if the defence forces take out a weapon and shoot anybody, they are very likely, under the Constitution, to be charged with assault, with murder—very likely to be. That is what it has never happened in the past. They like that constraint. They want that constraint to continue. Everybody agrees that there has to be something that gives the defence forces codification of what they should do in a terrorist attack: division 2. Everybody agrees with that. I think you would get the whole of Australia agreeing with that. But the Labor Party must realise—because, if I am getting calls and emails from members of the Labor Party, so are they—that their own members and, more importantly, the Australian population do not agree that this bill should go through as it is. Any time we do that sort of thing it is a problem. That is where the big problem is. That is what should have been taken a lot more notice of by both the government and the opposition.

I appeal to the opposition and to the government not to agree to this amendment of the opposition’s—which does virtually nothing—at the expense of my own. Senator Faulkner can say all he likes how good his is in relation to mine. It is not. Look at it: ‘six days’—we do not have to discuss it and do not have to agree to it. And what happens in the prorogation of parliament? Really, the best thing to do with this is to vote the thing down on the third reading or to put it off for a couple of months—which, goodness knows, we do with enough bills—until we can amend it properly; until the Australian parliament agrees that what is in this bill is the way they want to be protected. You have a bill that potentially allows three members of the executive to call out the defence forces—this is the potential, the worst case; but it allows it—and allows them to shoot Australians dead. That is what it allows.

This is where the constraint is right now, in that they could be charged. But, once this is through, if it is constitutional, they cannot be charged. If it allows that, the Australian people should be on-side and should agree that is what they want—and they do not. They are not on-side; they do not want it. They want it done properly. It is not being done properly. This is not an adequate substitution for my amendment—absolutely not. I cannot possibly vote for that. I would be interested to see what the government does, but I urge everybody in the chamber to please go and read your emails and ask who is ringing your office and what they are saying about this. Have another look at these amendments; have another look at all the amendments. Think really closely—really closely—after you have done all that, about whether you in fact want to vote for the third reading of this bill.

Senator BROWN (Tasmania) (10.16 a.m.)—Senator Bourne is right, and Senator Faulkner is wrong. He says that Labor’s amendment is watertight. If that is the case, I hope Labor is never in control of the Navy, or they will all end up on the seabed.

Senator Bourne has given an outline of the flaws, as far as the recall of parliament itself is concerned. But I want to talk about how this Labor amendment fails to even have a recall of parliament under a wide range of circumstances, under division 2, where Australian civilians are involved. You do not get a recall of parliament unless there has been a general security area declared; this is an operational procedure. So one of the ways to avoid a recall of parliament is: do not declare the security area; just go ahead with the operation. Under division 2 where you do not have a general security area declared, for
example under the heading of ‘Recapturing premises etc.’ it states:

(1) Subject to this section, a member of the Defence Force—that is, a soldier—who is being utilised in accordance with section 51D may, under the command of the Chief of the Defence Force:

(a) recapture premises, a place, a means of transport or other thing—and, in connection with that—

(i) free any hostage from the subject premises etc.;

(ii) if the member finds in the subject premises etc. a person whom the member believes on reasonable grounds has committed an offence ... detain the person ...

It does not go on to say it but, inherent in that, if the person is escaping and they are believed to have committed an offence, they can be shot. It goes on:

(iii) evacuate persons found in the subject premises etc. to a place of safety;

(iv) search the subject premises etc. for dangerous things ...

When you look at the definition, that means anything that could be used as a weapon. It continues:

(v) seize any dangerous thing ...

and so on. Let us look at this. Let us get back to real situations that the government and the opposition never discuss. What happens if protesters occupy government buildings? That has happened often enough in the past.

Senator Bourne interjecting—

Senator BROWN—Senator Bourne happily shares office space. I think, with the Prime Minister in Sydney. She has just said that building has been occupied a number of times. So the troops can be sent in to a situation like that and this recall provision does not pertain. There could be a prolonged use of troops in that circumstance which could also affect transport facilities—and we think immediately of the wharves. With a prolonged strike on the wharf, the troops could be sent in to a situation like that to ‘recapture a means of transport’—that is what it says here. But, under the Labor amendment, there would be no need for a recall of parliament, despite a long and agonising confrontation between troops and Australian citizens, because the amendment misses that. There could be a protest about Pangea. I bring that up again, because the troops can be sent in to recapture premises that effectively have become immobilised or captured by being surrounded by thousands of protesters, and there is no recall of parliament under this provision.

Again, the problem is that there is no differentiation between terrorists, which Labor and everybody else is worried about, and civilians, which it seems the crossbenches are worried about—and that is the flaw. The amendment that Senator Bourne has brought forward—the one I have modified because Labor had concerns about terrorists—is the right one. It says that there should be a recall of parliament if the troops are sent out in relation to any protest, dissent, assembly or industrial action. That is the right one. It says, ‘Recall parliament if civilians are involved in this—if this use of the armed services is to put down a public protest or a strike.’ It is Labor that is muddled about this. It is Labor that is confused. It is Labor that has an unsatisfactory and far from watertight amendment. The legislation is tragically flawed. Labor has tried to fiddle around the edges with it. It is trying to do that again. But I ask Labor to look at the flaws in the argument and look at the flaws in its amendment.

I had drawn up a similar amendment to Labor’s as a backstop because I thought this might happen. I thought that Labor could come up with a very weak amendment, an unsatisfactory amendment, as an excuse for not voting for Senator Bourne’s amendment, which is the right way to go. But I miscalculated, because Labor has managed to come up with something even weaker. Instead of having parliament recalled within two days of the unthinkable—the troops being brought out against Australian civilians—it has brought that back to six days. So a call-out of the troops to go to the Gulf or to East Timor can get a more rapid recall of parliament than a call-out of troops to be used against Australian civilians, and that is quite unsatisfactory. These are real arguments, these are
cogent arguments, these are commonsense arguments. Labor’s amendment does not stand up to scrutiny. Labor’s amendment does not ensure that parliament is brought into play where the defence forces are brought out against civilians.

Finally, I want to comment on Senator Faulkner’s concern that parliament is not being given operational control. Division 2, section 51I(2), ‘Ministerial authorisation’, which is about the call-out of troops in circumstances where parliament would not be recalled under Labor’s amendment, says:

However, the member—

that is, the member of the defence forces, a soldier—

must not recapture the subject premises etc.—

that is, must not go in against protesters who are occupying a building somewhere, a field, or anywhere at all—

or do any of the things mentioned in paragraphs (1)(b) or (c) in connection with any recapture of the subject premises etc., unless the authorising Ministers, or a Minister (whether or not one of the authorising Ministers)—

any one of them, in other words—

authorised in writing by them, has in writing authorised the recapture.

So we have direct ministerial control, by any one of three ministers, of what the Army is doing, but Labor says, ‘Let’s not have parliament involved.’ I believe that where you give ministers authority like that, you very much need parliament to be a watchdog. Otherwise we are setting up a situation for an authoritarian group of ministers—quite contrary to the expectations of those who cherish Australia’s democracy—to take massive control of the defence forces against Australian civilians.

I appeal to the Labor Party, as Senator Bourne has, to see the flaw in the direction they are going and to at least bring back into play this check: that parliament should be used where the armed forces are brought out against Australian civilians. I might add that it is not just a case of bringing parliament back to look at what is going on; it is a case of ensuring that those who would call out the Army know that parliament is about to be brought into play. It is a very important check on the abuse of power by the executive wanting to grab control of the armed forces for a political matter against political dissent, and none of us is so foolish as to believe that cannot happen. This is an extremely important check.

The amendment that Senator Bourne has brought forward, with the subsequent amendment I have added, is cogent, it clearly delineates the need for parliament to be recalled if the armed services are brought out against civilians, and it should be adopted. If Labor vote against this, they are voting against the authority of parliament, they are voting for the authority of an executive—a minister or two—to use the defence forces in a wide range of circumstances against Australian civilians.

Senator HARRIS (Queensland) (10.27 a.m.)—Both Senator Bourne and Senator Brown have highlighted some of the inadequacies in Labor’s amendment that has just been circulated in the chamber, but there is another issue that I wish to canvass. In doing so, I will highlight the differences between Senator Bourne’s amendment and the Labor Party’s. Senator Bourne’s amendment is specifically directed to section 51A, and that is an order about utilising the defence forces to protect Commonwealth interests against domestic violence. It also refers to section 51B, which is an order about utilising defence forces to protect states against domestic violence. So if we are looking for clarity in this bill, and I believe that we need to, Senator Bourne’s amendment brings much more clarity to the issue. If we then consider Senator Brown’s amendment that parliament would not be recalled unless there were Australian citizens involved, I believe that brings together the best essence of what Senator Bourne is attempting to do, and that is that the house can be recalled if there is any protest, dissent, assembly or industrial action.

The other deficiency I see in Labor’s amendment, as Senator Brown has clearly set out, is that it only speaks to division 3 of the bill, which relates to the granting of a general security area. Senator Brown highlighted that you can get around the whole of Labor’s amendment if you do not declare the general.
security area. I believe there is another flaw in the amendment that Labor has failed to take into consideration, and I now seek some clarification from the minister. Can the minister indicate where in the bill it states the time that should pass between the issuing of a general security area notice and that notice being presented to the Presiding Officers? I believe that is another missing link. The general security area could be declared, but I do not believe there is anything in the bill that sets out how much time is to expire between that general security area being declared and the Presiding Officers receiving a copy of the notice. If I am incorrect and the minister can direct me to a section of the bill that shows that there is a time requirement for that notification to be given, that will go a long way to allaying some of my fears.

The second difference between Labor’s amendment and Senator Bourne’s is the difference between when each house of parliament is required to sit. Senator Bourne’s amendment states that the parliament must be recalled in two days, and Labor’s amendment allows for parliament not to have to be recalled for up to six days. We are led to believe by the government that these orders will be given only in cases of extreme provocation, civil unrest or industrial action. I do not believe it is acceptable for that to continue for six days. Could the minister indicate clearly to us the period of time between a general security area being declared and notification of that coming to the Presiding Officers of the parliament?

Senator ELLISON (Western Australia—Special Minister of State) (10.33 a.m.)—To answer that question, I would direct Senator Harris’s attention to opposition amendment No.4, which talks of forwarding the general security area notice, within 24 hours of the declaration being made, to the Presiding Officer of each house of parliament for tabling in that house. That order is made, within 24 hours it goes to the Presiding Officers and then, in accordance with the opposition amendment that Senator Faulkner has been talking to, parliament must sit within six days of the Presiding Officers receiving that notice. There is a time frame there, Senator Harris, and quite an appropriate one.

The government will be supporting the amendment put forward by the opposition for a number of reasons. Firstly, it is a workable proposition. It is to be preferred to the amendments proposed by the Democrats and the Greens. It is workable because it refers only to division 3 powers. The opposition has outlined the difference between division 2 and division 3: division 2 concerns the operational type of situation, where you would be dealing with antiterrorist measures; and division 3 deals with declaring general security areas, where you are more likely to deal with a wider group of people in the community. Senator Faulkner outlined that division 2 sits in a different category. We do not want to see parliament having operational control over security matters which require instant response and, of course, confidentiality. You do not want to flag to the world at large or to international terrorists that, should they want to take any action in Australia, there will be a convoluted process involving parliament. They would see a great opportunity.

Senator Brown has conceded that point in his proposed amendment. The problem is that the amendment proposed by Senator Brown, coupled with the Democrats’, is not as workable as the one proposed by the opposition. I would cite another reason against the time constriction of two days proposed in the amendment by the Democrats. In 1991, parliament was given four days notice when the Gulf War was being considered. I would invite those three senators, Senators Brown, Bourne and Harris, who do not come from Western Australia, to consider those who do come from Western Australia. They have to travel very much further than people from most of the eastern states. Try it—I have been doing it for seven years. Two days is very short notice to give to people who have to travel from the other end of the continent to Canberra to sit. The opposition’s proposal of six days is much more workable. As the government have said, we are open to constructive suggestions, and the opposition has put forward a constructive proposal for the workability of this.

The question of parliament being prorogued was raised by Senator Bourne. The advice that I have in relation to that query is
that of course the Senate would be available to sit even if the House of Representatives were prorogued. You will note that opposition amendment No. 1 on sheet 1926 says: Each House of the Parliament must sit within 6 days after its Presiding Officer receives the statement ...

We would envisage that you would have both houses available but, if the parliament had been prorogued, the Senate could sit. That is the advice that I have received. You still have that parliamentary involvement, you still have the accountability and you still have that balance of an operational capacity, and for all those reasons the government are persuaded to support the amendment proposed by the opposition. It is a constructive one, one which I think has a balance about it, safeguarding the interests of the Australian people, both in a security sense and in an accountability sense. The drafting is to be much preferred.

Senator Bourne (New South Wales) (10.38 a.m.)—I cannot believe the last statement by the minister that the drafting is to be much preferred. I suppose it is preferred because it is very short. Senator Ellison made three points that I think I should answer. If the House of Representatives is prorogued, that does not mean that the Senate will not be. If there is a double dissolution, the Senate will be. You have to worry about that. On the 1991 recall, I was here in 1991 and I remember the recall. If you think two days is not adequate—and I think three is a minimum time to enable the maximum number of members of parliament to come back here to discuss it and decide whether or not what has been agreed to by three members of the cabinet is agreed to by the majority of the representatives of the Australian people. That of course includes the opposition. As I said when I moved this, the point of this whole thing is that the opposition would have to be consulted. Even if we were not, the opposition would have to be. The Labor Party are in opposition now, but they might be in government then and they might not want to consult the opposition. That is fine, but they are in opposition now. What if this happens during the Olympics? I do not think it will, but what if it does? And this is a good one: what if something happens on the waterfront again? What if that sort of thing happens? Do the opposition not want to be consulted? Of course they want to be consulted. I just find this absolutely outrageous.

The other thing that Senator Ellison said is that the government are open to suggestion. I have made lots of suggestions. Senator Brown has made lots of suggestions. Senator Harris has made lots of suggestions. The favourite suggestion of all three of us is the sunset clause. The government were not open to that suggestion. But, hang on a minute, the government were open to every single suggestion from the opposition. This could be just a matter of those at that end of the chamber getting together and being open to each other’s suggestions, because I suggest that the opposition will vote for every one of the government’s amendments and the government will probably vote for every one of the opposition’s amendments. They are open to suggestion from each other all right, but they are absolutely closed to any suggestion from anywhere else. I do not care what that suggestion is. I could put up a suggestion that all members of the Defence Force should be given rice pudding on Tuesdays and they would find some reason to say that it was absolutely ridiculous. I could put up any suggestion at all—I do not care what the suggestion. It might be the best suggestion on the face of this earth and they would not listen.

Senator Faulkner—If you put up an amendment about rice pudding—

Senator Bourne—Not only would they not listen, Senator Faulkner is refusing to listen now. That is absolutely indicative of the way he has dealt with this bill.

Senator Faulkner—Rice pudding on Tuesdays is lunacy. It is lunacy!
Senator BOURNE—Senator Faulkner yells, ‘It is lunacy.’ He is absolutely right that this is lunacy. This whole bill is lunacy. The ALP’s attitude is lunacy, and the ALP know that. That is the problem. If people from the ALP are ringing me, they are ringing them. If people from the ALP are emailing my office, they are emailing their offices. This is going to be so uncomfortable for them. The next time a waterfront situation happens and the troops are called out, I know who is going to be blamed. It is going to be very unpleasant for them. I hope that never happens. I pray that never happens. But this bill takes off constraints. That is exactly what it does. If the Defence Force go out there with guns, it will take off the constraints—if it is constitutional, and we are not even sure of that yet. If that happens and anything goes wrong—and I hope to God that it does not—I do not think it will be the government that will be blamed. I suspect it will be the Labor Party, because people thought better of them. People thought they could get this right. People thought they should have got this right. I think there are a lot of Australians who have given up on the government getting things right. Really, the way this bill has been dealt with is such a disgrace. I just despair of it.

Senator ELLISON (Western Australia—Special Minister of State) (10.43 a.m.)—I just want to clarify a comment I made earlier. I made a comment in the context of the House of Representatives being prorogued. The correct term would be ‘dissolved’. If the House of Representatives were dissolved, the Senate would continue. If there were a double dissolution, of course, that would be the end of it and neither house could sit. I just want to make that very clear for the record.

Senator HARRIS (Queensland) (10.44 a.m.)—I would like to come back to Senator Ellison’s statement that it is difficult for Western Australian senators to travel from Western Australia to the chamber. I believe I travel further than the senators from Western Australia—unless a Western Australian senator is located well outside Perth. I travel 7½ hours to get here, which is approximately the same as the travelling time for senators from Western Australia. If each and every one of those senators were asked to regard the severity of the situation the bill addresses, I do not believe any senator would have a problem with coming back to this place to discuss an issue of such importance to the Australian people.

Senator Bourne’s amendment clearly speaks to all three sections of the bill, and that is appropriate. With the structure of the bill now, as it has been amended, there is no redress for a state, and that is the important issue we need to look at today. A decision to call out the troops would be made by, at best, three ministers and, at worst, one minister—or there could be a call-out by the Governor-General in total isolation. A situation could arise where a state has no say in that process at all. A situation could also very easily arise where a state is totally in opposition to the order being given. Senator Bourne’s amendment is so important because it allows representatives of a state to assess the decision of, at best, three ministers and, at worst, one minister—or, possibly, the Governor-General. I commend Senator Brown’s amendment—which makes Senator Bourne’s amendment relative only to protest, dissent, assembly or industrial action—to the chamber.

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

The committee divided. [10.52 a.m.]

The Chairman—Senator S.M. West)
Question so resolved in the negative.

The CHAIRMAN—Order! The question now is that Democrat amendments (R4), (R5) and (R6) on sheet 1893 revised be agreed to.

The committee divided. [10.56 a.m.]
(The Chairman—Senator S.M. West)

Ayes………… 12

Noes………… 42

Majority…… 30

AYES

Allison, L.F. Bartlett, A.J.J.

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. Carr, K.J.

Chapman, H.G.P. Collins, J.M.A.

Conroy, S.M. Coonan, H.L.

Cooney, B.C. Crane, A.W.

Crossin, P.M. Crowley, R.A.

Denman, K.J. Elliston, C.M.

Evans, C.V. Ferris, J.M.

Forsyth, M.G. Gibson, B.F.

Hogg, J.J. Hutchins, S.P.

Lightfoot, P.R. Ludwig, J.W *

Macdonald, J.A.L. Mackay, S.M.

Mason, B.J. McGauran, J.J.J.

McKiernan, J.P. McLucas, J.E.

Patterson, K.C. O'Brien, K.W.K.

Ray, R.F. Schacht, C.C.

Sherry, N.J. Tambling, G.E.

Tierney, J.W. Watson, J.O.W.

West, S.M

* denotes teller

Question so resolved in the negative.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (11.01 a.m.)—I move opposition amendment No. 4 on sheet 1895 revised 2:

(4) Schedule 1, item 4, page 14 (after line 8), at the end of subsection 51K(2), add:

; and (f) forwarded, within 24 hours after the declaration is made, to the Presiding Officer of each House of the Parliament for tabling in that House.

This amendment provides where an order is made to use the division 3 powers of this bill parliament must be notified immediately. I think I have indicated to the committee before why the opposition amendments relate to division 3 powers. We take the view that to include division 2 powers, which are the specific counterterrorism powers, would mean the terrorists could be forewarned through the publication of the order that the ADF was going to undertake, say, operations to free hostages, or whatever might be planned. Our view is that would put lives at risk. It is for those reasons that we have made this notification apply to division 3 powers.

But we do believe it is important that the government’s actions are brought to the parliament’s attention as soon as an order for a call-out is given. We support the government amendments with regard to presenting the order and a report on the call-out to parliament at the end of the call-out, so the government’s and the ADF’s actions can be scrutinised by the parliament. However, we do believe that parliament should be immediately notified if the government is calling out the troops so that it is in a position to assess for itself whether the action is necessary and, of course, so parliament can respond. As senators would be aware, I will be moving a further amendment about the recall of parliament in certain circumstances. There has been some considerable debate on that issue this morning. This amendment in relation to notification of parliament is, in the view of the opposition, again an important amendment, another opposition sponsored improvement to the bill, and I commend it to the committee.

Senator HARRIS (Queensland) (11.04 a.m.)—I indicate to the committee that I will support this opposition amendment. I will not vote it down, as Labor and the government have done repeatedly to amendments which I believe would be far more effective
in ensuring clarity with this bill. Labor’s amendment that has just been moved only speaks to the issue of a general security area. I believe that is the enormous deficiency of this amendment and why we articulated the argument so strongly for the Democrat amendment as amended by Senator Brown.

If we look at section 51A—which Labor’s amendment has no correlation with whatsoever—we see it is about the defence forces being able to be called out to protect Commonwealth interests against domestic violence. The whole tenor of this debate all of the way through has been that if this bill delineated between terrorist activities and lawful opposition of Australian citizens we would not be having this extended debate. But it is clearly indicated by the government and by the opposition that they intend to leave the two entwined. So, effectively, the government and Labor have created the situation where the defence forces can be called out in any state against the wishes of that state and there is no assessment or redress in relation to an order issued under section 51A.

Then we have the even more ridiculous situation where an order is issued under 51B; that is, an order utilising defence forces to protect states against domestic violence. So we are no longer looking at the Commonwealth’s responsibility to protect its own property; we are now looking at the situation where the Commonwealth can walk in and say, ‘We’re here because we’ve decided that we need to protect your property or people.’ There is no redress for the state. It can object until the cows come home, but under this bill the Commonwealth will have the facility. Labor is saying, ‘We’re going to recall parliament.’ They are not going to recall parliament under 51A, and they are not going to recall parliament under 51B. And, as we have so clearly said before, if a general security area is declared, yes, the parliament will be brought in. But it is a very sad option. I believe that an option that would have the parliament assess the decision of the ministers in all cases is what this committee should recommend. It is not going to be that way, and it is not because of a lack of argument or a lack of clarity in the argument that we have put forward; it is because the government and Labor are viewing this from the same position. I have had put to me recently: what is the difference between the government and Labor? So, what is the difference between the Liberal Party, the National Party and Labor? Only the spelling.

Senator Brown (Tasmania) (11.09 a.m.)—In light of the amendment that Labor just voted down, with the government, this amendment is manifestly unsatisfactory. This amendment does allow for the Presiding Officers to be notified and, with a further amendment, we will be seeing provision for the recall of parliament within six days, given some of the potential uses for the military under the executive. But Senator Faulkner says, ‘Labor’s improving this bill as it goes along.’ Labor are passively negotiating with the Liberals to see what changes they can make and accepting that as the boundary. They are ignoring the very serious democratic considerations which are at the heart of this legislation now, and the right of the elected parliament to be the authority which has the say over any call-out of the armed services, by the executive, for use against civilians. This Labor amendment does not do that. There are a whole range of call-out provisions that would enable the executive to send the troops in against protesters and strikers in Australia that will not see a notification occur or parliament recalled.

Labor should have got this right. Labor knows what the difference is, but Labor is dissembling on its obligation and duty to uphold democracy. There is a drift to authoritarianism written into this legislation and these weak comeback provisions that Labor is engendering here, with the permission, always, of the government. The generating force there is not the Labor Party; it let this through the House of Representatives as
is. It was not going to make even these paltry amendments. But it has come under fire from the Greens, from the Democrats and from One Nation, and it has come under fire from its own constituency. The phones are running hot. We have Labor supporters and members ringing our office saying, ‘We’ve just resigned’ or, ‘We’re going to resign. We do not want to be part of this party that sells out on democracy like this; that opens the door for the executive—not just the executive of a Labor government in the future, but the executive of a conservative government or a government of any ilk—to send in the troops against Australian civilians.’ And Labor says that an amendment like this means it is improving the legislation! But that is spin, and it does not wash. Labor has the hand of the government visibly upon it. I asked Senator Faulkner earlier in this debate if he would acquaint the committee with who has lobbied Labor on the matter. Has the US embassy? Has any other foreign embassy? Have the armed services and, if so, which? Where has their advice come from?

Senator Faulkner—I can assure you that none of them have lobbied me.

Senator BROWN—Senator Faulkner ducks the answer there by saying he assures us that none of them have lobbied him, but Senator Faulkner is not the arbiter here; the arbiters are the two shadow ministers who are listening to this debate and giving directions as to what Labor will do in this place. A little bit more openness about the lobbying of both government and opposition that has gone on behind the scenes on this matter would be a revelation in itself. These are minor amendments. They do not fix up the problem. They are Labor’s way of ducking its obligation to democracy.

Amendment agreed to.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (11.14 a.m.)—I move the following opposition amendment:

(1) Schedule 1, item 4, page 14 (after line 8), after subsection 51K(2), insert:

Houses to sit within 6 days

(2A) Each House of the Parliament must sit within 6 days after its Presiding Officer receives the statement that is forwarded in accordance with paragraph (2)(f).

As is the way with these committee stage debates in the Senate, there has already been considerable debate on this amendment, because I think it is fair to say that I foreshadowed earlier this morning that I intended to move it. I know a number of senators have already expressed views on it, and I have certainly indicated to the committee that I believe this amendment sponsored by the opposition is a very important improvement to the bill. I would commend the amendment to the committee.

This amendment will mean that there is a new requirement for parliamentary recall—that is, an additional requirement in the bill—which will lift the bar when a call-out is contemplated. That is why the opposition has taken this initiative, and it is why I think the committee should embrace the amendment. If this amendment passes, the executive government of the day will be making a call-out order in the full knowledge that parliament will be recalled promptly to consider the circumstances—which must be extraordinary circumstances—that have given rise to the call-out. The amendment that I have moved on behalf of the Labor Party will ensure that each house of the parliament is recalled within six days of the tabling in each house of parliament of the declaration of a general security area.

Under the amendment that we have just carried, this must be done within 24 hours of a declaration being made. If this amendment is carried, it will ensure, in effect, that parliament will sit within seven days of such a declaration being made. If the parliament is sitting at the time a call-out order is made, parliament would be free to consider and debate the call-out immediately. Labor’s amendment means that, if the parliament is not sitting when a call-out order is made, parliament would be free to consider and debate the call-out immediately. That is obviously very important.

There is going to be a bit of an argument about whether it is two or three days, and this amendment says six days. The point is that this is very prompt. It is contemporaneous with any call-out. I am happy to use the
word ‘immediate’, and I think that is a very reasonable approach in these sorts of circumstances. I do not want to spend a great deal of time arguing the case about what travel plans various senators may or may not have. This particular amendment specifies that the parliament must sit within six days of the Presiding Officer receiving a statement that is forwarded in accordance with paragraph 2(f). A senator can make the case that, effectively, that might mean seven days after a call-out. That is true, but that is prompt, that is immediate. As a call-out order lasts for up to 20 days unless it is extended, parliamentary debate will occur either during the currency of an order or, in the case of a short order which ceases to have effect within seven days, immediately thereafter. This does allow the parliament to scrutinise the actions of the government of the day while the issue is current. It does enable parliamentary accountability. Parliamentary recall is in addition to the notification procedures already in place, which include the publicising of the order, the gazetting of the order and the tabling of the order in the parliament, as I have indicated.

We would say, quite simply, that it is inconceivable that parliament should not be recalled in the highly unusual circumstances of extreme domestic violence justifying a call-out. I do not want to canvass the ground again in relation to the point that I think was made that this is for powers under the declaration of a general security area made by the authorising ministers under division 3. We have indicated our approach to division 2 powers and we have, I think, mounted a very strong and unarguable case that for operational and strategic reasons it is not appropriate to put this mechanism for the exercise of powers in place under division 2. I think there is a grudging acceptance by all in the committee that that is the case. Perhaps some do not even grudgingly accept that.

Senator Brown—No, you’re wrong as far as I’m concerned.

Senator Faulkner—All right. So there is not even grudging acceptance.

Senator Brown—Clear failure to accept; you’re wrong.

Senator Faulkner—As I said, there is not grudging acceptance. Does that represent your views adequately?

Senator Brown—There’s no acceptance.

Senator Faulkner—Well, there is not grudging acceptance.

The TEMPORARY CHAIRMAN (Senator Chapman)—Order! the Leader of the Opposition should not allow himself to get provoked by interjections.

Senator Faulkner—I am not being provoked at all by Senator Brown, because the opposition puts its case strongly. We depend on the merit of the arguments that we have put before the chamber, and I think they are very strong. I think they will give considerable reassurance to Australians that there is an added layer of parliamentary accountability, which I think has been a weakness that has been identified in the legislation as it stands. This is a very purposeful amendment. It is a very sensible amendment. It is an important additional accountability measure in relation to recalling the parliament. I believe that, although this is not a matter that received the level of debate and scrutiny at the Senate committee that perhaps a range of other amendments proposed by the opposition to this bill did, this matter is unarguable—there is an important role for the parliament in a situation of extreme domestic violence. I commend this amendment, an important change to the bill, to the committee.

Senator Brown (Tasmania) (11.26 a.m.)—What a poor performance that was. The enthusiasm that Senator Faulkner puts into this discovers Labor’s vulnerability on the whole point. Let’s remember that this legislation went through the House of Representatives unchanged. Labor was there. It had the opportunity to flag all these amendments and it flagged nothing. When it came to the debate in this place, Labor had a restricted raft of amendments, but it is adding amendments now because it is under the heat of the crossbenches. Otherwise, it would not have this amendment here at all.

Senator Faulkner—You voted for all our amendments.
Senator BROWN—You would not have had an amendment here at all, and you know it. Labor is a failure on this matter. It is failing the Australian people. It is letting down democracy. It is transferring powers over the Army against Australian civilians to the executive. It is selling out on a century of Labor ideals. That is what is happening here. I will not accept that spin from the Labor Party which says, ‘We’re meddling at the edges. We’re going to make this better.’

Senator Faulkner—So why are you voting for the amendments then?

Senator BROWN—I will tell you why, Senator—because you have voted down the amendments from the Greens and Democrats which would have made a call-out subject to parliamentary scrutiny. You say—

The TEMPORARY CHAIRMAN—Senator Brown, you have been here long enough to know—

Senator Faulkner—If you don’t think it will improve the bill, don’t vote for it.

The TEMPORARY CHAIRMAN—Order! Senator Faulkner.

Senator BROWN—You know, Mr Temporary Chairman, that the senator who was interjecting—and I would appreciate it if you would call him; he is the interjector and I am responding to the interjection—is wrong. The Labor Party is misleading this committee when it says that parliament must be recalled in response to a call-out. The fact is that under this weak sell-out provision from Labor, having turned down the strong position that was taken by the crossbench parties, there are a raft of situations in which the executive can call out the troops against Australians and there will be no notification and there will be no recall of parliament. That is a fact. That is why Labor has failed as an opposition in this matter. It has been left to the crossbench to try to put it right.

Senator Faulkner—You’ve done nothing. You haven’t got anything through.

Senator BROWN—The only failure of the crossbench is not one of integrity; it is one of numbers. Labor is using its numbers to give the government the numbers to get this legislation through as it wants it.

Senator Faulkner—You’re voting with us to improve the bill. Thank you for that.

Senator BROWN—Well, you know the dynamics of that, Senator Faulkner. We are voting for a weak Labor amendment, having had Labor turn down the amendment it should have supported. So you can put whatever spin on that you like.

Labor has sold out on the Australian people; it has sold out on its own ideals. We are left with these paltry bits and pieces with which to try to amend the bill, which, at the end of the day, I will oppose simply because Labor did not fix it up. Labor will not fix it up; it will go over and vote with the government—that is what is going to happen later today at the end of this harrowing debate. This is not about some trite matter. This ought not be about political point scoring. It is about the failure of politics on one of the most important pieces of legislation that you could imagine being brought before this place. This deals with the heart of our democracy. This deals with the time-honoured situation in Australia whereby the police keep domestic peace in the states and territories and the Army keeps us protected from external threat. This bill mixes that all up. There is no clear dividing line after this legislation, and Labor is part of the problem in that.

Senator Faulkner said that it is inconceivable that parliament should not be recalled after a troop call-out. Well, it is not inconceivable because Labor has allowed for that to happen. It allows that to happen when the troops are called out but there is no declaration of a general security area. As I said earlier—I am not going to go through it again—that can involve a multitude of situations, such as when civilians are protesting against something the government is doing or when something has gone wrong within the country. That is what is wrong with this legislation. That is why the opposition benches are almost as bereft as the government benches because there is not much heart in this legislation. There is not much support amongst the rank and file of the party for this legislation, and there is certainly a lot of antipathy
amongst supporters once you get outside this place.

This amendment says there will be a recall after six days if there has been a declaration of a general security area which extends the powers of troops once they are sent in to fix up some domestic problem here in Australia. That will cover some situations. It totally fails to cover a whole range of other situations, whether that be people occupying the Lodge, a truck drivers blockade of the Hume Highway, a re-run of the Franklin River blockade, a protest against uranium mining in the desert, indigenous people protesting for their lands or a strike on the waterfront. Under those circumstances, if the ministers do not want to do so, there is no need to declare a general security area. The troops are called out but parliament is not—thanks to Labor.

Senator HARRIS (Queensland) (11.33 a.m.)—Labor’s second amendment that they have just moved is again directed only to section 51K(2) of the bill. As Senator Brown has highlighted, that section of the bill only refers to a general security area having been declared. Yes, the minister has cleared up the previous amendment that has been passed, which now requires notification to be given to the Presiding Officer within 24 hours. Labor’s amendment allows for a further six days to pass before the matter must come before the parliament. That is where it stops—full stop. A notification could be brought into this chamber and that would be the total effect. We could have a situation where a state government would be objecting profusely to the order, but there would be no debate in this house because Labor’s amendment does not require it. There is no necessity for debate, and there is no necessity for a resolution of both houses. So it is clearly deficient on the previous amendments.

Senator Bourne has mentioned the amount of correspondence that she has received in relation to this bill, and she is not alone. I believe the government would have received an amount of correspondence, as would have the opposition. The concerns that have been raised have been escalating throughout the debate on this bill. In our correspondence we are now receiving an indication from Defence Force personnel that they will consider terminating their deployment with the Australian Defence Force. I believe the government has not addressed one of the major issues in relation to this bill, that is, the psychology behind having to stand up and shoot your fellow Australian. I indicate to the committee that I will be moving an amendment in the latter part of this debate that will actually be a cry from the wilderness, so that the government and Labor stop and think about what they are doing to Australian Defence Force personnel.

It is all right for a minister to sign an order and say, ‘Go out, troops, and do your job!’ To a large degree, with all acts of war—and I am now not speaking about the bill—if we had the situation where a couple of generals wanted to go out to war and were put in a football field and given a couple of machine guns, it would be decided really quickly. That is the mentality of the government and the opposition. They are unleashing something that they have not considered the psychological effects of on the people whom they are ordering to carry out the directives. We have only to look at the Vietnam veterans who have come back with horrendous psychological problems as a result of that war. If the government does call out the troops in Australia, that war will have been a walk in the park in comparison with what the psychological effects will be on the people that they are going to call out. Yes, I will support the amendment; but I only support it because it is, in one section of the bill, going to give this chamber the ability to assess the decisions that are made by the executive government. But it should not be on only one section of the bill; it should be on every order that is given to bring out the troops in this country.

Amendment agreed to.

Senator ELLISON (Western Australia—Special Minister of State) (11.39 a.m.)—I move government amendment No. 4 on sheet DG223:

(4) Schedule 1, item 3, page 7 (line 11), after “directed to”, insert “utilise the Defence Force to”.

Amendment agreed to.
That is a technical correction. It amends section 51B of the bill to include the words ‘utilise the Defence Force’ after the words ‘directed to’ in paragraph 1(b). This will make the wording consistent with sections 51A and 51C. It is, I would submit, a technical amendment; it simply makes consistent those three provisions contained within 51A, which is the Commonwealth call-out; 51B, the state call-out; and 51C, the territory call-out. I think it is important that there be consistent wording in relation to these subsections. That is all it does.

The substance of this has been debated at other times during this committee stage. The question we have here is really one of consistency, and I dare say those senators who have opposed this previously would no doubt oppose the thrust of this. However, this particular amendment is technical in nature and makes the wording consistent throughout all of those sections. But I appreciate that there are senators who would in any event oppose the general thrust of the substance.

Amendment agreed to.

Senator HARRIS (Queensland) (11.41 a.m.)—I move:

(2) Schedule 1, item 4, page 12 (lines 1 to 4), omit ‘unless the Minister, after consulting the Chief of the Defence Force, is satisfied that sufficient numbers of the Permanent Forces are not available’.

The essence of the amendment is to strike from the bill the ability to use the emergency forces or the reserve forces. The bill itself, in section 51G subsection (b), requires the Chief of the Defence Force to consult with the minister, to be satisfied that there are insufficient numbers in the permanent forces.

I believe that the government is not taking into consideration what I briefly indicated a few moments ago. I have refrained, in the debate on this bill so far, from putting up scenarios but I am actually going to put one up now. This is a reality. We have two workers in North Queensland working in an engineering firm. One of them is the union rep in that firm and the other one is a member of the North Queensland reserves, in 51st Battalion stationed in Cairns. If the situation that the Australian defence forces are called out for is sufficiently widespread and the permanent forces are insufficient to actually cope with that situation, what we can effectively find is these two guys, who work side by side on machines in their engineering firm, standing on opposite sides in the dispute. One of them, as I said, is the union rep at the engineering firm, and the other is a member of the reserve forces surveillance unit. What a predicament to be put into! I do not believe that any government should have the ability to effectively take the two citizens in this scenario and put them in such a situation where one has to contemplate killing the other.

That also raises an issue that I raised earlier: where is the training? How does the minister intend to train his reserve forces in the skills that they are going to need: the ability to arrest a person, or the ability to preserve a site where there is evidence? How is he going to train them to apprehend somebody, when all of their military training has been purposely for the neutralisation of an enemy? Yes, they are a surveillance unit; that is what they are trained for. They are not trained to be a crowd control unit; they are not trained to go into areas where there are industrial disputes—and they can be called out, under the bill, under the two sections that we were speaking of earlier, 51A and 51B.

So this amendment proposes to delete from the bill the ability of the executive or the Governor-General to use reserve forces or—to let us put it in its real context—to use civilians to shoot at civilians; that is what it is proposed they do. We may unkindly in North Queensland, in a jovial manner, refer to them as the ‘cut-lunch cowboys’. But they are an effective unit, they are a dedicated unit—and they are a unit that most certainly should not be used for the purpose that the government intends to bring in with this legislation: being pitted against their fellow citizens, possibly even in their own area. Or are the government going to do what the Chinese did in Tiananmen Square when they found that they could not get their armed forces to remove student dissidents because they could not speak the same dialect? Are they going to then move somebody from a distant part of Australia to North Queensland so that they...
will be remote from any emotional association with the people they are supposed to be detaining or, in the worst case, shooting?

The government itself, I believe, needs to look very, very seriously at this issue. It also needs to take on board some of the comments that we are receiving now. As I have indicated before, people are saying, ‘I believe that I will be leaving the forces if this bill is passed.’ I would commend to the government and to the opposition that they stop and think of the psychological pressures that they will put on these reserves. The psychological problems that the Vietnam veterans have found themselves suffering from will pale—I repeat, pale—into insignificance when compared with the psychological problems that will eventuate from these pressures. If any person in this chamber can stand up and deny that soldiers who serve their country do not have emotional problems, then I think this debate has got to a very low ebb.

Senator ELLISON (Western Australia—Special Minister of State) (11.48 a.m.)—Just briefly, Senator Harris put a proposal or a query in relation to the reserves. This proposed legislation states that the reserves would only be used where the numbers of permanent personnel, those members of the regular services, were insufficient to meet the demand. The government would envisage the reserves only being used under division 3 powers. The government would not envisage them being used in the first instance, because we believe that our regular services could do the job. But, if an unforeseen circumstance arose, only in exceptional circumstances would the reserves then be used—and only then, we would say, in division 3 matters, and that is in things like the general security area.

But, through the chair, I would say to Senator Harris that the reserves are currently training with the New South Wales police force in exercises involving cordons, searches and checkpoints, so they are undergoing training at the moment. I think that the reserves in this country have a very high standard. Let us just take the medical area, for example. I know doctors who are in the reserves, and you would not say that they are any less qualified than doctors in the regular services. I know of people who are engineers, people with IT qualifications and people with a range of qualifications which are essential to the reserves; they have very high qualifications in civvy street, if you like, and they translate those to the reserves. That is where we get the benefit of a good reserve force, such as the one we have in Australia.

So I think to just dismiss it and say that the reserves have not got the training is perhaps inappropriate, because you need to look a bit further than that. But, notwithstanding that, the government clearly has the intention that permanent forces would be used, and only in exceptional circumstances where numbers were not sufficient would reserves be used. I would say that you are only looking at division 3 powers, opposed to division 2 powers. Division 2 is more for antiterrorists, which would require specialist forces. Obviously, if you had a terrorist situation, you would look to the SAS or a unit of that capability. It would be ludicrous to suggest that you would send in reserves in an instance where they were not qualified, because you have a body of people who are well qualified in the permanent forces that you would use in the first instance.

Senator BROWN (Tasmania) (11.51 a.m.)—I support the amendment; I support it because of the potential for bringing out the reserves against Australian citizens. I do not want to ever see that happen. If there is a requirement, in the event of an invasion, for the Army to bring out the reserves to help ward that off, that is provided for. We are not talking about that. We are talking about a civil situation here, and I support the amendment that says the reserves should not be used in that situation.

Senator HARRIS (Queensland) (11.52 a.m.)—The minister, in replying to me, gave an assurance that the reserves would be used only under division 3. But when you look at the structure of section 51G, ‘Restriction on certain utilisation of Defence Force’, it says, ‘In utilising the Defence Force in accordance with section 51D, the Chief of the Defence Force must not ...’ and then it goes into paragraph (a). That has now been amended by Labor’s amendment. But it goes on, and
there is nothing in the section, that I can see, that limits the Chief of the Defence Force to restricting the reserve forces to a division 3 operation. So I ask the minister whether he is willing—and I realise this is on the run—to move an amendment that would put that in the body of the bill. I would also like to very clearly state that in no way do I cast aspersions on the dedication, the qualifications or the ability of the reserve forces or the Australian Defence Force—not in any way—and I totally reject any insinuation that I was casting aspersions on them. What I am trying to raise in this debate is the psychological effects that this bill is going to bring for the people who are going to be required to carry out the actions. So I ask the minister if he would amend section 51G(b) to add the words ‘providing the reserve forces are used only in connection with division 3 of the bill’.

Senator ELLISON (Western Australia—Special Minister of State) (11.55 a.m.)—The trouble is that you would have a possible situation where division 3 and division 2 are linked, and it may be that a division 3 situation would be an adjunct to a division 2 situation. Let me give you an example. There might be a siege at an airport where you have specialist forces dealing with terrorism, but there has to be a huge general security area around the airport. We could go into detail—but you would all want to argue about the detail of this example; that is why I hate using them—but the fact remains that you may well need that flexibility in exceptional circumstances where you do need reserves to be there. They might not be the ones going into the hot spot to retrieve hostages, but they may well have a supporting role, and the government believes your amendment would take away the flexibility which might be needed in exceptional circumstances. I cannot take it further than that.

Senator HARRIS (Queensland) (11.59 a.m.)—Of course the Greens will support Senator Harris’s amendment. This amendment will again write into this legislation the philosophy that the defence forces should not be used against civilians. In this case, he is explicitly saying that the reserve forces—the emergency forces—should not be used against strikers or against people who are protesting in Australia. The permanent forces are available to be, and will be, used at some future time against Australian civilians due to this legislation which Labor and the Lib-
erals are putting through. At least we should have the decency here to say to any future executive that wants to use the reserve forces in this situation: ‘No, you can’t.’ It is inconceivable that the executive, having called out the defence forces of Australia against civilians, would then want to call out the reserves as well. You would be in a situation of civil war if that were the case. This legislation is not about that. This legislation is meant to contain terrorist activities, and it has been jumbled up by the two big parties so that it can also be used against civilian protesters. This is a very reasonable amendment.

Senator BOURNE (New South Wales)  (12.01 p.m.)—The Democrats will be agreeing with the amendment.

Senator HARRIS (Queensland)  (12.01 p.m.)—I thank the committee for its indulgence in facilitating the circulation of that amendment on the run. I believe that the government is being grossly inept in refusing to accept the obvious outcomes of the requests that have been made during this committee stage. It is very sad that the government will not listen to the pleas of the people who are going to be subject to this legislation. I have facilitated this amendment because the government have allowed the possibility of the reserve forces being put into action against their friends.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate)  (12.03 p.m.)—I now have a copy of Senator Harris’s amendment, which is quite extraordinary in the form it has been given to me.

Senator Harris—I seek the committee’s indulgence for the form in which it is being circulated.

The TEMPORARY CHAIRMAN—Thank you, Senator Harris.

Senator FAULKNER—I just want to ask a question. As I understand it—and at this point I am not asking anything other than a technical question—Senator Harris’s amendment goes to ‘but not in relation to any protest, dissent, assembly or industrial action’. I am interested in the interface between ‘industrial action’ and government amendment No. 2 to section 51A, to which I draw the committee’s attention and which has already been passed. It reads:

... provided always that the Emergency Forces or the Reserve Forces shall not be called out or utilised in connexion with an industrial dispute. That has already been passed, and I remind Senator Harris that this has occurred.

Senator ELLISON (Western Australia—Special Minister of State)  (12.05 p.m.)—I reinforce what Senator Faulkner has just said.

Senator Faulkner—You were supposed to do it in the first place.

Senator ELLISON—No, a different question was put to us before relating to division 3, general security areas—that is a different area. In relation to Senator Harris’s amendment, which we have not debated previously, I can advise the committee that, with regard to the aspects that Senator Harris raised, emergency and reserve forces are not able to participate.

Senator Brown—Not able to participate in action against a protest that is not an industrial protest?

Senator ELLISON—That is right.

Senator HARRIS (Queensland)  (12.06 p.m.)—I thank Senator Faulkner for drawing my attention to that. I had overlooked that section. If the minister can clearly give us an assurance that the reserve forces—aside from the government’s amendment No 2, relating to industrial disputes—cannot and will not be used against any protest or assembly, on receipt of that assurance I will withdraw the amendment.

Senator ELLISON (Western Australia—Special Minister of State)  (12.07 p.m.)—I can give that assurance, and I would suggest that in the circumstances it is appropriate that the amendment be withdrawn.

Senator ELLISON (Western Australia—Special Minister of State)  (12.07 p.m.)—Senator Ellison said a moment ago that the provision of government amendment No. 2 covered civilian protests. Let me read it out. It says:

... provided always that the Emergency Forces or the Reserve Forces shall not be called out or utilised in connexion with an industrial dispute.
It covers one of the four exigencies that Senator Harris’s amendment talks about but only one of the four. Senator Harris’s amendment says ‘not in relation to any protest, dissent, assembly or industrial action’. The government has covered industrial action, but it has not covered protest, dissent or assembly and I think it should. I support the amendment.

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

The committee divided. [12.12 p.m.]
(The Chairman—Senator S.M. West)

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

Ayes 11
Noes 44
Majority 33

AYES

NOES
Abetz, E. Bishop, T.M.
Brandis, G.H. Calvert, P.H.
Campbell, G. Campbell, I.G.
Carr, K.J. Collins, J.M.A.
Coogan, H.L. Cooney, B.C.
Crane, A.W. Crossin, P.M.
Crowley, R.A. Denman, K.J.
Ellison, C.M. Evans, C.V.
Ferris, J.M. Forshaw, M.G.
Gibson, B.F. Hogg, J.J.
Hutcheson, S.P. Kemp, C.R.
Knowles, S.C. Lightfoot, P.R.
Ludwig, J.W. Macdonald, J.A.L.
Mackay, S.M. Mason, B.J.
McGauran, J.J. McKiernan, J.P.
McLucas, J.E. O’Brien, K.W.K *
Patterson, K.C. Payne, M.A.
Ray, R.F. Schacht, C.C.
Sherry, N.J. Tambling, G.E.
Tchen, T. Tierney, J.W.
Troeth, J.M. Vanstone, A.E.
Watson, J.O.W. West, S.M.

* denotes teller

Question so resolved in the negative.

Senator ELLISON (Western Australia—Special Minister of State) (12.16 p.m.)—I move Australian Greens amendment No. 10 on sheet 1894:

(10) Schedule 1, item 4, page 13 (lines 1 to 7), omit subsection 51I(2), substitute:

Ministerial and judicial authorisation
(2) However, the member must not recap-ture the subject premises etc., or do any of the things mentioned in paragraphs (1)(b) or (c) in connection with any re-capture of the subject premises etc., unless:

(a) the authorising Ministers, or an authorising Minister; and

(b) a Judge of the Federal Court of Australia or of the Supreme Court of a State or Territory, on application by the member;

have in writing authorised the re-capture.

This amendment deals with the issue of an authorising minister, and this comes from the Foreign Affairs, Defence and Trade Legislation Committee’s recommendation:

The Committee recommends that, in proposed sub-section 51I(2), the words ‘or an authorising Minister’ be substituted for the words ‘or a Min-

ister (whether or not one of the authorising Min-

isters)’. This amendment deals with the power of the ministers concerned. Section 51I provides for powers authorising the Defence Force to recapture premises and, in connection with that, to free hostages, etcetera. In relation to that action, this amendment makes it clear that only one of the authorising min-

isters may authorise such an action under section 51I(2). That means that the three ministers—the Prime Minister, the Attorney-General and the Minister for Defence—can-
This amendment requires that not only does the minister give that authorisation but there must be judicial authorisation as well. It also brings the call-out powers, where the troops become active in forcefully doing something, in line with the powers that state police have. It effectively requires a warrant to be able to take over a building, to search it and to detain any people inside. It is a very reasonable precaution. It goes towards redressing the gap in powers that this legislation gives to the military as compared with the police. The existing legislation says that, when you have a call-out of the troops in Australia, a magistrate has to go with them. That was written in 1903, but it ensures that the judiciary are there. We are keeping that stipulation in the legislation, but we are updating it. Without this amendment, the bill gives certain ministers of the executive the power to authorise the troops to open fire and to use whatever force is necessary to capture whatever it is they are concerned about. We believe that, under those circumstances, it is protection for the Defence Force personnel—as much as for the citizenry itself—to stipulate that there be a written warrant from a judge of the Federal Court of Australia or the Supreme Court of the state or territory that is involved.

Senator HARRIS (Queensland) (12.21 p.m.)—I rise to support the Greens amendment which will in effect require consent of the judiciary. Again we are attempting to raise the issues that we see the passage of this bill will bring into effect. The government and the opposition keep on stressing that there are no rules or regulations in place at the moment—far be it from the case. I would like to raise an issue that has been very clearly articulated by the Australian Law Reform Commission. Their recommendation in relation to this bill is as follows:

All searches and seizures should lawful unless made pursuant either to a court order or warrant or, if made without a warrant, in response to circumstances of such seriousness and urgency as to require and justify immediate action without the authority of such an order or warrant, or pursuant to specially designated statutory authorities.

They go on to say:

Clearly the general position is that search warrants require concrete information. Moreover, in issuing a search warrant a judge must balance at arms-length the competing interest in the light of this situation. He or she must stand between the police and the citizen and give real attention to the question of whether the information proffered by the police does justify the intrusion they desire to make into the privacy of the citizen.

There are several issues there that we need to consider in the committee stage of this bill. The first issue I believe they have raised concerns that notion of ‘at arms-length’. If we have a situation where an order is made and the troops are called out, as we all know there would be escalating emotions involved in that call-out. First of all, you would have to have a substantially provocative situation where the people involved were highly emotional or motivated. Then you would bring out the troops. In that instance it would be very difficult for the troops, even though well-trained, not to be emotionally aroused in relation to the call-out order. So you have two groups of people whose emotions and excitement are escalating in relation to what is happening. In other words, the blood would be fairly pumping.

I believe it would be prudent to have at that time somebody who is set aside—somebody who is out of the emotional turmoil that necessitated the call-out of the troops. I believe our judiciary perform that function extremely well. They are not required to base their judgment on the emotion in the heat of the disturbance; they are at arms-length to make a decision based on the information that has been put before them by either the police officer or the Australian Defence Force member who applies for—the warrant. I believe there are processes for the judiciary to be called out to provide these warrants. It would not introduce undue delay into the process. What it would do, I believe, is to introduce somebody who is at arms-length from the emotion and the escalation to make a realistic and balanced assessment of the situation. I commend the Greens amendment to the committee.

Amendment not agreed to.
Progress reported.
BUSINESS

Routine of Business

Motion (by Senator Ian Campbell)—by leave—agreed to:

That—

(1) consideration of general business and consideration of committee reports, government responses and Auditor-General’s reports be postponed till a later hour;

(2) government business be called on no later than 3.45 pm today; and

(3) if the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 is read a third time before 8 pm today, then the routine of business from the completion of the third reading to the adjournment being proposed at 8 pm shall be the routine of business for that period of time as set out in standing order 57.

DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2000

In Committee

Consideration resumed.

Senator GREIG (Western Australia) (12.30 p.m.)—I move Democrats amendment No. 1 on sheet 1927:

(1) Schedule 1, item 4, page 13 (line 23), after “area” insert “(other than the parliamentary precincts within the meaning of the Parliamentary Precincts Act 1988)”.

In moving this amendment I am wondering if it might not be best called the ‘George Speight amendment’. This amendment seeks to cover the same prohibition on the use of executive force as is presently contained in the Parliamentary Precincts Act 1998 and its application to the Australian Federal Police. Odgers’ Australian Senate Practice gives a detailed description of what these powers entail. It reads:

Section 8 of the Parliamentary Precincts Act provides for the Australian Federal Police to arrest and hold in custody persons required to be detained by order of either House, under general arrangements made between the Presiding Officers and the minister responsible for the police.

Section 9 provides for members of the Australian Protective Service to perform functions in the precincts in accordance with general arrangements made between the Presiding Officers and the minister responsible for the service.

Section 10 provides for the functions of the Director of Public Prosecutions in relation to offences committed in the precincts to be performed in accordance with general arrangements agreed to by the Presiding Officers and the Director of Public Prosecutions.

Arrangements made under these provisions were laid before the Senate on 28 February 1989.

No such arrangements are required, however, if the troops were to be sent in to Parliament House if a general security area were to be declared in the heart of Australian democracy, our Commonwealth parliament. Let no one be in doubt that this bill, with the inclusion and arbitrary nature of the declared security zone, can and does include this parliament. Considering the terrible events that have just recently transpired in Fiji and in East Timor, do the Australian Labor Party and the Liberal-National coalition really want to enact what is effectively George Speight style legislation? If the events in Fiji have taught us a lesson in democracy, it is that democracy is a fragile thing. It may surprise many in the committee to know that half of the world’s inhabitants do not live under democratic regimes.

It occurred to me that in moving this amendment it might be suggested that if parliamentarians themselves were perhaps in a situation of threat or danger within Parliament House the troops would not be able to be sent in to some form of rescue. That, of course, would not be the case. There are more than adequate existing laws dealing with terrorism that could very effectively accommodate that scenario. That is all I wish to say on that. I seek the committee’s support in approving this amendment to the legislation.

Senator HARRIS (Queensland) (12.33 p.m.)—Can I acquire some direction. I have...
no problems with the amendment; I am just seeking some clarity. The amendment speaks to item 4 on page 13 of the bill as presented at line 23. In the copy of the bill that I have there is no related item 4 there. Can I seek your guidance in relation to that?

The TEMPORARY CHAIRMAN (Senator Hogg)—Senator Harris, we can now solve your problem for you. If you turn your copy of the bill to page 7 at line 23 on page 7, you will see that item 4 starts there. All the following pages are part of item 4. That is the reference: it is in schedule 1 item 4 at page 13, line 23. It amends section 51K. The question is that the amendment moved by Senator Greig be agreed to.

Senator ELLISON (Western Australia—Special Minister of State) (12.36 p.m.)—The government opposes this amendment. It believes that in fact the reverse could be the result of what Senator Greig says, in that this would prevent a general security area or designated area being declared that contained any part of the parliamentary precinct. It could well be that there could be some assault on Parliament House—it could be the subject of terrorist activity—and you might well then need the provisions of this sort of legislation, only if the territory police force could not cope with it. Dealing with parliamentary precincts does form part of the national antiterrorist plan, and that is something which has been developed in consultation with state governments. We would say that this really could have the consequences which Senator Greig does not really want—that is, that people could attack Parliament House and the government would not have recourse to this legislation, if it were needed, and only if it were needed. I stress that, because of course you do not just have a call-out unless all of those procedures are followed. On that basis the government opposes the amendment.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.37 p.m.)—I do not understand why we would not afford the parliamentary precinct the same protection as we would afford other areas in this country. It is not so much the parliamentary precinct; my mind goes more to the people who work here and the people who visit here. I would be wanting to afford them the same protection in this area, in the parliamentary precinct, as I would anywhere else in Australia. I am perplexed by the amendment, but I certainly could not support it.

Amendment not agreed to.

Senator HARRIS (Queensland) (12.38 p.m.)—by leave—I move Pauline Hanson’s One Nation Party amendments Nos 3 and 4 on sheet 1910:

(3) Schedule 1, item 4, page 15 (line 3), at the end of paragraph (d), add “provided that a search member is accompanied by at least one other search member at all times during the search”.

(4) Schedule 1, item 4, page 15 (line 12), at the end of paragraph (f), add “; provided that the person is given the right to be present during the search”.

The purpose of moving these two amendments is, firstly, to protect a person who finds themself within a search area where a search is being carried out by the Australian defence forces and, secondly, to afford a measure of protection for the personnel who are actually carrying out the search. On my reading of the bill, I believe that there is nothing within the search instructions that would preclude a person being held in one section of the search area while personnel were searching another area of the search area.

I want to clearly and emphatically state that I am not casting aspersions on the Australian Defence Force or anybody else carrying out the search. What I am trying to do is bring a measure of the same standard that is required of both the Australian Federal Police and our state police in the exercising of their search powers. The amendments are clearly directed as much to protecting the rights of an individual who finds themself within a search area, and that could even mean an innocent bystander who finds themself within a building. Those people have
rights, and we need to protect the rights of those people. As I said before, we need to ensure that there is a minimum of two operational personnel actually carrying out the search. This is what the amendment does. Item (4) says:

... provided that the person is given the right to be present during the search.

That protects the rights of a person to be in the area, whether or not they are involved in the incident; it protects their right to be where the search is being carried out. Item (3) says:

... provided that a search member is accompanied by at least one other search member at all times during the search.

If the amendment is agreed to, it would give both those personnel the ability to corroborate the evidence that they acquire. It is purely a ‘technical’—if you wanted to use another word—amendment that would protect the rights of any person within the search area. It would also protect the rights of the personnel carrying out the search. I commend the amendments to the committee.

Senator BROWN (Tasmania) (12.43 p.m.)—I support the amendments. I think they are well thought out.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.43 p.m.)—The amendments will not be supported by the opposition. They are unnecessary and very badly thought out.

Senator BOURNE (New South Wales) (12.43 p.m.)—I put the Democrats’ point of view on record, which is that they are very well thought out.

Senator ELLISON (Western Australia—Special Minister of State) (12.43 p.m.)—The government will oppose these amendments. It believes there are sufficient safeguards in S1M and N.

Amendments not agreed to.

Progress reported.

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

Second Reading

Debate resumed from 4 September, on motion by Senator Ellison:
Quarantine is a very difficult issue for any government to deal with. One difficulty that this government has faced is the issue of consistency. The government needs its various policies to deal with industries on a consistent basis, so it needs to deal with the quarantine issue as it deals with the trade issue. I do not think there is any doubt about that in terms of the government’s agencies determining the appropriate level of protection available to us under the WTO conventions and international quarantine agreements which we are a party to in relation to sanitary and phytosanitary agreements. As I said, trade impinges on our quarantine policy in that regard, and that raises the issue of a consistent approach by members of the government on that issue.

It is unacceptable, for example, for members of the government to be aggressive supporters of protection for the Australian car industry while at the same time saying to the pork industry in Australia, ‘It’s in the interests of the nation that your industry be exposed to cheap subsidised exports.’ It is for that reason that I was somewhat alarmed by an interview given by Senator Chapman on the ABC program The World Today on 10 August. Senator Chapman was being interviewed about the importation of cheap, second-hand cars from Japan. He was asked:

So you’re saying in a sense it’s a distorted market and therefore an unfair advantage bringing those cars in.

Senator Chapman said:

Absolutely, because on the Japanese market, those cars are virtually worthless and so they can be bought very cheaply by people who want to import them into Australia.

He was then asked by Philip Williams:

From the consumers’ point of view though, why shouldn’t we get the benefit of that? Why shouldn’t we get the cheapest possible cars?

Senator Chapman said:

Well there are two points there. The first point is these cars don’t meet the design standards and in particular the safety standards required of vehicles in Australia. And secondly, we have an industry policy that’s established. It’s been accepted in the Australian community to maintain motor vehicle manufacturing in Australia, and this rapid escalation in numbers seriously undermines that policy.

Mr Williams then asked him:

We’re only looking at less than one per cent, I think half a percent of the entire car market made up of these sort of imports.

Senator Chapman said:

Well over the last six years, the number of imports increased from about 7,000 a year to about 30,000 a year. So if that rate of increase continues and it has been exponential over that period, if that rate of increase continues, then it is going to be a serious threat.

Senator Chapman argues that, because of the cost of the imported cars in that case, the domestic market will be distorted with imports and will be unfairly advantaged. Exactly the same could have been said for the South Australian pork industry in 1998. But my staff’s search of the database has failed to find a word from Senator Chapman on that matter. According to the parliamentary database, Senator Chapman chose not to run the same argument in support of an industry that I believe is an important job generator in regional South Australia. He argued that it was accepted in the Australian community that we maintain a motor vehicle manufacturing industry. With a large number of people living in regional Australia, we on this side of the chamber believe that Australia needs a viable pork industry. But the database does not show that Senator Chapman was a keen supporter of that argument; he certainly did not put it on the Hansard if he was.

In response to the suggestion that a number of imported cars would amount to only half a per cent of the entire car market, Senator Chapman said that it was the rate of increase that was of concern, not the absolute number. He said that if the rate of increase continues, then it would become a serious threat to the domestic manufacturing industry. That is exactly the same situation the South Australian pork producers faced. We support the Australian motor vehicle manufacturing industry. It is a key industry in South Australia. We are also strong supporters of the Australian pork industry. It is a key employer and an income generator throughout regional Australia, and it has faced a
number of arguments, some of which have related to issues of quarantine, and I have raised some of those in this chamber.

If Senator Chapman and his colleagues on the other side of the chamber had accepted their responsibility—if Senator Chapman had accepted his responsibility, in particular, to represent the pork producers in South Australia and other intensive rural industries, as he has been on the record in support of the car manufacturers—that industry would have received better assistance from the government and it would have been received in a more timely manner. After all, it was the government who provided support in what I would describe as dribs and drabs, and reluctantly it was dragged kicking and screaming to its gradual enhancement of support programs for that industry. I suppose one might say that, if it weren’t for that, Senator Chapman would not have the argument on his hands in relation to the preselection battle that he is now facing.

Senator TROETH (Victoria— Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.54 p.m.)—The Agriculture, Fisheries and Forestry Legislation Amendment Bill (No. 1) 2000 brings up to speed the government’s support for the development and increased use of electronic information systems by the Australian Quarantine and Inspection Service, which will speed up the clearance of cargo. The first part of this amendment bill ensures that there is appropriate coverage in the Quarantine Act 1908 to support that new technology. As well, the second part of the amendment bill deals with the need for payers of the wine export charge to be placed on the same basis as payers of the winegrapes levy at the annual general meeting of the Australian Wine and Brandy Corporation. I thank senators for their comments. I commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time, and passed through its remaining stages without amendment or debate.

PROTECTION OF THE SEA (CIVIL LIABILITY) AMENDMENT BILL 2000
Second Reading

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

That this bill be now read a second time.

Senator MACKay (Tasmania) (12.56 p.m.)—I rise to support the Protection of the Sea (Civil Liability) Amendment Bill 2000. The bill is designed to amend the Protection of the Sea (Civil Liability) Bill 2000 to (1) broaden existing arrangements which require ships to maintain insurance cover in respect of marine oil pollution damage; (2) clarify the liability limit of shipowners in relation to clean-up costs; and (3) clarify the ability of the Australian Maritime Safety Authority, AMSA, to recover costs associated with combating oil pollution threats. This is an important bill designed to protect our seas and our coastal environment from pollution. It is important because the biggest threat to our coastline is pollution, particularly oil pollution. Not only that, but the potential costs to clean up from oil pollution are also extremely high.

The bill amends the Protection of the Sea (Civil Liability) Act 1981 to increase protection of the sea from pollution by imposing further regulatory constraints on recalcitrant ship operators. It will broaden existing arrangements that require ships to maintain insurance cover in respect of clean-up costs for marine oil pollution. The bill will also make clearer the liability limit of shipowners with regard to clean-up costs and clarify AMSA’s role to recover costs associated with oil pollution. It implements the International Convention on Civil Liability for Oil Pollution Damage. That convention provides that the owner of an oil tanker is strictly liable for pollution damage in a territory or exclusive economic zone of a party to the convention. It also provides that the owner must maintain insurance to specified limits to cover pollution damage. Labor supports this bill because it partially addresses these deficiencies by requiring insurance to be held by all ships of 400 or more gross tonnes—whether or not registered in a convention country—which carry oil as cargo or bunker and are leaving or entering an Australian port.
Implementation of this bill, such as the checking of documentation to demonstrate insurance is held, will be the responsibility of the Australian Customs Service and AMSA surveyors. Ambiguity has existed about AMSA’s power to recover costs incurred where there has been a threat of but not an actual discharge or disposal from a ship and AMSA has taken action to combat this threat. An example is where the ship has gone aground. This bill removes the ambiguity by enabling AMSA to recover costs in these circumstances.

This bill is important when one considers that AMSA receives about 300 oil spill sighting reports each year. Of these, 22 incidents each year are considered serious enough to warrant some type of response. To date, all ships involved in major spills in Australian waters have had insurance coverage and the costs of the oil spill response have been reimbursed to AMSA and state or territory response agencies. There are, however, no guarantees that all ships visiting Australian waters will have the necessary insurance coverage. A recent incident in New Zealand involving an uninsured ship has reinforced these concerns.

This bill is consistent with the landmark 1992 House of Representatives Ships of shame report that uncovered a litany of rorts, environmental disasters and criminal practices plaguing the international shipping industry. That report revealed massive problems with ships that were docking in Australian ports. It had a profound effect on people’s perceptions of the shipping industry and led to an increased level of scrutiny. The current bill will go part of the way towards helping protect our coastal environment from polluters, and the opposition supports the aims of the bill.

Senator O’BRIEN (Tasmania) (1.00 p.m.)—Whilst the opposition is supporting this bill, it is notable from what the Information and Research Services of the Department of the Parliamentary Library say on this bill in the Bills Digest No. 27 that there are some matters the government, or possibly the next government, will have to look at in relation to this legislation. The Digest uses these words:

On its face, the Bill is a timely response to concerns regarding marine pollution. The various conventions developed by the International Maritime Organisation provide a clear framework for prevention and indemnification in relation to major pollution threats. However, the indemnification regime is limited in its application. It only extends to vessels carrying 2000 tonnes of oil as cargo registered in a Contracting State. It does not extend to empty oil tankers or other vessels carrying less than 2000 tonnes of cargo oil. Nor does it apply in relation to bunker oil or to vessels registered in countries that are not State parties to the Civil Liability Convention.

The Bill addresses these issues by focusing on the presence of ships within the ‘internal waters’. It captures all vessels over 400 tonnes gross, wherever they are registered.

The Bill is intended to implement the terms of the Draft Bunker Oil Convention. However, that convention is not expected to be finalised before March 2001 and may not come into operation until 2002. As indicated above, there may be scope to legislate in respect of draft conventions. But, if there is doubt, some novel arguments may be required for the Bill.

First, the Bill may be viewed as an exercise of the trade and commerce power, in anticipation of being supported by international law. Second, it may be seen as an exercise of the external affairs power, either in terms of its offshore application or by virtue of its connection with international conventions. One argument is that the existence of the Draft Bunker Oil Convention demonstrates that insurance cover in respect of bunker oil damage is an ‘issue of international concern’. A better argument is that the mandate in UNCLOS—the United Nations Convention on the Law of the Sea—relating to ‘internal waters’ encompasses all of the measures contained in the Bill.

Senator Sherry—This is not a UN convention, is it? I didn’t think this government liked UN conventions.

Senator O’BRIEN—Senator Sherry makes an interesting point. The Library continues:

If the Bill does rely upon UNCLOS, arguably, it could have extended to regulate shipping beyond Australian ports. As indicated, UNCLOS would seem to allow the Commonwealth to regulate ‘free passage’ of all ships within the ‘territorial sea’ for the purpose of reducing and controlling pollution. This would seem to extend logically to a requirement for insurance coverage. Ultimately,
however, this approach may not be advisable given the considerable cost that may be associated with such a regime and the apparent inconsistency that may arise with the terms of the proposed bunker oil convention.

The point I am seeking to make is that there are some issues which need to be looked at. Whilst this bill obviously takes a step towards the measures which are necessary, given the fact that we have had some terrible accidents around the world, particularly involving vessels carrying large amounts of fuel oil—and we have had some incidents in Australian waters but, thankfully, no incidents which have been extreme calamities such as the Exxon Valdez occurrence, for example—the regime that applies to vessels entering Australian waters needs to be looked at very carefully.

There are a number of issues the opposition have with this government's policy which, effectively, is attracting not just tankers but a whole range of foreign vessels to the Australian coast. It has created an environment where Australian owned shipping will become a museum piece, in the sense that there is no incentive for businesses to maintain their shipping fleets. We have an ageing Australian fleet. If the current policy parameters continue, it is certain that we will have almost no Australian owned fleet operating for export and import purposes or, indeed, ultimately for coastal trade purposes. That is another issue that I will take up at another time. Whilst the opposition are supporting this bill, we will be looking very closely at the matters that have been raised—when we have an opportunity to do so, if indeed the government does not take the opportunity to do just that—and at fixing what appear to be some potential problems with this legislation.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (1.05 p.m.)—I thank the opposition for their support for this bill. The conditions and content of the bill, which Senator Mackay rightly summarised, are set out in the second reading speech and in the explanatory memorandum. I am not quite sure what Senator O'Brien was talking about in referring to an article he had from the library. My understanding, Senator O'Brien, is that the Bills Digest refers to the current act—before this amendment has taken place. This amendment actually addresses a lot of the things you were talking about. The amendment will require all ships of 400 tonnes or more to be insured to cover a clean-up cost. It does not matter what they are carrying, it does not matter where they come from or what they do. All ships entering Australian waters of 400 tonnes or more are to be insured. That is the principle of the amendment before the chamber today, and it obviously covers a lot of the concerns that you raised. The bill is an important measure in protecting the marine environment. I thank the opposition for their support for the bill.

Question resolved in the affirmative.

Bill read a second time, and passed through its remaining stages without amendment or debate.

TRADE PRACTICES AMENDMENT (INTERNATIONAL LINER CARGO SHIPPING) BILL 2000

Second Reading

Debate resumed from 5 September, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator MACKAY (Tasmania) (1.08 p.m.)—I rise on behalf of the opposition to support the Trade Practices Amendment (International Liner Cargo Shipping) Bill 2000. The bill proposes the following amendments to part X of the Trade Practices Act 1974. One, exemptions limited to liner shipping activities covering loading and operating for export and import purposes or, indeed, ultimately for coastal trade purposes. That is another issue that I will take up at another time. Whilst the opposition are supporting this bill, we will be looking very closely at the matters that have been raised—when we have an opportunity to do so, if indeed the government does not take the opportunity to do just that—and at fixing what appear to be some potential problems with this legislation.
ping agreement that might unreasonably hinder Australian flag shipping.

Five, the minister and the ACCC will be empowered to accept court enforceable undertakings from shipping lines, aimed at ensuring a net public benefit. Six, the protection afforded to exporters under part X is to be extended to importers. Seven, the minister and the ACCC are given increased powers to deal with conduct likely to result in an unreasonable increase in freight rates and/or an unreasonable decrease in services. Eight, conferences will not be permitted to unreasonably restrict entry of new parties. Finally, the objects of part X are amended to cover the inclusion in the part of inwards liner cargo shipping services and Australian flag shipping.

Labor has also been advised of additional government amendments to the bill to remove any ambiguity about the requirement that liner shipping companies must have a conference agreement registered under part X before the part X exemptions relating to agreements on freight rates come into effect. The Australian Government Solicitor has advised of the possibility for ambiguity in this area, in sections 10.17A and 10.18A. I foreshadow also that Labor does not oppose those additional amendments.

The NFF and the ACCC had, in fact, called for the removal of part X and Treasury had argued that the exemptions represented an unnecessary anomaly in Australia's competition policy. However, the Productivity Commission agreed with the submissions of shipping companies, the peak Cargo Owners Association and the Department of Transport and Regional Services. The latter groups argued that the part X exemptions benefited exporters by ensuring that regular shipping services were available from Australia.

To a very limited extent, this bill assists Australian shipping. The objects of part X have always had that principle enshrined. This is welcomed by the opposition and Labor supports the bill.

Senator O'BRIEN (Tasmania) (1.11 p.m.)—I wanted to speak briefly about this amendment and, as Senator Mackay has just indicated, the opposition will be supporting this legislation as it goes a very small step towards measures which are essential to assist the users of shipping and stevedoring industries within Australia.

I remind the Senate that this government has presided over a very distressful and disruptive dispute on the waterfront which culminated in an arrangement whereby $178 million was spent, following a period of great disruption, to shed labour from the stevedoring industry. That money, together with certain other funds, is being recovered by a levy on container traffic and that levy is expected to continue for around nine years. I guess that is subject to how interest rates go and I guess they must be locked in by now, hopefully, for a shorter period than that.

What has to be said, of course, is that what this government has presided over is not a reduction in shipping costs, not an improvement in turnaround times and not, indeed, a great improvement in container handling rates—all of the benchmarks that this government, through Minister Reith, set down as the tests of its achievement in waterfront reform. We have seen that shipping rates have gone up, meaning, therefore, that the cost to users of Australian ports—to importers and exporters, to our rural industries, and to our manufacturing industries—has been increased. This government has presided over what it described as a reform process, which, as I said, was at great cost to the industry in terms of the disruption that it caused. It certainly did not draw the community together. Ultimately, redundancies were achieved and a package involving $178 million in redundancy payments was put through this parliament. So, we are talking about an amendment to the Trade Practices Act which the opposition is prepared to support.

It is a pity that, on matters of real reform, this government was not at an earlier stage interested in seeking to obtain a bipartisan approach to reform of the waterfront. I remind the Senate that, for example, the parties to the stevedoring industry dispute, the Maritime Union and Patricks, had been in discussions prior to that great dispute. Indeed, the evidence given to a Senate committee about the reason they could not go
any further was that they did not have any money for redundancies available to them. Funnily, those moneys all became available after the great dispute and with the fanfare that these reforms—achieved with confrontation— were going to achieve the seven benchmarks that Minister Reith laid down. What a failure. What a total failure.

Is it any wonder then that Minister Reith is seen as falling a long way short in his aspiration to one day lead the coalition, which I expect will be to aspire to lead them in opposition because that is where they will be after the next election? Is it also any wonder that he has lost credibility with the Australian public? I think the opposition is very pleased to hear the stories about Minister Reith being set to take a new portfolio. One would have to say that, if you were in Carmen Lawrence’s position, you would have to think—

Senator Ian Macdonald—Mrs Lawrence.

Senator O’BRIEN—Yes, that is right, Mrs Lawrence. I hope we all remember that—Mrs Carmen Lawrence.

Senator Ian Macdonald—Dr Lawrence, actually, it should be.

Senator O’BRIEN—Yes, Dr Carmen Lawrence sounds even better. She is rubbing her hands with glee at the thought that one of the government ministers with the least public credibility is going to be opposed to her in an area where the government has almost as little credibility as it has in terms of waterfront reform.

Senator McGAURAN (Victoria) (1.17 p.m.)—I just wish to take five minutes to respond to Senator O’Brien. He was so provocative. He had his lunchtime spray. This is all meant to be non-controversial. He said it quietly in the normal manner that he presents to this chamber, but always with a bit of spice and bite, and he is never, ever factual. I will not pick up his Carmen Lawrence taunt. There is time enough for that. In fact, I know they have already started in the House of Representatives on Mrs Carmen Lawrence—

Senator Mackay—Dr Lawrence.

Senator McGAURAN—Dr Carmen Lawrence—and the opposition’s usual embittered comments against Peter Reith. Why have they got Peter Reith in the gun?

Senator Mackay—Mr Reith.

Senator McGAURAN—Mr Reith. They will always have Mr Peter Reith in the gun because of his success. You do not get any thanks from the Labor Party—

Senator Sherry—Success? He was complaining he was bored.

Senator McGAURAN—For the success in his portfolio. He was probably bored by the inane and banal attacks he has been getting for the last few years. There is absolutely no doubt that this government has brought in many reforms, none less than the surplus budget and tax reform. In the top three has been our industrial relations reforms. Every time I mention our industrial relations reforms, I must thank the former head of the Democrats, Cheryl Kernot, for allowing—

Senator Sherry—Mrs Kernot.

Senator McGAURAN—Mrs Kernot, former Senator Kernot, former head of the Democrats—having ratted on them—is now a member of the frontbench in the other house. My point is she allowed our industrial relations reforms through.

Senator Sherry—Some. You didn’t get what you wanted.

Senator McGAURAN—Senator Sherry says we did not get everything we wanted. Correct. But what we did get was the vital platform that allowed this government to take on waterfront reform and the MUA, none less than the secondary boycott provision. I still say that without that—

Senator Sherry—They were there already.

Senator McGAURAN—it was not. It was totally watered down. Let us not get—

The ACTING DEPUTY PRESIDENT (Senator Hogg)—Order! Senator McGauran, address your remarks to the chair and do not be provoked.

Senator McGAURAN—the government in fact strengthened the secondary boycott provision—basically returned it to what it was as it stood in the Fraser days. It was watered down by the previous government
so as to have no effect at all. To my way of thinking, it is the cornerstone of any industrial relations reform. It allowed us, more than any other reform introduced in that legislation, to take on reform at the waterfront.

I will not get bogged down in why we needed such reform. I will simply say that it was reform led by the National Farmers Federation on behalf of every farmer and rural and regional sector—such had the logjam on the waterfront become, prior to the introduction of the reforms; such were the rorts, the sheer criminality, all led by the MUA and the unions after decades, perhaps half a century, since the 1940s. By the way—Senator Brown might be interested in this—didn’t we send the troops down to the wharves in about 1948?

Senator Ian Macdonald—Under a Labor government!

Senator Sherry—Don’t get into that; we’ll be here all night.

Senator McGauran—Under a Labor government. We had better not remind the senator of that, because that is the best example of rolling the troops out down on the waterfront. And we implemented it. For Senator O’Brien to get up and say that the seven benchmarks have not been met is either self-delusion or misrepresentation.

Just visit the Melbourne waterfront, for example. It is going gang busters. We have crane rates there better than in any other place in the world—42 containers per hour. That is not on average, I admit, but they have reached that level on a good day—obviously, on a sunny day. On a good day previously, I can tell Senator Sherry, they would have been lucky to have lifted 22. The average in Melbourne was down towards 16 or 18. That is where the fight was centred, that is where the improvements are so obvious.

I know the Sydney waterfront is a different story altogether. They have got to move on a certain unionist down there in Sydney, an old red ragger whose name escapes me. Even the rest of his union has no truck with this man. As a Victorian, I just wanted to highlight the benefits that have occurred down on the Melbourne front. The turnaround times have improved. The crane rates have improved. The truck waiting times have improved: there are no longer those daily queues.

Senator O’Brien—Have a look at your own department’s publications before you open your mouth on this.

Senator McGauran—I am standing by the improvements of the seven benchmarks—none less than the health and safety standards down on the waterfront, which had also reached a decaying point. Ironically, out of all these improvements down on the waterfront, the payments to the workers have greatly improved because they are based on incentive, which is pretty basic to human nature. Now we have a case where the waterfront workers have improved conditions. There are no more of the rorts, the smokos, the days off, the coming late and knocking off early and coming late, and everything else that the MUA used to institutionalise. The workers are better off than they have ever been. This is the irony of it all, because all the payments now are based on incentive. I simply reject Senator O’Brien’s tawdry attempt to cover up this government’s excellent reform in industrial relations.

Senator Sherry (Tasmania) (1.23 p.m.)—I will be brief, but I could not let some of the comments made by Senator McGauran go past without some rebuttal. Senator O’Brien was quite right. The benchmarks that the waterfront itself set for reform have not been met. I relate back to the experiences on the Burnie waterfront. I think it is now sometimes forgotten that Burnie as a port was the most efficient in Australia. Everyone agreed that that was the most efficient port in Australia.

Senator McGauran—That’s no big rap.

Senator Sherry—I am talking from a local perspective—from a Tasmanian perspective. The employees at Burnie were all sacked. They turned up to work and there were guard dogs on the waterfront that pre-
vented them from working. They wanted to work but they were sacked.

I seem to recall at the time that the Liberal-National Party’s response to the plight of the workers on the Burnie waterfront was that they were collateral damage. That is the attitude of this government: the people down in Burnie were collateral damage. I am sure Senator McGauran knows that the outcome of the election in that area of Tasmania was because of the behaviour of Minister Reith and the Liberal-National Party. I think it is critical that, ultimately, the behaviour of Minister Reith was found to be illegal by the High Court, no less. The initiative that Senator Reith engaged in was illegal, and the High Court determined that in a very famous ruling. Needless to say, when this government talk about efficiency, productivity and reform, what they are on about is reducing wages and conditions.

Senator McGauran—I am obliged to take a point of order. I do not want to stretch this out any more than I have; I have tested the patience of the minister. But the accusation of Senator Sherry in regard to an illegal activity by a member of the other House not only is against standing orders but also is utterly wrong. No-one really knows what he is talking about, and I think he is wrong. It is offensive.

The ACTING DEPUTY PRESIDENT
(Senator Hogg)—There is no point of order, Senator McGauran.

Senator SHERRY—Thank you. I will just conclude on this point: this Liberal-National Party government uses jargon and it talks about efficiency and productivity, but that is just its cover words, its buzz words, for reducing the wages and conditions of workers in this country.

Senator McGauran—They have never been better off.

Senator SHERRY—That is not true, Senator McGauran. If you look at the statistics and you remove the averages, which can be quite misleading, there are significant groups of workers, particularly lower income workers, who are not better off as a result of your reforms. We will have this debate on another occasion.

Senator McGauran’s glowing report about the supposed success of waterfront reform is just wrong. The figures that Senator O’Brien quoted highlight the fact that the benchmarks that were set have not been met—at enormous cost. There was a massive amount of human pain and suffering. I am referring to the disruption that that dispute caused not just to our export industries and to other industries within Australia but also to the families of those workers who were sacked, as it turned out, illegally. This government entered into a conspiracy, took part in that conspiracy and ultimately the High Court pulled it back into line. As a consequence, in Tasmania—where I live, on the north-west coast of Tasmania—it was one of the issues that people judged the government on at the last election, and it lost that seat.

Senator O’Brien—What was the swing?

Senator SHERRY—I think the swing was about 10.6 per cent. Of the seats that Labor won, it was the largest swing in Australia. I can assure Senator McGauran that it was one of the important issues locally that the community judged the government on. In particular, there were the callous remarks made about the workers, who were working in a highly productive manner—it was Australia’s most productive port at that point in time. Those callous remarks were made by you, the former member Mr Miles and others. I just think it is a pity that Senator McGauran, who was in Tasmania attempting to set the National Party up some years ago, did not come down and try to promote—

Senator McGauran interjecting—

Senator SHERRY—We will not go into the lack of success of the National Party in Tasmania. I do note, though, that at least Senator McGauran is now trying to do something about the decline of the National Party in Victoria. I congratulate him: he has moved his office from Collins Street. I think he has been a senator for 10 years, and he has moved out to a place called Benalla. So we do congratulate him. After 10 years, he has had the initiative to—

Senator McGauran—I used to have an office in Moe.
Senator SHERRY—Wherever the office is, it is no longer in Collins Street in Melbourne. So after 10 years, you are to be congratulated for attempting to restore your links with people in rural and regional Australia. Obviously, we are supporting the legislation. With those few remarks, I will conclude.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (1.30 p.m.)—I remind the Senate that this bill actually amends part X of the Trade Practices Act, which regulates market conduct of the international liner shipping companies that collaborate as conferences to coordinate joint services, share capacity and agree on freight rates. The contents of the bill are well set out in the second reading speech and in the explanatory memorandum and have been adequately summarised by Senator Mackay on behalf of the opposition when Senator Mackay indicated support for the bill.

I will not go into the matters raised by Senator O’Brien or Senator Sherry. My colleague Senator McGauran has very adequately answered those. So I do not intend to get into that debate. I would suggest the Labor Party has already lost that debate. It is quite clear that the waterfront, as a result of the actions of this government, and Mr Reith in particular, is now more competitive. There is more productivity. It is more efficient across a range of areas, as Senator McGauran has quite clearly said. Because I am known for my moderate approach in the chamber and the conciliatory approach I take to all debates, I will not go any further into that debate, in spite of Senator Sherry sorely tempting me to get involved. But I will resist. I do, however, want to say what an excellent senator Senator McGauran is, looking after his country and other constituents in Victoria. I am pleased, as a Liberal Party member, to have a colleague like Senator McGauran from the National Party.

I want to briefly digress and respond to both Senator Sherry and Senator O’Brien, just to say that Mr Reith, long after he has left here, will be remembered for many positive advancements but, more than most, he will be remembered for the way he has re-formed the Australian waterfront. His name will forever be revered amongst those Australians who are seeking efficiency and a fair go for all Australians. I accept that the three opposition speakers are all members of unions. They have come to this chamber straight out of the union movement. I accept that it is part of their responsibility—it is part of a deal that they have—to look after all the unions, particularly the Maritime Union; and so I do not hold that against them. I understand that that is part of the business. But I do want to again congratulate Mr Reith for the magnificent job he has done in that regard.

Getting back to the bill actually before us, I just think it is important to mention that Australia’s major trading partners, including the USA, Japan, Korea, the European Union and New Zealand, have arrangements which are broadly similar to part X of our Trade Practices Act for regulating international liner shipping. It is important that Australia’s legislation applying to shipping conferences remains compatible with those of our major trading partners, and so the government promotes this bill. I again thank the opposition for their support for these very worthwhile amendments and I commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time, and passed through its remaining stages without amendment or debate.

Sitting suspended from 1.35 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Information Technology: Outsourcing

Senator SHERRY (2.00 p.m.)—My question is to Senator Ellison, representing the Minister for Finance and Administration. Given that from 1997 the government has reduced agency budgets in anticipation of savings from IT outsourcing, and given that the Auditor-General has found that overall these budget reductions have exceeded projected savings by $24.6 million, will the minister guarantee that agencies will be compensated for these unfair and miscalculated cuts?
Senator ELLISON—Under Labor, of course, the agencies had no idea of the cost of providing IT. It is only since we came into government that any certainty has been brought to this area at all. Previously there was no way of verifying whether or not IT arrangements represented value for money. In relation to those savings that Senator Sherry is talking about, we are on track for the savings of $1 billion that we estimated. In fact, from cluster 3, group 5—the Australian Taxation Office, the health group and group 8 contracts—over their initial five-year term, we have $265 million worth of savings. That is good news for Australian taxpayers. That is a significant achievement for this government, particularly when you take into account the significant industry development that goes along with it. The opposition is failing to recognise the benefit that flows on to small to medium enterprises in relation to their IT outsourcing.

Senator Robert Ray—It is less than 10 per cent.

Senator ELLISON—It is about $400 million, I think Senator Ray might be interested to hear. We also have more savings: in addition to the three agencies that I mentioned, three more agencies—the Department of Finance and Administration, the Australian Customs Service and the Department of Veterans’ Affairs—have projected savings of approximately $100 million over the initial five-year period of their contracts. The Auditor’s report was looking at this initial phase of implementation. When you look at our savings over a longer period and realise that we are just under halfway through—the $1 billion that I mentioned is projected over seven years—we are on track for these savings, and they are savings which benefit the Australian taxpayers. We have also brought to this system more certainty for agencies, so agencies can know where they stand with their IT outsourcing—something that was never there before with the previous government.

How can the opposition dare to attack this program when we bring that sort of certainty to public administration, when we bring those savings to the Australian taxpayer and when we bring that development and that expenditure to the IT sector in Australia? Those are three positive things that the opposition refuse to acknowledge. I note that, in their policy, they are going to keep IT outsourcing. As with the GST, they are adopting our policies because they know they work. They have adopted the same goals in relation to their IT outsourcing that the government have been exercising. Senator Sherry wants to have another look at his own party’s policy before he raises any questions in relation to this government’s outstanding IT outsourcing policy.

Senator SHERRY—It is the Auditor-General who has made these criticisms. I ask a supplementary question, Madam President. Is the minister aware that the Auditor-General has drawn attention to the fact that, for some agencies, ‘budget reductions will have been in effect for up to two years before the competitive tendering process is complete’? How does the minister justify cutting agency budgets in anticipation of non-existent savings, while at the same time allowing his own office of IT outsourcing to spend huge amounts on US consultants and blow its own budget by a factor of more than three to a staggering total, as of May this year, of $40.38 million?

Senator ELLISON—Senator Sherry’s question is based on a false premise of non-existent savings—that is what he said. The Auditor-General did not say that there were non-existent savings. In fact, the reported savings were derived on the basis of methodologies that were determined in accordance with expert advice and following consultation with agencies, including the Department of Finance and Administration and the Treasury. Our methodologies were entirely appropriate, and they can stand up to scrutiny.

Tax Reform: Families

Senator TCHEN (2.05 p.m.)—My question is to the Assistant Treasurer, Senator Kemp.

Senator Schacht interjecting—

The PRESIDENT—Order! Senator Schacht, stop shouting across the chamber.

Senator TCHEN—Will the minister inform the Senate of the latest figures which
demonstrate the ongoing strong performance of the Australian economy under the Howard government? Would the minister outline to the Senate the benefits that are flowing to Australian families from the healthy economy and from the $12 billion dollars of personal income tax cuts that were introduced as part of the new tax system on 1 July? Finally, if you have time, is the minister aware of any alternative policies?

Senator KEMP—Thank you, Senator Tchen, for that very important question, and I think I may have time to deal with the last part of the question that you raised. On 1 July, Australian families benefited from the biggest ever reduction in personal income tax in Australian history. These tax cuts, along with increases in pensions and allowances, have more than offset the impact of the GST. As a result, we are seeing a continuation of strong growth in the economy and the expectations are good for the state of the economy. Today, we have confirmation of this point from the property industry. Today’s Financial Review said:

Sentiment within the property sector has shifted dramatically to support the GST—how wise they are—with a new industry survey showing fund managers, valuers and analysts predicting little impact on rents or capital growth.

Of course, earlier this week I reported to the Senate that the Yellow Pages Small business index indicated growing small business support for the GST and overwhelming opposition to Labor’s policy of roll-back. This week we have been debating the alternative policy, the roll-back policy, in this chamber. And not once this week—and not once, actually, since 1 July—has a Labor senator stood up and used the dreaded R word, ‘roll-back’. And no wonder, because the policy is simply unpopular in the wider community. It causes great uncertainty, and people do not want Labor to proceed with roll-back. In contrast to the quietness of Labor on roll-back in recent weeks, before 1 July every time their leader got up and spoke on the radio or TV roll-back was mentioned. This is what the leader said:

Labor’s commitment will be to roll back the GST.

That was a quote from Mr Beazley on the Laurie Oakes show. He said:

We will roll it back as far as we can.

That is another quote. There was a doorstop in Parliament House on 21 February, and Mr Beazley said:

We are going to roll it back. We are not going to leave it static; we are going to roll it back.

Why is it that no Labor senator is prepared to even mention the word in this chamber? This is, as I have said, causing huge uncertainty in the community. For example, the question is, if you are going to roll back the GST, how are you going to pay for it? Where is the money coming from? If you just roll the GST back 50 per cent you would have to find $12 billion.

Senator Robert Ray—It’s going to collect more than 24.

Senator KEMP—Where would the Labor Party find $12 billion, Robert Ray? Don’t you talk about money, Robert Ray, the billion-dollar man!

The PRESIDENT—Senator Kemp, you should not be addressing remarks across the chamber—

Senator KEMP—Thank you, Madam President; I was being provoked by Senator Ray.

The PRESIDENT—In any event, Senator Kemp, you should not refer to the senator other than correctly.

Senator KEMP—As I was saying, the Labor Party have promised to roll back the GST. This is causing uncertainty. In the first place, where will the money come from to pay for it? Rolling the GST back 50 per cent will cost some $12 billion.

Senator Hill—Labor will put up income tax.

Senator KEMP—As my leader, Robert Hill, says, what will happen is that the Labor Party will probably have to abolish the income tax cuts.

The PRESIDENT—Senator Kemp, if you wish to refer to Senator Hill, you should refer to him as Senator Hill.

Dr KEMP—I think I did refer to him as ‘my leader’. I thought that was being quite
respectful, Madam President. Senator Hill, I thought you raised a very good point. Madam President, there is also a very big problem in that the roll-back will cause great complexity. This is one of the big areas where, particularly, small business is very concerned about the Labor policy. I urge the Labor Party to stand up after question time and clarify their roll-back policy. (Time expired)

Olympic Games: Ministerial Accommodation

Senator FAULKNER (2.10 p.m.)—My question is directed to Senator Hill, representing the Prime Minister. Does the minister recall evidence at the estimates hearings that the Howard government had booked 14 rooms at Brighton-Le-Sands during the Olympics for the use of ministers and staff? Can the minister confirm that the take-up rate for occupation of these 14 rooms is only 30 per cent? Is it true that the government is committed to pay the full cost of all 14 rooms, irrespective of the take-up rate? Won’t this cost the Commonwealth taxpayer over $100,000 no matter how many drop-outs there are?

Senator HILL—I can remember evidence being given by officers of the Department of the Prime Minister and Cabinet in an estimates committee, in which they acknowledged that the government had booked a number of rooms at that particular hotel to accommodate ministers performing ministerial duties during the Olympic Games. Such duties would involve international visitors and, obviously, advancing the government’s interests in that regard. It is a great opportunity for ministers to promote the achievements of Australia—an opportunity not to be missed. On that basis the government booked a number of rooms. I have no idea as to the so-called take-up rate. I guess at the estimates in November we will be reviewing this matter in some detail and, rather than pre-empt the Olympics—which, as I understand, have not even yet started—it would be better if Senator Faulkner waited patiently for a little while and then he can find out what the facts are rather than simply speculate.

Senator FAULKNER—Madam President, because the minister finally admitted that he did not have an answer or did not know the answer, could he please take that matter on notice?

Senator Alston—Madam President, I raise a point of order. I understood Senator Cook to rail against this very practice. So, even though you did rule Senator Cook out of order, I would have thought the very thing that we could at least expect was consistency on the other side. I would ask you to invite the Leader of the Opposition in the Senate to not demonstrate a huge cleavage in protocol and to fall into line with what is obviously now the Labor standard.

The PRESIDENT—Your supplementary question, Senator, without preamble?

Senator FAULKNER—I will start again, Madam President. Because the minister failed to answer that question, I would ask him to take it on notice. I also ask: can the minister confirm whether the numerous senior personal staff of the Prime Minister are still intending to use the accommodation already booked and paid for, at a cost to the taxpayer of some $13,000? While he is at it, perhaps he can let us know prior to the Olympics whether the Howard government has considered using some of these vacant, panorama king suites to accommodate Pru Goward’s games media unit, currently slated to cost the taxpayer $62,500 for three apartments?

Senator HILL—There seems to be some double counting, then, in what Senator Faulkner is saying—if he said that on the one hand the cost of the failure to uptake is
$100,000 and on the other hand the media unit are taking rooms at a cost of $60,000. So I guess he is now saying, on three minutes reflection, that it is actually a $40,000 shortfall. But I guess we will all learn in due course, and then Senator Ray will be advised.

Senator Carr—Going to get the mirror out again, are we—the big mirror?

Senator Hill—I cannot see that there can be an answer, because the rooms have not been taken: the time for taking the rooms has not passed.

The President—Senator Carr, stop shouting.

Senator Carr—It doesn’t matter about—

The President—Senator Carr, you are disorderly.

Senator Hill—My recollection is that the estimates committee was advised that, in conjunction with SOCOG, the Australian government was advised that they should take a group of rooms early and that it would be necessary for them to pay for them as a block and in advance; and that this could, in fact, result in a saving, because the cost of rooms was expected to rise. So, on the face of it, it seems just to be prudent planning.

(Time expired)

Opposition senators interjecting—

The President—Order! Disorderly conduct on my left will cease.

Australian Labor Party: Electoral Fraud

Senator Mason (2.16 p.m.)—My question is addressed to the Special Minister of State, Senator Ellison. Will the minister inform the Senate of the government’s actions in relation to allegations of endemic electoral fraud within the Australian Labor Party? How does the Commonwealth’s action complement the Queensland Criminal Justice Commission inquiry announced yesterday? Is the minister aware of any opposition to previous attempts by the Howard government to safeguard the integrity of the electoral roll?

Senator Ellison—This is a good question coming from Senator Mason, who is a senator for Queensland. I can say that just yesterday the Queensland Criminal Justice Commission released a report by Mr McMurdo QC on allegations of electoral fraud. This matter had been referred by the Queensland Electoral Commission. As a result of that report, there is a recommendation that the CJC, in an open hearing, investigate offences against the electoral roll at state and local government levels in Queensland. I note that Mr McMurdo QC stated that the House of Representatives is not a unit of public administration under the act; in other words, he recommended that the CJC could not therefore inquire into federal matters. As this has followed on from the latest conviction—there having been three in as many years—of Labor entities in relation to electoral fraud, the federal government is most concerned in relation to this aspect of preserving the integrity of the electoral roll.

Mr Gary Nairn, the chair of the Joint Standing Committee on Electoral Matters, yesterday released terms of reference for an inquiry into the integrity of the electoral roll generally. That inquiry, which is timely in view of these events, announced that it would look into such things as the adequacy of the Commonwealth Electoral Act for the prevention and detection of fraudulent enrolment; incidents, if fraudulent; and the need for legislative reform. That inquiry by the JSCEM should complement the work done by the CJC. As I said earlier, the CJC could not look into those federal aspects which the Joint Standing Committee on Electoral Matters should look into—and the JSCEM has the jurisdiction to do just that. In fact, it is interesting to note that, in the early 1990s, a then member of staff of the Labor member for Throsby was also convicted in relation to an electorate offence. So the government considers these matters very seriously.

I note that the other part of Senator Mason’s question dealt with opposition to attempts or moves by this government to improve electoral roll integrity—and that is in relation to the amendments we passed to the federal electoral provisions and the regulations that we want to put into place. We have had nothing but opposition from Mr Beattie and his government in Queensland, and we have opposition here at a federal level. Why
won’t the federal opposition join with us in tightening the enrolment provisions and the witnessing provisions so that the integrity of the electoral roll can be preserved? In fact, Mr Beattie stated:

If any members of my party are found to have transgressed, they will face the full consequences of the law.

In fact, he went on to say:

Should there be serious allegations of unlawful behaviour or official misconduct by anyone in Parliament, these people will stand aside until the matter is resolved.

If Mr Beattie is so serious about that, why doesn’t he join with the Commonwealth government in relation to the joint roll arrangements and tighten up these enrolment provisions and witnessing provisions?

Senator Faulkner—Tell us about the milk run.

The PRESIDENT—Senator Faulkner, cease interjecting.

Senator ELLISON—In fact, why doesn’t the Leader of the Opposition, Mr Beazley, join with us? Why is he so silent on these matters? Is he going to do the same as Mr Beattie in relation to allegations referring to any member of his backbench or shadow ministry? What we are saying to the opposition is: we are about preserving the electoral roll and its integrity. That is what Australians want. If Labor were serious about electoral reform, they would join us in protecting the electoral roll and the integrity of the enrolment process.

Senator McKiernan interjecting—

The PRESIDENT—When you have finished, Senator McKiernan, I will call Senator Ray.

National Competition Council: Relocation of Premises

Senator ROBERT RAY (2.21 p.m.)—I direct my question to Senator Kemp, the Assistant Treasurer. Can the minister confirm that the chairman of the National Competition Council is insisting on moving his headquarters from the Commonwealth offices in Spring Street, Melbourne, to 303 Collins Street, Melbourne? Can the minister confirm that this one-kilometre move, at the behest of Mr Graeme Samuel, will cost Australian taxpayers $500,000 with little, if any, apparent benefit? Apart from being closer to Colonial Stadium, what other justification has Mr Samuel given the government for this capricious move?

Senator KEMP—Senator Ray has asked a question that asked for some particular details. I am not familiar with those details, which Senator Ray would appreciate. I will take that question on notice and provide him with a response. Senator Ray alleges waste here—I do not think there is waste. Senator Ray, with your record as the Minister for Defence with the blow-out on certain large projects, as I have said before in this parliament, you have form in this area.

Senator ROBERT RAY—Madam President, I ask a supplementary question. I appreciate the minister has taken this on notice. To assist in those inquiries, could the minister also check whether the National Competition Council has applied its obsession with economic cost benefit analysis to its own move? Secondly, could he also involve Senator Ron Boswell, who has given Mr Samuel many marvellous character references here in this chamber, to assist him in his inquiries?

Senator KEMP—Senator Ray, I do not know whether there is any merit in any of the comments you made in your supplementary question. To the extent there is, I will respond to them.

Moore-Wilton, Mr Max: Alleged Remarks

Senator LEES (2.24 p.m.)—My question is addressed to the Minister representing the Prime Minister, Senator Hill. I refer the minister to the media reports alleging racist and defamatory remarks on the part of the head of the Prime Minister’s own department, Mr Max Moore-Wilton. Given the gravity of these allegations against Mr Max Moore-Wilton, what steps have been taken and what steps will be taken to determine whether or not they are true? If it is found that Mr Moore-Wilton did utter these remarks, does the minister consider that such an appalling lapse of discretion and judgment on the part of one of our most senior and influential public servants in the country
is a dismissible offence? If it is not, then what action should be taken?

Senator HILL—Mr Moore-Wilton has categorically denied making the statements attributed to him by Mr Campbell.

Senator LEES—Madam President, if I may, I ask a supplementary question. If for no other reason than to protect Mr Moore-Wilton, I ask again: will there be any investigation into these remarks?

Senator HILL—If Mr Max Moore-Wilton has categorically denied making the statements, I would have thought that was the end of the matter.

**Australian Federal Police: Funding**

Senator LUDWIG (2.26 p.m.)—My question is to Senator Vanstone, the Minister for Justice and Customs. Can the minister confirm that the Australian Federal Police had an attrition rate of 11.48 per cent—that is, some 289 staff—from June 1999 to June 2000 and lost a further 98 staff from 1 July to 16 August? Can the minister confirm that, as a result of a failure to budget for the salaries of staff recruited over the last 12 months and to fully account for the cost increases arising from the recent certified agreement, the Australian Federal Police is facing a pro rata overrun of its 2000-01 budget of between $20 million and $50 million? Is it also true that, as a result of the government’s negligent underfunding, the AFP’s offices in major capital cities are facing serious budget and staff cuts of up to 33 per cent on a pro rata basis, operational capacity is being badly affected and major redundancies are being planned which will result in the forced departure of hundreds of the force’s most experienced and senior officers?

Senator VANSTONE—I thank Senator Ludwig for his question. While I am at it, I thank whichever Labor senator it was that moved this morning a reference in relation to the AFP for a committee inquiry, because it will give the government the opportunity to put paid to some of the lies that are being told and to make it abundantly clear to those on the other side, who do not seem to understand, that Commissioner Palmer, who incidentally was appointed by the Labor government, says the AFP have never been better funded in their life. As to affecting operational performance, forgive me, but I feel like I am in an SBS movie. The seizure rates for the Federal Police are so far in excess of anything ever achieved under Labor, so far in excess of anything ever achieved with the lousy funding that Labor gave them, that I cannot believe someone would have the nerve to stand up and say, ‘Maybe you are not doing as well.’ The seizure rates are three and four times as high. This is just inexplicable.

**Opposition senators interjecting—**

The PRESIDENT—Order! I am finding it hard to hear the answer.

Senator Schacht interjecting—

The PRESIDENT—Senator Schacht! I have spoken to you previously this question time for shouting.

Senator VANSTONE—Madam President, as you would well remember, we had a review of Federal Police funding to ensure that it was properly funded—that was the Ayers review, and we implemented its recommendations. We have just had a new enterprise agreement. It is true that the attrition rate has not been as high as we imagined it would be, but some people have been leaving. They have been leaving because the opportunity is now there for them to get out at a financial level that is suitable to them. That has enabled the AFP to bring in new recruits. We are changing the nature of the Australian Federal Police.

In relation to funding, a number of things had to happen. Senator Ludwig, before your time—because I am sure that if you had been here you would never have allowed this to happen—your people when in government put this quite ridiculous scheme into the Federal Police that said you can have a certain benefit every year if you are a good police person but you can only collect it if you leave. Then they signed up a whole lot of them on 10-year contracts which had—guess what?—an incentive to leave for those people with a mortgage and with kids at school. Then your government, when it was a government, decided they would not fund that liability. So guess where the money had to come from for the payouts? It had to come
out of operational funding under your government. So I will give very serious consideration to the detail of your questions and I will be only too pleased to give you the answers that your party richly deserve on Federal Police funding.

Senator Ludwig—As a supplementary question: may I draw the attention of the minister to the part of the question that has not been answered—that the AFP is facing a pro rata overrun in its 2000-01 budget. I have not had a response to that and I hope I will on the record. Is it not true that the crisis in Commonwealth law enforcement funding is so severe that the National Crime Authority is already $6 million over budget this financial year on a pro rata basis?

Senator Vanstone—For a Labor senator to refer to a crisis in law enforcement funding, given the situation that they left law enforcement agencies in, is absolutely amazing. In this financial year we have had July and August. I have indicated to the senator that, in that period of time, some of the estimations of attrition rates compared to people we take on have not been as expected. The advice I have at this stage is that that is all perfectly manageable. I will have more to say on that later. As I said, I will give proper consideration to your questions, and I will give you good and proper answers. I just caution you not to be sucked in by some of the rubbish peddled by your colleagues. Before you are critical of operational capacity, look at those seizure rates, look at what was achieved when you were in government and then ask yourself if you really should be asking those questions.

Rural and Regional Australia

Senator Sandy Macdonald—Thank you, Madam President. Will the minister outline to the Senate the progress with access to better health and telecommunication services to country Australia?

Senator Ian Macdonald—Senator Sandy Macdonald, from his wide involvement in rural and regional Australia, will know of this government’s very strong record in improving services for people living in regional and remote parts of Australia. Senator Sandy Macdonald also asked me if I am aware of any alternative policy proposals, and perhaps I will answer that first. The simple answer, I guess, is no. I am aware that Labor has said—I quote Mr Martin Ferguson from the latest release on the Labor Party web site:

We need sound policies that can help our regions. That means developing policy enabling all levels of government to work together to build on its existing structures to create new structures.

Martin Ferguson has clearly said—

The President—Mr Ferguson.

Senator Ian Macdonald—Mr Ferguson has clearly said that they have to do this. But after 23 months of waiting nothing has happened. We have not had a policy from the Labor Party on rural and regional matters.

Mrs Kernot, when she was the shadow minister, kept promising a policy on regional Australia. Nothing came, and she was sacked. Senator Mackay has been talking about ‘zeitgeists’ and other non-understandable issues, and we have heard a lot about bingo. We saw a lot of policy promised for the Labor conference in Hobart. And what did we get at Hobart? A few motherhood statements that were promoted as a platform, and they turned out to be a series of statements of a vague and general approach. Even those, after 23 months of putting together, had to be amended on the floor of the conference by a couple of Labor members who do actually come from rural and regional Australia. The only policy we have heard from the ALP is that they are going to keep the GST but roll it back. This thing all gets rather confusing. Mr Beazley has added to the confusion. He was quoted a couple of days ago as saying:
We have the detailed policies in now from all shadow ministers. All policies are in now. Were an election to be called this year, we would be ready to fight it.

If they have policies, they should tell country people about it. Country people know nothing of what Labor is all about. What country people do remember is that, under Labor, excise on petrol and diesel rose from 9c a litre in August 1983 to 34c in February 1996 when Labor went out of office. They do know—and with Labor, actions speak louder than words—that under Labor country people were slugged with interest rates of 17 per cent and business overdraft rates rose above 20 per cent. Labor policy saw postal outlets fall by 277 in rural and regional Australia in the last six years under Labor. That is what Labor’s action does; we are still waiting to see their policy, although Mr Beazley says it is there. By contrast, this government has spent $3.5 billion on specific programs across a range of whole-of-government issues to meet the economic, environmental and social needs of rural and regional Australia.

Time does not permit me to go into our great initiatives in health, our great initiatives in telecommunications, our great initiatives like the Rural Transaction Centre program, the money we have spent on the Natural Heritage Trust, most of which is in rural and regional Australia, or the money we give to local government, most of which goes to rural and regional Australia. (Time expired)

Tax Avoidance: Private Binding Rulings

Senator COOK (2.36 p.m.)—My question is to the current Acting Treasurer of Australia, Senator Kemp. Given the tax commissioner has stated that there are only 50 favourable private binding rulings in regard to employee benefits trusts, how is it possible for 50 private binding rulings—

Honourable senators interjecting—

The PRESIDENT—Order! Senator Cook, even at this distance, I cannot hear what you are saying for the amount of noise in the chamber.

Senator COOK—How is it possible for 50 private binding rulings to result in tax deductions of up to $2 billion in the last three years? Is it not a fact that the PBR system has been systematically abused, mainly by promoters such as RPC PL, a company with close Liberal Party ties, which has taken private binding rulings and mass marketed them to hundreds of their clients, creating what has been referred to as a tax club for wealthy Liberal mates? Why did it take the government until 30 June this year to announce only token legislative action to close down some of these schemes? (Time expired)

Senator KEMP—Let me just say that, to the extent that there was any merit in the question, I totally reject the slur in the question from Senator Cook. Frankly, as Senator Cook goes around so freely trying to slur, defame and traduce the reputations of people, one of the issues which I have always found very curious is why the Labor Party refused to support the closing down of R&D syndicates. Why did Senator Cook lead the attack in the Labor Party as the government was trying to close down a major tax rort—a scheme which put out the welcome mat for tax bludgers and tax rorters? I have always been curious about why Senator Cook chose to act in that manner. Senator Cook, I can tell you that, if you go around trying to traduce the reputations of others, do not be surprised if you personally come under attack and even closer scrutiny.

The PRESIDENT—Senator Kemp, your remarks should be directed to the chair, not to the senator across the chamber.

Senator KEMP—Thank you, Madam President. The clear advice from the Taxation Office has always been that the abuse of employee benefit arrangements is not effective under existing laws.

Senator Cook—I am intimidated by you, Rod.

Senator KEMP—Senator Cook, we would not expect you to be. But you would have to say that with your performance as a Keating minister and with the way you misled this parliament—

Senator Knowles—And your performance in estimates.

Senator KEMP—And your performance in estimates. Thank you, Senator Knowles, for reminding me of that. From time to time,
I do seem to intimidate you, Senator Cook, if you do not mind me saying so.

The PRESIDENT—Senator Kemp, I ask you to direct your remarks to the chair and apply yourself to the question.

Senator KEMP—Thank you, Madam President. I just make the point there, Senator Cook, that the clear advice from the Taxation Office has always been that the abuse of employee benefit arrangements is not effective under existing law and that all available action is being taken to strike it down under existing law. The government do not support tax bludgers and tax avoiders. The government have always taken strong action. The fact of the matter is that we were left a tax system by the former Labor government which allowed widespread rorting. I can list the actions if you like. Maybe we could debate this after question time. Of all the actions we have taken, many have had to deal with the tax rorts that Labor allowed to flourish and refused to close down.

Senator COOK—Madam President, I ask a supplementary question. Doesn’t the Howard government’s lack of action regarding the abuse of private binding rulings, as evidenced by their rorting in the mass marketing of employee super schemes, demonstrate the government’s total disregard for the multibillion dollar tax avoidance industry? Isn’t it the case that the government has taken no action, because to do so would upset too many Liberal Party mates who make up what is known as the tax club and who would be disadvantaged by a crackdown on such abuse? Isn’t this Mr Costello’s bottom-of-the-harbour scheme?

Senator KEMP—I did say at one stage that I thought Senator Faulkner was the limbo champion of the Senate. I did not think that anyone could go lower than Senator Faulkner. But, on that case, I think I was wrong. Senator Cook is the limbo champion of the Senate. No-one can go lower than you, Senator Cook, when it is your day on.

Australian Wheat Board: Review

Senator WOODLEY (2.41 p.m.)—My question is addressed to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Alston. Would the minister explain to the Senate why the government ordered a national competition review of the Australian Wheat Board after giving a commitment during the debate on the legislation to retain the single desk export selling mechanism? Can the minister explain why it is necessary to have a review when the AWB has only just begun to operate properly and a review is due in 2004 anyway?

Senator ALSTON—I do not have details on this matter, but it sounds to me as though—

Senator Forshaw—Probably some commie plot, is it?

Senator ALSTON—If you think so, you should get out there and do something about it. You could start by cleaning up your own side, probably. I would have thought there was nothing necessarily inconsistent with conducting a review now—

Opposition senators interjecting—

Senator ALSTON—I do not even know whether there is much to it. You are dead right—spot on, actually. It is just what I was looking for. In fact, the independent review was announced on 4 April, so it just shows that there is a bit of a digital divide here. It has taken something like five months to get to the Democrats. They have just heard about this. It was announced on 4 April. Quite clearly, it is a review that will extend well beyond the issue of single desk selling. I am not in a position to confirm precisely—

Senator Schacht—You would not know. You would not have a clue about agriculture.

Senator ALSTON—that is probably right actually, because I do not spend most of my time worrying about agricultural issues.

Senator Schacht interjecting—

The PRESIDENT—Senator Schacht, I would remind you that persistent interjecting is disorderly. If I think it is also willful, there are other consequences that may flow from that.

Senator Faulkner interjecting—

The PRESIDENT—Senator Faulkner, the same applies to you.

Senator ALSTON—I think I should just make sure that Senator Woodley is not guilty
of telling half the truth, because the Deputy Prime Minister, Mr Anderson, said recently that the government supports the wheat export single desk as long as there is a benefit to Australian wheat growers and the nation’s export performance. That is completely consistent with the commitment given by the Prime Minister in 1996 that the wheat export single desk will be retained for as long as the public net benefits can be demonstrated.

I do not see the problem with simply making sure that it continues to deliver the goods. These things are not set in concrete. You talk about a review in 2004—that is a long time out. I know it is much longer than the five months it took for you to hear about this inquiry. Nonetheless, it is perfectly consistent for the government to have a general review to make sure that everything is on track—that wheat growers are benefiting and that the Australian taxpayer is getting value for money out of any assistance schemes—and, at the same time, to adhere strictly to the commitments that we gave both in 1996 and recently.

Senator WOODLEY—Madam President, I ask a supplementary question. Does the minister remember that I asked him a question about this four months ago? He obviously does not. Is he aware that the Australian Wheat Board and Mr Anderson have indicated that the review is about the single export desk selling mechanism? Why would you have an NCP review when Mr Anderson already ruled out any change to that system?

Senator ALSTON—I am sorry, Senator Woodley did not hear what I said. Mr Anderson recently reiterated support for the wheat export single desk, as long as there is a benefit to Australian wheat growers and to the nation’s export performance. Quite clearly, there is a qualification attached to that, and that is that we want to be sure that it is still achieving the objectives that were put in place at the time. My understanding is that this was always part of the NCP review process. It is quite clearly appropriate for the government to ensure that everything is competitive. It has got a bit too competitive for you, Senator Schacht, and it is very sad that you will be off to that retirement village shortly. Nonetheless, competition is a very important aspect of many parts of life, and we think it has its place in this area as well. We know Senator Woodley would much prefer cosy little arrangements that never saw the light of day. We think comprehensive reviews from time to time do flush out a few problems and do make sure that governments are on track. I hope you will now swing in and support it. (Time expired)

United Nations: Committees

Senator CROWLEY (2.47 p.m.)—My question is to Senator Hill, the Leader of the Government in the Senate. Does the minister agree with the Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts, Senator Ian Campbell, that most Australians would give Dame Beryl Beaurepaire ‘the two fingers’ because she dared to criticise the government’s retreat from the United Nations committee system? Or will he take this opportunity to repudiate this offensive remark?

Senator HILL—This has been a bad week for the Labor Party. Senator Crowley is not the first senator to come in here and repeat a question that has been asked previously this week—Senator Schacht did it yesterday. They are obviously not on the ball on the other side. Probably more embarrassing for the Labor Party is that, in this instance, the question was asked by the Australian Democrats. I would respectfully suggest that Senator Crowley should refer to the answer I gave the Australian Democrats earlier this week.

Senator CROWLEY—Madam President, I ask a supplementary question. The Labor Party is aware of the Democrats’ question and of the failure of the government to answer it. Why is the Howard government turning its back on Liberal Party elders such as Malcolm Fraser and Dame Beaurepaire and, instead, taking its lead from a former Democrat like Senator Ian Campbell?

Senator HILL—I do not want to embarrass Senator Crowley, but I have to remind her that it was her leader in the Senate, Senator Faulkner, who took the cup of tea across to Senator Kernot and said, ‘Former Democrat, come with us. We will embrace you. We are the future.’ With great respect,
that was one of the dumbest contributions Senator Faulkner has ever made.

**Biotechnology**

Senator GIBSON (2.49 p.m.)—My question is to the Minister for Industry, Science and Resources, Senator Minchin. Will the minister advise the Senate what the government is doing to support leading innovative technologies in Australia, such as the biotechnology industry, in order to create economic growth and jobs? Is the minister aware of any alternative policy approaches?

Senator MINCHIN—I thank Senator Gibson for his question. I know he is very interested in innovation, unlike those opposite. One of Australia’s most creative and innovative industries is indeed the biotechnology industry. A recent report by the CSIRO and the Australian Research Council showed that Australian biotechnology patents taken out in the US have increased 249 per cent in recent years—more than double the rate of increase of such patents from the rest of the world. Australia’s biotechnology industry employs 4,000 highly skilled Australians in over 200 companies and last year earned about $1 billion, half of which was from exports. It is an industry with a great potential to generate jobs in, and wealth for, this country.

The government are giving Australia’s biotechnology industry very strong support. We are contributing about $250 million per annum to fund R&D in this industry, including doubling grants to the NHMRC. We have established Biotechnology Australia in my department, and we have launched a comprehensive national biotechnology strategy, with initial funding of $30 million. Some $20 million of that will go to a new biotechnology innovation fund to help bridge the commercialisation gap in this industry. We are also working closely with the states, including joint funding for the Institute for Molecular Bioscience in Queensland and Bio21 in Victoria. We also helped 35 small biotech companies participate in Biotechnica Germany ‘99, which helped put our industry on the world stage. So we have a very strong commitment to this industry. You would think the opposition’s new shadow minister for industry, innovation and technology, Dr Lawrence, would be a strong advocate for new knowledge based industries like biotechnology. But it is already very clear that Dr Lawrence is strongly opposed to the burgeoning biotech industry. Her recent speech on this subject, on gene technology—which I encourage all senators to read—showed that she is a strong opponent of this industry and a strong advocate against it. She is clearly a real enemy of companies in this sector of the economy. In her speech in the House of Representatives, she openly attacked gene technology innovation as more often ‘driven by a profit than by need’. Dr Lawrence, in this quite infamous speech—which I also encourage everybody in the biotechnology industry to read—condemned the biotechnology industry by saying:

The real thrust of the genetic engineering industry is not to make Third World agriculture more productive but rather to generate profits. Well, shock, horror! How dreadful of these companies to want to generate profits. It is obvious from her speech and from everything in her record that Dr Lawrence hates companies that want to make profits. She clearly has no idea that what is absolutely essential to investment in innovation, particularly in the biotechnology industry, is the profit motive. If there is no outcome for profits, there will be no investment; if you do not have a profit motive, you do not have the investment. But it is obvious that socialists like Dr Lawrence simply do not understand that. She is entitled to hold what are clearly socialist views, because she attacks companies that want to make profits, but she is obviously ill-equipped to be the ALP spokesperson on industry, innovation and technology. That is an absolute joke, and I say to Australia’s biotechnology industry: be very worried about this new shadow minister. She clearly is strongly opposed to advances in biotechnology; she is an enemy of advances in gene technology. The industry should be very worried about this appointment, and this is clearly another disastrous decision by Mr Beazley.

**Information Technology: Outsourcing**
Senator HUTCHINS (2.54 p.m.)—My question is to Senator Ellison, the Minister representing the Minister for Finance and Administration. I ask the minister: how does he justify contracting a US IT consultant for $7.18 million in June 1996 as the strategic adviser to the government’s IT outsourcing initiative without, according to the Auditor-General, any competitive tendering process occurring? How does he justify paying that consultant $1.7 million per annum since then and two other US consultants $1.08 million each per annum to oversee an outsourcing process which is running almost two years behind schedule and which has exceeded its budget by over $27 million, stripped government agencies of their IT expertise and cost them over $24 million in unjustified budget cuts? Is this value for money?

Senator ELLISON—the question relates of course to Shaw Pittman, who were engaged in 1996 by OGIT—who were previously dealing with outsourcing—and OASITO carried that through in 1998. I can tell the Senate that this matter has been canvassed in a number of estimates committee hearings. The competitive selection process, which involved consultancy firms from Australia and around the world, identified Shaw Pittman as the best firm for the job. There were 17 firms invited to tender—10 sought the role and seven were interviewed. The selection committee, which included two senior businessmen from the commercial sector, approved the selection of Shaw Pittman as representing the best value for money for the Commonwealth. This advice came from the commercial sector.

The panel explicitly considered the fee levels required by this firm, concluding that they still represented the best value for money. The private sector members remarked that it would be imprudent to forgo the best available advisers for a program of this scale, value and importance. To disregard that would have been disadvantageous to the Commonwealth. This IT outsourcing is a global tender and is on a large scale. It is important that you have the best advice available, and the government stand by their selection. It is absolutely critical that we procure high-quality advice to achieve the objectives which are delivering savings to the taxpayer, developing the IT industry and providing agencies with some idea of what is going on in relation to the IT sector as it affects them—not something that existed under the previous government.

Senator HUTCHINS—Madam President, I ask a supplementary question. Minister, who does the government hold responsible for the grossly negligent mismanagement of its IT outsourcing initiative? If the Department of Finance and Administration is not prepared to accept any blame, will it take the same benign view of any other agency which ignores competitive tendering processes, fails to meet either the government’s deadlines or its own policy objectives, and spends three times its budget in doing so?

Senator ELLISON—Just quickly, this is what IT outsourcing is delivering: around $90 million in new investment. The question was based on the false premise that this has failed. You are talking about an initiative which provides $900 million worth of products and services sourced in Australia and $400 million worth of work for Australian small and medium enterprises. It is a shame that Senator Lundy is not here today to hear all this good news about IT outsourcing. In fact I would have thought she would have been here after the Auditor-General’s report.

Senator Carr—How much has gone offshore?

The PRESIDENT—Order! Senator Carr, you are shouting.

Senator ELLISON—The government stands by this initiative as being good for Australia.

Indigenous Australians: Health Services

Senator BRANDIS (2.57 p.m.)—My question without notice is directed to the Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron. Will the minister inform the Senate of further moves to improve health services for indigenous Australians?
Senator HERRON—I thank Senator Brandis for the question and for his continued interest in this field. The Howard government is making real gains in indigenous health. Since winning office in 1996, the coalition has increased real funding through the Office of Aboriginal and Torres Strait Islander Health by more than 50 per cent in real terms, to $214 million this financial year. The death rate from infectious and parasitic infections is falling, the incidence and severity of diarrhoeal diseases are reducing due to improvements in environmental living conditions and socioeconomic circumstances, and the rate of indigenous infant deaths has dropped significantly since the 1970s.

Today I would like to report another exciting initiative. This morning my colleague the Minister for Health and Aged Care, Dr Wooldridge, launched a five-minute video titled Making a Difference to encourage sponsorship of the masters degree program in applied epidemiology and Aboriginal health at the National Centre for Epidemiology and Public Health at the Australian National University. Since coming to office this government has contributed $1.6 million to the development and delivery of this program. It is an exciting program, and today I had the pleasure of meeting four of the first eight graduates who will receive their degrees tomorrow. All of those who entered the program have completed the degree.

The Howard government is proud of its commitment to this program and would like to encourage the corporate and charitable sectors to match its funding. This is just a further example of the government’s commitment to practical reconciliation and an indication of the seriousness with which we take the issue of indigenous affairs. The opposition have clearly demonstrated their view on indigenous affairs this week with the debacle that occurred in relation to the resignation of the previous shadow minister, the offensive toilet brush remark and the way they were falling over each other running away from taking up the portfolio.

Another good event occurred today. I had a message from Ged Williams, the director of nursing at the Alice Springs hospital, who wrote saying that the government’s structured training and employment project program has resulted in three of an original seven indigenous nurses obtaining employment and permanent full-time jobs in the Territory health system. They are the very practical on the ground things that have to be done if we are going to reverse the problems that have occurred over 200 years.

The masters degree in applied epidemiology and Aboriginal health is another successful program developed in consultation with indigenous communities and officials. I would like to congratulate Professor Bob Douglas, Dr Rennie D’Souza, and Suzanne Blogg for their hard work and dedication to this program. It is a direct response to the low levels of Aboriginal and Torres Strait Islander graduates working in the health system. It successfully provides indigenous students with skills in epidemiology, health evaluation, project and time management, negotiation and public speaking.

The program is already proving its effectiveness. One graduate, Daniel McAullay, has conducted research on a new diabetes screening program, and as a result of his research better targeted screening programs were proposed and effective follow-up strategies were implemented. Another graduate, Christine Franks, examined a gastroenteritis outbreak among visitors to a central Australian Aboriginal community. Her research pointed to cultural and ethical issues that must be addressed in the future. The program is significant for its potential to produce graduates able to address the complexities of indigenous public health issues and promote research and evaluation in a cross-cultural context. The Howard government has taken the lead to ensure healthy futures for all Australians.

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

PERSONAL EXPLANATIONS

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.02 p.m.)—Madam President, I wish to make a personal
President, I wish to make a personal explanation under standing order No. 190.

Senator Faulkner—He has got to seek leave now.

The PRESIDENT—Is leave granted?

Senator Faulkner—Leave will be granted after taking note of answers—the normal process. Of course it will be granted then. It will not be granted at this time, but at 3.30 it will be. It is what always happens.

Leave not granted.

TELSTRA: CONTRACTS WITH LEIGHTON HOLDINGS

Return to Order

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.02 p.m.)—I seek leave to incorporate in Hansard a statement relating to the order of the Senate of 31 August 2000 for the production of documents concerning Telstra Corporation.

Leave granted.

The statement read as follows—

On 31 August the Senate ordered the Minister for Communications, Information Technology and the Arts, no later than immediately after question time 3 sitting days after that day, to table in the Senate all contracts between Telstra Corporation and Leighton Holdings and its subsidiaries which were the subject of question No. 29 asked by Senator Bishop at the 1999-2000 Additional Estimates supplementary hearings of the Environment, Communications, Information Technology and the Arts Legislation Committee on 3 May 2000.

The order provided that any genuinely commercially sensitive material may be deleted.

Yesterday I explained to the Senate that the extent of the task of reviewing the contracts for commercially sensitive material meant that Telstra was not able to provide the information within the timeframe specified by the order.

Telstra, has now provided a number of contracts along with a letter of explanation which I now table.

Senator IAN CAMPBELL—Pursuant to that order I table the documents.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Tax Avoidance: Private Binding Rulings

Senator SHERRY (Tasmania) (3.03 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 Cook today, relating to employee benefit trusts.

Senator Cook asked a very important question of the Assistant Treasurer and currently Acting Treasurer, Senator Kemp, in question time today concerning allegations made not by the Labor Party but by none other than Mr Michael D’Ascenzo, who is the Taxation Office’s second commissioner. I stress that: it was the second commissioner from the Taxation Office who has raised the issues about employee benefits and the possible avoidance of up to $2 billion a year in tax. Apparently, in giving evidence to a federal parliamentary committee Mr D’Ascenzo outlined the problems of tax avoidance in this area. He pointed out that in the guise of employee benefit arrangements a number of high income earners are able to avoid fringe benefits tax and a range of superannuation taxes and are able to permanently defer tax by profit stripping and by what is known as total tax wipe-outs. These forms of abuse of the tax system and very serious tax minimisation and avoidance—up to $2 billion a year—need to be distinguished from what are known as division 13A share plans, which allow tax deferral for up to 10 years and are seen as legitimate.

What is of concern to the Labor opposition is that there is potential for further growth in the probable $2 billion a year tax avoidance in this area, because recently a parliamentary inquiry chaired by the Liberal member of parliament, Dr Nelson, in the other place has apparently recommended an extension of these schemes. This, of course, would lead to an absolute bonanza for the promoters of these schemes. Effectively, you have a prominent Liberal backbencher recommending an extension, rather than a crack down, on these schemes.

In 1994, proposals were first mooted by Treasury to crack down on tax minimisation in this area. The Acting Treasurer, Senator
Kemp, sought to avoid the answers to the questions today by reflecting incorrectly on Senator Cook and Senator Cook’s time as a minister. Senator Kemp apparently forgot the role of the now Treasurer, Mr Costello, in the context of those reforms in 1994. It was Mr Costello who very strongly opposed reforms in this area to attempt to wipe out the very major tax avoidance that is occurring—tax avoidance, I might say, that has been highlighted by the evidence of none other than a senior officer, the tax office’s second commissioner, Mr D’Ascenzo.

In his response, the Acting Treasurer, Senator Kemp, could really only make two relevant points. One was that he maintained that the current law is effective to strike down abusive schemes. Then why isn’t it happening? If the current law is effective, why is this massive abuse of up to $2 billion a year occurring? And apparently it is growing. But the response of the Treasurer and the response in the chamber today by the Acting Treasurer, Senator Kemp, stand in stark contrast to Mr D’Ascenzo’s recommendations. Mr D’Ascenzo, who is in a position to know, has said that systematic solutions are the best. He was asked at the parliamentary committee inquiry whether this meant legislation, and he said:

Good legislation which provides the policy intent is always the best vehicle to have a good tax system.

But apparently the Treasurer and the Acting Treasurer, Senator Kemp, believe that there is no need to legislate in this area, when up to $2 billion in revenue is being lost. We urge the Acting Treasurer to crack down in this area. I must say—and I am sure my colleagues agree—we are not particularly confident that the Acting Treasurer will crack down in this area. (Time expired)

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.08 p.m.)—I think it is quite laughable that the Australian Labor Party should come into this place and try to run an issue on tax avoidance. These are the people who I recall, back in 1982-83, created an issue out of the bottom-of-the-harbour scheme. They were elected in 1983. I want to talk about their policy going into the 1983 election. Madam Deputy President, you probably go to Labor Party conferences and, like all of us, are waiting to see the tax policy. Senator Sherry has said on a number of occasions in this place over the last couple of years, ‘You’ll see a tax policy next year’ or, ‘You’ll see a policy at the Hobart conference.’ The Hobart conference has come and gone; Mr della Bosca has come and gone; Senator Sherry is still here, and the tax policy is yet to emerge. We had 13 years of Labor. In 1983 they went to an election. They were elected with Mr Hawke and Mr Keating. After nearly 100 years of federation, they then set about 13 years of the worst economic management in Australian history, designing budgets that had the effect of, on average, $10 billion deficits, year on year, for nine out of 13 years. And they did nothing at all about tax avoidance—an enormous failure. What did they do? What was their tax policy going into the 1983 election? They had the same tax policy they have now. They sort of said, ‘We’ll just wait. We’ll wait until the next conference or the next conference.’

But they had what Mr Beazley tends to have as a substitute for policy. It is a copy of the old Bob Hawke policy approach; that is, ‘Let’s have a meeting. Let’s have a conference. Let’s have a summit,’ whatever the nomenclature was at that era in the political cycle. Now, if we are talking about native title, Mr Beazley says, ‘We’ll put everyone in a room and see if you can come up with a policy.’

Back in 1984 they had the tax summit. To Mr Keating’s great and enduring credit, he designed a comprehensive reform of the tax system, which he and his supporters at that time called the BBCT—the broad based consumption tax. What did Mr Keating say was one of the great benefits of the broad based consumption tax which would have, to the great embarrassment of the Australian Labor Party, reduced the excise on fuel? What would it have done, Mr Whip? It would have put a BBCT on top of the excise. That is exactly what they are getting their knickers in a knot about now: the way in which tax reform was introduced in Australia in relation to the excise on petrol. What Mr Keating wanted to do in 1984 was reduce the excise on fuel and
put the broad based consumption tax—the VAT or the GST, as it is known now—on top of the excise.

Another thing they did in 1984 was to bring in indexation. We do not know where they stand in relation to indexation now. That was their policy then. They said, ‘Let’s have a broad based consumption tax.’ What was one of the great achievements to be gained from broad based consumption tax reform, proudly championed for month after month by former Prime Minister, then Treasurer, Paul Keating—undermined by the Luddites of the union movement? It was stifled. It fell at the last hurdle, to Mr Keating’s great aggravation and anger at the time. The great advance of the broad based consumption tax, proposed by Mr Keating at the tax summit, was to have done what? It was to cut out tax evasion. That was their one policy platform; it was the one leg of the policy that could have attacked tax evasion. But they did not have the ticker then to get the policy in. Mr Keating did not have the numbers. Mr Hawke did not have the ticker. It is one of the things that he has handed down: he has handed the torch on to Mr Beazley. There are two things that Mr Beazley and Mr Hawke have in common: instead of having a policy, they have a meeting; and instead of having a backbone, they have jelly. They have got no policies now. Senator Sherry must be humiliated that there is no tax policy. Mr Beazley has now said he has got some policies, but he is going to keep them in the bottom drawer and not show them to anybody. He is either embarrassed about their lack of quality, their lack of substance, or he is scared to show them to people because they might be too scary, like the tax on four-wheel drives. Show us your tax policy, Senator Sherry.

Senator MURPHY (Tasmania) (3.13 p.m.)—That was another amazing contribution. I have heard Senator Ian Campbell give some reasonable contributions in this place, but that certainly was not one of them. We are taking note of the answer by the Acting Treasurer, Senator Kemp, to a question from Senator Cook. One of the interesting comments that Senator Kemp made was about Senator Cook’s ability in terms of the limbo and putting the bar so low, et cetera. I say to the Acting Treasurer that he has put the bar so low for tax avoiders—those wealthy, fat executives—in terms of tax evasion that they are stepping right over it. These real smart tax planners are stepping over the bar. They do not have to go over it; they just step right over it and keep on going. When you compare that government action with how they are treating the general population of this country, it is a stark comparison. On the one hand, you are whacking them around the ears with your new GST on anything and everything, and you have upped the price of petrol. You claim to have given them a bit back in a tax deduction but, in general, in terms of people paying their fair share of tax, what have you done? Very little.

If we look at the record—and this goes to the heart of Senator Campbell’s contribution—back in 1994-95 we proposed legislation to stamp out tax avoidance, but who opposed it? Well, you would not know it, but it was the good old Treasurer of today—not the Acting Treasurer, although he would have been in there boots and all opposing it as well. When they won office, the bill that we had introduced was sitting there. What did they do with it? They dropped it. They let it go. They then further watered down our anti-avoidance trust loss measures and they have failed to crack down on any of that sort of thing since. Let us not forget the GST exemption that you gave high rollers such as your Crown Casino mates. They are your contributions.

We always hear from the government of the day about what they think we did when we were in government. They need to be reminded that they are the government of the day, they have the responsibility, they are the decision making body, and they are the ones who are allowing billions of dollars in tax to be avoided. Senator Sherry pointed out a very good article on page 34 of today’s Australian Financial Review titled ‘Deja vu’ with a photo of the Treasurer sitting there with his head in his hands. Of course the tax office is under a significant amount of pressure, and Michael D’Ascenzo raised the issue that there is a clear need for appropriate legislation. Legislative measures will always...
solve these sorts of problems. Even John Ralph made recommendations. Despite the fact that the government gave a commitment to the opposition that they would implement the Ralph reforms in full, they have not. They have clearly failed to do that. They reneged on a commitment that they gave to the shadow Treasurer and to us as the opposition.

Senator Sherry—It is a limbo dance solution.

Senator Murphy—It very much is, Senator Sherry; it is the limbo dance solution. But, as I said, the bar is so low here for smart tax promoters that they are just stepping clearly over it. It is not just in the area of EBAs; it is also in the area of other mass marketed schemes. It has been put by some experts that, in the agribusiness area alone, over $1 billion a year is lost to revenue. That is just in that area, let alone what is happening in the EBA area. Then you go to the private binding ruling system. Of course some legislative changes that the government have made might deal with future problems, but they will not deal with those that have already been given a private binding ruling. That is what the government are trying to protect; they are trying to protect their mates who are in RPC. It would be very interesting to find out just how much of the RPC dollars go into financing the Liberal Party and the coalition parties. This situation should not be allowed to continue, and it must be stopped. (Time expired)

Senator McGauran (Victoria) (3.18 p.m.)—I do not think there has been a government—and that includes the previous government, and even the Fraser government before that—that has done more to tackle and turn around the culture of tax avoidance than the Howard government. Before I get on to what we hope you do in the future, I must remind you of that most celebrated occasion where the former Treasurer in your government, Mr Willis, called a press conference—

The Deputy President—Address the chair, please.

Senator McGauran—in the middle of the 1996 election in the hope that it would turn the tide that was against the Labor government. He put on a whiteboard the top 500 names in company trusts and family trusts that, if re-elected, the Labor government were going to tackle and thereby raise hundreds of millions of dollars which would translate into a budget gain and budget revenue. That did not turn the tide at all. It simply looked like what it was: nothing more than an election stunt. The Labor government tried to convince the people of Australia in that 1996 election—which they lost in a landslide—that after 13 years they were finally going to get on to the tax avoidance industry, and it is an industry, without doubt. There are tax avoiders out there who make their living out of giving advice. When we were elected, we took up Mr Willis’s list of those top 500 trust companies and the tax department have audited, as far as I can tell, just about every name Mr Willis produced on that list. Every single one of them was followed up by the Treasurer, Mr Costello. It was no stunt, and we did raise several hundred million dollars. We have since followed up with reform in the area of trust companies, none less than taxing them—

Senator Sherry—Where is the legislation?

Senator McGauran—It is dated from the time of the announcement, Senator Sherry.

Senator Sherry—Yeah, but when are we going to see the legislation?

Senator McGauran—If you were not so obstructive in this chamber—

The Deputy President—Address the chair please, Senator McGauran.

Senator McGauran—If the opposition were not so obstructive in the chamber, we could get legislation through the Senate a lot quicker. The point is that we have laid down a foundation where the great benefit of hiding your assets in trusts will be no more. Again, that is a point in regard to breaking down the culture of tax avoidance. That is Labor’s past. As I said, for 13 years they had a chance to tackle the tax avoidance culture and industry and they left it till mid-term in an election campaign. They convinced no-one.
I saw Senator Sherry stand up earlier. Senator Sherry is the man who lifted all our hopes and spirits when he told this chamber some 18 months ago that, after the national conference in Hobart, we would know what Labor’s policies were going to be—most particularly, I suppose, their policies in the tax avoidance area and a whole range of areas. So we sat here patiently for 18 months. Senator Sherry made that prediction 18 months before the conference, so we sat here for 18 months—and what a disappointment. The media were all hyped up. The government were all hyped up waiting for your tax policies. The public were all hyped up—

Senator Carr—Time to come clean.

Senator McGauran—Time to come clean about what? Yes, its time for you to come clean about your policies. That is my whole point, you goose.

The Deputy President—Senator McGauran, will you cease answering interjections and then you might not use unparliamentary language? Senator Carr, would you cease interjecting, please? Senator McGauran, address the chair and ignore everybody else.

Senator McGauran—That old Trotskyite frustrates me, Madam Deputy President. He constantly fails to understand anything. We know he had a bad time in Hobart. We know that he and Senator Conroy had a bad time. Senator Conroy was basically ignored as some sort of factional leader, not before time, but Senator Carr is just about washed up.

Senator Carr—I was elected unopposed. What are you talking about?

Senator McGauran—You were basically removed from your faction. They wanted you off the executive. All this was happening while the Australian public were waiting for some policy announcements. All we got was factional shifting and manouvring. Typical! So, in other words, new Labor is old Labor and that is what we should expect. This government has tackled not only the trust avoidance industry but also the black economy. That is where the big avoidance is, to the tune of $4 billion plus. (Time expired)

Senator George Campbell (New South Wales) (3.23 p.m.)—Isn’t it amusing to listen to the contributions from the other side in this debate today? Senator Ian Campbell struggled to have anything at all to say in respect of tax avoidance. Senator McGauran—well, I do not know what he was talking about most of the time. But both of them focused on—

Senator Hill—He was talking about Senator Carr.

Senator George Campbell—As Senator Carr said, he got elected unopposed in Hobart.

Senator McGauran—I was talking about the executive.

Senator George Campbell—He got elected on the executive. He got elected unopposed, as the rest of us did. The interesting part of the contributions by Senator Ian Campbell and Senator McGauran, and which we constantly hear from the other side, was: where are your policies? Let us see your policies. Give us a look at your policies. We know why those questions come from members on the other side. The reason is not that they are particularly interested in what new creative ideas are around; it is that they have no policies of their own and they want to have something to steal. They want something that they can use so they can stand up and project themselves to the Australian public.

We know what happened in the 1996 election. We have all read the book *The Victory*. We know you were putting your policies together four weeks out from the election. You did not have a policy platform. You did not have one skerrick of policy in 1996 to put before the Australian people. You cobbled together a few bits and pieces and that was enough to get you over the line. You will see our policies, Senator McGauran. You will see our policies in the context of the next election, and when you see those policies you will know you are in trouble. You will not be able to effectively compete with those policies at the next election. If you look at the opinion polls, you will see that you are already in trouble. But once we roll the policies out on you, then you will see that
you are in real trouble in terms of the next election.

It is interesting to look at the article that Senator Murphy referred to in today’s *Australian Financial Review* and its headline ‘Deja vu’. When it comes to tax avoidance it is always deja vu with people on the other side. You have never, ever taken the issue of tax avoidance head-on when in government. I remind you that it was under your government from 1975—

The DEPUTY PRESIDENT—Address the chair, please, Senator George Campbell. When you say ‘you’, you are actually referring to the chair.

Senator GEORGE CAMPBELL—Through you, Madam Deputy President, it is interesting to note that between 1975 and 1983, under the Liberal Fraser government—and the current Prime Minister was the Treasurer at the time—one of the biggest tax rorts in this country’s history was exposed—the bottom-of-the-harbour scheme. It is also interesting to note that that was discovered by the pursuit of the pet hate of people on the other side—the trade union movement—when they pursued a union through the royal commission and found that all the crooks were on the other side of the fence. They were not the Painters and Dockers; all the crooks were running around in white shoes on the Gold Coast making all sorts of rorts out of the tax system because of all the loopholes that were there. That happened under that Liberal government.

What has happened under this government? The article is true when it says that the current Treasurer has done nothing about these schemes. Not only has he done nothing, but he has also resisted taking any action in respect of them. He has done nothing about trusts and tax evasion and avoidance. He has done nothing about the alienation of personal services. As Senator Murphy says, the government introduced business tax reforms. But all of the commitments about limiting and wiping out evasion were all modified at the last moment, making those business tax reforms revenue neutral in terms of their impact upon the economy. You have never, ever had the courage as a government or as a party to stand up to those people in our community who basically support your side of the chamber and who do engage in an industry of ripping off this country every day, seven days a week, its rightful share of the tax take. There are people who get succour from the fact that your government will not use its legislative measures in order to challenge what they do. (Time expired)

Senator McGauran—Am I allowed to have another go?

The DEPUTY PRESIDENT—No you are not, Senator McGauran.

Question resolved in the affirmative.

COMMITTEES

Foreign Affairs, Defence and Trade Committee: Joint

Report: Government Response

Senator HILL (South Australia—Minister for the Environment and Heritage) (3.29 p.m.)—I present the government’s response to the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade entitled *World debt: report on the proceedings of a seminar, Canberra, 27 August 1999*, and I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—


Recommendation 1

The Committee recommends the Government’s continued support for the HIPC Initiative and Review:

ACCEPTED.

The Australian Government has consistently supported the HIPC Initiative as the most credible way of providing lasting debt relief to the world’s poorest countries pursuing sound economic and social policies. The Government supported the 1998 Review of the Initiative, which resulted in proposals to deliver “faster, deeper and broader” relief for eligible countries and to strengthen the links between debt relief and poverty reduction. These proposals were endorsed by Ministers at the World Bank/IMF Annual Meetings in September 1999.

Recommendation 2
The Committee recommends the Australian Government give consideration to increasing substantially the current levels of Australian ODA, consistent with its endorsement of a 0.7 per cent ODA/GNP ratio.

ACCEPTED, IN PRINCIPLE

Australia continues to recognise the UN target of 0.7 per cent of GNP as an indicative target. The Government endeavours to maintain aid at the highest level, consistent with the needs of partner countries and Australia’s own circumstances and capacity to assist.

The quantity of ODA is only one aspect of aid flows that should be considered. Quality is also important. The impact, sustainability and quality of Australia’s aid are very high. The 1999 OECD Development Assistance Committee (DAC) review of Australia’s aid program recognised this. Indeed, it put Australia in the vanguard of OECD members’ aid management practices.

Recommendation 3:
The Committee recommends that Australia offer its bilateral debt to be considered as part of any future contributions to the revised HIPC Initiative, where those countries are permitted and agree to meet HIPC conditions.

ACCEPTED.

On 21 April 2000, the Government announced that Australia will provide 100 per cent bilateral debt forgiveness for countries which qualify for debt relief under the enhanced HIPC Initiative. Of the 41 countries that have been identified for possible debt relief under the enhanced HIPC Initiative, there are two – Nicaragua and Ethiopia – which have debts to Australia and are expected to qualify for relief. Australia is owed $5.7 million by Nicaragua and $12.6 million by Ethiopia. When Nicaragua and Ethiopia receive debt relief under HIPC, all of the debt they owe to the Australian Government will be forgiven. The cost of this initiative will be additional to the aid budget.

Recommendation 4
The Committee recommends that the Government maintain its policy of opposing the sale of IMF gold reserves.

ACCEPTED.

The Government notes that the IMF’s part of the enhanced Initiative was funded without resorting to the sale of gold on the market.

Recommendation 5
The Committee recommends the Australian Government give consideration to additional contributions towards the HIPC Initiative, in line with Australia’s levels of obligation to the IMF and World Bank.

ACCEPTED.

In recognition of the need for further bilateral funding of the international financial institutions' HIPC-related costs, the Government pledged (at the September 1999 World Bank/IMF Annual Meetings) an additional $A35 million to the Initiative, more than doubling its existing contribution. This latest pledge brought Australia’s total HIPC contribution to $A55 million. These funds are additional to the aid program.

Australia’s direct support for the HIPC Initiative represents an appropriate contribution to the overall international effort, given our relative size, the geographical and grant (rather than loan) focus of our aid program and our non-membership of regional development banks most closely associated with HIPCs (eg. the African Development Bank).

Recommendation 6
The Committee recommends that the Government negotiate a form of conditionality which will prevent the expenditure of funds, freed by debt forgiveness, on military equipment or corrupt practices.

ACCEPTED

The Government firmly agrees that controls should be in place to ensure resources freed up by debt relief are channelled to the poor and not into military spending or corruption. A lasting solution to the debt problem requires that debt relief be provided in a way that supports sound policies and good governance in the future. This is explicitly recognised in the HIPC Initiative, which provides relief to countries which have put in place sound policy and governance frameworks. At the IMF/World Bank Annual Meetings in September 1999, Australia and other members endorsed a framework for strengthening the link between debt relief and poverty reduction. The key mechanism to achieve this will be Poverty Reduction Strategy Papers (PRSPs): country-driven plans identifying priorities for public action that will have the greatest impact on poverty and provide frameworks to help prevent the expenditure of funds (freed up by debt relief) on military equipment and corrupt practices. The IMF and the World Bank are now working with developing countries, civil society, donors and international development institutions to develop these. After a short transition period, all HIPCs will be required to have PRSPs in place before they qualify for relief under the Initiative.
Since the Government’s pledges/contributions to the HIPC Initiative are denominated in the IMF’s Special Drawing Rights (SDRs) and US dollars, their value in Australian dollar terms will vary with exchange rate changes.

DOCS

Auditor-General’s Reports

Report No. 8 of 2000-01


WORKPLACE RELATIONS

AMENDMENT (AUSTRALIAN WORKPLACE AGREEMENTS PROCEDURES) BILL 2000

WORKPLACE RELATIONS

AMENDMENT (SECRET BALLOTS FOR PROTECTED ACTION) BILL 2000

WORKPLACE RELATIONS

AMENDMENT (TALLIES AND PICNIC DAYS) BILL 2000

WORKPLACE RELATIONS

AMENDMENT (TERMINATION OF EMPLOYMENT) BILL 2000

Report of Employment, Workplace Relations, Small Business and Education Legislation Committee

Senator CAL VERT (Tasmania) (3.30 p.m.)—On behalf of Senator Tierney, I present the report of the Employment, Workplace Relations, Small Business and Education Legislation Committee on the provisions of the Workplace Relations Amendment (Australian Workplace Agreements Procedures) Bill 2000 and three related bills, together with the Hansard record of the committee’s proceedings and documents presented to the committee.

Ordered that the report be printed.

PERSONAL EXPLANATIONS

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.31 p.m.)—Madam Deputy President, I seek leave to make a personal explanation under standing order 190.

Leave granted.

Senator IAN CAMPBELL—During question time, Senator Crowley in a question to Senator Robert Hill stated that I had been a member of another political party at some time in my life. I just want to reassure the Senate, because I am getting a little bit sick of this, that I never been a member of any other political party. I am proud to be a member of the Liberal Party of Australia, WA Division. I have been for all my adult life, and I hope to be for the rest of my life, which I hope will be rather long.

COMMITTEES

Membership

The DEPUTY PRESIDENT—The President has received letters from party leaders seeking variations to the membership of committees.

Motion (by Senator Ian Campbell)—by leave—agreed to:

That senators be discharged from and appointed to committees as follows:

Electoral Matters—Joint Standing Committee—

Appointed: Senator Ferris

Discharged: Senator Boswell

Employment, Workplace Relations, Small Business and Education Legislation Committee—

Substitute member: Senator Crossin to replace Senator Collins for the consideration of the Education Services for Overseas Students Bill 2000 and 4 related bills

Environment, Communications, Information Technology and the Arts Legislation Committee—

Substitute member: Senator Crossin to replace Senator Collins for the consideration of the Telecommunications Legislation Amendment Bill 2000 on 21 September 2000

Legal and Constitutional Legislation and References Committees—

Participating member: Senator Ludwig

Rural and Regional Affairs and Transport References Committee—
Substitute member: Senator Tierney to replace Senator Crane for the committee’s inquiry into the incidence and management of Ovine Johnes disease in the Australian sheep flock for 18 September and 19 September 2000.

DEFENCE LEGISLATION
AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2000

In Committee

Consideration resumed.

The CHAIRMAN—The question is that the bill, as amended, be agreed to. (Quorum formed)

Senator BROWN (Tasmania) (3.35 p.m.)—While Senator Harris is coming into the chamber and getting his notes together and while I am on my feet, I take this opportunity to ask the government: did it have negotiations with any representatives of any other country about this legislation in the lead-up to this debate in the Senate?

Senator ELLISON (Western Australia—Special Minister of State) (3.36 p.m.)—The answer is no.

Senator HARRIS (Queensland) (3.36 p.m.)—by leave—I move amendment (4) on sheet 1907 and amendment (5) on sheet 1910:

(4) Schedule 1, item 4, page 21 (lines 5 to 7), omit “such force against persons and things as is reasonable and necessary in the circumstances”, substitute “only such force against persons and things as is necessary to prevent an immediate threat of death or serious injury and where less extreme means are insufficient to achieve those objectives”.

(5) Schedule 1, item 4, page 21 (after line 23), at the end of section 51T, add:

(4) To avoid doubt, a member of the Defence Force must not use lethal force against any person unless the member believes that he or she is in immediate danger of death or serious injury and has utilized all other practical methods to deal with the situation.

The purpose of proposing these two amendments is to try to bring into line the practices in the civil area, so that they will have an influence on what the government is intending to do with this legislation; that is, to take the defence forces and use them in what should be primarily a civil jurisdiction. There has been considerable debate in the chamber regarding the lack of regulations, in that the government has clearly indicated that the present regulations will be withdrawn and replaced with another set of regulations. The minister has made a commitment to make those available to the chamber. However, one of the major reasons that the government is saying that this bill needs to go through in such haste is to be available for the Olympic Games. So, either the minister has them in his back pocket and he will bring them out tomorrow, or there will be no opportunity for this chamber to review those regulations prior to the Olympic Games. This is what makes the last few amendments that have been put up by Pauline Hanson’s One Nation so critical.

The essence of the first amendment to schedule 1, item 4, page 21, is to establish the situation where, no matter what action the defence forces find themselves in, they can only use force that is reasonable and necessary in relation to the circumstances. So, if we have a situation where a crowd is dispersing, the passing of this amendment would prohibit a member of the defence forces using anything other than a reasonable amount of force to apprehend that person.

The other thing that the amendment I am speaking about also brings into play is that the Defence Force can only use lethal force against a person where they themselves are under immediate threat of death or serious injury and where less extreme means are insufficient to achieve the objectives. So it does not stop a member of the defence forces protecting themselves in a case where they are under threat of their own life. It does not prohibit the defence forces from using lethal force if another person is in danger of serious injury. What it does is to very clearly put restrictions on members of the Defence Force from using excessive force in any area. The second of the amendments, item 5, on sheet 1910, says:

To avoid doubt, a member of the Defence Force must not use lethal force against any person unless the member believes that he or she is in immediate danger of death or serious injury and has utilized all other practical methods to deal with the situation.
As well as having the restriction of only being able to use reasonable force, lethal force is restricted until the point where all other means of carrying out the action have been exhausted. Yes, it does bring a responsibility onto the member of the defence forces, but we have to remember where this person is carrying out the action. They are carrying it out in civil life in Australia—not in another country, not against an invading threat. They have the ability to carry out this lethal force against another Australian citizen. I believe that it is very reprehensible of this committee—in the light of the fact that we have not seen any regulations relating to this bill—and absolutely unacceptable that we pass the bill in the form that it is in at this point in time, bearing in mind that the bill has been substantially altered in the progress of this committee stage.

In closing—through you, Chair—the responsibility of the Defence Force personnel under these circumstances is enormous. We need to provide to them a clear set of constraints that they must work to. The bill most certainly does not do that in its present form. It bears no resemblance whatsoever to the constraints that are placed upon our state police or the Australian Federal Police. As I said earlier, the Australian Federal Police are constrained from using lethal force against a felon who is fleeing. This bill carries no such restriction on the defence forces. I believe it should. It is for that purpose that I commend the amendments to the committee.

Senator BROWN (Tasmania) (3.45 p.m.)—I agree to these amendments by One Nation. The amendments provide for a clearer directive than the one in the bill to members of the armed services, when they are brought out against civilians, as to when they can kill those civilians. That is what this bill provides for. The government has, behind the desk over there, a manual that will give instructions to the armed services on how to kill Australian civilians in an emergency. The government will produce that manual after this debate is over and the chamber has closed down.

Senator Faulkner—Do you reckon they’ve already got it?

Senator BROWN—Yes, I think they have already got it, Senator Faulkner. They have to have it already, because this legislation is for the exigencies of the Olympics and the World Economic Forum. So, yes, there will be a manual available in those circumstances, and they will not show it to the Senate. In that situation, the amendments that Senator Harris has brought forward here are at least a little bit of a direction for the worst situation imaginable—that is, where the armed services have their guns trained on Australian civilians. Senator Harris has explained the caveat that his amendments put on that situation, and that is more satisfactory than anything the government have put before us.

Senator ELLISON (Western Australia—Special Minister of State) (3.47 p.m.)—Just for the record: the government opposes this. It does so mainly on the grounds that what is missing here is the protection of another person, a third person. What Senator Harris is looking at is really a question of self-defence. That can be seen when you look at the wording:

... only such force against persons and things as is necessary to prevent an immediate threat of death or serious injury and where less extreme means are insufficient to achieve those objectives ...

Whilst the government can appreciate where Senator Harris is coming from, it is important to include in that that there be an ability to protect the life of another person—and that is a very important point. It could cover a hostage situation; it could cover anyone else who is present at the scene. We believe that 51T(2) really does encompass the law as it stands across Australia, and we think that that is a good reflection of it. On that basis, we would prefer the wording of the government to that of Senator Harris’s amendments.

Amendments not agreed to.

Senator ELLISON (Western Australia—Special Minister of State) (3.49 p.m.)—by leave—I move government amendments Nos 1, 7, 8 and 9 on sheet DG223:

(1) Schedule 1, item 3, page 4 (after line 8), after the definition of premises, insert:

Presiding Officer means the President of the Senate or the Speaker of the House of Representatives.
(7) Schedule 1, item 4, page 23 (line 17), omit “publication to take place”, substitute “presentation to the Parliament”.

(8) Schedule 1, item 4, page 23 (line 29), omit “publication to take place”, substitute “presentation to the Parliament”.

(9) Schedule 1, item 4, page 24 (lines 5 to 18), omit subsections (3) and (4), substitute:

**Reporting to Parliament**

(3) For the purposes of subsection (1) or (2), presentation to the Parliament of the copy and report is in accordance with this subsection if the copy and report are forwarded to the Presiding Officer of each House:

(a) if that House sits before the end of 7 days after the order mentioned in subsection (1) or the last of the orders mentioned in subsection (2) ceases to be in force—for tabling in that House before the end of that 7 days; or

(b) if not—before the end of that 7 days for distribution to all Senators or Members of the House of Representatives, as the case may be.

These amendments have their genesis in the report by the committee. The committee recommended that proposed subsections 51X(3) and (4) be amended to provide for the report to be tabled in both houses of the parliament within seven days of the cessation of the call-out. The committee also recommended that, if a house is not sitting at the time the report is ready for publication, the documents be presented to the Presiding Officer of that house for circulation to members of that house. The suggested wording of any amendment to the bill to cover these two recommendations was set out in appendix 6.

These amendments expand on the publication requirements that were required by the previous provisions of the legislation. The new subsection (3), which the government intends to have introduced, will detail the requirements for reporting to parliament. It will provide that presentation to parliament of the report on the use of the Defence Force will be in accordance with the section if the report is:

... forwarded to the Presiding Officer of each House:

(a) if that House sits before the end of 7 days after the order ... ceases to be in force—for tabling in that House before the end of that 7 days; or

(b) if not—before the end of that 7 days for distribution to all Senators or Members of the House of Representatives, as the case may be.

That, of course, is in the case where the House or the Senate is not sitting.

Amendment No. 1 will include a definition of ‘Presiding Officer’. It is defined to mean the President of the Senate or the Speaker of the House of Representatives. Amendment No. 7, which deals with section 51X as well, requires the minister to arrange for publication of the orders, declarations and reports on the utilisation of the Defence Force. It provides that publication must take place in a number of ways, including tabling in parliament. That really facilitates the amendments that I have mentioned in relation to wider publication, if you like. Amendment No. 8 mirrors amendment No. 7, replacing the words ‘publication to take place’ with ‘presentation to parliament’.

I commend these amendments to the chamber. They reflect the sentiments of the committee, I would submit. It is a sensible suggestion of the committee; it increases transparency and openness of process. The government believes that this would provide added transparency for the people of Australia in the operation of these provisions—which are, after all, dealing with a very serious subject.

**Senator BOURNE** (New South Wales)

(3.52 p.m.)—Minister, it appears to me—and I could have it wrong—that ‘published on the Department’s web site’ is being removed by these amendments. Is that correct?

**Senator Ellison**—It can still be done. It is not mentioned here, but obviously it could be on the web site. The government would see no problem in doing that.

**Senator BOURNE**—I may have it wrong again, Minister, but it also appears to me that, if all you have is ‘laid before each House of the Parliament’ and you take out ‘published on the Department’s web site; or otherwise publicly released’, then you may be taking away your ability to otherwise
publicly release it besides the sole means of tabling it in parliament. If that is the case, I do not think that is a good idea. I think much of the rest of the amendments is quite good, but that is a bit of a worry.

Senator Ellison (Western Australia—Special Minister of State) (3.53 p.m.)—Once it is tabled, it is a public document. The government can publish it in all manner of ways and means. The government does not see that these amendments rule out using a web site.

Senator Harris (Queensland) (3.53 p.m.)—The essence of the majority of these amendments that the government has just moved, with the exception of the first one, speak to a report that will be produced after the event—I stress ‘after the event’. If the government were proposing these amendments immediately on issuing an order, I would see some merit in the publication. It would advise the citizens of the government’s intent. It would allow to some degree for that to be scrutinised by the parliament. What we are talking about now could be an extremely sombre period. We could have a situation where people have expressed their dissent to the government and the government has taken whatever action it had to in order to quell that. I believe this report will be very little recompense to a parent, a brother or a sister who has gone through the agony of having the life of somebody they love terminated—if that is the effect this bill will have, and I believe it has that potential. It may be all right for senators to use rhetoric to berate whoever ordered the troops out, but that will do very little to console anybody who has fallen foul of it. If the government had the same resolve to make it public when it was initiating the order as it obviously has now for doing so after the fact, then I would see some merit in the amendments that the government is proposing.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (3.56 p.m.)—As I understand it, these amendments were recommended by a Senate committee. In the view of the opposition, these amendments do significantly improve the bill. They certainly do enable the parliament to scrutinise the actions of the government following any call-out. We think that is important, and we think it is important at two levels: at the political level and at the operational level. We must be assured that there has been no abuse of power and that proper procedures have been adhered to. We also make the point that any report that is provided to the parliament following any such call-out should be detailed and comprehensive. We strongly believe that the executive must be fully accountable to the parliament. That is a fundamental principle, and this is one of the mechanisms that go to ensuring that that is the situation. It is for those reasons that the opposition are supporting the amendments recommended by the Senate committee.

Amendments agreed to.

The Chairman—Senator Bourne, do you wish to proceed with your amendment No. 8, as it is in conflict with an amendment that has just been passed?

Senator Bourne (New South Wales) (3.58 p.m.)—Yes, it adds to the one that has just been passed so I would like to proceed with it. Therefore, I move Democrats amendment No. 8:

(8) Schedule 1, item 4, page 24 (lines 5 to 18), omit subsections (3) and (4), substitute:

(3) For the purposes of subsection (1) or (2), publication of the copy and report takes place in accordance with this subsection if, within 7 days after the order mentioned in subsection (1) or the last of the orders mentioned in subsection (2) ceases to be in force, the copy and report are:

(a) laid before each House of the Parliament; and
(b) published on the Department’s website; or
(c) otherwise publicly released.

(4) If a House of the Parliament does not meet within the period mentioned in subsection (3), or meets within that period but not after the report is ready for publication, for the purposes of that subsection the copy and report are taken to be laid before that House if they are provided to the Presiding Officer of that House for circulation to the members of that House.
(4A) For the purposes of subsection (4), if a House has been dissolved and the newly-elected House has not met when a copy and report are provided to the Presiding Officer, circulation to the persons who were members of that House immediately before the dissolution is taken to be circulation to the members of the House.

(4B) To avoid doubt, the function of a Presiding Officer of receiving and circulating a copy and a report under subsection (4) is a function of the Presiding Officer for the purposes of the Parliamentary Presiding Officers Act 1965.

Before the last government amendments were passed, the bill said the report could be ‘laid before each house of the parliament, or published on a web site or otherwise publicly released’. My amendment actually changes that again to say: ‘laid before each house of the parliament, and published on the department’s web site, or otherwise publicly released’. So this amendment ensures that it is published on the web site. While I take the government’s assurance that that is something they are interested in, I think in the new age of innovation and technology, which the Labor Party has found a new commitment to, it would be very sensible to ensure that it is published on a web site. Apart from that, it also puts in a couple of extra paragraphs which would outline how the report could be published if we were in the middle of, or if it was just after, an election. It says what would happen if the House had been dissolved and a newly elected House had not met. It takes that into account and then says what the Presiding Officer can do to avoid doubt.

Basically, it is a matter of drafting. I think it is important that this is brought into account. Apart from that, it is the same as the government’s. It does not take out anything that the government has put in; it adds to it. It adds on that the report is required to be published on the web site. It says you can otherwise publicly release it—I take their point about that—but it also adds those other clauses that say what to do in the event of parliament not rolling along as we usually do. Of course, every three years something happens that interrupts us—rudely. I am not looking forward to the next time we are interrupted, but it will happen. Just in case it happens to be at that point, this is a better way to deal with that. I commend the amendment to the committee.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.01 p.m.)—I would be interested to hear the government’s views on this amendment. I assume the government is opposing it, but it might be useful for the minister to explain why that is the case on this particular amendment. I would like to hear the argument, if I could.

Senator ELLISON (Western Australia—Special Minister of State) (4.01 p.m.)—Briefly put, as Senator Bourne indicated, it covers much the same ground. It is much longer in procedure, and for that reason the government prefers its own amendment, which it believes more closely follows the recommendations of the Foreign Affairs, Defence and Trade Legislation Committee.

Senator BROWN (Tasmania) (4.02 p.m.)—I think the Democrats’ amendment is worthwhile. The government’s amendment is a bit short. The Democrats’ amendment does give some assurance that the report will be more publicly available, it covers the situation where the parliament has closed down because there is an election, and it covers some eventualities which should be covered. The government has not done that, and the Democrats’ amendment does do that.

Senator BOURNE (New South Wales) (4.02 p.m.)—I thank those who have commented on this. In reply to the minister, just because it is in the Senate committee report does not mean that it is necessarily correct drafting. I think this is actually more complete drafting, and because of that it is better. It also demonstrates that the government’s amendment could have been better drafted in the first place. If anybody in the chamber feels like recommitting the sunset clause amendment or any of them, I would be more than happy to agree.

Senator HARRIS (Queensland) (4.03 p.m.)—I rise in support of the Democrats’ amendment. I would also like to make the
comment that reports by Senate committees are generally a consensus of those committees. They are not absolved from the political biases of those committees. It is the option of the committee to accept or reject any information that is put before it. A report brought down by a committee does not necessarily have to reflect the input of whoever puts arguments to that committee. I am not implying that the committees go out of their way to ignore the evidence put before them; I am merely highlighting the fact that extremely good recommendations can be made to Senate committees by way of evidence that are not taken up by the committee. Speaking to Senator Bourne’s amendment, I believe that it is effective because it speaks of the periods when the house is in recess. I spoke earlier of periods when the house may even be in recess for up to six weeks. The Democrat amendment clearly sets out a process to cope with that. In closing my remarks, I commend the amendment to the committee.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.05 p.m.)—One of the substantive differences—there is a process difference; I believe the government amendment is better in those terms—is that the Democrats’ proposal here is specifically to identify the web site. I think that is one of Senator Bourne’s points. My only question is whether that element of Senator Bourne’s amendment is problematic for the government. I do not quite understand if this is the sticking point. That is where I would like to get some clarity.

Senator ELLISON (Western Australia—Special Minister of State) (4.06 p.m.)—The web site is one aspect of it; the question of 4A, where the house has been dissolved, is another difference. Then there is the question of ‘otherwise publicly available’, which is mentioned in the Democrat amendment. The phrase ‘web site or otherwise publicly released’ does not pose particular problems to the government. If that is a problem for the opposition, we can have a look at it.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.07 p.m.)—I do not want to do this on the run, but I do not really understand the government’s drafting here. I am just asking for an explanation of it—that is all. It is unclear to me.

Senator ELLISON (Western Australia—Special Minister of State) (4.07 p.m.)—I will go through it again. We are dealing with proposed section 51X of the bill, which deals with the report which is subsequent to any action taken on any call-out. That much is agreed. We are talking about how that comes to be published and whether there is any requirement for it to be tabled in parliament. We say that the committee, which stated in its recommendations that proposed section 51X should be amended to provide for a variety of matters, had it right. The committee stated that proposed section 51X should be amended to provide for the report to be tabled in both houses of parliament within seven days of the cessation of the call-out. That is fairly clear. The committee also recommended that, if a house is not sitting at the time the report is ready for publication, the documents be presented to the Presiding Officer of that house for circulation to members of that house.

As well as that, the committee gave the suggested wording of an amendment to the bill to cover those recommendations and set it out at appendix 6. The government took that recommendation and followed it. If I can refer to its wording, the government said—and we can look at it in context—that this is how proposed section 51X would read: ‘If an order under this part ceases to be in force, and the order is not one of two or more orders to which subsection (2) applies, the minister must arrange for the presentation to the parliament in accordance with subsection (3).’ That part would be the first amendment. Proposed subsection (2) would say, ‘If two or more orders under this part about the same or related circumstances come into force in succession, without any intervening period when no such order is in force, the minister must arrange for presentation to the parliament in accordance with subsection (3).’ Proposed subsection (3) would then set out the manner of presentation to parliament. It would say:

For the purposes of subsection (1) or (2)—
and they deal with the presentation to parliament—

presentation to the Parliament of the copy and report is in accordance with this subsection if the copy and report are forwarded to the Presiding Officer of each House:

(a) if that House sits before the end of 7 days after the order mentioned in subsection (1) or the last of the orders mentioned in subsection (2) ceases to be in force—for tabling in that House before the end of that 7 days; or

(b) if not—before the end of that 7 days for distribution to all Senators or Members of the House of Representatives, as the case may be.

Of course, what you have at the moment in (a) is ‘where the house is sitting’ and in (b) ‘where it is not sitting it is distributed to all members and senators’. So you basically have both aspects covered.

Of course, the Democrats are dealing with a slightly different procedure. Democrat amendment No. 8 says:

(3) For the purposes of subsection (1) or (2), publication of the copy and report takes place in accordance with this subsection if, within 7 days after the order mentioned in subsection (1) or the last of the orders mentioned in subsection (2) ceases to be in force—

and this is where they get into a different aspect of the procedure—

(a) laid before each House of the Parliament; and

(b) published on the Department’s website; or

(c) otherwise publicly released.

That is the nub of that difference there. The amendment then states:

(4) If a House of the Parliament does not meet within the period mentioned in subsection (3)—

or meets within that period but not after the report is ready for publication, for the purposes of that subsection the copy and report are taken to be laid before that House if they are provided to the Presiding Officer of that House for circulation to the members of that House.

We have already provided that in our proposed subsection, because we say that, if the house is not sitting, the Presiding Officer merely distributes it to the members of the House of Representatives or the members of the Senate. But the other difference with the Democrat amendment is that it goes on to subclauses 4A and 4B. It then says that, if the house is dissolved and if a newly elected house has not met, there should be copies provided to the Presiding Officer, who then distributes them to those members of the parliament. That is another difference.

Senator Faulkner—Members of the former parliament?

Senator Ellison—It says here—

Senator Faulkner—No, it has to be the members of the former parliament.

Senator Ellison—Immediately before, yes. The former members receive a copy.

Senator Faulkner interjecting—

Senator Ellison—It is a reasonable way to put it. It is easily understandable. So, in effect, Democrat subclause 4A says that you will have circulation to those members and senators who were in the prior parliament. We believe that is covered by our amendment as well, because it would simply say ‘if not—before the end of that 7 days for distribution to all Senators and Members of the House of Representatives, as the case may be’. But Democrat subclause 4B carries on to say:

To avoid doubt, the function of a Presiding Officer of receiving and circulating a copy and a report under subsection (4) is a function of the Presiding Officer for the purposes of the Parliamentary Presiding Officers Act 1965.

That covers their having the power, if it is dissolved, to send that out to members and senators. There are perhaps three differences there. The differences are procedural in one instance and, in another—dealing with whether parliament has been dissolved—my advice is that subsection (3), which we are intending to have inserted, is preferable. It is more succinct, and it achieves the same job.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (4.15 p.m.)—I do not think this can be dealt with on the run, but let me flag it for the future. Although Senator Bourne has not said this, one of the issues she raises—and it is a substantive one—is the following. If you have a dissolution of the House of Representatives and half of the Senate, what hap-
pens if the call-out occurs after the election but prior to the swearing in of the new members of the House of Representatives? Or, if you have a double dissolution of both houses of the Australian parliament, what is the situation in relation to former members of the House of Representatives and the Senate? Frankly, in the review, we had better have a close look at this one.

Senator BOURNE (New South Wales) (4.16 p.m.)—Senator Faulkner is exactly right. I suggest a better time to look at it would be before the review and before the bill is passed. The point of parts (4A) and (4B) of Democrat amendment No. 8 is that, if there has been a dissolution of either house or both houses, there are either no senators or no members, or none of both. So it would cover the unlikely event that there is a call-out in that short period. I hope it is unlikely that there is a call-out at all, but this would cover that point.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.17 p.m.)—The minister might have been drawing a distinction between two things. You have a capacity for Presiding Officers to communicate with members—let us limit this to members of the House of Representatives; it is easier. Except in the situation of a double dissolution, you have continuing members of the Senate. The minister is drawing attention to the fact that there is a different situation for the status of those members in relation to the way the provisions of the bill would work, after the dissolution but before election day, if some of them were non-continuing. That is the point I am making. It may be an extremely pedantic point, but I assume that is what the minister is drawing to our attention. If he is not drawing it to our attention, I have no idea what he is saying.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.18 p.m.)—I seek clarification from the minister relating to division 5, clause 51X, subclause (2) of the bill, where it says:

If 2 or more orders under this Part about the same or related circumstances come into force in succession, without any intervening period when no such order is in force, the Minister must arrange for publication to take place in accordance with subsection (3) of...

That is how the bill stands at the moment. Can the minister clarify for me whether I am correct in thinking that an order is in effect for 20 days? Or can the order be for a longer period? Can the order be for multiples of 20 days?

Senator ELLISON (Western Australia—Special Minister of State) (4.19 p.m.)—An order cannot last longer than 20 days and, to renew it, you would have to have a fresh order.

Senator HARRIS (Queensland) (4.20 p.m.)—Minister, if we had a situation where an order is given, the 20 days expire and—prior to the end of the seven-day reporting period that the government has in the bill—a new order is then given on the 25th day, that order runs through to the 45th day and a third order is then raised on the 50th day—and I am just giving five-day periods as an arbitrary length of time—would it be necessary for the government to report to the parliament on each successive order given? They are not concurrent, but the new orders are given before the reporting period falls in place.

Senator ELLISON (Western Australia—Special Minister of State) (4.21 p.m.)—We will take that on notice for the moment, because I am seeking advice on that. I will also take some instructions in relation to the aspect of the web site and inquire of the opposition whether it would want that included.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.21 p.m.)—I do not understand the government’s thinking on this. It seems to me to be not unreasonable. It is not exceptional to have the web site, but you could include something else as well. This is a growing modern technology that may be worth identifying. I make the point that it is not precluded, so I do not think the opposition would press the issue. It seems to me that Senator Ellison is saying, ‘The government doesn’t have any objection to this.’ Is that correct, Senator Ellison?

On the other issue: I am neither eminent nor a constitutional lawyer, so it is always
very hard for me to predict what eminent constitutional lawyers might say, but let me have a stab in the dark and suggest that, in the circumstances of the parliament being dissolved and not able to meet, there would be very little alternative but for this notification to be referred to former members of the parliament. I do not know that there would be any other alternative. I cannot think of one. Hence, regarding that element of Senator Bourne’s amendment, while I understand the general point, in the circumstances I think the government’s formulation is a better one. It is an interesting question, of course, as to what happens after an election but before the return of the writs, for example. I think that is what Senator Bourne points to. It is a situation where the Presiding Officers would have no alternative but to communicate with former members of the parliament.

In relation to the web site, frankly that is not the sort of issue that the bill stands or falls on. I am not entirely sure that we should spend a huge amount of time on it. It is not precluded, obviously, by the government’s formulation. Senator Bourne’s point that she would prefer to see it there is not an unreasonable one and the government seems to be saying, ‘We do not think it is unreasonable either; it is just not there.’ Given that it is 4.25 p.m. and we will all turn into pumpkins soon, I do not think we should deal with it for much longer, frankly.

Senator HARRIS (Queensland) (4.25 p.m.)—I am a little perplexed as to why the minister is not able to answer the question I asked in relation to orders. When the minister indicated he would take it on notice, is it his intention to come back to us during the discussion of the bill? If that is the case we can address that issue.

Senator Ellison—Yes, we will.

Senator HARRIS—The minister is indicating that they will give us an answer to that question I put to the minister. The issues that have been raised in relation to the Democrat amendment highlight the complexities of this bill and the difficulties that are going to be faced in administering it, not only from the point of view of the members of the executive and the Governor-General, but also in relation to the requirements of the staff in the parliament, particularly the Presiding Officers. I believe that anything we can do in the committee stage of this bill to give clear and concise direction, particularly to the Presiding Officers, would be an enormous advantage to the bill. I implore the government to reconsider the content of the Democrat amendment in that it is attempting to give some clarification in those situations.

Amendment not agreed to.

Senator BOURNE (New South Wales) (4.27 p.m.)—I move Democrat amendment No. 7 on sheet 1893:

(7) Schedule 1, item 4, page 23 (line 23), after "report", insert "by the Defence Force Ombudsman".

If you recall, the report has to be ordered by the Minister for Defence, and it does not say in the bill who should write the report. This amendment is to ensure that it is not a member of the Defence Force. Under division 5, 51X, ‘Publication of order and report’, it says:

... the Minister must arrange for publication to take place in accordance with subsection (3) of:

(c) a copy of:

(i) the order; and

(ii) any declarations of general security areas or designated areas under the order; and

(d) a report on any utilisation of the Defence Force that occurred under the order.

That report, if my amendment is successful, would be written by the Defence Force Ombudsman. It is pretty obvious that, if who actually does the report is not nominated in the act, it will probably be done by someone in the Defence Force. In order to have an arm’s length report on the Defence Force and all aspects of the Defence Force by somebody who really knows what they are talking about, and in order to have transparency and accountability, it is better to nominate that the report be done by an individual who is not a member of the Defence Force. That individual, in my amendment, would be the Defence Force Ombudsman.

Senator HARRIS (Queensland) (4.29 p.m.)—I would like to briefly go back to the same issue that I raised earlier on in highlighting some of the differences between the
requirements for the Australian defence forces to operate and those requirements already in place for the Australian Federal Police. The minister has confirmed that what the government is putting in place—in other words, the purpose of this bill—will allow the Australian defence forces to be used in connection with protection of Commonwealth property or facilities and persons connected with the Commonwealth itself.

At present the Australian Federal Police are required to operate under certain criteria, and those criteria definitely involve the facilities of the Complaints (Australian Federal Police) Act and the Ombudsman’s office. So the Australian Federal Police in the conduct of their affairs are subject to the Complaints (Australian Federal Police) Act; that would largely be covered in the Australian Defence Force through their disciplinary tribunals. But we still have the situation where the Australian Federal Police are then subjected to the Ombudsman’s office. If the Australian defence forces are carrying out functions identical to those of the Australian Federal Police, then it is desirable that they also be subjected to the same scrutiny as the Australian Federal Police. It is with that in mind that I believe the Democrat amendment to bring the ombudsman into play will bring into the operational criteria a sense of being able to review the acts of the Australian defence forces. I commend the amendment to the committee.

Senator ELLISON (Western Australia—Special Minister of State) (4.33 p.m.)—Just for the record, the government opposes this amendment on the basis that any member of the public is entitled to lodge a complaint with the Defence Force Ombudsman’s office in relation to the service and in relation to any member of the Defence Force. The bill does not affect that right in any way, and including the suggested amendment would really add nothing to matters. What we are saying is that it exists in any event, and any complaint could be made, notwithstanding the passage of this legislation.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.33 p.m.)—The opposition do not support this amendment. We believe that to place this obligation on the Defence Force Ombudsman’s office could in fact compromise that office. Senator Bourne should think about that. It would certainly limit the Defence Force Ombudsman’s role in any other investigations that may be needed as a result of the Commonwealth using these powers. I must say, this is an amendment that the opposition could not support. It is seriously flawed.

Amendment not agreed to.

Senator HARRIS (Queensland) (4.34 p.m.)—I move the Pauline Hanson’s One Nation Party amendment No. 1 on sheet 1919:

(1) Schedule 1, item 4, page 24 (after line 22), after section 51X, insert:

51XB Conscientious objection

No member of the Defence Force who has conscientious objection shall be compelled to participate in a call out under this Part, nor shall any regulation or other order compel participation in any such call out.

The reason for this amendment has developed during the lengthy debate on this bill in the committee stage. As the structure of this bill has emerged and as the amendments have come through, there have been concerns expressed to me and to my staff, by way of correspondence, phone calls and emails, relating to the enormous pressure that is going to come down on the defence forces. I spoke earlier on about the situation relating to the reserves: that they are going to find themselves in a less than desirable situation if they are ultimately called out. I most certainly hope that they never are. But if the government did not have an intention of accessing that facility, then why are they putting it in the bill in the first place? The reality of that facility being there means the probability is that it would be used.

Our defence forces are, as I said earlier on, an extremely dedicated group of people. They are extremely well trained, they are highly efficient, but they are also human beings; they have emotions and they have feelings. If the majority of people in mainstream public or private life come to a situation where we disagree with something that we are asked to do, under normal circum-
stances we can decline to do it and resign whatever position we fill. That is an option that is available to anybody who, as I said, works in the public or private sector. Our defence forces are, however, in a different situation. They make a commitment to serve this country for a period of time. I would ask the minister to correct me if I am incorrect in my understanding that, if Defence Force personnel have a conscientious objection to an order that they are instructed to carry out, the only option they have is to wilfully disobey that order, which ultimately would result in a dishonourable discharge. I seek clarification from the minister as to whether I am correct in that assertion.

We are bringing in a bill that will be retrospective for every service person who presently is operating in our defence forces. If this bill had already been in place and people applied to join whatever portion of the Defence Force they wished to serve in, knowing that one of the duties they could be called upon to perform would be in a domestic violence situation, that would be one situation. They could consciously decide whether they wanted to be part of that force, knowing that there was a possibility of them being called out in a case of domestic violence. But that is not reality; the reality is that we have a functioning defence force. With this bill, this government will impose on those personnel a responsibility that they did not have when they signed up.

I believe that the only way the government could be honourable in this particular situation—and I stress that it only relates to the situation where the defence forces are called out under this section of the act—is for those personnel who have a conscientious objection to being ordered to stand in line against their own countrymen to be afforded the ability to conscientiously object to that order and remain within the forces. If we do not provide our defence forces with that ability, the only option that I can see is that the government will face a situation where considerably fewer people will sign up for our defence forces. Also, those well-trained personnel who currently are in our defence forces will, at the end of their present terms, not sign up again. I would not blame them if they chose the latter course. I believe that it is incumbent on this government—having brought in this legislation that you could only describe as being retrospective in relation to their service period, bringing on this extremely emotional situation—to change it. This is the reason I have brought this amendment forward. It is not intended to put in place a procedure so that, in time of war, there would be a straight opt-out for a conscientious objector; it is purely for the function of the act, when it is amended by this bill, in relation to the defence forces being called out in a domestic violence process.

Senator ELLISON (Western Australia—Special Minister of State) (4.43 p.m.)—Senator Harris has asked two questions. Firstly, in relation to conscientious objection and time of service, I think Senator Harris was saying that, if a member of the Defence Force is faced with a problem, they are stuck with a set time of service. It is open for a member of the ADF to resign. With officers there is a three-month period of notice required. That set period of service is no longer in place; it is open to a member of the Australian Defence Force to resign—it is a free choice. With respect to conscientious objection, there is provision in time of war, where you have a call-up situation under section 60 of the Defence Act, for there to be a conscientious objection. There is also provision for a Conscientious Objection Tribunal. That is quite clearly set out in the Defence Act, and it is something which the government says is appropriate.

This proposal by Senator Harris goes further. It says that, for a particular task, a person in the ADF might have the ability to object on conscientious grounds to taking part in the call-out. Certainly, the government would say that any unlawful order is not a binding order on a member of the ADF. So you start with that premise: if any member of the ADF is given a manifestly unlawful order, they do not have to follow that, and they are given instruction and training on that. But to extend it to conscientious objection could really open up all sorts of problems if you had an emergency—and call-outs by their very nature relate to emergencies. The government would say that it would not be
workable in those circumstances to evaluate or test that conscientious objection. That would not be possible in the circumstances.

The final aspect relates to the previous question Senator Harris put to me, and I just have to place the answer on record. He referred to those series of orders in 51X, and I refer there to subclause (2), which states:

If 2 or more orders under this Part about the same or related circumstances come into force in succession, without any intervening period when no such order is in force, the Minister must arrange for publication to take place—

Senator Harris mentioned three orders being made which related to the same situation. The report would relate to that first order. However, you would not have three separate reports for the three separate orders, and I want to make this clear, through the chair to Senator Harris, because there may have been some misunderstanding earlier on both our parts. Where you have an order which relates to, say, a hijacking, that order remains in force. If that problem is still at hand—for example, the plane might have moved elsewhere—another order is made which refreshes it, if you like, and keeps it going for another 20 days. Another order, in Senator Harris’s example, would be a third order being made without an intervening period, so in effect you have 60 days of order. There would be only one reporting to parliament and that would be at the conclusion of the incident. The thinking behind that is that, whilst you are dealing with an ongoing matter—and the government would say that it would be very rare that you would have a situation in existence for that long, but it is not inconceivable in the realm of human affairs—to give a report as to what you are doing might jeopardise the operation. So provided the order is about the same or related circumstances, you would not report until the matter had been concluded. If you had three totally different matters, it is a different story. You would report for each matter. The circumstance that Senator Harris asked about related to matters which were the same or related, so in that case you would have the one report for the lot. I think, Senator Harris, I have answered your questions on the length of tenure and resignation from the services, I have answered your previous question on those orders, and I have put on the record the government’s opposition to the amendment.

Senator BROWN (Tasmania) (4.48 p.m.)—But the minister has failed to give an adequate response to the reasons for this amendment by Senator Harris. The minister said that in times of war there is a Conscientious Objection Tribunal which people can go to. Is that tribunal open to the defence forces sent in against Australian civilians?

Senator ELLISON (Western Australia—Special Minister of State) (4.49 p.m.)—The conscientious objection which is in place only relates to time of war, as does the tribunal. I might add, because I think the next question will be ‘What is a time of war?’ that section 4 of the act states:

“Time of War” — Means any time during which a state of war actually exists, and includes the time between the issue of a proclamation of the existence of war or of danger thereof and the issue of a proclamation declaring that the war or danger thereof, declared in the prior proclamation, no longer exists.

It continues to say:

“War” — Means any invasion or apprehended invasion of, or attack or apprehended attack on, the Commonwealth or any Territory by an enemy or armed force.

An armed force could include terrorism, but that does not relate to a call-out as such.

Senator BROWN (Tasmania) (4.49 p.m.)—So why did the minister bring it up? Senator Harris says we need to give young Australians the opportunity to opt out if politicians send them in armed to a situation where they will be potentially shooting their fellow Australians. The minister says, ‘No, that’s all right. We’ve got a Conscientious Objection Tribunal that’s available in time of war.’ But as soon as he is tested, we find that that is not available under these circumstances because it will not be a war. The question that Senator Harris’s amendment posed for the government is: how dare you leave it open to politicians to send in members of the Australian defence forces against their fellows in this country who are on strike or protesting and not give them the option of conscientious objection?
One thing the minister is right about is that this is not war. This will be, by the nature of it, civil war. This will be where martial law has been declared by one, two or three politicians in this place. The troops will be sent in at the orders of those politicians to be able to shoot to kill Australians, armed or unarmed. We have failed to get protection to the civilians in this case. Senator Harris’s amendment is trying to give some protection to the defence forces. I suspect his office, like Senator Bourne’s and like mine, has had indications from serving or past members of the defence forces that they do not want to be part of this process. They do not want to be sent in against fellow Australians because some politicians think there is an emergency and somebody’s property is at stake. The troops could go in just because some corporate interest believes they should be brought out and he makes a call to these politicians and puts a case which convinces them. That situation for the use of troops is available under this open-door legislation. Does the minister think there will not be a member of the Australian defence forces under those circumstances who will conscientiously object to being used in that way?

Senator BOURNE (New South Wales) (4.52 p.m.)—I do not want to stop the minister from answering that question, because I want to hear the answer, too. But I want to make a couple of points about Senator Harris’s amendment, which I think is a very important amendment and one that we will be supporting. The minister mentioned a couple of things—conscientious objection during times of war, which of course is irrelevant; provision of a board, which is irrelevant. He also mentioned that unlawful orders do not have to be followed. I am glad to hear that, but unfortunately when this bill goes through, if it is constitutional, it will make lawful an order to shoot an Australian dead by a member of the Australian Defence Force under some circumstances. Members of the Defence Force have rung my office and have said that they do not want to do that, that they really hate this bill and they do not want to do it. Members have rung radio stations while I have been doing talkback and have said the same thing. Members of the Australian Defence Force—not just the ones who have rung my office and Senator Brown’s office and Senator Harris’s office; that would be a tiny percentage of the ones who do not want to do it—do not want to be put in that position. I think it is really important that we do not put a member of the Australian Defence Force in the position that they are forced against their will to shoot dead another Australian. I think that is really important. They should be able to conscientiously object. I am well and truly in favour of Senator Harris’s amendment because of that.

Senator ELLISON (Western Australia—Special Minister of State) (4.54 p.m.)—I made it clear previously that conscientious objection only related to a call-up situation in time of war. The government believes that is appropriate. It believes that covers the provisions in relation to conscientious objection, and they should not be extended. That is the clear government position. I outlined the provisions relating to conscientious objection purely to let senators know what the current operation of those provisions was and that the government thought that was sufficient. This legislation will not provide a situation where any member of the ADF will have to follow a manifestly unlawful order. That remains, and it is part of the training of members of the ADF that they do not have to follow manifestly unlawful orders. The government believes that these conscientious objection provisions go further than it believes is appropriate, which I have outlined in any event. The government believes that to allow conscientious objection would interfere with the operational aspect of a call-out.

Senator BROWN (Tasmania) (4.55 p.m.)—It would not get anywhere but, in lieu of the provision under the Defence Act 1903 that a magistrate had to accompany the defence forces into action against civilians, we ought to move an amendment here that says that in those circumstances the Prime Minister, Mr Howard, the Minister for Defence, Mr Moore, and the Attorney-General be the three citizens at the front of this column when it is sent in against Australian citizens. Then we might see how conscientiously they would apply themselves to the business of getting stuck into Australian citizens using
the defence forces. Of course such an amendment would get nowhere. But it might exercise the minds of those august gentlemen whose legislation this is to put themselves in that situation. Well, of course they will not. That is not the nature of war or civil war or martial law, which is what this legislation is about.

Senator Faulkner—And you couldn’t expect Mr Moore to exercise his mind either.

Senator BROWN—It is the business of having the courage to do what you expect young Australians to do. I do not believe they or any future politicians who utilise this legislation to put down a civil insurrection would have the courage of their convictions to do just that. But they will expect the Defence Force personnel to do it, and they will decry them if they do not. The government has made it clear that it is not going to allow young Australians in uniform an option. But inherent in all this is the ability to put the defence forces in a position in which I guarantee you the politicians of the day who use this further down the line would not be prepared to put themselves into.

Senator HARRIS (Queensland) (4.58 p.m.)—I would like to put on record what I genuinely believe the minister’s response was. If I am incorrect, I implore the minister to correct Hansard for me. I believe the minister clearly has said to us that previously a three-month period came into play when an officer of the Defence Force chose to resign. I believe the minister clearly has said that that is no longer the case. Can the minister also indicate that all ranks from private through to officer also have the freedom to resign if they do not wish to continue to be members of the defence forces? Senator Bourne picked up on the same issue that I was going to speak on—that is, in reply, the minister clearly indicated that Australian defence personnel were not obliged to follow a manifestly unlawful order. When this rowdy mob is facing a soldier on the corner of a street, where is the soldier going to find his legal adviser who can tell him that the order is manifestly unlawful? Because I cannot see that any QCs would be standing around the corner when someone is shooting at them.

The amendment that I propose has more intent than for Defence Force personnel to conscientiously object. It actually gives them the option to stay in the force, and this is what I am trying to get across to the minister. From this point on, I believe—and the minister can correct me—that if the defence forces, under their duty of care (I emphasise, under their duty of care) do not clearly and succinctly tell every person at the point when they apply to become a member of the Defence Force that it is possible that they could be called out to quell domestic violence or anything in excess of that, the Commonwealth would be failing in its duty of care to those persons, and there should be sufficient retribution by those persons back on the department. After the passing of this bill and its gazettal as an act, if the government, every member of the Defence Force and every person in the Department of Defence do not clearly and succinctly tell these people what their obligations are, they will be in default of their obligation and their duty of care. It is as clear as that. This is what the government is doing, and it had better stop and have a think about it.

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

The committee divided. [5.07 p.m.]

(The Chairman—Senator S.M. West)

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

AYES

Bartlett, A.J.J.
Brown, B.J.
Harris, L.
Murray, A.J.M.
Stott Despoja, N.

NOES

Abetz, E.
Brandis, G.H.
Campbell, G.
Chapman, H.G.P.
Cook, P.F.S.
Cooney, B.C.
Crossin, P.M.
Deman, K.J.
Ferris, J.M.
Gibson, B.F.
Hogg, J.J.
Knowles, S.C.
Ludwig, J.W *

Bishop, T.M.
Calvert, P.H.
Carr, K.J.
Collins, J.M.A.
Coonan, H.L.
Crane, A.W.
Crowley, R.A.
Ellison, C.M.
Forshaw, M.G.
Herron, J.J.
Hutchins, S.P.
Lightfoot, P.R.
Macdonald, J.A.L.
I move amendment No. 1 on sheet 1903 on behalf of Senator Bourne:

(1) Schedule 1, page 24 (after line 26), at the end of item 4, add:

51Z  Administrative procedures and Orders

(1) Within 3 months after Royal Assent, the Governor-General must approve administrative procedures and Orders for the purpose of achieving the objects of this Act.

(2) Without limiting the generality of subsection (1) the approved administrative procedures and Orders should provide for:

(a) the training of Defence Force members on a call out;
(b) the relationship between Defence Force members and members of the civilian forces on a call out;
(c) the use of force by Defence Force members;
(d) the exercise of search and entry powers by Defence Force members;
(e) the issuing of weapons to Defence Force members;
(f) the use of weapons by Defence Force members;
(g) the rights and obligations of persons detained by Defence Force members;
(h) the evidentiary use that may be made of any statements made by persons while held in detention by Defence Force members; and
(i) the content of reports to the Parliament following the cessation of a call out.

(3) Subject to subsection (4), the administrative procedures and Orders approved under subsection (1) are disallowable instruments for the purposes of section 46A of the Acts Interpretation Act 1901.

(4) Administrative procedures and Orders intended to operate exclusively in connection with the National Anti-Terrorist Plan are not disallowable instruments for the purposes of section (3).

This amendment refers to the addition of an administrative procedure and orders clause to the bill, to remedy a major defect. This major defect in the bill, whilst obviously apparent to the crossbenches, was also apparent to the Scrutiny of Bills Committee. The Scrutiny of Bills Committee is famous—not notorious—in the Senate for being an objective, non-partisan and fearlessly diligent committee when looking at the issue of liberties, powers and processes which are inadequate in terms of protecting the community. I want to refer the committee to the 11th Scrutiny of Bills report of 2000, presented on 28 August 2000, and to pages 313 and 314, which held the conclusions. In the penultimate paragraph, they had this to say:

In this sense, the process of clarification is incomplete. One way in which this process should be continued is for the bill to require that procedures or protocols be developed which address the relationship between the Defence Force and the public for public scrutiny.

I think those remarks by the committee should be taken to heart by the government and the opposition. Essentially, the committee was saying that legislation can only provide the framework and the authority for Defence Force deployment on our streets. But the way in which the Defence Force behave will be determined by the nature of the training, regulations and procedures that they are provided with.

It is obviously not the place for legislation to put detailed standing orders into place. It is not the place for legislation to try to foresee all the ways in which training or the use of force should be exercised. It is the proper place for that to be in manuals, protocols and administrative procedures. However, having said that, we were faced with the danger that, in some circumstances, these things justifiably might need to be kept secret. There is absolutely no point in having an antiterrorism plan which is a public document for terrorists to read, nor in having
antiterrorist procedures and orders which were public documents. So, whilst this amendment does in fact make, as with all such matters, these proposed administrative procedures and orders disallowable instruments, it specifically excludes those administrative procedures and orders which are developed in connection with the national antiterrorist plan. We think that is an appropriate way to go and an appropriate safeguard.

So what do these administrative procedures and orders attempt to do? They attempt to address the very real fear that has been expressed again and again over these last four days by the crossbenchers—and, in passing, may I congratulate particularly Senators Bourne, Brown and Harris for carrying the load of that campaign on behalf of all members of the crossbenches. In particular, they have been saying throughout this debate that the culture, the training and the nature of the Defence Force makes them unlikely—and, in fact, dangerous—people to be on the streets of our cities without the appropriate legislative safeguards and without the appropriate safeguards in terms of procedures and orders. Most primarily, as has been said again and again, this is because Defence Force members are not trained to deal with members of the public; they are trained to kill the enemy. Therefore, the way in which they operate should be carefully managed.

I would draw attention to an area of activity which over the last two or three decades we have all been conscious of, and that is the streets of Northern Ireland. With all the necessity for the troops to be on the streets of Northern Ireland, and with all the backbone and background that the people acting in that capacity have had, there have still been occasions where Defence Force people have behaved utterly improperly, such occasions having resulted in public outrage which has rocked all the way through Northern and Southern Ireland, rocked all the way through the British Isles and outraged the world. That is where Defence Force people have overstepped the mark and behaved improperly. You have to try, through your administrative procedures and orders, your systems and your legislative backing, to limit the occasions when soldiers will behave in the wrong way.

From the perspective of the crossbenches, we believe that there should be approved administrative procedures and orders for the training of Defence Force members on a call-out; for the relationship between Defence Force members and members of the civilian forces on a call-out; for the use of force by Defence Force members; for the exercise of search and entry powers by Defence Force members; for the issuing of weapons to Defence Force members, and for the use of those weapons by Defence Force members; for the rights and obligations of persons detained by Defence Force members to be spelt out; for the evidentiary use—and I should remind you that that particular clause has been occasioned by the Scrutiny of Bills Committee report as well—that may be made of any statements made by persons while held in detention by Defence Force members; and for the content of reports to the parliament following the cessation of a call-out.

It is my expectation—based on what I have heard the minister say over the last few days, and from what I know of the forces generally—that a number of matters would be covered by them and that they would be doing these things. In our concern at the excessive discretion and authority that are at the heart of this flawed bill, we are asking that these administrative procedures and orders, these manuals and these protocols—where they are not developed in terms of the national antiterrorist plan—be made available to the parliament as disallowable instruments. In that way, we may have regard to their applicability and their suitability for the processes that they are to be used in.

We believe that this amendment should go without saying. We believe that this is the kind of amendment that a reasonable government would accept; an unreasonable government would not accept it. I say to the government: if you do not accept this legislation and the time comes when we get the opportunity to review it, we will try and make sure that these sorts of provisions are included in it. So with those remarks—and I
have tried not to speak at length, because I think a lot of people have heard a lot of words on this bill—I commend the amendment to the chamber.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.20 p.m.)—I do think just very briefly a response is warranted on the Democrat amendment on administrative procedures and orders—and I will be brief, but I do not want to not respond to a substantive question that is before the chair. Let me just say, on behalf of the opposition, that we will not support this amendment. I think there is a real risk here that certain sensitive and classified material and documents would be in the public arena. I am concerned here that we have a chance for some of Defence’s most important capabilities to be compromised. I think for that reason this amendment should not be supported—and the opposition will not support it.

Senator BROWN (Tasmania) (5.22 p.m.)—I wonder why the opposition spokesperson said that in such a quiet voice. However, I did pick up what Senator Faulkner had to say, and that was that the Labor Party is agreeing with the government against the public interest yet again on this legislation. This brings us back at the end of these amendments to the core problem with this Labor-Liberal legislation—that is, it is not about antiterrorism per se; it is about having a go at Australian civilians in an unrestricted range of events and the inevitability that that is going to happen for political purposes. We ought to be having two bills. One should be about terrorism, where I believe we would get a much greater degree of consensus in this place, and the other should be about calling the troops out against Australians—Australian civilians who are on strike, who are protesting or who dissent from the government of the day. That is the key word that is in this manual and some of the information that Labor is going to support the government in suppressing by denying this amendment.

Senator FAULKNER—How do you know that?

Senator BROWN—Commonsense tells me that, Senator.

Senator FAULKNER—You haven’t seen it.

Senator BROWN—Let me put it this way: not even the Howard government could draw up from scratch the complicated new set of regulations that would be required for the troops to be used during the Olympics between now and opening day.

Senator Bourne interjecting—

Senator BROWN—And the training that has to ensue. Logic says that the manual is over there. It is being withheld with the acquiescence of the Labor Party. The minister has said they will bring the manual to do with certain matters before us, they will give us something to look at, further down the line. You can imagine how carefully that will be minimised in terms of the information we get. I agree with the amendment.

Senator HARRIS (Queensland) (5.26 p.m.)—Senator Faulkner made a comment that this amendment would put sensitive information in the public arena. I believe that is incorrect. If the amendment as it stands is passed, the amendment would put in the bill the framework of the regulations that would control and guide the Australian defence forces when operating under this section of
the act. I do not believe that any words in the Democrats amendment indicate that the actual content of those different areas has to be put into the public arena. But it does set out—and I think properly—the framework that those regulations must cover. It briefly sets out the requirement that there must be regulations on the use of force. It sets out that there must be clear instructions on the exercise of search and entry powers. It clearly sets out that there must be regulations that pertain to the issuing of weapons to the defence forces. It is very obvious that that same regulation should require very clear and concise instructions on what and how those weapons are to be used.

The amendment would also require the setting out of the rights of Defence Force members. I believe that is as equally important as clearly setting out what their obligations are. Then it moves into an area where I believe the bill is extremely deficient—instructions for the Defence Force on how they are to collect or preserve evidence and statements relating to any persons they hold. So, far from actually putting into the public arena sensitive information, I believe this amendment very concisely sets out the framework that the regulations should follow and it will ensure clarity for the Australian Defence Force should they be required to follow an order under this legislation.

If the government and the opposition had realistically looked at the amendments that have been put forward this week in relation to this bill and agreed to include in the bill clear and concise instructions relating to these issues, to a degree this amendment would not be as essential as it is at this point. But because of the concerns of the public of Australia, this amendment by the Democrats is absolutely essential. It is essential for the people of Australia who know what conditions will apply relating to domestic violence; it is essential for the Defence Force so that they will know how to act in a fit and proper manner; and it is essential for any judiciary that might be called in to make a decision about any claims of impropriety or excessive force on the part of the Defence Force. The amendment does not in any way require the placement of sensitive information in a public place. What it does very clearly is set out what the regulations must address.

Senator ELLISON (Western Australia—Special Minister of State) (5.31 p.m.)—For the record, the government opposes this proposed amendment, which deals with administrative procedures and orders. It can understand the motivation to move this amendment, as stated by Senator Murray, but the government has already given an undertaking that the revised manual dealing with those division 3 powers will be tabled. Division 2 relates more to antiterrorist activity, and that has been discussed on numerous occasions in this committee. We have said that there are some sensitive operational matters which should not be made public. But the manual that, in particular, Senator Brown has canvassed at length will be revised and tabled, and it is appropriate that it be done. As well as that, there is ministerial control over the manual and there is the accountability of the responsible minister to parliament. So there is adequate transparency and accountability in relation to the subject matter of that manual and the formulation of it.

What the government do have some concern about here is that the procedures and orders contained in this amendment relate to a variety of matters which are operational or which could well touch on a range of issues which deal with division 2 powers. The question of security comes into play here because the government would say that we do not want to have a blueprint publicly available which provides to the world at large the training, the weapons and the general modus operandi that would apply in a division 2 situation. We feel that this would be inappropriate. We do say that this amendment really is covered by the manual we have undertaken to table and which will be revised on the passing of this bill. That manual is comprehensive. Senator Brown has quoted from various parts of it. The manual he has referred to will be defunct, and a new one will be drafted insofar as it relates to a call-out, and that is something the minister has control over. For those reasons the government would oppose this amend-
ment and would say that mechanisms are currently in place which have that transparency but which at the same time protect the security or operational matters which are sensitive.

Senator BROWN (Tasmania) (5.34 p.m.)—The minister referred to division 2. This is where the troops are called out but martial law is not declared. Is the minister saying to the committee that a call-out under division 2 is confined to terrorists and cannot be used against Australian civilians who are protesting, striking, obstructing or insurrecting in their own way?

Senator ELLISON (Western Australia—Special Minister of State) (5.35 p.m.)—On the advice I have, I can say that division 2 relates to counterterrorist activities.

Senator BROWN (Tasmania) (5.35 p.m.)—Yes, we all agree on that. The question I ask is: can there be a call-out under division 2 against Australians who have occupied a building, who have blocked a road or who are holding up a mine?

Senator ELLISON (Western Australia—Special Minister of State) (5.36 p.m.)—The question in that instance would be whether you have a situation involving terrorism. Australians are not exempt from becoming terrorists. We would hope that that never happens, but counterterrorist activity involves anyone of any nationality, race, colour or creed who engages in terrorism and acts of terrorism. That is not something we would envisage being a protest, industrial dispute or any action that Senator Brown has referred to. But if those people were hijacking an aircraft at an Australian airport, that would be an act of terrorism.

Senator BROWN (Tasmania) (5.36 p.m.)—If, in the minds of the politicians of the day, they were obstructing a port or indeed protesting around an airport because of the noise, then they would fall into that category. You know it, Mr Temporary Chairman. So does the minister and every other member here. Of course, Senator Murray’s amendment covers the situation anyway, because in its final clause it says that, if you are dealing with a terrorist situation, the information is not brought forward in the same way. The government and the opposition have no excuse for not supporting this amendment.

Senator HARRIS (Queensland) (5.37 p.m.)—I would like to come back to the minister and ask for some clarification. The existing manual that Senator Brown has referred to and you have indicated is outdated and will be replaced—

Senator Brown—It is still in place.

Senator HARRIS—It will be replaced on the gazettal of this bill. Are there any sections of those regulations that are not available to the public? I am talking about the ones that are operational now and will cease when the new regulations come in. Are there any sections, excluding the antiterrorist plan, that are not available to the public?

Senator ELLISON (Western Australia—Special Minister of State) (5.38 p.m.)—The Manual of Land Warfare, which has been the subject of debate during this committee, is publicly available and the provisions that Senator Brown has been referring to are publicly available. I understand that none of it is not publicly available.

Senator HARRIS (Queensland) (5.39 p.m.)—Bear in mind that the Democrat amendment clearly excludes anything in connection with the national antiterrorist plan because it is not a disallowable instrument, so that need not be made available to the parliament. Why then shouldn’t any of the issues that the Democrats have raised in their amendment be publicly available, be exposed to scrutiny and be made disallowable instruments under the Acts Interpretation Act?

Senator ELLISON (Western Australia—Special Minister of State) (5.40 p.m.)—As I have stated previously, the amendment proposed by the Democrats makes no distinction between division 2 and division 3 matters. When Senator Harris asked me his question, apart from when he asked about the manual that Senator Brown was referring to, he did say he was distinguishing this from the counterterrorist measures, which I think we all accept are not publicly available for a very good reason. We would say that, similarly, this amendment has in it no distinction between those counterterrorist measures and
division 3 matters and therefore could provide a blueprint for operational matters relating to counterterrorist measures. That is what the government is saying about this amendment.

Senator MURRAY (Western Australia) (5.41 p.m.)—Minister, you have clearly said that division 2 relates solely to terrorism. That is my understanding of your responses to Senator Brown.

Senator Brown—I think he left the door open.

Senator MURRAY—Senator Brown is interjecting and I take the interjection that you left the door open, Minister. However, in this discourse, I heard you say that it is restricted to terrorism. If it is not restricted to terrorism, you need to make it clear, because we have specifically excluded terrorism. There is nothing more explicit than subclause 4 of our amendment. Therefore, if division 2 refers to terrorism and if any procedures relating to terrorism are excluded from the operation of the amendment by deduction, it refers to division 3.

Senator ELLISON (Western Australia—Special Minister of State) (5.41 p.m.)—Can I say that subclause 4, which Senator Murray is relying on, states:

Administrative procedures and Orders intended to operate exclusively in connection with the National Anti-Terrorist Plan are not disallowable instruments for the purposes of section (3).

Whilst I appreciate the intent of that, it does not, for a start, take care of those matters which might be part of the national antiterrorist plan but which overlap. We have seen previously that you can have some division 2 matters which deal with counterterrorism and that there is some relationship with division 3. On that basis, their operating exclusively in connection with the antiterrorist plan is a point which the government takes issue with.

Also, on the question of terrorism, I suppose you have some political motivation combined with extreme violence—the definition of terrorism is always a problem. When I talked about division 2 powers, I said that the activity there would relate to counterterrorist measures. It says ‘division 2 powers’ in the bill for a very good reason. I think recapture of a plane or something like that is mentioned. We would envisage it relating to counterterrorist activities, but of course you then get into the question of what you define as terrorist activities. We say that some division 2 activities could still be brought in by these administrative procedures and orders. It is not the question of division 2 powers but that of terrorism which is the subject of comment, and that is a concept which is not being defined in the bill before us.

Senator MURRAY (Western Australia) (5.44 p.m.)—I think we should cut to the chase and not prolong this. The non-partisan Committee for the Scrutiny of Bills, composed of a number of political parties, suggested that procedures or protocols be developed. Implicit in that is the view that they should be available to the parliament. The minister has acknowledged that by indicating that at least some of those matters will be dealt with by tabling the manual that you mentioned earlier. The reason I say that we should cut to the chase is that this amendment has been before the government for four days. If you sympathised with any of the intent of it or disagreed with some of the expression of it, you would have been able to amend it or to put something forward which met your own objectives. The fact is that you simply do not want to do this. Once again, you have indicated that you want the widest discretion and authority, the least limitation on your power, under this bill. That has been a theme which has been resisted by the crossbenches throughout this debate. Personally, I see no point in prolonging this. Your attitudes are clear. We disagree. We think this is a needed restraint, it would improve the bill and I regret the fact that you will not adopt its intent, even if it were to be in your own words.

Senator BROWN (Tasmania) (5.45 p.m.)—I move an amendment to Senator Murray’s proposed amendment:

Subsection 51Z (4), after “Plan”, insert “or relating to Division 2”.

This amendment gets over the problem that the government says that it has with Democrat amendment No. 1. It encapsulates it ex-
It would mean that, if there are orders or procedures under division 2 or relating to the national antiterrorist plan, they are not disallowable instruments and they will not be shown to us. But, if you have orders and procedures for division 3 or elsewhere in the legislation, they have to come here. I do not like doing this—we are in the process of stepping back all the time—but the minister said that he has worries with division 2, so let us meet the minister’s worry. I have done that, and we will have unanimity on an amendment here for the first time.

Amendment not agreed to.

Senator Brown—I want to record the fact that the government very firmly voted no on that amendment.

Senator Murray—I want to record that the crossbench parties all supported Senator Brown’s amendment to my amendment, despite the fact that we regard it as a weakening of it, and we note that both the Labor Party and the coalition rejected that amendment.

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

The committee divided. [5.52 p.m.]

(The Chairman—Senator S.M. West)

Ayes………… 12
Noes………… 36
Majority……… 24

AYES
Allison, L.F. Bartlett, A.J.J.
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. Campbell, I.G.
Carr, K.J. Chapman, H.G.P.
Collins, J.M.A. Cook, P.F.S.
Coonan, H.L. Crossin, P.M.
Crowley, R.A. Denman, K.J.
Ellison, C.M. Forsyth, M.G.
Gibson, B.F. Hogg, I.J.
Hutchins, S.P. Kemp, C.R.
Ludwig, J.W. Macdonald, J.A.L.
Mackay, S.M. Mason, B.J.
McGuigan, J.J. McKiernan, J.P.
McLucas, J.E. O’Brien, K.W.K.
Payne, M.A. Ray, R.F.

* denotes teller

Question so resolved in the negative.
Bill, as amended, agreed to.

Third Reading
Motion (by Senator Ellison) proposed:
That this bill be now read a third time.

Senator HARRIS (Queensland) (5.57 p.m.)—I move:
Omit “now”, substitute “this day 6 months”.

The Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 that we have been debating is a bill that is clearly rejected by the citizens of Australia. I would like to highlight the reasons why this bill is being rejected and should be voted against in the third reading. One of the most discerning aspects of this proposed piece of legislation that concerns me deeply is the covert subversion of the Australian Constitution. Under section 119, the Commonwealth is directed to only intervene in the protection of the states and territories at the behest of the states and territories. It was never intended in the Australian Constitution to subvert the powers of the states and territories to the Commonwealth, and this bill does just that. The ability of the Commonwealth government to have the Australian people subjected to their own Defence Force was never envisaged by our forefathers. The calling out of the military forces upon our own people reeks of the potential for a military coup by incumbent governments at some point of time.

Honourable senators interjecting—
Senator Brown—Mr Acting Deputy President, I raise a point of order. I apologise to Senator Harris, but you simply cannot hear up here. I ask you to give us a bit of hearing space, please.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—I ask senators to behave with a bit of decorum please. The level of audible conversation is far too high.
Senator HARRIS—The blatant omission by the government in excluding the state and territory governments in the construction of this bill leads to the uncomfortable assumption that this government is again in the process of undermining the states’ rights and is subtly transferring these powers over to the Commonwealth. Australia already has in existence very competent methods of dealing with any antiterrorist political activity with the use of the Australian Federal Police and SAC-PAV, both highly trained units that remain answerable to the Australian people for their actions.

At no stage of the actual production of this bill were the heads of the Australian Federal Police ever consulted. The criteria for calling into operation of the bill involve the enforcement of Commonwealth laws to protect Commonwealth property or facilities and persons connected with the Commonwealth. This is the exact charter that brought about the existence of the Australian Federal Police. Considering we already have this institution in place—taking into consideration its understaffing and its handicapping by diminishing funding, and that is thanks largely to this government’s obsession with budget surpluses—the question arises as to what the future of the Australian Federal Police is. If it is not to be included in these circumstances, then what is the future for the Australian Federal Police? A more timely question is: why have they been excluded?

Since 1979, following the Hilton bombing, SAC-PAV—that is, the Standing Advisory Committee on Commonwealth-State Cooperation for Protection Against Violence—was brought into being to protect Australia from major terrorist incidents. This group comprises representatives from both state and Commonwealth governments, including attorneys-general, the Prime Minister and cabinet, the Australian Federal Police, the military and other committee members. SAC-PAV appears to be a comprehensive representation of those who would be involved, in the event of a major terrorist attack. At no time does this institution downgrade the rights of the states and territories and their relevant institutions by imposing other structures above and beyond the existing ones. Why is the government proposing to only partially use SAC-PAV’s potential?

SAC-PAV is already committed to supporting the upcoming Olympics under the guidance of the national antiterrorist plan. Both the state and territory police have agreed to cooperate with SAC-PAV with personnel and equipment should the need arise. As SAC-PAV has been in operation and training for 21 years, I hardly think they would be unable to handle any situation that would arise in the event of a terrorist attack. So why is the government proposing to introduce a third antiterrorist unit?

Should the situation ever arise under the very dubious definition of ‘lawful protest or dissent’—whatever that should mean—there already exists, under very strict operational guidelines, the provision to second members of the police force under the operation of the Australian Federal Police in the application of their duties. The same guidelines do not appear to be applicable to the military under this bill, and this concerns me greatly—that one group, the state police, are operating under one regime while the military is exempt from that same regime. There already exists in our history the use of military in assisting the state and federal police forces in times of crisis or emergency situations. This has been very satisfactory use of these personnel under the circumstances, and I see no reason why that should not continue to be adequate.

The proposed passing of this bill by the government is causing a great deal of concern in the community. I have been bombarded in my office by people who are angry, perplexed, perturbed and irate at the idea that the Australian military should ever be given the opportunity to point arms at its own people and on Australian soil. This bill certainly permits this. Given that the purpose of the military is to terminate or neutralise an enemy, while that of both the state and federal police forces is to protect the community, it is obvious that these two units have been formed with operational agendas that are an antithesis of each other. There are many in-
cidents in history of governments abusing the power of the military to terrorise their people, with Mexico and Tiananmen Square being examples. The Australian people are well aware of these abuses and will not take lightly the imposition of this legislation upon them. The government has yet to adequately explain the reasons why present arrangements for security are inadequate. Why is it necessary to pass this bill, creating a third antiterrorist force? The bill is riddled with uncertainties, some contradictions, excessiveness and unanswered questions, and in no way is its passage justified.

So far we have heard answers that I believe do not withstand scrutiny. The bill is for domestic violence when it should be exclusively for acts of terrorism. It concentrates power in Canberra. As well as doing that, in the committee stage of this bill we have seen a sunset clause that has been unacceptable. The government and the opposition have chosen not to include the Australian Federal Police. They have not defined or put in the bill a definition of ‘reasonable force’. The government, with Labor support, have left in the bill the ability to call out reserves, who will be placed against their fellow workers. The government have refused to accept a situation where a person may wish to conscientiously object to being called out and required to fire upon their fellow citizens. The government are saying their only option is to retire or resign from the force. I believe that is not acceptable. I believe this bill has been introduced in haste. There definitely is not sufficient time to train the personnel who will become subject to this bill between now and when the government are saying that they require to bring them into force; that is, in time for the Olympic Games. We need to be mindful that we are now standing at approximately the same place in time as were those students in Mexico when, 11 days out, the government turned the guns on them. That is a very poignant point. I most certainly sincerely hope, in concluding my comments on this bill, that we never see the day in Australia.

Debate (on motion by Senator Ellison) adjourned.

BUSINESS

Days and Hours of Meeting and Routine of Business

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

That the order of the Senate of today relating to the hours of meeting and routine of business for today be varied to provide that the Senate continue to sit between 6.30 pm and 7.30 pm.

DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2000

Third Reading

Debate resumed.

Senator ALLISON (Victoria) (6.11 p.m.)—I rise in support of Senator Harris’s amendment. In my view, a delay of six months would sort out quite a number of problems associated with this bill. I have not spoken on this debate so far, but I am appalled that the Senate will pass this legislation largely unamended. Much has been said about bringing out the troops against Australian citizens. I want to talk tonight about protests and the right to peaceful protests—that I think Australians imagined they had and will be further undermined by this legislation. I have been involved in several major public protests over the years, and I want to talk about how these might have been affected had the legislation been in place.

Back in 1994, the Kennett government decided that Albert Park would be the place for a grand prix, and it set about cutting down 1,000 trees and reshaping the park to accommodate this Formula 1 race. Save Albert Park was formed to protest about the damage wrought in turning this pleasant park, enjoyed in many different ways by the local and wider community, into a park dominated by grand prix tracks, underpasses, massive steel structures and the like. These structures, as well as occupying open space, are permanent reminders that every year, for at least four months—usually it is more like six—much of the park will be taken over in preparation for, or clean up after, this event. I am a member of Save Albert Park, and I was there from day one. I was arrested for attempting to stop the consolidation of this once marshy ground to prepare for the track.
Consolidation consisted of the dropping of huge concrete weights from a great height. The effect of this sent tremors underground across to the Victorian houses in Middle Park, many of which shook and were effectively coming apart at the seams. It seemed to me that the damage to these houses should not be allowed to continue just so that the least-cost construction method that had been adopted could continue. Nothing else would stop the work, and legislation put in at the time prevented citizens from taking any sort of legal action.

Peaceful protest was the only way in which some sort of justice could be provided for these people. The police were called, and people were charged with trespass in a public park and eventually physically removed from the site. Under this legislation, supported by the two major parties, it would have been a simple matter for the federal government to decide that this international event was so important to Australia’s standing that it should intervene. The risk of injury could easily have been demonstrated. All that was needed was to start up the cranes and wave these huge concrete blocks around in the air. One compaction alone could have killed at least 10 people.

The ALP amendment says that protests, dissents, assembly or industrial action are not actions in which the Army can intervene ‘except where there is a reasonable likelihood of the death of, or serious injury to, persons, or serious damage to property’. These protesters putting themselves into danger could have been moved by defence forces without the niceties of charges being laid and people being taken to the station in an orderly fashion, as pretty much did happen. The charges were also dismissed pretty much in an orderly fashion on the grounds that the police exceeded their authority to make the arrests. The magistrate argued in the case of Mrs Shirley Shackleton’s resistance to arrest in 1998 that she was within her legal rights to resist arrest. Back in 1997 a Save Albert Park protester was arrested for setting off a smoke distress flare on the day of the race because the offender did not first obtain permission of the local authority. Again, the magistrate found that there were no restrictions on the use of the flare and permission was not required. My question is: would the defence forces even hesitate in such a circumstance to use violence to stop someone letting off flares? Could they argue that serious injury might actually be the result? It must be remembered that at the time the state government was deploying a huge number of its police force in defending those who were damaging the park. Permission of the states, as I understand it, is not a prerequisite for Defence Force intervention, but I can imagine that the Kennett government at the time would have been quite happy to have had the troops there who would not have to worry about charges and not have to concern themselves with reasonable, non-violent treatment of protesters.

On the question of damage to property being a reason for calling in the troops—the amendment the government has put up with the support of the ALP—the Albert Park protest would also meet the requirement. The minister has said that property would have to be substantial infrastructure. I am sure it would be quite easy to demonstrate that the road itself and the numerous other structures would be substantial, indeed of international significance. In fact damage to property is what the state government has wrought on the park and therefore the public, however. It could be argued that tying yellow ribbons to these structures constituted damage. Stopping the work of bulldozers could be interpreted as doing damage to property, in that it prevented, in the short term at least, the construction of some important part of the road or the pits.

The protests at Albert Park have been peaceful—at least on the part of the protesters—and as far as I am aware no deliberate damage was done to property. However, it is not difficult for those who want to see protesters out of the way for set-ups to be organised. This has happened in forest protests, where loggers have spiked trees themselves and then blamed the protesters. At Albert Park, tacks were thrown on the road before a cycling event and Save Albert Park were blamed, even though there was absolutely no evidence to connect members to the incident. In fact, this mindless action has been re-
peated on other roads elsewhere. So it is quite easy to stitch up a protest group by doing the damage yourself and then putting the blame on whichever group you want to get rid of.

Again, in my home state of Victoria, charges have been laid against residents and conservationists in so many forest protests and thrown out by magistrate's courts. In 1998 the Geelong Magistrate's Court found that logging authorised by the Department of Natural Resources and Environment was unlawful. In 1997, 11 people were arrested on the Wild Dog Ridge Track because protesters were obstructing logging contractors' clear-fell logging. This is a ridge just north of Apollo Bay that is a popular place for local bushwalking. The magistrate found that the department had illegally authorised the extension of a clear-fell logging coupe into the water supply reserve which supplies Colac with domestic water and is recognised in the Otways Forest Management Plan as a flora and fauna reserve. It is often the case that forestry departments and loggers are extremely gung-ho, and they regard the protesters as an irritation and feel they can do pretty well anything they want to remove them. A protester in 1998 was bashed about the head with an axe handle and made unconscious. He needed five stitches. Would this be enough to bring in the defence forces, and who would they be targeting if they came?

Earlier this year, protesters in the Otways were attacked by loggers and six were hospitalised. The police did not come for five hours and, when they did, charges were not laid. Apart from the vicious attacks by loggers on protesters, it could reasonably be argued that there was a likelihood of death or serious injury, because the most effective form of protest now in forests is for the protesters to climb into the treetops to prevent them from being chopped down. Sometimes they even camp in the treetops for extended periods. We need to remember that these brave people do this with the support of the vast majority of Victorians who think it is time to end logging in our native forests, particularly in the Otways where little remains of what was once a very large forest. The loggers are not game to cut those trees down when protesters are perched up high, and neither will the police, but what response would the defence forces make in such a situation? A six-month delay might allow us to have those questions answered. It is my understanding of the bill that there are no safeguards against wrongful accusations. There are no rights of appeal against unilateral action taken by the troops. This is a sad day for the right to take part in a peaceful protest, and it is yet another deterrent to ordinary people taking this kind of action when all else seems to have failed.

Senator HARRADINE (Tasmania) (6.20 p.m.)—I will be very brief. I assume that the debate on Senator Harris's motion will take place in the debate on the third reading of the bill. I see nodding around the place, very vigorous in some parts. Senator Harris has made a very strong case. He has done this with his amendments that have been put forward to the chamber. I have voted for a number of those amendments—certainly not all—for those that have been put forward by the Democrats through Senator Bourne, Senator Murray and Senator Greig, and for some of Senator Brown's amendments. Some of those attracted my vote, and I am very disappointed that they are not in the bill that we are now faced with voting on for the third reading. I think the whole legislation in this area is diminished by the fact that some of those were not accepted. However, obviously the debate and the convictions of other senators around the place have led to some other amendments which have been quite worth while and have improved the legislation somewhat.

I am in a difficult situation at present. If the Senate votes for the amendment moved by Senator Harris, the legislation will have no effect until six months time. I am a bit worried about that, because there are a couple of events coming up which obviously may trigger the provisions of the legislation. I have thought about this quite a bit. I have to say—and in advance I apologise to some of my colleagues—that it is better to have legislation than no legislation. It is better to have the legislation that is now before us to decide upon than none at all because of the
clear legislative protection it would give to not only those persons who are demonstrating but also the defence forces. Under those circumstances, I will be reluctantly voting for the carriage of the third reading.

Senator BROWN (Tasmania) (6.24 p.m.)—It has been a long debate, and I want to add a word of congratulations to Senator Bourne and Senator Harris for the contributions they have made trying to ensure that the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 was in the interests of Australians as a whole. The legislation fails to do that. It set out to deal with the projected problem of terrorism at the Olympics. It had two options: one was to deal with that situation; the other was to come in with a much more far reaching piece of legislation that would cover all eventualities into the future which the imagination of the current government could foresee might attract the use of Australian troops against Australian citizens. Unfortunately, they took the latter option. Even more unfortunately, the opposition has backed them up all the way down the line.

This should have been a bill against terrorism, and I think it would then have had universal support. But the terror of this bill itself is that it is wide open to abuse in the sending of troops in against Australian protesters or Australian strikers. We have to remember that during the debate on this legislation the Labor Party and the government got together, first of all, to vote down a sunset clause. That made it very clear that this bill was not just for the Olympics; it was for unspecified situations into the future. Indeed, Senator Ellison said as much, that this was to cover all eventualities—that is, all political possibilities as far as future governments might see themselves being advantaged by the Army being brought in.

Next the opposition combined with the government to vote down the really important caveat that a state or territory had to agree before the troops were brought into that state’s domain. In particular, they voted down the necessity for the state government or the state police force involved to give permission before troops were used. That has removed the time honoured convention at least, flowing from the Constitution and the Defence Act of 1903, that the states would be consulted in a way which was very meaningful, which in fact gave permission to the use of troops. That is all on the side now, and in fact there has to be no consultation whatever if the situation is deemed to be urgent enough.

There ought to have been in this legislation a real restriction on the use of troops against protesters and strikers. But, once again, the opposition combined with the government to vote that down. In fact, for a fragile few hours the opposition said, ‘Well, we’ll allow the troops to be used against strikers but only if there is a real likelihood, in the mind of the commander of the troops who has been sent out, of serious injury or death if that did not happen.’ But they then caved into the government’s added proviso that the troops could be sent into action against Australian civilians if property was at stake. There is the heart of the thrust of this legislation. Terrorists are very often motivated by some sort of political short-term gain, not property. That very important proviso on property put in the bill by Labor and Liberal says much more about the world we are in today. It says much more about the coming together of the big parties to defend property and the moneyed and powerful interests that there are around the world who more and more want to rule the world without a democratic halter.

The protests at the World Economic Forum in the coming week are because people feel disempowered. Those Australians who one way or another have had a glimmer of the debate in this parliament on this legislation have every right to feel disempowered. The legislation went through the House of Representatives, supported by both the big parties, without an amendment being flagged. And it has gone through the Senate with some very puny amendments, which come from the tour de force that the crossbench parties have put up in opposition to the use of troops against Australian civilians. But the Labor Party has strikingly shown that at the end of the day it is interested in protecting the property of the already powerful
rather than protecting the democratic rights of the average citizens.

It is an interesting balance that has emerged in this chamber. On the one hand, we have the three big parties—the coalition parties and the opposition—defending the interests of property against the rights of citizens; on the other hand, we have a diversity of small parties growing in strength in a democracy—a phenomenon that is going to be emphasised—standing from their diverse points of view in the interests of the citizens and putting that, not property, first. Nevertheless, Labor has backed the government on that key amendment which said that troops can be called out in defence of property at some future time.

The other thing that the opposition and government got together to do was to put the executive before democracy, to put the executive before the parliament. The big parties decided that, when it came to the recall of parliament, it would be limited. Under division 2—that is, where the troops are sent into a whole range of situations, short of martial law—there is no recall at all. If martial law is declared under division 3, then there is a recall after six days, but it does not have anywhere near the definition that the Democrats’ amendment would have given it.

We have to note that the government during this debate, without any pressure from the opposition, withheld from the committee advice that it had on the constitutionality of this whole process. It withheld the handbook, that is, the codification of troops action, which will be in place next week and which ought to have been part of the debate on this legislation. And, of course, it withheld any information, as did the opposition, about who, in recent times, the principal lobby has been to have this legislation designed and put through as it is. None of that information was brought before the committee.

Four centuries ago, there was a major constitutional crisis in Britain, from whom we have inherited common law. The ‘Petition of the Right’, which means ‘the correct’, of course, was brought before Charles I, who was compelled to accept that petition in 1627, which complained:

... great companies of soldiers and marriners have been dispersed into divers counties of the realme ... against the lawes and customes of this realme and to the great grievance and vexacion of the people.

The petition demanded:

... that your Majestie would be pleased to remove the said soldiers and mariners and that your people may not be soe burthened in tyme to come.

It then went on to demand:

... that commissions for martial law should be ‘revoked and annulled’, and that ‘hereafter no commissions of like nature may issue forth to any person or persons whatsoever.’

Four centuries down the line, we now have a bill which allows their majesties of the future—three ministers in this place—to declare martial law, and, short of that, to send in the troops without declaring martial law and without reporting to parliament. That is what this legislation does. Right from the outset, the politicians involved in designing this legislation have failed this nation. Right from the outset, there should have been two pieces of legislation: one for terrorists and one to deal with civil protest. But right from the outset to now, the government and the opposition have agreed to allow the two to be intertwined and undifferentiated. I cannot, and never would, stand for that. The Greens could not support that and, quite clearly, nor could the Democrats or One Nation. What is it with the Labor Party that it has decided to defend property ahead of the rights of citizens, to have troops available to put down strikes in this country and to have troops available at the disposal of not the parliament nor the government but three members of the executive to send in against Australian citizens in the future?

There was no difficulty in separating the two matters: terrorism on the one side and public dissent on the other. But in this legislation the Labor Party, along with the government, has deliberately classed acts of civil disobedience in this country as no different from terrorism. There is nowhere in this bill that differentiates them—nowhere. That is what is wrong with it. The Labor Party should be ashamed of itself. The government should be ashamed of itself. This legislation is not in the interests of the average Austra-
lian. It may be in the interests of a few big corporations, but it is not in the interests of 19 million Australians. It is a very sad day in this country for democracy, and particularly parliamentary democracy, that this legislation, which drains power away from the parliament and the people and puts it into the hands of the executive and those who have property, should be passed here, as it will.

I want to again congratulate Senator Bourne for the way in which she has so strongly been a public advocate in this situation and has shown a sensitivity for the rights of Australians, and a fear for the situations which can be the outcome of this legislation. I also want to congratulate Senator Harris. This has been the most formidable input he has had into parliamentary debate since he came here. Those people who voted One Nation can be very pleased that their representative was here—I am sorry?—You really are going for the preferences, aren’t you?

Senator BROWN—I am sorry?

Senator O’Brien—You are going for the preferences.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Ignore the interjection, Senator Brown.

Senator BROWN—Yes; particularly such a cheap shot as that one from the Labor representative from Tasmania, who should not only not be reading a newspaper but should also be hanging his head in shame in this place because he supports the legislation. I will not be distracted. One Nation voters—and I have spoken about the differences we have as parties; we are at opposite ends of the spectrum—can be mightily pleased that Senator Harris has so vigorously and so intelli gently put the point of view which the Labor Party ought to have been putting, which the Liberal Party ought to have been putting and which the National Party ought to have been putting. He is to be commended for the role that he has taken in this debate.

I oppose this legislation. I am sorry that we do not have good antiterrorist legislation here that I could be supporting. But I am not going to ever, as a Green, give assent to legislation that puts into the hands of so few politicians such powerful use, and potential abuse, of the armed services against Australian citizens.

Senator BOURNE (New South Wales) (6.39 p.m.)—Anything that holds up this bill is, I think, to be supported. I congratulate Senator Harris on moving this amendment to the third reading of the bill, and we will certainly be supporting it. Let us get clear what we have here. If this bill is passed into law and is found to be constitutional, it will mean that Australian troops can be directed, as a lawful order, to shoot dead other Australians under some circumstances. It would be a perfectly lawful order, if this bill is found to be constitutional. There is no opportunity, and there will be no opportunity, for conscientious objection. I cannot believe the Labor Party voted against conscientious objection, but they did.

I hope there is never, ever an occasion upon which this bill is used. But, when I think of the enthusiasm that the workplace relations minister brought to his actions in relation to the waterfront, I fear that this bill may be used. I think that will be a very, very dark day for Australia. If it is used against terrorism, that is fine; and if this had just been about terrorism that would have been fine—but it is not. It is about industrial disputes. It is about protesters. It is now about conscientious objection to shooting other Australians. It is about a lot of things. It is not just about terrorism.

I am glad you are proud of yourselves up there—I am not. I am not proud of this chamber. I am not proud of what has been going on over the last week. I just find it really very sad. Everyone agrees that we need rules that will codify what the Defence Force can do when it is called in to aid the civil power, but this is not the bill for it. This bill was done in haste, obviously. We found an awful lot of problems with it, and they have been fixed—some of them. The government has had amendments, the opposition has had amendments, and all of those have, I think, been passed. In fact, I agreed with some of them—a lot of them. But Senator Brown had an awful lot of very good amendments. They were excellent amendments. They would have improved the bill
no end. Senator Harris had an awful lot of very good amendments that would have improved the bill. In fact, I had a lot of amendments that would have improved the bill. But you would not even listen to them. You were not interested.

The reason you would not listen and you were not interested was that they were our amendments. That is just such a terrible way to run a country. It is a terrible way to run a country. We might not be as big as you—well, we are not as big as you—but we were still elected, and by an awful lot of people. Senator Faulkner knows, because he is from New South Wales, that you have to get a hell of a lot of votes to get elected in New South Wales. So there are an awful lot of people that we are representing around Australia, and they were not listened to. In fact, I think an awful lot of people that the ALP represents around Australia were not listened to. I find that really very sad—very, very sad.

As I said, this is not the bill that it should be. I certainly will not be voting for it and I do not know any Democrats who will be voting for it. I can also understand that there are probably a lot of members of the Labor Party—maybe none of those sitting in the chamber at the moment—who will be very unhappy about voting on that side on the third reading. I should say to them that over the last couple of days I have been sending out membership forms to members of the Labor Party—not members from this chamber, but just ordinary old members of the Labor Party. So, if anybody feels like coming around for a plunger coffee or a cup of tea—I know Senator Faulkner does not drink coffee, so we have got herbal tea in the cupboard too—feel free to pop around!

But, not to take it flippantly, I think this is really a very sad day. This is a very sad day for Australia. I will most certainly be well and truly voting against this bill, because I do not think that it does anything to enhance the rights of Australians. I think it takes away, in many cases, the rights of Australians—really very basic rights. More than anything, when a bill such as this is passed, it ought to be passed with the agreement of a majority of Australians—and this will not be. This does not have the Australian people with it. That is a very sad thing, too. It might have the two major parties, but it does not have the people they represent, and I think that is extremely sad as well. So it is a sad day for Australia, and I think and fear it is going to happen. But certainly we will be testing it and we will be calling a division, and I will most certainly be voting for Senator Harris’s excellent amendment and voting against the third reading of the bill.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (6.44 p.m)—I have made it very clear throughout this debate—and it has been a very long committee stage debate and, of course, it was a substantial second reading debate as well—to this chamber that the opposition believes that the Commonwealth should not be given any greater powers to use the ADF in domestic security matters than the Constitution currently allows for. In fact, we have made it very clear that we believe the current situation is unsatisfactory and that that situation ought to be addressed.

You see, as we speak, there is no appropriate or effective legislative framework to define or restrict the Commonwealth’s powers and actions in using the Australian defence forces in a domestic security situation. And there is no protection of civil liberties, if and when the Commonwealth does decide to use these powers—no procedures, no restrictions, no processes, no guidelines that are stipulated by legislation that the Commonwealth must adhere to if it were to call out the troops. That is the problem that the parliament faces. That is the problem that the Labor Party has tried to address during debate on this bill.

So we have come to this debate with an open mind. We have come to this debate to try and improve the existing situation; that has guided our approach. What will occur if this bill passes both houses of the Australian parliament is that, for the first time since Federation, we will have in place substantial safeguards and constraints on the use of the Australian defence forces in circumstances of grave civil emergency. Of course, as I have said, currently those restraints do not exist. Frankly, if there are any constraints at all—one or two senators have tried to mount
those arguments but have not done so effectively—they are hopelessly inadequate and they offer no real protection. So that is the situation that the opposition looked to address.

Of course, the government has had problems in passing this bill, and those problems have been of the government’s own making. I agree: this bill should have been introduced many months ago—many, many months ago—so that we could have had a full and proper public debate as well as the sort of lengthy parliamentary debate that we have clearly had in this chamber. So what did the opposition do in this circumstance? We tried to remedy that unsatisfactory situation. We tried to ensure proper review and scrutiny on this issue. It was the opposition who first raised concerns over this bill and referred the bill to a Senate inquiry. I note that neither the Australian Democrats nor the Australian Greens bothered to attend the Senate inquiry into this important legislation—neither did Pauline Hanson’s One Nation Party attend the Senate inquiry or participate in its work at all. It was Labor’s initiative, and Labor’s work on that committee was very important in improving this bill. It was Labor’s work on the Senate committee that kick-started the public debate on this important legislation.

It has been Labor all along who has argued to protect civil liberties and responded to the concerns of the broader community—and I agree that they are real concerns—to make sure that this legislation does achieve what it sets out to achieve—that is, to put into legislation clear procedures, clear processes and real restrictions on government in the use of its constitutional powers, and also accountability measures to govern the use of the ADF in domestic security situations. None of those have existed before—none of them.

There are no new Commonwealth powers here, but there are now restrictions—if this bill passes—on how those powers may be applied. Let us see what has been achieved through the parliamentary process since the government introduced its bill. Through the Senate committee process—particularly due to the work of Senator Hogg, whom I would like to acknowledge in this third reading debate for his outstanding efforts on the Senate committee—we achieved a number of improvements, such as ensuring that there is an obligation on the Commonwealth to notify the state or territory where the call-out is to occur. Also, we were able to extend the proviso that the reserve and emergency forces of the ADF be prohibited from being used in connection with an industrial dispute. We were also able to prevent the delegation of powers under the legislation to a minister other than the authorising ministers. And we were able to ensure approved accountability to this parliament.

In the lengthy committee stage debate that we have had in this chamber on this bill, the opposition has successfully moved a number of additional important amendments—and I thank the Greens, the Democrats and other senators who have supported those opposition amendments. Those amendments were successfully moved to the government’s bill, the most important of which will prevent troops from being used to stop or restrict peaceful protest, dissent, assembly or industrial action.

It is worth remembering what those amendments are. Firstly, that the Commonwealth must consult with the relevant state or territory government before it undertakes any action under this legislation. Secondly, that the parliament must be immediately notified of the use of the Defence Force during a call-out for general security purposes. Thirdly, that the parliament must, if it is not already sitting, be reconvened no more than six days after a call-out for general security purposes to provide the parliament with an opportunity to consider and address the circumstances that have led to the call-out. Fourthly, that it be a statutory requirement that this legislation must be reviewed either within six months of the use of the call-out power or within three years of its enactment. And, fifthly, that the Defence Force will never be used against any peaceful protest, dissent, assembly or industrial action. That has been achieved in the committee stage debate, as well as those initiatives driven by Labor through the Senate committee process.
The amendment that deals with peaceful protest, dissent, assembly or industrial disputes does place the tightest possible restrictions on the Commonwealth in using its constitutional powers to call out and use its troops in domestic security situations. Now we say that the government’s first attempt to constrain the use of Defence Force personnel was totally inadequate. The bill would only have prevented Defence Force personnel from being deployed to stop or restrict lawful protest or dissent. As the opposition pointed out, this would have allowed troops to be deployed in circumstances of non-violent or peaceful protest provided there was some technical illegality. Labor’s amendment is squarely directed at ensuring troops are never used—to restrict protest, dissent, assembly or industrial action. That is what we set out to achieve, and I am pleased that we have been able to improve the bill in that regard.

I have heard a lot during this very long committee stage debate from a number of senators, and on this occasion particularly Senator Brown and Senator Harris who appear to be in strong agreement on this issue. We have heard all sorts of scenarios that could possibly occur under this legislation. Well, I took all those issues seriously. I make this point: whatever scenario has been raised in this chamber, each and every one of them could apply under the current situation, the existing arrangements, where there are no constraints at all. The status quo that we are dealing with at the moment is a situation where there is no protection of civil liberties—none.

So the irony here is that those opposing the legislation seem to accept that we have a totally unsatisfactory situation under which their worst nightmares can come true. We acknowledge the current situation is unsatisfactory, we acknowledge there are no constraints, we acknowledge there are imperfections, and we want to improve it. That is the spirit with which we have come to debate this legislation in the parliament, and that is the spirit with which we have moved many amendments. We have argued the case very strongly through the committee stage debate and we have massively improved this bill.

Let us look at what the situation is as a result of this legislation and what conditions apply for the troops to be called out in a domestic security crisis—that is, the situation that will apply if the third reading of this bill passes this chamber and then the House of Representatives. What you have to do is to compare that situation with the Commonwealth’s current unfettered constitutional powers. This is the story: not only domestic violence but violence of a kind that poses a threat to the capacity of the relevant state or territory to protect either itself or the Commonwealth must exist. Then either a request for a call-out by the relevant state or territory government or consultation between the Commonwealth and that state or territory must occur. That must be met.

The Governor-General must be satisfied, on the unanimous advice of the Prime Minister, the Attorney-General and the Minister for Defence, that those conditions have been met. Then, once a call-out has occurred, the Chief of the Defence Force must utilise the Defence Force in a manner that is reasonable and necessary. The Chief of the Defence Force must ensure that, as far as is reasonably practicable, the Defence Force cooperates with the relevant state and territory police force and is not used for any particular task, unless a member of the police force requests in writing that the Defence Force be so used. And in exercising powers relevant to serious damage to property, the authorising ministers must declare a general security area and publicise that fact. Again and again in this debate, we have pointed out that no restrictions currently apply to the use of the Defence Force if it is called out.

Compare the improved situation under this bill with the current unfettered constitutional powers of the Commonwealth. It is because this bill puts in place some of those safeguards for the very first time that we support the passage of this legislation. We do not do it lightly. The Commonwealth should have legislation in place that outlines proper processes, procedures and restrictions on how, when and why it can use the most serious of its constitutional powers.

The opposition believe that these inadequacies should be corrected now rather than
have a situation occur that highlights the failings of the current framework—in a very practical sense—and forces changes after the event. The absence of strong and effective procedures and processes applying to the use of ADF personnel for internal security matters is the reason the Labor Party believe this bill is warranted. It is not a question in relation just to the Olympics; it is a situation we believe applies more permanently. But much of the concern raised about this legislation results from people not really understanding what the current situation is or what the Senate and the parliament have been grappling with and the fact that there are no restrictions on how the Commonwealth can use its powers. Another very important point is that this is not the end of the debate on this matter; it is not the end of the debate on the use of the Defence Force in situations of grave civil emergency. As a result of a Labor amendment that came forward through the Senate committee process—

Senator Bourne interjecting—

Senator FAULKNER—On the Senate committee process—I note that interjection from the Australian Democrats—read the Australian Democrats’ minority report. This is how it starts:

Although no Democrat Senator was able to be present at the hearings we have considered the Hansard and the submissions and still retain some reservations about aspects of this bill. Consequently we will seek amendments to it.

And so it goes on. But we were there from the very start. Mr Acting Deputy President, you were there from the very start, effectively, cogently and articulately arguing the case for Labor. As a result of an opposition amendment that I know you are personally committed to, the situation now is that this legislation must be reviewed within three years, and Labor will be actively participating in that review and the debate that surrounds that review.

Let me sum up the opposition’s view on this legislation. The record of our involvement in this important legislation is very strong. This is legislation, I might say to those interjecting, that the government proposed we guillotine and gag through this chamber, and the opposition would not have a bar of it.

Honourable senators interjecting—

Senator FAULKNER—You might acknowledge that as you comment further on this issue. We note and appreciate the need for legislation in this area because none exists. There are no constraints at the moment. We condemn the way the government has brought this legislation forward. We are satisfied that we, the opposition, have made very significant improvements to this bill, and we thank those minor parties that have supported all our amendments before the chair. We are pleased that we have added protections and far greater transparency and accountability as a result of our efforts. It is for those reasons that the Labor Party will be supporting the third reading of this bill after our efforts to ensure that the bill is significantly improved. (Time expired)

Senator ELLISON (Western Australia—Special Minister of State) (7.04 p.m.)—in reply—I want to briefly place on record the government’s view on this. Firstly, Senator Faulkner has outlined the absolute deficiency of the current situation relating to any call-outs by the Commonwealth, which the Foreign Affairs, Defence and Trade Legislation Committee recognised in its report. It is not only timely but obligatory for the government to fix this situation. This bill does remedy the situation, and it does have checks and balances in it which serve the Australian people. This bill was introduced in the House of Representatives on 28 June this year, and no less than two Senate committees have looked at it: the Foreign Affairs, Defence and Trade Legislation Committee—of which you are a member, Mr Acting Deputy President, and an active member in relation to this inquiry—and the Standing Committee on the Scrutiny of Bills. As well as that, there has been a protracted debate on this bill in this very chamber, and there has also been public debate.

The government would say that, over the last two months, the attention that has been given to this bill is way above the normal attention given to legislation. And so it should have been; the call-out of the ADF in aid of civilian authorities is a very serious
matter, and the government has taken it very seriously. Because of that the government took on board the recommendations made by the Foreign Affairs, Defence and Trade Legislation Committee and adopted those recommendations in government amendments. It was also because of that the government took seriously the proposals put to it by the opposition and supported opposition amendments. The government would say that this showed the serious regard in which it held this bill and that the attention it gave to it was very necessary. The response by the government has indicated that in the adoption both of opposition amendments and of the recommendations of the committee. I want to place on record that the government has not been cavalier about this at all. Over the last two months intense interest, scrutiny and attention have been given to this bill and there has been a lengthy debate in this chamber. I commend the bill to the Senate.

*Senator Harris interjecting—*

The ACTING DEPUTY PRESIDENT (Senator Hogg)—Senator Harris, the debate has been terminated by the minister in reply.

*Senator Harris—* Mr Acting Deputy President, I rise on a point of order. The motion before the chamber is a motion that I raised, and I am seeking a right of reply.

The ACTING DEPUTY PRESIDENT—There is no point of order, and there is no right of reply. You moved an amendment to the motion that the bill be now read a third time. There is no reply by the mover of the amendment; the reply is by the mover of the motion, and the mover of the motion was the minister.

*Senator Harris—* I seek leave to make a short statement.

Leave not granted.

Question put:

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

The Senate divided. [7.12 p.m.]

(The Acting Deputy President—Senator J. Hogg)

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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

| Abetz, E. | Bishop, T.M. |
| Boswell, R.L.D. | Brandis, G.H. |
| Calvert, P.H. | Campbell, I.G. |
| Carr, K.J. | Chapman, H.G.P. |
| Cook, P.F.S. | Coonan, H.L. |
| Cooney, B.C. | Crane, A.W. |
| Crowley, R.A. | Denman, K.J. |
| Ellison, C.M. | Faulkner, J.P. |
| Ferris, J.M. | Forshaw, M.G. |
| Gibson, B.F. | Harradine, B. |
| Herron, J.J. | Hill, R.M. |
| Hogg, J.J. | Hutchins, S.P. |
| Knowles, S.C. | Lightfoot, P.R. |
| Ludwig, J.W. | Macdonald, I. |
| Macdonald, J.A.L. | Mackay, S.M. |
| Mason, B.J. | McIver, J.J. |
| McKiernan, J.P. | McLucas, J.E. |
| Murphy, S.M. | O’Brien, K.W.K. * |
| Payne, M.A. | Ray, R.F. |
| Schacht, C.C. | Tamney, J.W. |
| Tchen, T. | Vanstone, A.E. |
| Troeth, J.M. | West, S.M. |
| Watson, J.O.W. | * denotes teller |

Question so resolved in the negative.

Question put:

That the motion (Senator Ellison’s) be agreed to.

The Senate divided. [7.17 p.m.]

(The Acting Deputy President—Senator J. Hogg)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>46</th>
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<tbody>
<tr>
<td>Noes</td>
<td>10</td>
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<tr>
<td>Majority</td>
<td>36</td>
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AYES

| Abetz, E. | Bishop, T.M. |
| Boswell, R.L.D. | Brandis, G.H. |
| Calvert, P.H. | Campbell, I.G. |
| Carr, K.J. | Chapman, H.G.P. |
| Cook, P.F.S. | Coonan, H.L. |
| Cooney, B.C. | Crane, A.W. |
| Crowley, R.A. | Denman, K.J. |
| Ellison, C.M. | Faulkner, J.P. |
| Ferris, J.M. | Forshaw, M.G. |
| Gibson, B.F. | Harradine, B. |
| Herron, J.J. | Hill, R.M. |
| Hogg, J.J. | Hutchins, S.P. |
| Knowles, S.C. | Lightfoot, P.R. |
| Ludwig, J.W. | Macdonald, I. |
| Macdonald, J.A.L. | Mackay, S.M. |
| Mason, B.J. | McIver, J.J. |
| McKiernan, J.P. | McLucas, J.E. |
Thursday, 7 September 2000

Information Technology: Digital Divide

Senator PAYNE (New South Wales) (7.21 p.m.)—I rise tonight to speak about information technology and, most particularly, what is known as the digital divide. It has been identified as a matter of importance for not only political parties in Australia but also governments across the globe. I have canvassed this before in the chamber in relation to how we deal with rapid changes in technology and how they are utilised by members of the community. It has received more attention with some recent publicity, not the least of which was last week’s Bulletin article by Fred Brenchley entitled ‘Casting the Internet’.

So the words ‘digital divide’ refer to the gap between those who have the access, knowledge and equipment to utilise new information based technologies and those who do not. It is an acknowledgment that equity in that regard is not exactly automatic. In fact NOIE, the National Office for the Information Economy, defines a ‘digital divide’ as:

... the social implications of unequal access of some sectors of the community to information and communications technology and to the acquisition of necessary skills.

This presents us, as governments and parliamentarians, with the challenge of ensuring that members of the community do have the capacity to use information technology developments to their advantage in their day-to-day lives. The issues that are mostly bound up in this are about access and education. Access involves obvious matters like the hardware—computers and modems—that enables the usage of information technology, and then on to software. It also involves the provision of the infrastructure necessary to utilise that equipment—for example, simple access to phone lines of a certain capacity. The issue of education, though, is a little less straightforward to quantify and qualify. It includes things like the knowledge of how to actually use a computer and the Internet or email; the capacity to in fact read and write in the language being used—the challenges of literacy; and knowing how to use the technology for the tasks that you need or that you want to undertake.

The divide can exist at two levels: at a country level, for example, where less developed nations might fall to one side of the divide and more advanced nations to the other, and at a local level where, within communities, different sectors of those communities have varying capacities to both use and access IT. A casual observance of US elections will indicate the importance being placed on IT, and the digital divide that exists in the current US election campaign. I have talked about some of the IT issues involved in presidential and general election campaigns before. But it is obviously not just about IT as a tool for campaigning. This is also an area which has drawn the attention of all the major political parties in the United States. For example, George W Bush and the Republicans have focused on issues of education, looking at the differences in access to IT among schools, using IT as a means of communication between citizens and government, and the challenge of ensuring that people with disabilities, most particularly, can use technology to their advantage.

The Democrats have had the opportunity to do some work in this area through their current administration. I suspect they still have some way to go. Some of the mechanisms they have put in place, for example, include their recently announced $12.5 million E-Corps program to be run by the Corporation for National Service to recruit members for projects aimed at bringing digital
opportunity to youth, families and communities. Their digital divide web site provides information on the government’s efforts through the National Telecommunications and Information Administration.

This is also an issue that must go beyond the concern of government. Later this year in Seattle there is an international conference on ‘Creating digital dividends—applying technology for sustainable development’. It is going to look at issues that surround the expansion of new technologies into regions, industries and applications where they are most needed. The conference has a huge range of speakers, ranging from Jeff Bezos, the head of Amazon.com; to Mark Malloch Brown, the administrator of UNDP; to Bill Gates himself. The conference is a recognition that a gap exists globally between those who have access to new technologies and those who do not. There are some very interesting statistics about this in the conference material. For example, there are more telephones in New York City than in all of rural Asia and there are more Internet accounts in London than in all of Africa. The conference indicates obviously that this is a digital divide beyond the United States.

This is a challenge which is being recognised elsewhere, with steps being undertaken to address those challenges. For example, even the government in Pakistan recently announced a policy to address their digital future; their democratic future, I am not so sure about. Part of that involves providing Internet access at the cost of a local call to 100 cities across the country. In Somalia, of all places, the first ISP recently started operation. They also became the last remaining African country to provide local dial-up access to the Net.

Turning to perhaps what might be described as the more developed nations, on 28 August the Washington Post ran an article about the digital divide in parts of Latin America. They refer to the issue as digital apartheid, meaning that the average Internet user in Latin America is still white, male, urban, university educated and rich or upper middle class. The article cited a highly interesting example of a remote village in Peru where grants from a Lima based NGO, the Canadian government and a telephone company provided equipment and training for the village. This has enabled access to video streaming for education, and the village has now established a web site in Spanish at www.rcp.net.pe/ashaninkal—the name of the village—with information about their folklore. They even have what is described in the article as a tribal cyber cafe. They have used the equipment to sell produce—organic oranges, in fact—to other parts of the country.

The establishment of that site in the Spanish language raises a whole other issue about the language of the Internet. The Australian Financial Review, for example, reported this week that the take-up of the Internet in Japan is so rapid that at current rates it will be more connected than the United States within two years. It is not too difficult to find the answer to the question: in what language will these new users want to log on? It will not be English. The OECD figures, though, currently indicate that less than three per cent of the Net uses the Japanese language, with Spanish language use at less than two per cent. This compares with a dominating 78 per cent in English, but that will obviously change.

That presents an enormous challenge for a nation like ours, which has a strong dominance in one language. Even with our multicultural background, our language base is very low. We run the risk of losing out on access to information and interchange if we do not remedy that. I read an article recently about shifts in language use on the Net—perhaps I should be saying this en francais given the current debate about language and the Olympics—but the shifts to Hindi, Mandarin and Portuguese, in terms of volume on the Net, are going to present dominantly English speaking nations like ours with enormous problems.

The ABS recently released statistics on the use of the Net in Australian households, and I have spoken about this before. Our trends are similar to other developed nations: 54 per cent of households have a computer and 33 per cent of households have access to the Net. Those are improving figures but still gender, income and geography all impact on the capacity of people to access the Net. We
really have to address this; we cannot afford to allow those on one side of the digital divide to lose an opportunity to achieve a place in Australia’s growing information based economy. This is not just a new communications tool. It is not like a fax, phone or telex—if anybody remembers those. This is about information and education, without which it is very hard to win the battle.

So the divide in Australia is not a simple issue. It will not simply be solved through individuals and families paying to go online. It is not only about cost in terms of paying but also about capacity to pay both literally and figuratively—in some parts of Australia, if you are young woman, if you do not speak English, if you live in a smaller rural town, if you do not even know how to use a computer. Money is, therefore, not the only barrier to accessing new technologies.

The government has taken up some of these challenges. Programs like Networking the Nation, and the efforts of NOIE and the Office of Government Online are good examples. One program which DETYA operates is the Computers for Schools initiative, where surplus computers and equipment from Commonwealth and state governments are donated to schools. In my own area equipment has been donated to St Gregory’s Armenian School, which I am sure was very welcome.

I launched the international computer drivers licence scheme with NOIE in Mount Druitt just recently—in New South Wales through the Western Sydney Institute of TAFE—to enable women to return to the work force with IT skills. I know that, for example, John Paul College in Queensland is also pursuing the international computer drivers licence through their efforts with new technology. They have provided at enormous expense all students and teachers with laptop computers to do this. Just this week Nelson Mandela said:

Persons of my age and background can but listen in awe and only with a faint sense of understanding to descriptions of how advances in technology will reshape our world and the way we live.

That demonstrates that the divide is about not just how to access information but how to most effectively use it. It is important that all aspects of government—federal, state and local—are part of enabling access to information through new technology. As members of parliament we have an even more important obligation in that regard. The Commonwealth has achieved a great deal. Even Tony Harris commented in the Financial Review on 22 August about that. (Time expired)

Forest Industry

Senator MURPHY (Tasmania) (7.31 p.m.)—Tonight I rise to speak about an industry that I have had a long association with, an industry that I think over the years has received a significant degree of political interference. Some of that has been good and some of it has been downright bad. We have a coalition government in place at the moment, whose Minister for Forestry and Conservation is Mr Wilson Tuckey. He has developed what he calls an action agenda to pursue the vision for Australia’s forests and wood products industry of maximising sustainable and profitable activity for tree growing, value adding and marketing of Australia’s forest and wood products. In terms of looking at impediments and opportunities in the industry he goes to a number of questions that deal with credibility of forest operations and products, and he says:

There is a growing demand for assurances that timber and fibre products are sourced from sustainably managed forests; and fit-for-purpose in accordance with defined technical standards.

In particular I want to deal with the first part of that, because that is true: there is a growing demand for wood products that are sourced from sustainably managed forests. However, in this country that is simply not the case. There is no forest, I would suggest, at this point in time that is being sustainably managed. I say that against my past background of a long involvement with this industry, as a secretary of the former Timber Workers Union, and now as the president of the CFMEU forest division in Tasmania. I say that because if you read the ABARE statistics in terms of forestry you can actually see that. You can see: one, we are not sustainably managing the forests; and, two, we are not managing the forests for the purposes
of good downstream processing and maximising of the products that we take out of the forest in terms of downstream processing. I would like to just make a couple of points about that. I quote from a report, which says at page 24:

In the early 1990s, woodchip exports accounted for 56 per cent of the total value forest products exports. In 1998-99 the value of woodchip exports fell to 45 per cent of the total forest product exports and in the first three quarters of 1999-2000 had fallen to 41 per cent.

Just taking those figures you would think that is a good thing. But then if we look at the log exports—that is wood exported in log form—the report says:

Log exports at 789 000 cubic metres so far in 1999-2000 were 44 per cent higher than in the same period in 1998-1999.

I happened to notice a letter from the Minister for Forestry and Conservation, Mr Tuckey, which was published in the *Financial Review* in a full-page ad—paid for, I think, by four particular plantation companies. Mr Tuckey claims that the plantation industry is a good industry—I would agree with that—that it is well-managed and that it is structurally sound, both from the point of view of the economic interests of this country and from the point of view of financial investment. Nothing could be further from the truth. The reality for Australia’s plantation industry is this: planting is being done at a rate that may be acceptable and may be necessary, but it is being done in such an ad hoc way, with no cohesion and no strategic planning, that it will be a total disaster at the end of the day. For the many thousands of people who are putting their money into these mass market plantation investment schemes it will be a disaster financially, save for the fact that forest plantations, not unlike most other agribusiness mass market investment schemes, are essentially tax driven. What is happening is that essentially the taxpayers of Australia are funding these things. Some individuals who are investing in these schemes do so specifically to reduce their income to allow them to gain benefits—such as access to Austudy and other social security benefits such as family assistance—that they would not otherwise gain. There has been an uncovering of certain arrangements that clearly are tax evasion, and the tax office has jumped on a lot of those. But that really is just the tip of the iceberg, because there are so many problems associated with this that the taxation problems will not become evident for some time.

Another aspect of this which is critical in terms of good planning for a good forest industry in this country is that you must take account of the global situation; you must take account of what other countries in the world are doing when you are planting whatever you might want to plant for the global market. We must remember, and the figures in ABARE will tell you, that essentially the wood we are growing will be for the export market—for nothing else. And yet, if you were to ask companies in Western Australia, South Australia, Victoria and Tasmania if
they have any understanding of what the others are doing about the timing of plantings and the maturation of the crops that they are planting, most of them would say no. They would say it is a competitive market. I have to say that, when you look at the number of trees being planted, particularly some species, and when you look at the projections stated in the prospectuses that are hawked around to various investors, you have to say they are totally outrageous. This minister and this government have a responsibility to address these questions. In closing, I would suggest to the minister that it does him no credit to line up with certain companies without first checking the facts. He has an obligation, and I hope at some point in time this government will take it up.

Managed Investments Schemes

Senator MURRAY (Western Australia) (7.41 p.m.)—I want to take the opportunity this evening to raise concerns that I have in relation to the regime that governs managed investments schemes. That new regime was established by the Managed Investments Act 1998. Back in 1998, during the debate on the Management Investments Bill, this government spoke of the bill in glowing terms, claiming that it would, among other things, improve investor protection. Senators will recall that a major thrust of the reforms was to change the structure of managed investments schemes from one comprising two tiers to one comprising a single responsible entity. Those two tiers were a management company responsible for the day-to-day operations and investment strategy of the scheme and a trustee which distributed scheme income and ensured investments conformed to the trust deed. The new system was only a single entity, responsible for the entirety of the scheme operation. The weakness of this new system was self-evident. Regulatory oversight by trustees and the Australian Securities and Investments Commission, ASIC, was to be replaced by oversight by ASIC alone; a clear diminution of protection.

The loss of a trustee role was supposed to be justified by great cost savings. I always thought those projections optimistic at best and distinctly rubbery at worst. And, on a cost-benefit basis, the benefit of lower costs could be swamped by the cost of investor losses through more schemes collapsing. I and others sounded a warning that eliminating the independent trustee’s role would erode investor protection, particularly if the new regulatory and policing regime had insufficient funding, commitment and teeth to protect investors from questionable schemes. Labor and the coalition ignored those warnings. The then Victorian Attorney-General, Jan Wade, in a submission to an inquiry into the Managed Investments Bill, commented:

There can be no doubt that under the proposed regime there will be greater likelihood of loss to investors and less likelihood that they will recover their losses.

And, remember, we are talking about more and more ordinary Australians, including mum and dad investors, using managed funds to invest their hard-earned life savings and retirement funds.

As I have said, the new managed investments regime abolished the role of the independent trustee. Scheme management was placed in the hands of the so-called responsible entity, and ASIC was given responsibility for regulating managed schemes. While ASIC cannot be expected to foresee every scheme that may get into trouble, it does have a minimum responsibility to ensure that schemes comply with the letter and the spirit of the new regulatory regime and to keep a watching brief.

This regime requires brokers to produce for each investment a prospectus to be registered with ASIC. The loans are to be approved by the responsible entity, which can opt to have an independent custodian check that all is as it should be. While an external body is not required in all cases, the criteria mean that an independent custodian should be used in most cases. So what has happened since? In 1998 there was the Wattle Group affair in which many self-funded retirees, including ex-policemen, lost their life-savings or superannuation. During the public debate that followed, the new managed investment regime was accused of falling down on the job in terms of protecting investors. However, trustee systems were still nominally in place due to the transitional
arrangements, so that may not be entirely accurate.

More recently, problems have arisen in some managed investment schemes in my home state of Western Australia. These have resulted in a limited judicial inquiry and all the media coverage and public anguish that ordinary investors rightly generate. A number of people have been charged. In just one recent case that received media coverage, a group of investors faces the very real risk of losing money invested through Nedlands finance broker Clifton Partners Finance. The funds were lent to a developer for a property development that was not completed, and the unfinished development was not of a value to cover the loans.

In 1998 the Democrats advocated stronger capital adequacy provisions which could have assisted those Western Australian investors, but this scheme has collapsed with insufficient funds backing the property development. I also would have thought that this Western Australian scheme fitted the criteria for requiring an independent custodian, but an independent custodian was not used in this scheme. If it had been, investors' funds would have been better protected. I ask the government and ASIC how this scheme slipped through the net and was able to avoid using an independent custodian. At the very least, ASIC should presumably have thoroughly checked that all was well with the scheme's prospectus. Had it done so, investors could have been forewarned of a prospectus containing anomalies, inconsistencies, misstatements or oversights—warning bells that something is wrong. Investors were led to believe that the new regime would protect them but clearly it did not. No regime will ever completely protect investors, but our point was that the old regime had much greater safeguards. Two years ago I warned of the risks of totally eliminating the independent trustee’s role. In the recent Western Australian case, only some of the investment moneys may be recovered. I raise this Western Australian example not in an ‘I told you so’ spirit, but so that the government will recognise that its new regime is inadequate from an investor protection perspective. If the new regime is not strengthened, we may face a repetition of the shonky schemes which flourished in the seventies and eighties and which are now being exposed in Western Australia.

Hopefully, media coverage will have alerted many of my constituents to the current risks and will have reminded them of the sensible warning ‘investor beware’. But that is not enough. Legislation, governments and regulators must be ready to improve conditions facing investors. I feel that investors and potential investors have good reason to feel let down by the new managed investments regime. Time and time again when the Managed Investments Bill was being debated and considered, the government assured Australians that the new regime would offer more protection than before, not less. The federal government is required to review the new managed investments regime—to see how it is working in practice—next year. The review needs to be genuine and rigorous. I would like to see this review seriously consider the ability for a managed investments scheme to be required to consider the option of using an independent trustee, something I argued for strongly in 1998. In an act of obduracy, which investors will pay for, Labor and the coalition refused to consider this proposal. The review also needs to consider if ASIC has enough of the right staff and the regulatory and policing teeth to do the job and do it properly. For this, ASIC needs adequate funding and to be backed by a government with a political will to warn of risky schemes and to stamp out shonky ones.

Even though ASIC’s overall funding for 2000-01 was cut by $2 million, more of the ASIC cake is being devoted to investor protection monitoring and regulation than before. Such regulatory ability does not replace the additional oversight provided by trustees. Even at this early stage, when managed investment schemes have just finished transitioning to the new regime, problems are already arising. We may only be seeing the start of these unless the regime is strengthened. I urge the government to consider allowing managed schemes to opt to use an independent trustee; at the very least, I urge the use of an independent custodian be made mandatory and that ASIC be given the re-
sources and teeth to perform its watchdog role properly and to ensure that investor protection is a reality, not just a catchcry.

**Education: Queensland**

Senator MASON (Queensland) (7.50 p.m.)—Madam Deputy President, you may recall that four weeks ago I spoke in this chamber about the studies of society and environment syllabus recently produced by the Queensland School Curriculum Council. In that speech, I raised a number of concerns I had with the way Queensland children in grades 1 to 10 are being indoctrinated with a politically correct mixture of environmentalism, socialism and fashionably anti-Western sentiments—a rather trendy brew with no balance. As I said then, we get:

... democratic process without liberal democracy, social justice without individual justice, ecological and economic sustainability without economic development, and peace without security.

I pointed out that our children are being forced by education bureaucrats to immerse themselves in all the failed ideologies of the last century under the pretext of studying history and geography.

I would like to report back to the Senate that, in the past four weeks, the criticism of the curriculum has not stopped back in Queensland. Many more individuals and groups from all walks of life and from all points of the ideological spectrum have been speaking out against this document. In fact, the only people to defend the curriculum were its authors at the Queensland School Curriculum Council. The fact that they have found themselves almost alone defending this deeply flawed piece of educational propaganda should, if anything, tell them something about the wisdom of their position. I say 'almost alone' because the Queensland Teachers Union has come out in support of the curriculum, heralding it as a significant step in the right direction for the future of Queensland. It comes as no surprise to the people of Queensland that the Teachers Union is once again more interested in pushing its pet ideologies on to the unsuspecting minds of our children rather than actually teaching them about the world.

I would like to briefly bring to the Senate’s attention some of the recent criticisms of the curriculum as reported in Queensland. In a recent report, Monash University historian Professor Tony Taylor criticised the trend—evident in the Studies of Society and Environment curriculum—towards abolishing history and geography as separate subjects with clearly defined learning objectives. States like New South Wales and Victoria continue to maintain a much clearer delineation between separate component subjects as well as a set of minimum standards and basic facts that have to be absorbed by students. Victorian based curriculum consultant Dr Kevin Donnelly is worried that this shift in teaching young students away from imparting basic knowledge to a skills and outcomes based approach will put our children at a disadvantage internationally.

Dr Donnelly observes that countries which produce the best educational results, such as Japan, Singapore or the Netherlands, espouse a more traditional approach—they teach children information before they require them to evaluate it, analyse it and think about it critically. In the global village, with its knowledge based economy, anything that puts our children at a future disadvantage against their peers elsewhere in the world amounts to a crime. It is quite ironic that, at a time when other states in Australia as well as other developed countries are moving away from curriculums like the Studies of Society and Environment, the Queensland education establishment is rushing in to embrace it. Even Brisbane’s Courier-Mail, which even at the best of times is hardly a friend of conservative causes, has come out against the ideological excesses of the curriculum council. A recent editorial argued:

The problem with Studies of Society and Environment are quite fundamental: it seems intent on delivering the values of those who wrote it at the expense of delivering useful knowledge for the children to whom it is directed.

The editors take the curriculum to task for teaching Queensland students pop social science instead of imparting useful historical and geographical knowledge that will prepare them for life and employment in the new, highly competitive and flexible economy. These concerns are echoed by Mr Peter Botsman, from the Labor aligned think tank
the Brisbane Institute. Mr Botsman argues that in its approach the curriculum council is stuck in a different time—a time of the welfare state and full employment, when it did not matter what children were taught at schools because, no matter what the knowledge or skills acquired, everyone would be guaranteed a job, even if a low skilled one. This is clearly not true today when enterprise, innovation and flexibility are the qualities that guarantee success. Mr Botsman’s concerns echo those of my parliamentary colleague the Labor member for Griffith, Mr Kevin Rudd—an early and consistent critic of this curriculum.

Not very often can one expect the Labor Party to agree on an issue with industry representatives, but the authors of the curriculum have managed to achieve the impossible. Mr Andrew Craig, the Chief Executive Officer of the Queensland Chamber of Commerce and Industry, Mr Steve Wilson, stockbroker and business leader, and Mr David Whiting, the Queensland Director of the Australian Industry Group, all criticised the curriculum for its anti-business bias that ill prepares children of today for the challenges of the future. The curriculum provides children with a simplistic perspective: business bad, environmentalism good; development bad, nature good. Where things such as the economy, jobs and people’s wellbeing fit into the whole picture is unfortunately unclear. Professor Ken Wiltshire, who in 1994 chaired the review of Queensland school curriculum, echoed these criticisms when he said—and I wholeheartedly endorse his statements:

You’ve got to learn about the environment and ecological sustainability. But one of the things we don’t teach enough is enterprise and initiative and the average school kid doesn’t learn about what makes the economy tick.

A lot of them grow up being anti-business. They come out of school feeling that business is raping the environment and profits are screwing the workers. They also grow up believing they’ll always be an employee. It would never occur to the average kid from a government school that they might be a boss and they might set up their own business.

The responses to the curriculum I mentioned before give me enormous encouragement because they show that commonsense and concern for our children’s future are far from dead and will not be silenced. People of my state can easily see through the educators’ obsession with postmodernism, moral relativism and historical revisionism. The academics might find it difficult and confusing to deal with concepts like right and wrong, good and evil and making value judgments, but ordinary people fortunately have not lost their moral compass. People are not the unsophisticated, closed-minded reactionaries the educational establishment imagines them to be—they do not believe in censorship. There is nothing wrong in teaching children about various ideologies and points of view. However, the problem starts when all ideologies are treated as equals—when Menzies’ liberal democracy is treated the same way as Mao’s communism, which sent 60 million people to their graves, or worse: when Mao’s communism is actually given a more favourable treatment than Menzies’ liberal democracy—when, as I noted previously, the losers get to write, or rewrite, history.

The Studies of Society and Environment curriculum is a deeply flawed document that lets our children down very badly. It lets them down because it fails to do what the educational process is supposed to do—prepare children for adult life. The curriculum substitutes propaganda and indoctrination for basic knowledge. It teaches our children the wrong lessons about the past. It teaches our children to be morally blind. As such, it deserves to be condemned. The sooner it is withdrawn from Queensland schools, the better.

Battle of Britain

Senator WATSON (Tasmania) (7.59 p.m.)—The month of September marks the 60th commemoration of the Battle of Britain. ‘Never in the field of human conflict was so much owed by so many to so few.’ Those immortal words of Winston Churchill spoken in the British parliament on 20 August 1940 reflect so graphically the effect which the fighter pilots in the Battle of Britain had in creating a new spirit of pugnacious opposition to Hitler’s military might during those dark days of 1940. It was a new spirit which
was to be so important in sustaining the Allied forces through to eventual victory in 1945.

Historians enjoy the exercise of evaluating the most significant turning point in battles and campaigns in world history. Among those listed are the successful defence of the ancient Egyptians against the Hittites, the ancient Greeks against Persia and the Romans against Hannibal. The consequences of defeat in any of these examples would have greatly changed the history of civilisation as we know it. In modern times, there can be no greater example of a turning point than the events of 60 years ago: the first aerial military campaign which led to the prevention of Hitler’s occupation of Britain in 1940—the Battle of Britain. No-one can argue that the course of World War II was irrevocably altered by the fact that Hitler was unable to secure Britain and therefore consolidate his complete domination of central and western Europe.

We lucky ones who did not have to live through those terrible times can only guess at the actual sacrifices and stresses that those people endured. Our deep felt gratitude goes to those who fought so bravely on the other side of the world, including some brave Australians, during those traumatic weeks 60 years ago. So many gave their lives for a vital cause. Their contribution was unique, and they will find an appropriate place when future historians evaluate the battles on which civilisation has been built. It is most appropriate that we remember this time what they gave us. They were but a few, but their service was outstanding. They inspired a new spirit which turned the course of the war. Lest we forget.

**Senate adjourned at 8.01 p.m.**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

- Aged Care Act—Community Care Grant Amendment Principles 2000 (No. 1).
- Extra Service Amendment Principles 2000 (No. 1).
- Residential Care Subsidy Amendment Principles 2000 (No. 2).
- User Rights Amendment Principles 2000 (No. 3).
- User Rights Amendment Principles 2000 (No. 4).
- User Rights Amendment Principles 2000 (No. 5).
- Health Insurance Act—Health Insurance (Accredited Pathology Laboratories—Approval) Amendment Principles 2000 (No. 2).
- Jervis Bay Territory Acceptance Act—Administration Ordinance 1990—Fee Determination No. 1 of 2000 [Electricity supply].
- Indexed Lists of Files

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

- Indexed lists of departmental and agency files for the period 1 January to 30 June 2000—Statements of compliance—Aboriginal and Torres Strait Islander Commission.
- Department of Communications, Information Technology and the Arts.
- Department of Education, Training and Youth Affairs.
- Department of Family and Community Services.
- Industry Science and Resources portfolio.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Fraser Island: Aircraft Incident and Accident Reports
(Question No. 2125)

Senator Brown asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 4 April 2000:

(1) What reports of aircraft mishaps or near mishaps on or near Fraser Island have been received by the Civil Aviation Safety Authority or the Bureau of Air Safety Investigation in each of the past 5 years.

(2) What investigations, rulings or alterations to previous regulations resulted.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) and the Australian Transport Safety Bureau (ATSB), formerly the Bureau of Air Safety Investigation (BASI), have provided the following information:

It should be noted that the term “mishap” is not used by either agency to classify aviation incidents or accidents. In order to provide a complete answer, both agencies have interpreted the term broadly. All the incidents or accidents recorded by the ATSB in this period fall within the ATSB’s classification of occurrences as category 4 and 5 occurrences. This level of categorisation applies to occurrences where the facts suggest neither a significant concern for public safety nor a serious safety deficiency.

CASA has advised that it has received numerous letters of complaint over the five-year period, starting in 1995, from three residents on Fraser Island. The complaints mainly concerned operators’ landing and taking off operations on the beach. One resident in particular has frequently made allegations about landings outside of approved Department of Environment (DOE) landing areas, which allegedly narrowly missed vehicles and pedestrians. These complaints could often not be substantiated, and the operator made counterclaims of harassment, with the result that a restraining order was issued, requiring that this particular resident stay away from the operator’s aircraft.

In response to residents’ complaints, CASA commenced regular surveillance of aircraft operations on Fraser Island in June 1995.

Reports on specific incidents and follow-up actions by the agencies are as follows -

1995
(1) and (2) In September, a charter aircraft was damaged on landing on an Aerodrome Landing Area (ALA) on Fraser Island when it dug into soft sand. There were no injuries. ATSB classified this as a category 4 accident.

1996
(1) In February, a charter aircraft was damaged on landing on a Happy Valley ALA when the pilot failed to negotiate a washout on his landing path. There were no injuries. ATSB classified this as a category 4 accident. In September, a charter aircraft made an unplanned landing on an ALA on Fraser Island to check a loss of oil pressure. Post-flight investigation confirmed it to be an indication problem, apparently due to some material left in the pressure line during a recent refit. This was assessed as a category 5 incident. Later the same day, near the same location, a charter pilot was forced to take action to avoid an oncoming private aircraft. Both aircraft were using an out of date radio frequency to contact other aircraft in area. This was a category 5 incident. In November, a resident wrote to CASA alleging that an aircraft had just missed the resident’s vehicle.

(2) In response to the complaint in November, CASA called a meeting between CASA, DOE and operators, which devised a set of operational standards acceptable to CASA and DOE. The standards were binding on all operators by December 1996. (They were reviewed and modified in February 1997).

1997
(1) In January, a charter aircraft was damaged on landing at the Pinnacles, Fraser Island, when it was caught by a larger than average runner (end of a wave). There were no injuries. ATSB classified this as a category 5 accident. In April, CASA received a complaint from a resident, alleging an incident where
an aircraft had just missed the resident’s vehicle. In September, another resident reported to CASA an alleged “near miss” between two aircraft attempting to land on Fraser Island.

(2) Following the September report, CASA directed the main operator on Fraser Island to include instructions in the company’s operations manual in order to ensure that pilots of successively landing aircraft maintain sufficient distance from preceding aircraft.

1999

January

(1) An aircraft belonging to the Island’s main operator experienced a wheel strut failure on take-off. The strut had cracked due to stress corrosion, resulting from prolonged exposure to the salt-laden environment. There were no injuries. ATSB classified this as a category 4 accident.

(2) CASA personnel, carrying out surveillance of the Island at the time, assessed the operator’s response to the incident as being appropriate to the situation. However, in its surveillance report, CASA recognised that despite risk mitigation procedures being in place, the risks involved in aircraft operations on Fraser Island were still greater than those at established aerodromes.

CASA issued six Non Compliance Notices to the Island’s main operator in relation to a number of minor, mainly documentation, matters. CASA also issued a Direction to the operator to include in its operations manual procedures for reporting incidents and accidents, and for actions required in the event of them.

CASA also held meetings with the DOE and the Island’s main operator that resulted in a revised permit for aircraft operations on the Island by designating approved landing areas and marking and manning requirements.

March

(1) A resident reported to CASA that an aircraft of the main operator on Fraser Island allegedly became bogged.

(2) CASA forwarded the issue to the DOE for action, as it constituted a breach of the approval issued by the DOE. In addition, CASA conducted further surveillance from 31 March to 4 April 1999 to trial more stringent controls on landing area selection, marking and manning in order to combat transgressions by motor vehicles through manned and marked landing areas.

April

(1) The main operator on Fraser Island notified CASA and the ATSB of two separate occurrences involving its aircraft. The first incident involved a crash when the pilot was unable to negotiate a wave surge in his landing path. There were no injuries. The second incident involved a landing in an unmarked and unapproved area, sustaining damage to the aircraft’s nose and propeller due to strut failure. There were no injuries. Both occurrences were classified as category 4 accidents.

(2) CASA, in response to the occurrences, recommended that the Island’s main operator be directed to cease beach operations until an investigation of those operations was completed. The operator voluntarily ceased operations in order to conduct a review of operational standards. The company resumed limited operations approximately five days later, in consultation with CASA regarding its operational standards. Subsequently, CASA notified the operator in May of conditions to be imposed on its Air Operator’s Certificate. The conditions were to the effect that all commercial aircraft activity on Fraser Island must be in accordance with the permit issued by the Queensland Recreations Areas Management Board, of the Queensland Environmental Protection Agency.

June

(1) A Fraser Island resident notified CASA, among other complaints, that some of the aircraft operation warning signs were missing on the Island.

(2) CASA met with the operator and the DOE to establish future operational parameters.

September

(1) and (2) A Fraser Island resident alleged that an aircraft of the Island’s main operator had landed over the resident’s vehicle outside of the designated landing area. CASA continued to monitor aircraft operations in response to the allegation.
December
(1) and (2) The same resident as in September complained that standards for aircraft operations were slipping back into unsafe practices. CASA continued to monitor aircraft operations in response to the complaint.

Communications, Information Technology and the Arts Portfolio: Agency Boards
(Question No. 2148)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts, upon notice, on 10 April 2000:

(1) How many agencies within the Minister’s portfolio are administered by a board.

(2) Are all members of the above boards appointed by the Governor-General on the advice of the Executive Council; if not, who is responsible for making board appointments.

(3) In each case, does the Remuneration Tribunal have a role in the setting of fees, allowances and other benefits for members of the boards; if not: (a) under which section of the relevant legislation are such fees, allowances and benefits authorised; and (b) how is the value of these fees, allowances and other benefits determined.

(4) In each case, what is the nature and value of fees paid to board members.

(5) What other benefits, such as mobile phones, home computers and home phone/fax machines, are provided to board members by virtue of their membership of a government board.

(6) What class of air travel, what standard of accommodation and what car allowances are paid to board members and, in each case, what is the value of these benefits and who determines that value.

(7) Are board members entitled to, or do they receive, any spouse benefits; if so, what is the nature and value of those benefits.

(8) (a) On how many occasions since January 1998 have the above fees, allowances and other benefits been varied, (b) what was the reason for each variation; and (c) what was the quantum of each variation.

(9) If variations to fees, allowances and other payments to board members were not determined by the Remuneration Tribunal, who determined the quantum and timing of each increase.

(10) Do board members qualify for, and are they paid, superannuation benefits; if so, are such benefits additional to, and separate from, other allowances they receive.

(11) Do board members receive any additional allowances if they are appointed to board sub-committees; if so, are additional benefits provided for in relevant legislation.

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

(1) to (11)

I am advised that as at 1 May 2000, the Communications, Information Technology and the Arts portfolio was responsible for 48 agencies/boards encompassing 413 board appointees. A list of all agencies/boards is attached.

In most instances, board remuneration is set by the Remuneration Tribunal in accordance with the Remuneration Tribunal Act 1973.

Further details can be found in agencies’ annual reports or by examination of Remuneration Tribunal determinations.

Department of Communications Information Technology and the Arts
Agencies and Boards as at 1 May 2000
ABC - Australian Broadcasting Corporation
Aboriginal and Torres Strait Islander Arts Board
Artbank Board
Australia Council
Australia Foundation for Culture and the Humanities Ltd.
Australia Post
Australian Broadcasting Authority
Australian Children’s Television Foundation (Board)
Australian Communications Authority
Australian Film Commission
Australian Film Television & Radio School Council
Australian Information Economy Advisory Council
Australian National Maritime Museum Council
Bundanon Trust Board
Committee on Taxation Incentives for the Arts
Community Cultural Development Fund
Construction Coordination Committee for New Facilities for National Museum of Australia
Dance Fund
Film Australia Limited
Film Finance Corporation
Intelligent Island Board
Literature Fund
Major Organisations Fund
Music Fund
National Archives of Australia Advisory Council
National Australia Day Council
National Council for Centenary of Federation
Department of Communications Information Technology and the Arts
Agencies and Boards as at 1 May 2000
National Cultural Heritage Committee
National Electronic Authentication Council
National Gallery of Australia Council
National Library of Australia Council
National Museum of Australia Council
National Portrait Gallery Board
National Science and Technology Centre Council
NetAlert Ltd
New Media Arts Fund
Old Parliament House Governing Council
Playing Australia
Public Lending Right Committee
Regional Telecommunication Infrastructure Fund Board
ScreenSound Australia
Special Broadcasting Service (SBS)
Telecommunications Service Inquiry
Telstra Corporation
Theatre Fund
Visions of Australia
Visual Arts/Craft Fund
Year 2000 Steering Committee
Communications, Information Technology and the Arts Portfolio: Agency Boards
(Question No. 2206)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts, upon notice, on 4 May 2000:

(1) Do chairpersons of any boards that administer agencies within the Minister’s portfolio receive any payments, or other allowances, in addition to those paid to other board members; if so (a) what is the nature of these additional payments or allowances; and (b) how is the quantum of these additional payments determined.

(2) On how many occasions since January 1998 have the above payments been varied, and in each case: (a) what was the reason for the variation; (b) who determined the quantum of the variation; and (c) what was the quantum of the variation.

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

(1) Yes. Chairs of boards within my portfolio do receive additional payments over and above payments made to members of these same boards. All payments are in accordance with the appropriate Remuneration Tribunal Determination. Most board chairs and members come under Remuneration Tribunal Determination No. 3/1999 for part-time holders of public office.

(a) The extra payments are monetary.

(b) The payments are determined by the Remuneration Tribunal.

The exception to this rule is the Chair of the Australian Communications Authority (ACA) which is a full-time position. As a full time position the chair of the ACA is eligible for:
- private plated motor vehicle;
- parking;
- spouse accompanied travel;
- QANTAS Club membership;
- home computer with remote connection to the ACA network;
- cabcharge card and telecard use for official purposes; and
- reimbursement for newspapers.

These allowances are set by the ACA (Chairman’s Directions)
- employer superannuation contribution.

In accordance with relevant superannuation legislation

(2) (a) All Chairpersons have enjoyed an increase in their remuneration since January 1998 in line with Remuneration Tribunal Determinations 1998/17, 1999/03 and 1999/05.

(b) The increases were determined by the Remuneration Tribunal.

(c) The quantum was determined by Remuneration Tribunal

Beyond these Remuneration Tribunal Determinations the chairs of Australia Council and the immediate past chair of SBS had variations in their remuneration.

Australia Council
The Chairperson’s remuneration was varied once.

(a) From 22 August 1998 to 7 February 1999, following the resignation of the Council’s General Manager and prior to the appointment of the current General Manager, the Chairperson acted as Executive Chair and received additional remuneration.

(b) The Remuneration Tribunal determined the quantum of the variation.

(c) The quantum of the variation was $39,300 pa.

SBS
SBS has, in the past, paid for a second phone connection to the Chair’s home.

(a) This had been a long-standing arrangement between SBS and the Chair.

(b) The variation was agreed by SBS executive.

(c) In Financial Year 98/99 the bill for the second phone was $657.65
In Financial Year 99/2000 the bill for the second phone was $541.35.

This arrangement has not been continued with the current Chairperson of S13S.

Norfolk Island and Avalon Airports: Withdrawal of Firefighting and Rescue Services

(Question No. 2280)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 30 May 2000:

With reference to page 120 of the Rural and Regional Affairs and Transport Estimates Hansard of 2 May 2000, the Director of the Civil Aviation Safety Authority (CASA), Mr Mick Toller, advised that Airservices Australia (ASA) had withdrawn rescue and firefighting services from two airports because those services were considered unnecessary, and those services were being provided at the two airports on a private basis:

(1) Are the two airports referred to by Mr Toller, Broome and Avalon; if so: (a) when did ASA withdraw rescue and firefighting services from Broome; and (b) when were those services withdrawn from Avalon.

(2) What was the annual cost of providing rescue and firefighting services to those two airports at the time the services were withdrawn.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) No, the Civil Aviation Safety Authority (CASA) has advised that Mr Toller was referring to Norfolk Island and Avalon airports.

(a) Airservices Australia advise that Aviation Rescue and Fire Fighting Services (ARFFS) were transferred from the then Civil Aviation Authority to the Norfolk Island Administration in January 1992.

(b) Airservices Australia advise that ARFFS was withdrawn by the then Civil Aviation Authority from Avalon Airport in January 1993. A service was provided by the airport owner from 1993 until November 1999 when that service was also withdrawn.

(2) Airservices Australia has advised that:

. at the time of transfer, the annual cost for the provision of ARFF at Norfolk Island was approximately $286,000 exclusive of corporate overheads; and,

. at the time of withdrawal the annual cost for the provision of ARFFS at Avalon was around $1,030,000 exclusive of corporate overheads.

Civil Aviation Safety Authority: Regulatory Policy

(Question No. 2283)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 30 May 2000:

(1) Does the Civil Aviation Safety Authority (CASA) general policy notice 001, Management of CASA Policy, issue 4, signed off by the Director of CASA, under the heading ‘Regulatory Policy’ state: ‘Once the policy is expressed in legislation – for example the Act, Regulations or Orders – Authority staff cannot chose to ignore the legislative requirements or substitute what they may believe to be a more appropriate policy. Similarly, industry must comply with the regulatory policy that is expressed in legislation or face possible enforcement action’.

(2) (a) What exemptions are there to this requirement; (b) who approved those exemptions; (c) when were those exemptions approved; and (d) how have those exemptions been implemented.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has provided the following advice:

(1) Yes.
(2) (a) Regulation 308 of the Civil Aviation Regulations (CAR) 1988 is a general exemption provision that authorises CASA to exempt aircraft and individuals from the requirements of the regulations in certain circumstances. There are also other provisions in the regulations and Civil Aviation Orders that provide specific exempting provisions. These include regulation 235(11) and subsection 4 of CAO 48.0.

In total, 941 exemptions have been issued. Of these, 101 are exemptions under CAR 308.

(b) Exemptions issued in accordance with statutory exemption provisions are issued by officers who have been delegated such powers by the Director of Aviation Safety in accordance with regulation 7 of the Civil Aviation Regulations 1988.

(c) Exemptions are issued in appropriate cases whenever operational necessity requires.

(d) Exemptions are implemented in accordance with the statutory provision authorising the exemption.

Department of the Prime Minister and Cabinet: Fringe Benefits Tax Paid
(Question No. 2305)

Senator O’Brien asked the Minister representing the Prime Minister, upon notice, on 7 June 2000:

(1) (a) What was the value of fringe benefits tax (FBT) payments made by the department and;

(b) What was the level of FBT payments made by its agencies in the 1997-98, 1998-99 and 1999-2000 financial years.

(2) What were the incentives paid to departmental officers and employees of agencies that attracted the FBT over the above periods.

(3) In the above years, what were the compliance costs of calculating the FBT for the department and its agencies.

(4) What incentives, other than those attracting FBT, were paid to departmental officers and employees of agencies in the above years.

(5) What were the compliance costs associated with the calculation and payment of these non-FBT incentives.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

I am advised by my department as follows:

Department of the Prime Minister and Cabinet (PMC)

(1) (a) 1997-98 $361,715
         1998-99 $314,779
         1999-00 $330,576

(2) The FBT payments identified in the answer to question 1 were mainly incurred in respect of motor vehicles provided under the APS Executive Vehicle Scheme for SES officers. The Department does not regard the motor vehicle benefits component of SES remuneration as an "Incentive" payment as such.

(3) 1997-98 $4,760
     1998-99 $4,950
     1999-00 $5,100

(4) and (5) The only incentive payments made to departmental officers in 1997-98, 1998 99 and 1999-2000 were performance bonuses paid to SES officers under the Department’s SES performance management policies. These payments attract income tax rather than FBT. The costs associated with the calculation and payment of these bonuses are minimal as they take the form of annual payments for a small number of officers. Payments are based on appraisals which form an integral part of the broader performance management scheme.

Office of National Assessments (ONA)

(1) (b) 1997-98 $40,132
(2) The FBT payments identified in the answer to question 1 were mainly incurred in respect of motor vehicles provided under the APS Executive Vehicle Scheme for SES officers. The Office does not regard the motor vehicle benefits component of SES remuneration as an "incentive" payment as such.

(3) 1997-98 $500
1998-99 $500
1999-00 $500

(4) and (5) The only incentive payments made to ONA officers in 1997-98, 1998-99 and 1999-2000 were performance bonuses paid to SES officers under the agency’s SES performance management policies. These payments attract income tax rather than FBT. The costs associated with the calculation and payment of these bonuses are minimal as they take the form of annual payments for a small number of officers. Payments are based on appraisals which form an integral part of the broader performance management scheme.

Office of the Inspector-General of Intelligence and Security (OIGIS)

(1) (b) 1997-98 $17,123
1998-99 $946
1999-00 $7,880

(2) The FBT payments identified in the answer to question 1 were mainly incurred in respect of motor vehicles provided under the APS Executive Vehicle Scheme for SES officers. The Office does not regard the motor vehicle benefits component of SES remuneration as an "incentive" payment as such.

(3) 1997-98 $139
1998-99 $145
1999-00 $169

(4) and (5) The only incentive payments made to OIGIS officers in 1997-98, 1998-99 and 1999-2000 were performance bonuses paid to SES officers under the agency’s SES performance management policies. These payments attract income tax rather than FBT. The costs associated with the calculation and payment of these bonuses are minimal as they take the form of annual payments for a small number of officers. Payments are based on appraisals which form an integral part of the broader performance management scheme.

Office of the Commonwealth Ombudsman

(1) (b) 1997-98 $46,156
1998-99 $47,059
1999-00 $50,087

(2) The FBT payments identified in the answer to question 1 were mainly incurred in respect of motor vehicles provided under the APS Executive Vehicle Scheme for SES officers. The Office does not regard the motor vehicle benefits component of SES remuneration as an "incentive" payment as such.

(3) 1997-98 $500
1998-99 $500
1999-00 $500

(4) and (5) This agency has not made any incentive payments to officers in 1997-98, 1998-99 or 1999-00.

Australian National Audit Office (ANAO)

(1) (b) 1997-98 $132,076
1998-99 $99,225
1999-00 $130,966
(2) The FBT payments identified in the answer to question 1 were mainly incurred in respect of motor vehicles provided under the APS Executive Vehicle Scheme for SES officers. The Office does not regard the motor vehicle benefits component of SES remuneration as an "incentive" payment as such.

(3) 1997-98 $2,000
    1998-99 $2,000
    1999-00 $2,000

(4) and (5) Incentive payments made to ANAO officers in 1997-98, 1998-99 and 1999-2000 were performance bonuses paid to SES officers under the agency’s SES performance management policies. These payments attract income tax rather than FBT. The costs associated with the calculation and payment of these bonuses are minimal as they take the form of annual payments for a small number of officers. Payments are based on appraisals which form an integral part of the broader performance management scheme.

ANA occasionally makes additional incentive payments to non-SES staff as part of an officer’s AWA. The intent is to retain key/value staff through to the end of the audit cycle. The total of these additional incentives would not exceed $20,000 in any one year.

Public Service and Merit Protection Commission (PSMPC)

(1) (b) 1997-98 $66,559
    1998-99 $64,407
    1999-00 $83,520

(2) The FBT payments identified in the answer to question 1 were mainly incurred in respect of motor vehicles provided under the APS Executive Vehicle Scheme for SES officers. The Commission does not regard the motor vehicle benefits component of SES remuneration as an "incentive" payment as such.

(3) 1997-98 $2,000
    1998-99 $2,000
    1999-00 $2,000

(4) and (5) Incentive payments made to PSMPC officers in 1997-98, 1998-99 and 1999-2000 were performance bonuses paid to SES and Executive Level 2 officers under individual AWAs. The performance bonus payments attract income tax rather than FBT. The costs associated with the calculation and payment of these bonuses are minimal as they take the form of annual payments for a small number of officers. Payments are based on appraisals, which form an integral part of the broader performance management scheme.

Awards paid under the Commission’s Certified Agreement as part of the Team Recognition and Reward Scheme totalled $1,200 in 1997-98, $1,700 in 1998-98 and $3,200 in 1999-2000. The costs associated with calculating and paying FBT on the awards were minimal as they are a minor component of the overall FBT compliance process.

Office of the Official Secretary to the Governor-General

(1) (b) 1997-98 $66,084
    1998-99 $52,787
    1999-00 $46,300

(2) The FBT payments identified in the answer to question 1 were related to rented accommodation for staff at Government House and Admiralty House and SES equivalent vehicles, neither of which are regarded as "incentive" payments.

(3) 1997-98 $ 380
    1998-99 $ 380
    1999-00 $6,392

Financial year 1999-00 includes a rental revaluation of Government House and Admiralty House staff residences and consultant costs for advice and audit of FBT liability.
(4) and (5) No incentives were paid to officers within the Office of the Official Secretary to the Governor-General. The Secretary to the Governor-General is paid in accordance with Remuneration Tribunal determinations.

Department of Defence: Fringe Benefits Tax Paid

(Question No. 2313)

Senator O’Brien asked the Minister representing the Minister Assisting the Minister for Defence, upon notice, on 6 June 2000:

1) (a) What was the value of fringe benefits tax (FBT) payments made by the department; and (b) what was the level of FBT payments made by its agencies in the 1997-98, 1998-99 and 1999-2000 financial years.

2) What were the incentives paid to departmental officers and employees of agencies that attracted FBT over the above periods.

3) In the above years, what were the compliance costs of calculating the FBT for the department and its agencies.

4) What incentives, other than those attracting FBT, were paid to departmental officers and employees of agencies in the above years.

5) What were the compliance costs associated with the calculation and payment of these non-FBT incentives.

Senator Newman—The Minister Assisting the Minister for Defence has provided the following answer to the honourable senator’s question:

1) (a) The dollar value of fringe benefits tax (FBT) paid by the department in the financial years were: 1997-98 $246.240m, 1998-99 $225.184m and 1999-2000 $215.618m.

(b) Nil.

2) Incentives paid to departmental officers over the period were from the following list: motor vehicles, loans, expense payments (includes HECS, travel, other allowances, removals, Home Purchase or Sales Expense Allowance, spouse accompanied travel, Defence Home Owner Loan, telephones), housing, Living Away From Home Allowance, airline transport, board, property, entertainment, Opportunity Space Available Travel, and car parking.

3) The compliance costs for calculating FBT were: 1997-98 $0.469m, 1998-99 $0.442m and 1999-2000 $1.137m.

4) A number of special incentives have also been set in place to assist with the retention of certain groups of ADF personnel. For the years concerned, these incentives (all subject to income tax) were as follows:

- Air Traffic Controller Retention Bonus – Expenditure to date $4.690m
- Pilot Retention Bonus – Expenditure to date $28.765m
- Medical & Dental Officer Completion Bonus $3.240m
- RAN Observer Completion Bonus $3.520m
- RAAF Flight Engineer Completion Bonus $4.860m
- Technical Sailors Completion Bonus $4.865m
- RAN Submariner Completion Bonus $17.885m
- RAAF Engineer Completion Bonus $3.750m.

5) There are no direct compliance costs regarding incentive bonuses. The completion and retention incentives are calculated and managed from within the staff resources assigned to the routine task of maintaining the conditions of service of Defence personnel.
Civil Aviation Safety Authority: Board Members Spouse Travel
(Question No. 2399)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 26 June 2000:

With reference to the answer to question on notice no. 2144 (Hansard, 28 June 2000, page 15926)
(1) On how many occasions since 1 September 1997 have spouses of members of the board of the Civil Aviation Safety Authority (CASA) accompanied the member at CASA’s expense.
(2) In each case:
   (a) what was the purpose of the travel;
   (b) what was the cost of the spouse’s travel; and
   (c) were any other costs associated with the spouse’s travel, accommodation or other costs met by CASA.
(3) If any costs, other than the cost of travel were met by CASA:
   (a) what was the nature of each payment;
   (b) what was the amount paid; and
   (c) who approved the payment.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has provided the following information:
(1) CASA records have revealed six occasions since 1 September 1997 where spouses of members of the CASA Board have accompanied the member at CASA’s expense.
   (2) (a) Mrs Toller; Domestic travel with CASA Director to Melbourne for airline function.
         (b) $596.60.
         (c) No additional costs.
   (a) Mrs Toller; Overseas travel with CASA Director to Nepal to attend the Director Generals’ of Civil Aviation Conference.
         (b) $6,323.50.
         (c) No additional costs.
   (a) Mrs Toller; Domestic travel to Mandurah with CASA Director to attend the presentation of the Sir Donald Andersen Trophy.
         (b) $1,735.66.
         (c) No additional costs.
   (a) Mrs Scully-Power; Domestic travel with CASA Chairman for attendance at the Sydney - Canberra - Melbourne “Safe Skies” Conference and The Guild of Air Pilots and Air Navigators (GAPAN) Dinner.
         (b) $926.40.
         (c) No additional costs.
   (a) Mrs Toller; Domestic Travel with Director to Melbourne for attendance at The Guild of Air Pilots and Air Navigators (GAPAN) Dinner.
         (b) $458.44.
         (c) No additional costs.
   (a) Mrs Toller; Overseas travel with CASA Director to Singapore to attend the Director Generals’ of Civil Aviation Conference.
         (b) $4,939.33.
         (c) No additional costs.
(3) Not applicable.
Department of Transport and Regional Services: Programs and Grants to the Kalgoorlie Electorate

(Question No. 2420)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 27 June 2000:

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

(2) What was the level of funding provided through these programs and/or grants for the 1996-7, 1997-98 and 1999-2000 financial years.

(3) What level of funding provided through these programs and/or grants has been appropriated for the 2000-01 financial year.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Road Safety Black Spot Program

(1) The Federal Road Safety Black Spot Program provides funding to projects within the federal electorate of Kalgoorlie.

(2) The value of projects approved under the Black Spot Program for each of the financial years 1996-97, 1997-98, 1998-99 and 1999-00 for the federal electorate of Kalgoorlie is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996-97</td>
<td>$165,000</td>
</tr>
<tr>
<td>1997-98</td>
<td>$284,000</td>
</tr>
<tr>
<td>1998-99</td>
<td>$0</td>
</tr>
<tr>
<td>1999-00</td>
<td>$211,500</td>
</tr>
</tbody>
</table>

(3) The value of projects approved under the Black Spot Program for the financial year 2000-01 for the federal electorate of Kalgoorlie is $860,850.

The Remote Air Service Subsidy (RASS) Scheme

(1) The Department administers the Remote Air Service Subsidy (RASS) scheme that subsidises five air operators to provide regular air services to approximately 200 remote ports located in Queensland, the Northern Territory, South Australia and Western Australia. The services provide regular deliveries of mail, including educational materials, as well as carrying general freight and passengers. RASS subsidised services operate in the North Kimberley region in the electorate of Kalgoorlie.

(2) Total funding provided through the RASS scheme and the subsidy paid to the airline operating services in the North Kimberley region over the past four years is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total RASS Funding ($’000)</th>
<th>Subsidy for North Kimberley Services ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996-97</td>
<td>1,262</td>
<td>76,767</td>
</tr>
<tr>
<td>1997-98</td>
<td>1,264</td>
<td>76,392</td>
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<tr>
<td>1998-99</td>
<td>1,260</td>
<td>76,032</td>
</tr>
<tr>
<td>1999-2000</td>
<td>1,304</td>
<td>75,465</td>
</tr>
</tbody>
</table>

(3) $2.548m has been appropriated for the RASS scheme for 2000-01.

Fresh tenders for RASS services will be called later this year. Hence it is not possible to specify the level of subsidy for services within the electorate of Kalgoorlie at this stage.

Rail Reform Transition Program

(1) The Rail Reform Transition Program (R RTP) was established to manage the employment effects associated with the sale of Australian National Rail in regional SA, Northern Tasmania, WA and NT. The Western Australian component of $200,000 is designed to partially offset the impact that the loss of jobs has had on the economy of Kalgoorlie.
(2) $45,235 was provided in 1999-2000 under the RRTP.
(3) The remainder of the funds, $154,765, has been appropriated for 2000-2001 for the RRTP.

**Rural Communities Programmes**

(1) The Department of Transport and Regional Services currently administers two programmes under the Regional Communities Programs: the Rural Plan (RP) and the Rural Communities Program (RCP). The Department of Transport and Regional Services has administered RP and RCP since March 1999.

(2) The Rural Plan Program has been extant since 1997/98, therefore data is only available commencing from that period. Projects which included in their geographic scope the federal electorate of Kalgoorlie, received Rural Plan funding of $59,200 in 99-00 and Rural Communities Program funding totalling $128,678 in 97-98, $226,482 in 98-99 and $358,907 in 99-00.

(3) In the financial year 2000-01, $26,500 has been allocated to Rural Plan and $277,004 allocated to Rural Communities Program projects which include in their geographic scope the federal electorate of Kalgoorlie.

**Rural Transaction Centres Program**

(1) The Rural Transaction Centres (RTC) Program provides funding to projects within the federal electorate of Kalgoorlie.

(2) The RTC Program commenced in March 1999 and funding approval for individual projects was first made in July 1999. Funding was approved to:

Fitzroy Crossing
Marra Worra Worra Aboriginal Corporation received $15,000 to prepare a business plan to assess the feasibility of establishing an RTC in Fitzroy Crossing.

Halls Creek
Halls Creek Shire Council received $15,000 to prepare a business plan to assess the feasibility of establishing an RTC in Halls Creek. $245,000 was subsequently provided to the Council to establish and operate an RTC in Halls Creek.

Onslow
Ashburton Shire Council received $10,150 to prepare a business plan to assess the feasibility of establishing an RTC in Onslow.

(3) The RTC Program received funding of $23,633,000 through appropriated funds in 2000-01 to be used Australia wide. The Program is community driven and funds are allocated on receipt and assessment of applications.

**Local Government Incentive Program**

(1) The Local Government Incentive Program provides funding to projects within the federal electorate of Kalgoorlie.

(2) $402,000 was provided in 1999-2000 under the Local Government Incentive Program to the Western Australian Municipal Association to assist councils, including those in the Kalgoorlie electorate, to prepare for the Goods and Services Tax.

(3) Approximately $4 million remains available under the Local Government Incentive Program for expenditure during 2000-01. These funds are available to assist councils throughout Australia.

**Local Government Development Program**

(1) The Local Government Development Program provided funding to projects with in the federal electorate of Kalgoorlie.

(2) Funding provided under the Local Government Development Program (LGDP):

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Financial Year Approved</th>
<th>LGDP funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>An integrated approach to increase the recognition of aboriginal people in the town planning process - Shire of Broome</td>
<td>1997/98</td>
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<td>Establishment of Pilbara Region of Councils - Shire of Roebourne</td>
<td>1998/99</td>
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<td>Provision of Local Government Services to Abo-</td>
<td>1996/97 (amended)</td>
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Payments under this project made in 1999/00 ($90,000) and anticipated in 2000-01 ($10,000).

Payments under this project made in 1996/97 ($75,000), 1997/98 ($30,000), 1999/00 ($60,000) and anticipated in 2000/01 ($15,000).


Local Government Financial Assistance Grants

(1) Local Government Financial Assistance Grants are payable under the Local Government (Financial Assistance) Act 1995 to Local Government Authorities in Western Australia, including those in the federal electorate of Kalgoorlie.

(2) Local Government Financial Assistance Grants to councils in the Federal Electorate of Kalgoorlie from 1996-97 to 1999-00 is as follows:

<table>
<thead>
<tr>
<th>Council Name</th>
<th>Financial Year</th>
<th>General Purpose funding ($)</th>
<th>Roads funding ($)</th>
<th>Total ($)</th>
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<td>$730,886</td>
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<tr>
<td></td>
<td>1997/1998</td>
<td>$450,239</td>
<td>$392,536</td>
<td>$842,775</td>
</tr>
<tr>
<td></td>
<td>1998/1999</td>
<td>$481,877</td>
<td>$400,043</td>
<td>$881,920</td>
</tr>
</tbody>
</table>
Thursday, 7 September 2000

<table>
<thead>
<tr>
<th>Council Name</th>
<th>Financial Year</th>
<th>General Purpose funding ($)</th>
<th>Roads funding ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1999/2000*</td>
<td>$509,056</td>
<td>$442,434</td>
<td>$951,490</td>
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<tr>
<td>Wyndham-East Kimberley</td>
<td>1996/1997</td>
<td>$1,659,341</td>
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<td>$1,756,486</td>
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<td></td>
<td>1998/1999</td>
<td>$1,981,388</td>
<td>$686,342</td>
<td>$2,667,730</td>
</tr>
<tr>
<td></td>
<td>1999/2000*</td>
<td>$2,109,721</td>
<td>$703,056</td>
<td>$2,812,777</td>
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<tr>
<td>Yalgoo</td>
<td>1996/1997</td>
<td>$365,966</td>
<td>$276,695</td>
<td>$642,661</td>
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<td></td>
<td>1998/1999</td>
<td>$429,889</td>
<td>$275,404</td>
<td>$705,293</td>
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<td>1999/2000*</td>
<td>$480,949</td>
<td>$325,801</td>
<td>$806,750</td>
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<td>Yilgarn</td>
<td>1996/1997</td>
<td>$510,504</td>
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<td>$1,219,063</td>
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<td>1997/1998</td>
<td>$506,943</td>
<td>$695,257</td>
<td>$1,202,200</td>
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<td>1998/1999</td>
<td>$486,649</td>
<td>$714,537</td>
<td>$1,201,186</td>
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<td></td>
<td>1999/2000*</td>
<td>$472,736</td>
<td>$682,367</td>
<td>$1,155,103</td>
</tr>
</tbody>
</table>

*Estimated entitlement only. Actual entitlements available mid August 2000.

(3) The estimated entitlement of Local Government Financial Assistance Grants for Western Australia in 2000/01 is $151,924,734. The entitlement for each council will be known in mid August 2000.

Program for the National Highway and Designated Roads of National Importance

(1) Funding is provided under the Australian Land Transport Development (ALTD) Program for the National Highway and Designated Roads of National Importance.

(2) Funding provided for projects in this electorate is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996/97</td>
<td>59.9m</td>
</tr>
<tr>
<td>1997/98</td>
<td>64.7m</td>
</tr>
<tr>
<td>1998/99</td>
<td>70.6m</td>
</tr>
<tr>
<td>1999/00</td>
<td>52.5m</td>
</tr>
</tbody>
</table>

Please note that parts of some widening and rehabilitation projects extend into the electorate of O’Connor. These figures include the funds spent on maintenance of the National Highway in Western Australia, most of which was spent in the electorate of Kalgoorlie.

(3) $33.6m is allocated for projects in this electorate in the 2000/01 ALTD program, including the maintenance allocation.

Department of Transport and Regional Services: Programs and Grants to the Gippsland Electorate

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Department of Transport and Regional Services: Programs and Grants to the Gippsland Electorate

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(3) The estimated entitlement of Local Government Financial Assistance Grants for Western Australia in 2000/01 is $151,924,734. The entitlement for each council will be known in mid August 2000.
What level of funding provided through these programs and/or grants has been appropriated for the 2000-01 financial year.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Road Safety Black Spot Program
(1) The level of funding provided through the Federal Road Safety Black Spot program to the federal electorate of Gippsland in 1999-2000 was nil.
(2) $170,000 has been appropriated for the 2000-01 financial year.

Rural Communities Program
(1) Projects which included in their geographic scope the federal electorate of Gippsland received Rural Plan funding of $97,520, and Rural Communities Program funding of $388,868 in the financial year 1999-2000.
(2) In the financial year 2000-01, $93,839 has been allocated to Rural Plan and $200,424 allocated to Rural Communities Program projects which include in their geographic scope the federal electorate of Gippsland.

Rural Transaction Centres Program
(1) The Rural Transaction Centres (RTC) Program provided the following communities which included in their geographic scope the federal electorate of Gippsland with funding:
- Heyfield
  Wellington Shire Council received $10,000 to prepare a business plan to assess the feasibility of establishing an RTC in Heyfield.
- Mirboo North
  Mirboo North Community Support Co-operative received $5,000 to prepare a business plan to assess the feasibility of establishing an RTC in Mirboo North.
- Welshpool
  Welshpool and District Advisory Group received $140,000 to establish and operate a RTC in Welshpool.
(2) $23,633,000 has been appropriated in 2000-01 for the RTC Program Australia wide. The Program is community driven and funds are allocated on receipt and assessment of applications.

Local Government Incentive Program
(1) $360,000 was provided in 1999-2000 under the Local Government Incentive Program to the Municipal Association of Victoria to assist councils, including those in the Gippsland electorate, to prepare for the Goods and Services Tax.
(2) Approximately $4 million remains available under the Local Government Incentive Program for expenditure during 2000-01. These funds are available to assist councils throughout Australia.

Local Government Development Program
(1) Although the Local Government Development Program ceased at the end of 1998/99, payment of $50,000 occurred in 1999/00 in respect of the Gippsland Dairy Produce Alliance project, which was approved in 1998/99 and worth $100,000. While the recipient, La Trobe Shire Council, has its headquarters in the neighbouring electorate of McMillan, the project embraced municipalities in the electorate of Gippsland. Payment of $50,000 in respect of the project is anticipated in 2000/01.

Local Government Financial Assistance Grants

Local Government Financial Assistance Grants to Local Government Authorities in the federal electorate of Gippsland in 1999-2000:
Thursday, 7 September 2000

<table>
<thead>
<tr>
<th>Council Name</th>
<th>General Purpose funding ($)</th>
<th>Roads funding ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bass Coast* (p)</td>
<td>$1,969,000</td>
<td>$845,034</td>
<td>$2,814,034</td>
</tr>
<tr>
<td>East Gippsland*</td>
<td>$3,845,000</td>
<td>$2,129,252</td>
<td>$5,974,252</td>
</tr>
<tr>
<td>Latrobe* (p)</td>
<td>$5,929,000</td>
<td>$1,747,774</td>
<td>$7,676,774</td>
</tr>
<tr>
<td>South Gippsland* (p)</td>
<td>$2,705,000</td>
<td>$1,597,654</td>
<td>$4,302,654</td>
</tr>
<tr>
<td>Wellington*</td>
<td>$3,572,000</td>
<td>$2,101,032</td>
<td>$5,673,032</td>
</tr>
</tbody>
</table>

* Estimated entitlement only. Final entitlement available approximately mid August 2000.

(p) Shire boundary falls in more than one federal electorate.

(2) The estimated entitlement of Local Government Financial Assistance Grants for Victoria in 2000-01 is $311,057,244. The entitlement for each Council will be known approximately mid August 2000.

**Regional Flood Mitigation Program**

(1) The Regional Flood Mitigation Program (RFMP) funded one project totalling $50,000 in the federal electorate of Gippsland. The Victorian Government matched this amount.

<table>
<thead>
<tr>
<th>Council</th>
<th>Project Description</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wellington City Council</td>
<td>Flood Warning System for the Latrobe River to Rosedale</td>
<td>$50,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$50,000</td>
</tr>
</tbody>
</table>

(2) Applications for the 2000-01 Regional Flood Mitigation Program are currently going through the assessment process. Announcements are expected in mid August.

**State Bank of New South Wales: Sale to Colonial Mutual Life**

(Question No. 2541)

Senator Allison asked the Minister representing the Minister for Finance and Administration, upon notice, on 29 June 2000:

With reference to Senator Allison’s question without notice in June 2000 concerning the sale of government assets and the answer given by the Minister representing the Minister for Finance and Administration (Senator Ellison) (Senate Hansard, 8 June 2000, pp. 14168-14169) in which he claimed that the State Bank of New South Wales was sold for $576 million and that this represented a good outcome for the taxpayers of New South Wales:

(1) Did the then Premier of New South Wales (Mr Fahey) agree that 90 per cent of the bad debts of the State Bank of New South Wales, after the first $60 million, would be met from the sale price of $576 million.

(2) Is it a fact that, mainly because of this guarantee, the actual sale proceeds to the New South Wales Government are not $576 million but less than $160 million and still falling.

(3) How much of the actual sale proceeds of $160 million will the New South Wales Government lose by the year 2006 when the Government guarantee on bad debts, provided by the then Premier, expires.

(4) In April 2000, did Arthur Anderson value the banking business of the Colonial Bank, the purchaser of the State Bank of New South Wales, at between $2.63 and $2.97 billion, of which all but approximately $150 million related to the former State Bank of New South Wales.

Senator Ellison—The Minister for Finance and Administration has supplied the following answer to the honourable senator’s question:

(1) and (2) Details of the sale of State Bank of NSW to Colonial Mutual Life in 1994 by the NSW government are not in the possession of the Minister for Finance and Administration. The sale was examined by the NSW Auditor-General prior to the sale proceeding and the Auditor-General reported to the NSW Parliament, concluding that the sale proceeds were “fair and reasonable and entirely acceptable”.

(3) The parties to the sale agreed on the orderly run-down of the Banks’ liabilities of approximately $19 billion. Bad debts could only be written off by the purchaser with the approval of an independent committee responsible for managing the debt book. The Minister for Finance and Administration has not had access to any NSW government records concerning the State Bank sale since March 1995.
(4) The Minister for Finance and Administration has no knowledge of a private banks valuations.

**Department of Defence: Toxic Chemicals**

(Question No. 2552)

Senator Brown asked the Minister for Defence, upon notice, on 30 June 2000:

Has any VX agent, a malathion-like toxic chemical, ever been stored in Australia or its neighbourhood.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

Yes.

Defence holds a very small amount of the VX agent for use in research into defence against chemical agents, and in the development of methods of analysis to support the verification of the Chemical Weapons Convention (CWC). Both activities are fully consistent with Australia’s obligations under the convention.

Under the CWC, VX is classified as a Schedule 1 chemical and as such, is subject to stringent monitoring. Australia makes bi-annual declarations of stocks, production, use and trade of chemicals such as VX to the Organisation for the Prohibition of Chemical Weapons. No other stocks of VX exist in Australia and its territories.

**Department of Immigration and Multicultural Affairs: Contracts**

(Question No. 2594)

Senator Bartlett asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 24 July 2000:

1. Can an outline be provided of the means by which your Department records and manages a register, if any, of contracts which include commercial-in-confidence provisions.

2. Can a list be provided of all contracts signed since 1 July 1999, which have commercial-in-confidence provisions, and against each contract so signed, please indicate the reasons for commercial-in-confidence provisions.

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

1. The Department of Immigration and Multicultural Affairs does not maintain a register that specifically details contracts having commercial-in-confidence clauses.

2. A significant number of contracts entered into by the Department contain clauses relating to the treatment of confidential information. Contracts are either specifically marked commercial-in-confidence or have clauses which oblige the party/parties to the contract to consult prior to any release of information.

The list of contracts below includes all departmental contracts signed since 1 July 1999 that contain commercial-in-confidence provisions. The reasons for their inclusion are protection of sensitive pricing information or business processes that may affect contractors competitive advantage in the market and protection of Commonwealth material. The Department’s standard contract requires contractors to obtain prior written approval of the Department before such material can be divulged.

The standard departmental contract allows for access by the ANAO to contractor’s premises, and records and information that directly relates to contracts.

<table>
<thead>
<tr>
<th>CONTRACT TITLE</th>
<th>ORGANISATION</th>
<th>DATE SIGNED</th>
</tr>
</thead>
<tbody>
<tr>
<td>NewPAY-The Provision of Payroll and Payments Managements Services</td>
<td>CITEC (CSI Holdings Proprietary Limited)</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>Software Maintenance - Seagate Crystal Info</td>
<td>Seagate Software</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>Software Maintenance - Seagate Hollis</td>
<td>Seagate Software</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>Software Maintenance - Seagate Crystal Info/Client License</td>
<td>Seagate Software</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>CONTRACT TITLE</td>
<td>ORGANISATION</td>
<td>DATE SIGNED</td>
</tr>
<tr>
<td>---------------</td>
<td>-------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Software Maintenance - SEER HPS</td>
<td>Level 8 Systems</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>Software Maintenance - Connect Direct</td>
<td>Sterling Software</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>IT Specialist Services - Trim Implementation &amp; Support</td>
<td>Solution 6 (previously CVSI)</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>Supply &amp; management of operators for the Citizenship Telephone Inquiry Line</td>
<td>Telstra</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>Shared Systems Contract between DIMA and CVSI - C-Top (TRIM) Records Management System</td>
<td>CVSI - CV Services International Pty Ltd (Solution 6)</td>
<td>01-Jul-99</td>
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<tr>
<td>The Administration of the Asylum Seeker Assistance Scheme</td>
<td>The Australian Red Cross Society</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>The Provision of Certain Educational Assessments for Persons Interested in Migrating to Australia under the Skilled-Independent, Skilled-Australian Sponsored and Skill Matching visa categories</td>
<td>The Council of Kangan Batman Institute of Technical and Further Education</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>Certain educational assessments for persons interested in migrating to Aust</td>
<td>Council of Kangan Batman Institute of Tafe</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>TISIS2 Consultancy Service - Various Assist</td>
<td>Assis</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>Supply and Maintenance of Interior Plants</td>
<td>Interior Landscapes</td>
<td>01-Jul-99</td>
</tr>
<tr>
<td>GST Consultancy - Telfer</td>
<td>CSC</td>
<td>01-Jul-99</td>
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<tr>
<td>Living in Harmony Partnership Grant</td>
<td>Nsw Rural Fire Service</td>
<td>02-Jul-99</td>
</tr>
<tr>
<td>IT Specialist Services - DSD Project</td>
<td>Admiral Management Services</td>
<td>07-Jul-99</td>
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<tr>
<td>IT Specialist Services - Y2K Project</td>
<td>Wizard Information Services Pty Limited</td>
<td>09-Jul-99</td>
</tr>
<tr>
<td>To Undertake a Literature Survey on links Commentators are drawing between the concepts of Multiculturalism and Citizenship</td>
<td>Dr Amareswar Galla, Cultural Economics International Pty Ltd</td>
<td>19-Jul-99</td>
</tr>
<tr>
<td>Dev &amp; Production of Guidebooks to assist Home Tutors using it’s over to you</td>
<td>West Coast College of TAFE</td>
<td>19-Jul-99</td>
</tr>
<tr>
<td>Contract Services for Scribing Services [Ms Neva Kastelic]</td>
<td>Interim HR Solutions Pty Ltd</td>
<td>26-Jul-99</td>
</tr>
<tr>
<td>Memorandum of Understanding - Chief Exec DIMA &amp; Principal Member RRT</td>
<td>Refugee Review Tribunal</td>
<td>30-Jul-99</td>
</tr>
<tr>
<td>For Administrative (APS 1-6) and Secretarial Support [Jenny Lowry, Kerry Anne Baker]</td>
<td>Wizard Personnel and Office Services Pty Ltd</td>
<td>02-Aug-99</td>
</tr>
<tr>
<td>Project Consultant to the Project to Develop and Implement a Case Management System for the Internal Investigations Section of the Department</td>
<td>Dinkum Data Pty Ltd</td>
<td>04-Aug-99</td>
</tr>
<tr>
<td>Career Management Seminar</td>
<td>Narelle Milligan</td>
<td>16-Aug-99</td>
</tr>
<tr>
<td>Services for Implementation/Assistance with Activity Based Costing and Benchmarking</td>
<td>Marque Consulting Pty Ltd</td>
<td>18-Aug-99</td>
</tr>
<tr>
<td>Specialist IT Contract Management Services [Julie Cardew]</td>
<td>Interim Technology Associates Pty Ltd</td>
<td>23-Aug-99</td>
</tr>
<tr>
<td>CONTRACT TITLE</td>
<td>ORGANISATION</td>
<td>DATE SIGNED</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------------</td>
<td>--------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Facilitation of Two Workshops in the Unlocking Potential Programs 3 and 4</td>
<td>Mr Paul Blackburn</td>
<td>26-Aug-99</td>
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<tr>
<td>Facilitation of Negotiation Skills Workshop for the Staff Effectiveness Development (SED) Program</td>
<td>Communication Concepts Pty Ltd</td>
<td>30-Aug-99</td>
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<tr>
<td>Living in Harmony Partnership Grant</td>
<td>Nsw Dept of Education and Training (CESCO)</td>
<td>30-Aug-99</td>
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<tr>
<td>IT Specialist Services - Rochade Implementation</td>
<td>Viasoft Pty Ltd</td>
<td>31-Aug-99</td>
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<tr>
<td>Research Study on Category Jumping Particularly in Relation to Its Causes and Demographic Impact</td>
<td>Australian National University, Research School of Social Sciences</td>
<td>31-Aug-99</td>
</tr>
<tr>
<td>Consultancy Services for BSG Capital Acquisition Plan</td>
<td>KLA Australia</td>
<td>01-Sep-99</td>
</tr>
<tr>
<td>IT Specialist Services - Data Warehouse Consultancy</td>
<td>Simson, Bowles &amp; Associates Pty Ltd.</td>
<td>02-Sep-99</td>
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<tr>
<td>The Facilitation of a Series of Four Section Business Planning Workshops</td>
<td>Ms Cathy Mauk [P.A.L.M. Management]</td>
<td>06-Sep-99</td>
</tr>
<tr>
<td>The Facilitation of a Course in Project Management for the Staff Effectiveness Development (SED) Program</td>
<td>Mr Bruce Glendinning [P.A.L.M. Management]</td>
<td>06-Sep-99</td>
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<tr>
<td>Provision of Services - Kit Warusevitane</td>
<td>Professional Careers Australia Pty Ltd.</td>
<td>08-Sep-99</td>
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<tr>
<td>Project Management Contract - Fitout of Green A7, Green B7; and Yellow D5 - Benjamin Offices</td>
<td>Gutteridge Haskins and Davey Pty Ltd.</td>
<td>09-Sep-99</td>
</tr>
<tr>
<td>IT Specialist Services - Olympics Project [Danielle Landy]</td>
<td>Stratagem</td>
<td>10-Sep-99</td>
</tr>
<tr>
<td>The Development of a User Friendly Point and Click Interface for the Longitudinal Survey Immigrants to Australia (LISA) data set and produce this on CD-ROM</td>
<td>Catalyst Interactive Pty Ltd</td>
<td>16-Sep-99</td>
</tr>
<tr>
<td>Development of a user friendly point and click interface - Longitudinal Survey</td>
<td>Catalyst Interactive Pty Ltd</td>
<td>16-Sep-99</td>
</tr>
<tr>
<td>Facilitation of a Modified Course in Project Management for the Staff Effectiveness Development (SED)</td>
<td>P.A.L.M. Management [Jeannie Dobney]</td>
<td>20-Sep-99</td>
</tr>
<tr>
<td>Consultancy Services for Core Funding for 1999/2000</td>
<td>Refugee Council of Australia</td>
<td>20-Sep-99</td>
</tr>
<tr>
<td>IT Specialist Services - ARMS Support Helpdesk [Julian Emerson-Elliot]</td>
<td>Paxus Australia Pty Limited</td>
<td>21-Sep-99</td>
</tr>
<tr>
<td>An Analysis of Data from the Longitudinal Survey of Immigrants to Australia (LISA) into some areas of Immigrants' Experiences and to present an Overview of Waves 1,2 &amp; 3</td>
<td>National Institute of Labour Studies (NILS), Flinders University of SA</td>
<td>24-Sep-99</td>
</tr>
<tr>
<td>The Provision of Travel and Other Services under the Government Funded Component of the Humanitarian Program to Undertake Related Projects</td>
<td>Mr David Laurence Westcott [Lifetrack Management Limited]</td>
<td>27-Sep-99</td>
</tr>
<tr>
<td>CONTRACT TITLE</td>
<td>ORGANISATION</td>
<td>DATE SIGNED</td>
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<td>--------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Personal Efficiency Program</td>
<td>Tony D’Arcy</td>
<td>27-Sep-99</td>
</tr>
<tr>
<td>Development and implementation of replacement purchasing agreement</td>
<td>PriceWaterhouseCoopers (PWC)</td>
<td>01-Oct-99</td>
</tr>
<tr>
<td>The Provision of Abstracting and Indexing Services for the Purpose of Updating</td>
<td>BIBLIOAnalysis</td>
<td>05-Oct-99</td>
</tr>
<tr>
<td>and Maintaining MAIS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Research Study on the ethnic aged and their capacity for financial independence</td>
<td>Australian Institute of Health and Welfare</td>
<td>06-Oct-99</td>
</tr>
<tr>
<td>Construction Contract - Crisis Centre Intruder Alarm System for Benjamin Offices</td>
<td>Honeywell Limited</td>
<td>08-Oct-99</td>
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<tr>
<td>Green Building Level 7 A</td>
<td></td>
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<tr>
<td>Scribing Services [Mr Bob Warn]</td>
<td>INT-RIM HR Solutions</td>
<td>13-Oct-99</td>
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<td>IT Specialist Services - David Fricker</td>
<td>Business Synetics Pty Ltd</td>
<td>29-Oct-99</td>
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<td>The Provision of Office Removals Services to DIMA Central Office and DIMA ACTRO</td>
<td>Atlantis Relocations</td>
<td>01-Nov-99</td>
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<td>Provision of Assistance to Organisations Seeking to Respond to A Request for</td>
<td>Jobs Australia Limited</td>
<td>08-Nov-99</td>
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<td>Proposals to Deliver Good and Services to Humanitarian Program Entrants</td>
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<td>Services for Statistical Analysis in relation to the Detention Strategy</td>
<td>Andrew Struik</td>
<td>10-Nov-99</td>
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<td>Scribing Services [Ms Joan Lyons]</td>
<td>INT-RIM HR Solutions</td>
<td>10-Nov-99</td>
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<td>Services for Work Related Tasks in the Safe Haven Taskforce</td>
<td>Elaine Moloney</td>
<td>15-Nov-99</td>
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<td>IT Specialist Services - EWTA Project [Robert Wiedyk &amp; Andrew Einspruch]</td>
<td>HCI Consulting Pty Ltd</td>
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<td>The Training of DIMA Staff in Central Office and the States on OBRM-Introduction</td>
<td>J &amp; C Services Pty Ltd (T/A Territory</td>
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<td>to Financial Management in DIMA</td>
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<td>Consultancy Services for a Review of Library Services and Operations</td>
<td>Australia Street Company</td>
<td>25-Nov-99</td>
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<td>Settlement Database - Processing of selected info forms &amp; related tasks</td>
<td>Commercial Computer Centre</td>
<td>01-Dec-99</td>
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<td>Living in Harmony Partnership Grant</td>
<td>Ethnic Broadcasters Inc and the Multicultural Communities Council of SA</td>
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<td>Providing of Services by DIMA to Assist SOCOG in the Staging of the Olympic</td>
<td>Sydney Organising Committee for The</td>
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<td>Games and Paralympic Games</td>
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<td>AMEP Research Centre &amp; Associated services including research</td>
<td>Macquarie and La Trobe University</td>
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<td>Evaluation of the Regional Sponsored Migration Scheme (RSMS) &amp; (STNI)</td>
<td>National Institute of Labour Studies - Flinders University of South Australia</td>
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<td>The Revision and Update of DIMA’s Chief Executive Instructions</td>
<td>John Shum</td>
<td>13-Dec-99</td>
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<td>Professional Conference Organiser Services - Productive Diversity Partnerships Program November 2000</td>
<td>The Events Centre</td>
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<td>Recruitment and Selection of a Regional Medical Officer for London and Bangkok</td>
<td>Australian Medical Placements</td>
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<td>IT Specialist Services</td>
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<td>Provision of Management Information Services to AMEP</td>
<td>Bruce William Hamilton</td>
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<td>Local Symbols of reconciliation - Living in Harmony</td>
<td>Australian Local Government Association</td>
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<td>The Productive Diversity Partnership Program (Resource Development Projects)</td>
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<td>GST Consultancy - Sherd</td>
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<td>Conduct of the project A Tale Of Two Peoples under the Living in Harmony initiative</td>
<td>Australian Arabic Council</td>
<td>24-Jan-00</td>
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<td>Project Management of SAP R/3 upgrade program &amp; Variation to extend expiry date</td>
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<td>Terang Resources Inc</td>
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<td>Provision of Probity and other advice relating to provision of litigation service</td>
<td>Corrs Chambers Westgarth Lawyers</td>
<td>01-Feb-00</td>
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<td>Koorie Heritage Trust Inc</td>
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<td>Training &amp; development aspects of the Graduate Development Program 2000</td>
<td>People and Strategy</td>
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<td>Analysis of needs for DIMA’s National IVRU script</td>
<td>Elizabeth M Murphy &amp; Associates</td>
<td>04-Feb-00</td>
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<td>AMEP Client Satisfaction Survey</td>
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<td>1 and 1/2 day training program to examine the concept of mind-body training</td>
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<td>Paxus</td>
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<td>Plain English Revision of DIMA’s IVRU Script</td>
<td>Elizabeth M Murphy &amp; Associates</td>
<td>11-Feb-00</td>
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<td>BSG Executive Information System</td>
<td>The Power of Ten Pty Ltd</td>
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<td>Melbourne Airport humanitarian entrants in transit</td>
<td>Redback Management Services Pty Ltd</td>
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<td>Mailing out information kits titled &quot;Employing Overseas Workers&quot;</td>
<td>Teo Tran - Canberra Mailing</td>
<td>02-Mar-00</td>
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<td>TIS Cost Accountant - Daly</td>
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<td>SAP R/3 GST Implementation &amp; Contract Variation to include splitting of Company Codes</td>
<td>Rengain Consulting P/L</td>
<td>06-Mar-00</td>
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<td>Superworking Program for DIMA</td>
<td>Susanne Rix</td>
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<td>IT Management - Fitzgerald</td>
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<td>Kathy Syrette</td>
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<td>Provision of System Analyst &amp; ABAP Programming</td>
<td>Southern Cross Computing P/L</td>
<td>13-Mar-00</td>
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<td>It Specialist Services - ISAC Project - Kent Firth</td>
<td>PAXUS Australia Pty Ltd</td>
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<td>Assist in the evaluation of proposals 99/025 for Humanitarian Settlement Services</td>
<td>Andrew Struik - Order 45005558</td>
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<td>Delivery of diploma in Gov Financial Management Course to RMB &amp; PRASS</td>
<td>Cit Solutions</td>
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<td>IT Specialist Services - Greg Thomas</td>
<td>Level 8 Systems</td>
<td>30-Mar-00</td>
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<td>GST Compliance Project</td>
<td>Interim Technology Solutions</td>
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<td>Management of ARMS Helpdesk and services to AMEP’s (NMIU)-T Corcoran</td>
<td>PAXUS People</td>
<td>01-Apr-00</td>
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<td>Provision of management information services to AMEP</td>
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<td>IT Specialist Services - S D &amp; M</td>
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<td>Temporary Case Management Support for Kosovars living &quot;Off-Haven&quot;</td>
<td>Australian Red Cross ACT</td>
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<td>Passenger Card Project - Diane Bilow</td>
<td>PAXUS Australia Pty Ltd</td>
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<td>Fit out and minor works at the Preston Office</td>
<td>KKET Enterprise Pty Ltd</td>
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<td>Interiors Australia Pty Ltd</td>
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<td>IT Specialist Services ICSE Project - Tanya Corcoran</td>
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<td>26-Apr-00</td>
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<td>IT Specialist Services - S Rampton</td>
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<td>Legislative &amp; Policy advice on the effect of FBT Reporting and the GST</td>
<td>Ernst &amp; Young</td>
<td>27-Apr-00</td>
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<td>1 and 1/2 day training program to examine the concept of mind-body training</td>
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<td>Development of a Revised Property Services Delivery Model for DIMA</td>
<td>Acumen Alliance (ACT) Pty Ltd</td>
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<td>Desktop Standard Operating Environment (SOE) Requirement for Cluster 3</td>
<td>Com Tech Integration Services</td>
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<td>Ice Data Cleansing</td>
<td>Mastersoft International</td>
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<td>Development of DIMA overseas guidelines</td>
<td>Brian Samson</td>
<td>09-Jun-00</td>
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<td>Development of DIMA Environmental Plan</td>
<td>Robert Waite</td>
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<td>Maintenance services for supplementary air conditioning and auto-dial thermal alarms</td>
<td>Environ Mechanical Services</td>
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<td>Assist with the design, doc and review of DIMA's overseas property and accommodation management guidelines</td>
<td>Management Plus Pty Ltd</td>
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<td>Contract Services for the Adult Migrant English Program</td>
<td>All Language Typesetters</td>
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<td>Development of Holistic Diversity Program</td>
<td>KPMG Australia</td>
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<td>Research Study into the outcomes of the Second Generation Migrants in Australia</td>
<td>Aust Centre for Population Research Aust National University</td>
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<td>The Productive Diversity Partnership Program (Resource Development Projects)</td>
<td>The University of Melbourne</td>
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<td>Provision of Employee Assistance Program</td>
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<td>IT Specialist Services - Dirk Arentz</td>
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<td>Terang Resources Inc</td>
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