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Debate resumed from 1 March, on motion by Senator Ian Campbell:
That this bill be now read a third time.

Senator JACINTA COLLINS (Victoria) (12.31 p.m.)—In continuation, there are failings both of principle and practicality which should condemn this legislation. I think they deserve a quick revisit before the final vote on the Workplace Relations Amendment (Tallies) Bill 2000. With respect to principle, the propensity for this government to intrude into judicial processes, particularly when the subject matter is industrial, has been well established, but for some years now the Senate has acted as a safety net against this propensity.

This proposal is a return to the worst tendencies of the coalition. It takes an issue that has been extensively and, by all perspectives, effectively dealt with by the Australian Industrial Relations Commission. The proposal interposes onto the determination of that commission a legislative determination. It is just bad legislative practice. It is not the job of the legislature to pick the winners and the losers in individual cases; it is its job to set up the rules, which apply to all equally. It is the job of the courts and the tribunals to determine the winners and losers in those individual cases. That is one of the central precepts of the separation of powers between the legislature and the judiciary.

Secondly, this bill establishes a very bad precedent in the context of this act. This government has a well-established desire to wreak havoc on unions in certain industries. The waterfront, construction and mining industries spring to mind immediately. It is a bad day in industrial relations in this country when the Australian Democrats give comfort and support to the government’s desire, as they have done with this bill. For the first time we will determine in the legislation what can be included in an award that applies to a certain industry. Why not in the future, if we go to the award allowable matters? Let us, for instance, pick item 89A(2)(p): dispute settling procedures. Why not in the future have ‘dispute procedures other than in the maritime industry’, as the government’s view on how to deal with disputes in the maritime sector is clearly a matter of public record?

Alternatively, let us look at 89A(2)(l): penalty rates. Why not in the future have ‘allowable matters with respect to penalty rates other than in the pastoral sector’, if we want to please the NFF? If we want to pick up issues that are being raised with respect to Victoria, and if there are concerns about how an industrial system can be introduced to protect the rights of Victorian workers, why not have a federal allowable award matter that could be called ‘penalty rates other than in the Victorian hospitality sector’? Why not have these things, if the Democrats are prepared to go down this path, with respect to the meat industry? If this is seen at some future time as the start of a practice of differentiating between the treatment of some industries, let there be no doubt who is responsible—this is a step that the Australian Democrats have taken with the government.

From a practical perspective, this is simply confusing and bad legislation. The primary cause of the problem in this legislation is that of definition. As was pointed out by Senator Cooney, Senator Ludwig and me in the committee stage debate, the Democrat amendments do not resolve the question of whether this provision will be limited to tallies in the meat industry. Indeed they invite the conclusion that the provision will have wider application. I challenged the minister representing the minister for industrial relations to confirm before the Senate that there were other industries that use tallies. On at least three occasions, I asked the minister to tell us that the department had discovered tallies in other awards and how it differentiates between those other than the meat industry, but these requests were ignored on each occasion.
The other major practical criticism is related to the meat industry. This provision will prevent them from using tallies, but even we cannot define exactly what we are preventing them from using. The definition of ‘tally’ is unclear, and the minister could not indicate in the committee stage debate whether the notion of a tally in the meat industry was consistent across all meat industry awards. The definition of incentive based payments is also unclear. In a real sense, we do not know exactly what effect this provision will have on the future of that industry. This issue is most illustratively addressed in an exchange between Senator Murray and Senator Cooney that begins on page 22192 of the Hansard and continues onto the following page.

I will not canvass the issue extensively here except to say this: Senator Cooney is a person whose opinions on matters of statutory interpretation should hold some sway in this place, given his expertise in this area. As Senator Cooney pointed out in his contribution during the second reading, there is a great deal of misplaced optimism in the Democrats’ expectation of how this provision will be interpreted in the future. So, despite the assertions of Senator Murray, it is clear we are replacing the logical and effective process managed by the commission, which is informed on all these issues, with a legislative hotchpotch of unknown effect. The Labor Party will be opposing this bill in the third reading, and I urge rejection of it by the Senate.

Senator MURRAY (Western Australia) (12.37 p.m.)—I want to deal briefly with some remarks made by Senator Jacinta Collins in a media released dated Thursday, 1 March 2001. If the media release were part of the Senate record, it would have misrepresented a position. But, since it is not part of the Senate record and is part of the public record, I think I must deal with it. The media release is headed ‘Meg’s still doin’ the deals’. The coalition have every right to be extremely angry with Senator Meg Lees and Senator Andrew Murray, because we will not do deals with them. In the last five years, two bills in the area of industrial relations were passed in 1996 and 1997 by the government and the Australian Democrats. The first bill was a major reform of Labor’s 1993 major reform and the second bill in 1997 was a technical bill. In both those instances the negotiations were led by Labor’s Cheryl Kernot. The Labor Party are so cross with the member for Dickson, Cheryl Kernot, that they have rewarded her with a senior shadow portfolio and, if the Labor Party win the election, they are going to reward her with a senior ministerial post. I do not think Senator Collins is even going to get a look-in on the front bench, never mind a senior ministerial post. So the Labor Party are so upset about the 1996 act that they are going to reward Cheryl Kernot as a result. Those two bills were the first of four workplace relations bills passed in this place since 1996.

Since Senator Meg Lees became Leader of the Australian Democrats this is the first bill which will actually pass. The other bill, with the passing of junior rates, was a disgraceful abrogation of Labor’s responsibilities. That was a deal the Labor Party did with Minister Peter Reith. This bill, the Workplace Relations Amendment (Tallies) Bill 2000, is the only IR bill that Senator Lees and the party room of the Democrats have let through—after major amendment. So ‘Meg’s still doin’ the deals’ on IR is simply wrong and is a grotesque and dishonest attempt to capitalise on a public perception which has been deliberately whipped up by many in the media and by the Labor Party. In fact, for the record, neither Senator Lees nor I met with Minister Peter Reith or Minister Tony Abbott to discuss the amendments that we put before this chamber. I will repeat that: neither Senator Lees nor I met with Minister Peter Reith or Minister Tony Abbott or discussed on the telephone or in any other way the amendments that we put before the Senate.

However, we did discuss the amendments with Arch Bevis, the Labor Party’s shadow minister in this area. In fact, of our five amendments, you will discover that Labor as well as the coalition supported four of them. Labor have their fingers all over this bill. What is more, we supported two out of three of their amendments. So, to use a common Labor phrase, it is a pretty grubby exercise,
Senator Collins, and a very disappointing one. The press release of 1 March 2001 said:
Senator Jacinta Collins, the Labor Party’s spokesperson for Industrial Relations in the Senate, condemned the Democrat deal with the Government to pass the Workplace Relations Amendment (Tallies and Picnic Days) Bill 2000.
Senator Collins does not indicate that, in fact, it is no longer the Workplace Relations Amendment (Tallies and Picnic Days) Bill 2000, because we have excised picnic days from it. I noticed we got no kiss for that on the way through. Senator Collins then goes on in the press release to describe the bill:
... as having implications that are much broader than just tallies in the meat industry.
That is quite right. We have agreed in the Senate that incentive based payments replace tallies in the act and have considerably enlarged the ability of employees and employers to introduce workplace results based payments into agreements. They are much broader and much better as a result. We have been criticised for excluding the meat industry from the tallies process, and we have dealt with that at length in the debate. Anyone who reads only this section should look at that. But the fact is that meat industry workers will have access to incentive based payments under this regime. Senator Collins says that we have played footsy with the coalition on key industrial principles. Well, we have not. She then goes on to say:

Both Democrat supporters—
I was not aware that Senator Collins was in close touch with them, but anyway—
and all Australian workers look forward to the Democrat’s leadership ballot for a change in their direction.
What I really think this means is that Senator Collins hopes that Senator Lees loses the leadership ballot. I know the Labor Party to be a tough and very capable political party. Having strong Democrats is not remotely in their interests and never has been. If they could reduce our vote by whatever means, they would do so. What they are actually saying here is that they would like to see Senator Lees go because, if she goes, it will weaken our vote and our support. This is a very unwise thing to say, given that both your leader and your deputy leader have been very careful to stay out of that debate, because of the wrong approach it would indicate.

When you are pointing the finger without addressing the facts, Senator Collins, I will give you this word of caution: if you want to attack us on policy, do so; you are quite right to do so because, if you have a different view to us, that is fair enough and you should do so; it is your duty to do so. However, do not impute motives or circumstances to us which are untrue. I believe that many members of the Labor Party side of the Senate are very honourable people and I have affection for a number of them. But there are others who simply see themselves as representatives of their union. I am suggesting that they see themselves as representatives not of the ACTU but of their own union, and they take direct instructions from them.

Without embarrassing the senator concerned, I will say to you that I was once trusting enough to say to a Labor senator, a senior spokesperson in this field, who asked me what my position was going to be on a bill, ‘Well, it’s going to be like this, and we’ll see how it pans out’. Within five minutes as I sat at my chamber desk, a phone call came from my office upstairs. The little light shone and I picked up the phone and I was told that they had just had a phone call from the union about the matter. So a senator dealing with a bill from the Labor side on legislation could not wait to ring up their boss and say, ‘Hey, boss, this is what’s going on.’

I have never ever had that situation from a coalition senator with their business connections. The coalition is often challenged for their business connections, but I have never had that experience, despite dealing with just about every business bill that comes through this place. But I have had that experience with a Labor senator. It is not true to say that all Labor senators are of that connection, but it is true to say that some are simply representatives of their union here, and that has been my experience and I recount that example to illustrate it.

Senator Collins, when you say, ‘Meg is still doing the deals,’ when she is not, you should be very careful and cautious, because there are members of your party who are...
directly, indisputably, just the representatives of their union in these matters—not in all matters but in these matters—and who do their bidding, which I think is entirely wrong and against the spirit of what being a senator means. If from those remarks you can gather I am annoyed about your press release, you are right; and if my putting it on the record means that maybe I have corrected your press release, you are right. If you want to attack me for the amendments you oppose, do so; but do not impute to Senator Meg Lees that she did a deal on this issue—because the fact is that she did not.

Question resolved in the affirmative.

Bill read a third time.

THERAPEUTIC GOODS AMENDMENT BILL (No. 4) 2000 [2001]

In Committee

Consideration resumed from 28 February.

The TEMPORARY CHAIRMAN (Senator Hogg)—The committee is considering the Therapeutic Goods Amendment Bill (No. 4) 2000 [2001] and the question is that the amendments moved by Senator Lees on behalf of the Australian Democrats be agreed to.

Senator HARRADINE (Tasmania) (12.50 p.m.)—Mr Temporary Chairman—(Quorum formed). We were last week, and we are now, dealing with an amendment by Senator Lees to the Therapeutic Goods Amendment Bill (No. 4) 2000 [2001] to remove the absolutely necessary protections that are given to women and to the general public in Australia in respect of the importation of the abortion drug RU486. The history of the attempts by the abortion industry and others to get this drug into Australia required those protections, which Senator Lees, on behalf of the Democrats—or maybe she is not talking on behalf of the Democrats—is attempting to remove now.

It is important for us to understand the background of this matter. The backdoor importation and trialling of RU486 in Australia in 1994 brought to light the inadequacy of the system of ethical evaluation and trial monitoring in Australia—and, of course, recently we have had that situation brought to our attention in the media again. Abortion drugs have always been prohibited imports, unless exempted therefrom by the department of health. Governments of both sides, as far back as 1988, had given an undertaking to the parliament that they would not allow such an exemption without the involvement and consultation of the health minister. Yet the then minister, Senator Richardson, knew nothing at all of the backdoor importation and the trials that were approved by a nameless bureaucrat in the health department. That official approved importation of the drug for three trials to be conducted by Family Planning New South Wales and Family Planning Victoria. Senator Richardson was told some time later, and agreed in the Senate, that undertakings had been breached, and he expressed his intention to rectify matters. Soon after that, he resigned from parliament.

RU486 was trialled in Australia in 1994. The trials were part of a multicountry trial, sponsored by the Special Programme of Research, Development and Research Training in Human Reproduction—that is, the HRP program—which is co-sponsored by the World Bank and the United Nations Population Fund, amongst others. There were many flaws in these trials. For example, the consent forms that were supposed to inform women of the risks made no mention at all of cardiovascular risks; no mention was given at all that, if the medical abortion did not work, gross birth defects were likely, with a surgical abortion being the outcome. The then health minister, Carmen Lawrence, who took over from Senator Graham Richardson, suspended the trials and ordered that the Family Planning Association come up with informed consent forms which were really those; and acting departmental secretary, Alan Bansemer, threatened to stop those trials, in the public interest.

A review was held also into the functions of the institutional ethics committees that had approved the trials. For example, Family Planning New South Wales Ethics Committee approved its own organisation’s trial. In other words, those approving the trial were the ones actually running the trial. The lack of independent control over human drug experimentation, including experiments with
RU486, was exposed in a series of articles by Margo Kingston in the Sydney Morning Herald. That journalist wrote:

... private ethics committees attached to research bodies—with memberships that aren't even cleared by Government—simply sign off a promise that everything is fine.

I might interpose here that the history of CJD shows what can happen when governments take a hands-off approach to drug trials. It seems that, in this area of fertility and infertility, such does apply. I will be happy to expand on this later in the committee and tell you who was who in respect of that CJD matter. Madam Temporary Chairman Crowley, I see that you are in the chair. You will recall that the Allars report went to your committee, and you made certain very strong recommendations thereon.

The backdoor importation of the drug—that is, RU486—and the flawed consent process and incestuous way the trials were approved by Family Planning's own ethics committee highlighted the unacceptable way that hazardous drugs are allowed to be trialled in Australia. There is a false perception that the Therapeutic Goods Administration thoroughly assessed the quality, safety and efficiency of the drug prior to its trial. This was not, and in the future would not be, correct. The only role of the TGA was to issue a receipt after payment of the trial application fee.

In Senate estimates committee hearings at the time, health department officials admitted that the new clinical trial notification scheme, which came into effect in 1991, was a system that was just a 'postbox receipt operation'—that was a statement by a department of health official to the Senate estimates committee. Ethical and legal evaluation and approval from the department were no longer required. The department knew nothing of the trials or how they were conducted. Shouldn't this be of concern to us here, and shouldn't these health issues be of concern to us here?

RU486 has serious, well-documented ill effects: heart attack, bleeding requiring transfusion, uterine rupture, vomiting and diarrhoea. It can even kill. Women considering using the drug are advised to live within close range of a fully equipped medical facility. The French minister for health instructed that the drug must be given 'under strict medical supervision' and doctors must have ECG and resuscitation equipment available. Then there are the potential lasting effects on cervical and uterine tissue. RU486 has been found in the egg follicles of its recipients, raising questions about future fertility and the health of subsequent children. The prostaglandins used with RU486 to cause uterine contractions to expel the foetus can permanently damage the immune system.

While its advocates have promoted RU486 as a do-it-yourself demedicalised abortion, it requires up to five visits to a specialist centre and taking up to five drug combinations. Prominent women's health academic Dr—now Professor—Renate Klein, in a critical book written on RU486, stated:

There appears to be an unquestioning acceptance that RU486/PG de-medicalises abortion, whereas the reality ... is that it ... more thoroughly medicalises the abortion experience for women ... given the media hype and the lack of independent research on RU486/PG most women taking the drug are not informed and consent is relatively meaningless.

On its own, RU486 has a 20 to 40 per cent failure rate, which is why it is most often used in conjunction with a prostaglandin. But even this combination fails to work in five per cent of the cases. This means one woman in 20 who uses the drug will also undergo a surgical abortion.

Because of the poor success rate of RU486 when used on its own, a second drug, misoprostol, a prostaglandin, is used with RU486 to expel the foetus. Drug company Serle was unable to prevent the use of its ulcer destroying drug misoprostol—which is contra-indicated in pregnancy—being combined with RU486 in the Family Planning Association Victoria trial. Recently Serle told the US Food and Drug Administration that misuse of the drug can cause adverse effects such as ruptured uterus, vaginal bleeding, uterine hyperstimulation, rupture or perforation, shock, foetal bradycardia—low heart rate and pulse—pelvic pain and maternal or foetal death. Serle said:
Cytotec (misoprostol) is not approved for the induction of labour or abortion.

A first person account of the risks of misoprostol was given in an article titled ‘An insider’s story: The abortion pill has a darker side’ by Laurel Guymer in the Sunday Age of 5 November 2000.

There are many people in this chamber concerned about human rights violations in China. This country, the PRC, which demonstrates its respect for women’s human rights issues through forced sterilisation, forced abortion, forced IUD insertion and a one-child policy that results in female foeticide and infanticide, is manufacturing the drug RU486 for the US market. May I remind the chamber that China is also known as a major exporter of impure drugs. Here we have the Democrats wanting to remove the sorts of regulations we have in place for dangerous abortifacient drugs like RU486.

The importation, trial, registration and marketing of abortifacients raise major public health and policy issues and should not be left in the hands of bureaucrats or multinational drug companies or medical technologists. The Senate agreed in 1996 that there should be ministerial responsibility, subject to effective parliamentary scrutiny, and I urge the Senate not to back down on its commitment to accountability and scrutiny today.

Senator LEES (South Australia—Leader of the Australian Democrats) (1.05 p.m.)—Obviously, Senator Harradine’s opposition to the rights of women to choose is well documented. I respect his very firmly held convictions. However, the issue is that in all states of Australia, with differing rules, women do have some right—and in some states the right—to choose to determine whether or not they are able to continue with a pregnancy.

I note from Senator Harradine’s reading into Hansard of letters and comments, both last week and again today, that by and large these letters are four, five, eight and more years old. We have come a long way since Senator Richardson was with us and the debate of that time where there were some quite serious concerns about this drug and how it worked. There were concerns about the risks to women. Since then there have been trials internationally looking at all of these concerns. What has been found is that there still are some question marks and women obviously need the full information that is available as to what the specific risks are in relation to different conditions that they may need to keep aware of. However, if we look at the outcomes of various trials around the world we see that, while there are some risks with this drug, the risks are even greater if you move to surgical abortion—in fact, pregnancy itself carries a risk greater than it seems this drug does.

One of the other risks that people are not talking about is the fact that currently in Australia, when women go to their doctors with concerns about a pregnancy that is not wanted, a mix of other drugs are being used. A raft of different drugs, some of which have absolutely no relevance whatsoever to anything vaguely related to pregnancy, are being used. My office was contacted just today by a doctor who provides terminations and who is very concerned about what is happening and the mix of other drugs that is being used. She wanted us to know that women are resorting to using untested and less safe drugs because they cannot get hold of RU486 in this country. She knows of doctors around Australia who are already providing abortions using a drug that is supposed to be and directed to be used for arthritis, but these doctors are using it, in her term, ‘off label’ to provide their patients with medical abortions. Her concerns are that the use of this mix of other drugs and specific drugs that are intended for other purposes is far riskier than any trials of RU486 have found. She basically wanted me to stress that, rather than the drug RU486 itself being a risk, women are actually exposing themselves to unnecessary risks because the drug is not available.

Since this original debate was had and concerns were expressed back in 1994, a raft of countries have determined that women are able to have that choice, and I will just list a few of them: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Luxembourg, the Netherlands, Norway, Spain, Sweden, Switzerland, the UK, China, Israel, Russia and the US, which is one of the latest
ones. New Zealand is due and there are a raft of countries still looking at it. In other words, Australian women are being very much isolated when it comes to the availability of this alternative.

I think it is quite wrong of Senator Harradine to link this in any way with CJD. All of us who were involved in that committee process found that there were major issues and concerns, some of which have been dealt with and some of which are still very much alive. This is a separate issue. It is a safety issue. It is an issue very much for Australian women. I will simply say to the women in this parliament that, even if on this occasion we lose yet again, this issue is not going to go away. Time and time again, we are going to have to face the fact that we are denying Australian women a drug that is widely available in the rest of the world, a drug with fewer side effects than the alternatives that are being used, far fewer side effects than the surgical option. So I say, particularly to the women in the Labor Party: where are you now? We need to get this resolved for the health of Australia’s women.

Senator HARRADINE (Tasmania) (1.10 p.m.)—I do not appreciate and I do not think the chamber would appreciate Senator Lees’s condescending remarks about my views, seeing she was obviously not listening to what I said and not heeding the history. She said that my arguments were all past history and that the letters I referred to from very well known people in the women’s movement were six years old, four years old or whatever she said. I actually referred to a recent article in the Age newspaper about this very matter from one of those women.

One of the things that must cause concern to those who believe in regulation is the fact that, in this particular area, there always seems to be an action taken to achieve an objective without the proper scrutiny along the way. Yes, all right, CJD is a different matter, but not quite, is it? Because who was running the Victorian Family Planning trial of RU486? None other than the doctor who was implicated in the fertility treatment in which women were injected with the extract from the pituitary glands of a cadaver, resulting in CJD. We do have to be very, very careful in these matters, and there is a history of this matter. It is very interesting that, because of a fear of litigation and so forth, the American drug companies are not prepared to manufacture the drug but are getting a company in the PRC, China, to do the dirty work for them.

Amendments not agreed to.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Bill (on motion by Senator Tambling) read a third time.

CRIMES AMENDMENT (FORENSIC PROCEDURES) BILL 2000 [2001]

Second Reading

Debate resumed from 30 August 2000, on motion by Senator Ellison:

That this bill be now read a second time.

(Quorum formed)

Senator BOLKUS (South Australia) (1.17 p.m.)—I rise to speak on the Crimes Amendment (Forensic Procedures) Bill 2000 [2001]. This bill facilitates the establishment of a national DNA database system and introduces Commonwealth legislation for the taking of forensic materials in relation to a Commonwealth offence, which is complemented by legislation in each state for the taking of forensic material relating to state offences.

The existing forensic procedures provisions in part 1D of the Crimes Act provide powers and procedures for the taking and for the use of forensic material from anyone suspected of having committed a Commonwealth offence. It was always intended that part 1D be an initial step in establishing a national forensic material collection system and a national DNA database. This intention is realised in this bill—the bill that we are discussing today—which extends part 1D to include convicted offenders and volunteers and establishes the procedures for the operation of the national database.

This bill follows from and closely mirrors the February 2000 Model Criminal Code Officers Committee paper entitled ‘Model...
forensic procedures bill and the proposed national DNA database’. It was developed following a review of similar legislation in Canada, the UK, the USA, New Zealand and various European countries. It has been drafted in good faith and with wide consultation and contains a number of provisions which are intended to address civil liberties concerns arising from the sorts of operations we are talking about in this bill. It has also been widely accepted that a national DNA database will be an invaluable tool for law enforcement.

Having said all that, the opposition are acutely aware that there are real concerns in the community relating to the concept of taking and storing forensic material, the uses to which a DNA database may be put and the adequacy of civil liberties protections. We have been very insistent that, in supporting the establishment of this database, we must also ensure that as much as possible is done to minimise the possibilities of misuse and to protect basic civil liberties. With these concerns in mind, this bill was referred to the Senate Legal and Constitutional Legislation Committee. This process allowed all concerned groups to raise their concerns with the committee and allowed for detailed scrutiny of the drafting of the bill. As a consequence of that committee’s deliberations, we were presented with a unanimous report which made a number of recommendations relating to drafting amendments and to strengthening the oversight role of the federal Privacy Commissioner. With our support, the government will be moving amendments which we believe will be moved by the government, we anticipate that the bill will encompass adequately the concerns that we have about the safeguards and oversight mechanisms.

The most significant concern identified by the committee was the lack of uniform legislation governing the collection, use, storage and destruction of forensic material in participating state jurisdictions. This was identified as having the potential to undermine the safeguards which will be put in place in the Commonwealth jurisdiction. At the present time, for instance, the only jurisdictions which have legislation which is not inconsistent with the Commonwealth legislation are Queensland and the Northern Territory. The government will be moving amendments which will increase the oversight role of the federal Privacy Commissioner to include the effectiveness of independent oversight and accountability mechanisms for the DNA database system. As far as we are concerned, there must be an independent review of the DNA database system one year after its establishment.

We anticipate and will require that this review will take into account the effect, if any, of the existence of state legislation which is not consistent with the Commonwealth legislation. We also believe that the review should cover the retention of material on the database, provisions for its destruction and the oversight and functioning of the DNA database within the laboratory. With the addition of these and further drafting amendments which we believe will be moved by the government, we anticipate that the bill will encompass adequately the concerns that we have about the safeguards and oversight mechanisms.

It must also be said that this bill contains a number of amendments which do not relate to the DNA database and which are supported by the opposition. The bill outlines rules applicable to the situation where a Commonwealth law relating to criminal matters confers on state and territory judges, magistrates or other court employed officers a function or power that is neither judicial nor incidental to a judicial function or power, and it clarifies that a foreign restraining order, once registered in an Australian court, will take effect as if it were an order in the form of a restraining order made under domestic law. These two further amendments go towards facilitating mutual assistance in criminal matters, and they are also supported by the opposition. At this stage, in anticipation of the amendments to be moved by the government, we indicate in principle support for the bill.

Senator GREIG (Western Australia) (1.22 p.m.)—The Crimes Amendment (Forensic Procedures) Bill 2000 [2001] establishes a national DNA database to assist in crime control. It also empowers authorities to take DNA samples from suspects, offenders and volunteers in various circumstances. DNA technology has a great deal to offer law enforcement agencies. Early evidence from
various jurisdictions that have begun to routinely use DNA in police investigations indicates that this technology has the potential to make a terrific contribution to effective policing. The Democrats do not object in principle to the development of a national DNA database, nor do we oppose allowing authorities to compel certain people in certain circumstances to provide DNA samples. In broad terms, we support the use of new technologies to assist in crime control. However, we must recognise that there are dangers associated with the use of this technology in law enforcement, as is the case to varying degrees with all police powers.

The Democrats are concerned that the government has not provided adequate safeguards in this legislation to protect the privacy and civil liberties of Australian citizens. Criminal activities should be investigated aggressively, but the methods employed by the state must comply with the basic standards of human rights and individual privacy. Crucially, the observance of these standards must be mandatory. This bill fails to meet this fundamental requirement, because it adopts a lowest common denominator approach to data sharing between jurisdictions. The effect of this, as expressed by the New South Wales Privacy Commissioner, is:

... to allow the Commonwealth or any State or Territory to avoid the restrictions on access or use if this is authorised by legislation in the jurisdiction placing the data on the National Database.

This would not be a problem if we had a uniform scheme with identical safeguards in each jurisdiction. Indeed, the model bill on which the bill currently before us today is based was premised upon the assumption that a uniform legislative approach would be taken throughout Australia relating to the collection and use of forensic material. What has happened instead has been worrying. Again, in the words of the New South Wales Privacy Commissioner:

... there has been something of a bidding war between some States and Territories, encouraged by their Police Commissioners and by a desire to appear “tough on crime”, to minimise and downgrade the recommended protective provisions. This is likely to create a political climate where governments will face renewed pressure to do away with the remaining safeguards, leaving police with virtually unrestricted access to the DNA database for matching and identification purposes.

The Model Criminal Code Officers Committee did foresee the possibility that national uniformity might not be achieved. It recommended that if this did occur material collected in one jurisdiction should be prohibited from being used in another jurisdiction where its collection would have been illegal. For example, a state or territory might have its own legislation which gives the police a very wide discretion to compel people, on whatever grounds they deem appropriate, to provide DNA samples. The police might then target certain groups, round them up and force them to give samples for entry onto the DNA database. No doubt the usual groups would be targeted in such a scenario. Even if this practice contravened the safeguards relating to DNA collection in every other jurisdiction in Australia, under this bill the information could still be entered onto the national database and could ultimately be used in criminal proceedings in a jurisdiction where its collection would have been illegal. This would seem to suggest that the government’s priorities lie in areas other than ensuring compliance with the safeguards proposed by this bill.

The fundamental issue here is whether we are going to pass legislation that acquiesces in the taking and use of DNA material inconsistently with basic standards of privacy and human rights and allows that information to be used against a person. The provisions of this bill will allow data sharing between jurisdictions even if the information is obtained under draconian laws in violation of basic civil liberties. The minister asks us to trust that the government will continue to strive for better standards in those states and territories that have unsatisfactory laws. He asks us to allow the government blanket access to all DNA collected by the police in all jurisdictions regardless of the manner in which it is collected. The government wants to then put that information on the national DNA database for use in all jurisdictions. The undertaking from the government is that if we grant it this power it will stand up to those states and territories on the privacy,
human rights and civil liberties issues that need to be pursued.

The question is: once we give the government the powers it desires, can we trust it to then stand up to the states on these issues? This government has shown a disturbing tendency to ignore human rights issues. It has slashed the funding to the Human Rights and Equal Opportunity Commission. It has recently attempted to dismantle the institutions of administrative review that protect the rights of thousands of Australians. Had the Democrats not blocked the government’s legislation in the Senate last week, that dismantling would have gone ahead. This government’s handling of the mandatory sentencing issue has led to condemnation within Australia and international condemnation of Australia. This government acquiesced in appalling practices in relation to juvenile offenders in the Northern Territory. It showed a total unwillingness to stand up to the recalcitrant states and territories on that particular human rights issue, and yet we are now told that once we give the government power to use DNA obtained in violation of basic privacy and human rights standards it can be trusted to vigorously pursue those violations by states and territories.

I am reluctant to accept that. I will be moving amendments to prevent the Commonwealth from retaining information that is obtained in violation of the safeguards in the proposed Commonwealth legislation. The Commonwealth should not be prepared to use this information for its own purposes, nor should it be prepared to put it on the national DNA database for use throughout Australia. Ultimately, we must insist that certain safeguards be observed in relation to the taking and use of forensic material. I would make the point that this prohibition does not apply to forensic material obtained by a state or territory authority that breaches the safeguards in a minor or technical way. We are talking here about substantive violations of the safeguards laid down in this bill. Such violations should not be permitted.

Furthermore, if the government can use only information properly obtained, there is an ongoing incentive for the government to put pressure on state and territory governments that do not meet the basic standards set by the Commonwealth. Frankly, the government’s human rights record does not inspire confidence in the level of dedication they are now likely to show in pursuing these issues without these Democrats amendments.

I will also move an amendment to give defendants the right to have DNA evidence offered by the prosecution independently analysed. In a recent article, High Court Justice Michael Kirby stated:

Suspects should be granted supervised access to independent scientific scrutiny of DNA samples alleged to relate to them. It is important that the relevant experts should not be entirely employed by the state. Simply because a result is produced by an expert or a machine is no reason to accept it without further questioning the applicability, accuracy and reliability of the result.

The Democrats concur with this sentiment and will offer our amendment to give it a legislative foundation. We hope that the opportunity for independent analysis of DNA evidence would be extended by a court to any accused person. This amendment expressly provides for such an opportunity and thus guarantees that DNA evidence can be subject to proper independent scrutiny.

We are also concerned to ensure that there is sufficient ongoing scrutiny of the national database and activities related to it. We need to ensure that the processes relating to the retention and destruction of forensic material meet the standards expected of them. We must ensure that the administration of the DNA database is both open and accountable. I note the review arrangements that are now already in place under this legislation, and welcome the amendments moved by the government to enhance the expertise of the independent review committee.

The Democrats offer a further amendment to require this review process to specifically address two things. Firstly, the review should address the disparities in practices relating to the collection and use of DNA information in various jurisdictions. In a national scheme, it is not enough to ensure that only the Commonwealth is conducting itself appropriately. We would be remiss if we did not insist that there be some analysis of the schemes operating in all of the participating jurisdictions.
Secondly, I am moving an amendment to specifically require the statutory review to address any issues relating to privacy or civil liberties that may arise out of the new national DNA scheme. We consider that this amendment is necessary to focus the review in such a way as to ensure that the scheme is not only scrutinised from the standpoint of efficiency but also measured against standards of liberty and basic rights.

In summary, while the Democrats support the use of new tools to assist in crime control, we are genuinely concerned to ensure that there are adequate safeguards in place to address the concerns that exist in the community over the possible misuse of DNA technology. The amendments we offer reflect these concerns, and contribute to a regime that better protects privacy and civil liberties, while still permitting the effective use of this technology in the fight against crime.

Senator LUDWIG (Queensland) (1.33 p.m.)—I rise to speak in support of the Crimes Amendment (Forensic Procedures) Bill 2000 [2001]. In the second reading speech, we were told that the bill is to ensure that police enforcing federal criminal offences can use the latest technology to solve crime. DNA technology has opened up a new era in criminal investigation. The two major developments that have occurred which revolve around this bill are CrimTrac—which is, perhaps, best described as a relational database with indices which allow multiple searching—and amendments to the Crimes Act 1914, to provide for comprehensive procedures in relation to taking forensic material from anyone suspected of having committed a Commonwealth offence.

Two developments will start to flow from the use of the database and the collection of DNA for matching purposes. Firstly, the ability to solve crime should be enhanced, and it will aid in reducing the suspects list. As an explanation for that, we were told in the inquiry of the Legal and Constitutional Legislation Committee that one of the benefits that might flow from the use of the DNA database and CrimTrac is that suspects can eliminate themselves from the process by volunteering for their DNA to be data matched to ensure that they were not at the scene of the crime or part of the area that the police are investigating. Secondly, the amendment will provide a framework for providing a system that will have appropriate safeguards. Senator Greig went to some of those issues, and I think his amendments will go some way in progressing those safeguards even a little bit further to ensure that the balance is struck. It is a fair balance between ensuring that there are appropriate safeguards and ensuring that the police enforcing powers are sufficiently tough to ensure that the system does work.

This bill is drawn from a draft model forensic procedures bill, which was—as I understand it—first developed after some five years of consultation. I am informed that the bill reflects the consideration that has been accorded to that wide group of persons and organisations who were consulted. The group includes the federal and New South Wales privacy commissioners, law enforcement agencies, forensic experts, academics, law societies, various non-government organisations and government departments. In these types of bills, there is always a tension—and I think Senator Greig also highlighted the tension that exists—between, on the one hand, ensuring that the appropriate safeguards are put in place for the citizen and, on the other hand, ensuring that fairness is also accorded to the people who will deal with the legislation and who might be convicted as a consequence of the legislation.

Where DNA technology is to be utilised, a regime must be put in place that will accomplish twin goals to ensure fairness overall to all parties who may be impacted upon: firstly, to ensure that the technology is used for its intended purpose; and, secondly, to ensure that individual freedoms are not unduly trammelled. Labor believes this bill endeavours to get that balance right. Where such technology is used, it is necessary to have adequate accountability requirements imposed on the administrators of the scheme.

The bill also establishes procedures in respect of convicted offenders and for volunteers. Those two areas are taken separately in the bill, as of course they should be. The bill aims to accomplish a couple of broad goals, and it tries to balance those broad goals. In
drafting an amendment one finds sometimes that trying to distil those areas can be a little troublesome, and you have to rely in part on the procedures and practices developed by the administrators. I think that the independent review, which I think the committee recommended, will have a role to play in ensuring that, in balancing the various interests within the amending bill, the administrators get it right or at least have the facility to correct things if there is any skew to the left or to the right. The use of any forensic material that is taken and stored on a national database is an area that has created some controversy, because it will be created and kept for probably as long as my lifetime, if not longer, and the uses to which it can be put are varied and interesting in the extreme. During the hearings of another committee, I had an opportunity to have a look at the forensic laboratory. It was extremely interesting to see the rigorous testing undertaken and the processes in place to ensure that these things are done according to the appropriate procedures.

As I understand it, this amendment to forensic procedures bill is designed to complement the existing provisions in the Crimes Act 1914 that are there to give due regard to the rights of suspects as balanced against the interests of the public in gathering evidence for criminal investigations. To put it in context, the amendment proposes to provide a legislative scheme that has a couple of elements: it provides for the conduct of forensic procedures on certain convicted offenders and on volunteers and non-suspects; and, as I said earlier, it provides for the national DNA database. Presently, federal forensic procedures are governed by the Crimes Amendment (Forensic Procedures) Act 1998, which inserted part 1D into the Crimes Act, the principal act.

Presently, states and territories have forensic procedures in place. The best way to explain it is that the various states and territories have been looking at this for some time and they have developed their own procedures to deal with the collection and storage of forensic material, or DNA in this instance. Hopefully, they have also been following quite closely the 1995 draft of the bill. To use a particular case in point, in Queensland the Police Powers and Responsibilities Act 2000 enables forensic procedures to be carried out on certain persons, such as suspects, volunteers and serving prisoners. A DNA database has been established that enables information obtained as a result of the DNA analysis to be recorded on a national DNA database. So it effectively allows for the development and transfer of that collected material or information to a national DNA database.

Since that time, the Model Criminal Code Officers Committee, the MCCOC—acronyms abound in this area—has provided a discussion paper entitled ‘Model forensic procedures’. In that paper, released in February 2000, the matter of how the proposed national DNA database would appear was visited. So what we have seen is a slow development—from around 1995—of the legislative scheme, with various states and territories picking up the procedures and working towards bringing together a national approach to a DNA database. The Crimes Amendment (Forensic Procedures) Bill 2000 [2001] has drawn support in the latest discussion paper and from the earlier work preceding it—from as early as 1995—and, of course, it has drawn heavily from the Model Criminal Code Officers Committee itself. It will provide for a scheme that will move towards a model for allowing states and territories to ensure they have some uniformity in their approach. At the moment it seems states and territories have their own procedures, and the Commonwealth is implementing an amending bill to bring about a national DNA database. Once the ball starts rolling, the usage and usefulness of the information will, hopefully, drive towards uniformity. It should be understood that DNA profiling is an important tool in the investigation of crime; however, it is not infallible. Law enforcement bodies will have a new piece of kit but it will not replace police work, investigation and crime prevention. It will be useful in establishing innocence and eliminating suspects as well as in assisting the clearing up of unsolved crimes.

I want to turn now to the Senate Legal and Constitutional Legislation Committee, which considered the Crimes Amendment (Forensic
Procedures) Bill 2000 [2001]. I was fortunate enough to be a participating member on that committee and was provided with some insight into this particular area. The committee examined similar legislation in October 1995; however, that bill lapsed when parliament was prorogued for the 1996 general election. The committee held a public hearing in Canberra on 10 November 2000 to deal with the new bill, and I wish to take this opportunity to thank the secretariat and others who assisted the committee. The recommendations flowing from that hearing were relatively few, but recommendation 4 is worth recording. It states:

The Committee recommends an expansion of the role of the Federal Privacy Commissioner to include: oversight of the processes governing the retention of material on the DNA database; provisions for its destruction; oversight of the functioning of the new DNA database within the laboratory; and the operation of the database under the Bill.

As was highlighted during earlier speeches in this debate, including my own, there is a need to strike a balance between the need to ensure that people have adequate safeguards and the need to solve crimes. The summary and recommendations of the committee acknowledge the efforts made over a long period of time by law enforcement agencies, civil libertarian organisations, privacy bodies, and other interested individuals and organisations, to reach agreement in respect of this legislation. There has been a desire on the part of all the participants in the process to find a balance in the legislation between protecting the rights and privacy of individuals—particularly those who volunteer their DNA or who provide forensic samples to eliminate themselves from lines of inquiry—and ensuring that the police have at their disposal a powerful investigative tool and a national database. The bill, together with the amendments that have been put forward by the government, creates at least a good start to finding that balance. I refer particularly to the independent review that I spoke about earlier.

In conclusion, the summary and recommendations of the committee sum up where the committee got to with respect to this bill. A great number of concerns were brought to the committee’s attention relating to what witnesses perceived as inadequate safeguards for people, particularly volunteers who might be required to provide forensic samples, and inadequate procedures governing the disposal of forensic material. In the final analysis, the committee considered that, while some concerns were legitimate and have been sufficiently addressed in the legislation, further consideration was unlikely to achieve the consensus which five years of consideration and debate have failed to achieve. The committee recommended passage of most of the amendments in the bill without further change. However, it also recommended a number of what might be described as ‘procedural amendments’ and a number of overarching amendments to ensure that the concerns of private individuals are met. Recommendation 3 states:

The Committee recommends that the Bill be passed and that other jurisdictions be encouraged to adopt requirements—that is, to bring about uniformity. Recommendation 4, as I mentioned, dealt with the Federal Privacy Commission’s role.

Senator COONEY (Victoria) (1.49 p.m.)—The commission or otherwise of a crime can be proved in a variety of ways, but often an accused person makes an admission or a confession. The other evidence that is used is what used to be called ‘real evidence’—I am not sure what it is called these days—which is evidence other than an admission or confession. In a murder case, for example, it could be the weapon or other evidence, such as blood-stained blankets or fingerprints. It is evidence distinct from the confession that a person might make.

It is important to look at the sort of evidence that is addressed in Crimes Amendment (Forensic Procedures) Bill 2000 [2001], because this legislation does not deal with confessional evidence or with evidence that arises through admissions. It deals with evidence that is objective—that cannot be changed or affected by the way a person might feel, the pressure that is put on them, or the anxiety they feel. It is immutable evidence, in the same sense that a blood test would be. Therefore, the approach that is taken to that sort of evidence is different.
from the approach that is taken to evidence which consists of a confession or an admission.

With evidence that comes by way of an admission or a confession, there are three things we have to be concerned about. One is whether or not the person making the admission or confession has been fair to himself or herself. A person may be overwhelmed by being taken down to the police station, for example, or a person may be unable to do justice to himself or herself because of anxiety or fear that they may feel or because their memory may not be as good as it should be. With evidence that is to do with confessions or admissions, great care has to be taken. That issue does not arise in this case because what is looked at here is real evidence—DNA, blood samples or fingerprints have been looked at. The issue of how a person feels or whether a person is able to do justice to himself or herself or whether the memory is functioning as well as it should is irrelevant to the consideration here.

Secondly, even though you might want to obtain real evidence, you have to obtain that, at least in our society, in a reasonable way. Many years ago there used to be accusations made that the police would beat confessions out of people or would write confessions themselves. I am sure Mr McDonald would say that that had never occurred and he may well have been right, but those sorts of terrible accusations used to be made in those days. Whether the evidence has been obtained by way of admission or confession, by blood sample or DNA, there has to be a reasonable way that society goes about collecting that evidence. In other words, there are some things that authorities should never do. We do not want torture in this society. We eschew torture, particularly of a state sponsored kind—and fortunately in Australia we do not have that—but in any event we have to be careful that when we are collecting samples we do so according to what is reasonable in society.

Thirdly—and it is relevant in the present circumstances—what is done with the evidence once the matter has been dealt with by a person being either acquitted or convicted and then serving his or her sentence? Once those people have been either acquitted or convicted, should evidence that has been used against them be kept in existence for ever? Should people be no longer afflicted with the evidence of a mistake in the form of a crime that they may have committed in time gone by? And that is the third issue. It is the last two issues that this legislation deals with and therefore it is important to look at them in that situation.

To some extent we have become less sensitive. If you look at the Crimes Act 1914, section 23XL concerns the taking of samples of hair. In the part dealing with forensic procedures it says that nothing authorises the taking of a sample of hair by removing the root of the hair. That has been repealed and now a person is authorised to take a sample of hair from a suspect by removing the root of the hair only if the person takes only so much of the hair as the person believes is necessary. That is not a very objective test. As long as a person believes it is necessary then that is sufficient—and perhaps we can talk about that when we come to the committee stage.

The amendment 23XWO talks about a judge or magistrate’s order for carrying out forensic procedure on an offender. It says that a constable may apply to any judge or magistrate for an order directing a serious offender to consent to an intimate forensic procedure. That is an interesting point. How can a judge order someone to consent because the person is doing it under compulsion of law? That is hardly consent. It is an interesting use of language.

Another point I would like to raise concerns section 23YQ where it says that the Commissioner of the Australian Federal Police may delegate all or any of his functions and powers under this part to a constable or staff member. It certainly gives very extensive powers to a wide range of people. I see that section 23XK of the 1914 act still operates. It says:

For the purpose of this Part, the carrying out of a forensic procedure is not of itself taken to be cruel, inhuman or degrading. However, nothing in this Part authorises the carrying out of a forensic procedure in a cruel, inhuman or degrading manner.
That says, in effect, that the law must prescribe any procedure that is taken under these acts.

Senator Greig has talked about the right to independent analysis. I would have thought that that would be elemental to this legislation—that is, if a sample has been taken from a person, that person should have a right to take a part of the sample to see that the analysis is correct. It is the sort of thing that is done in drink driving cases when a person has a blood test and it ought to be kept for now. I am overwhelmed by the number of people coming in here now. I think that they want to hear the repartee of question time across the chamber. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

QUESTIONS WITHOUT NOTICE

Foreign Debt

Senator HOGG (2.00 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. How does the minister explain a massive jump in foreign debt from $190 billion five years ago to $301 billion in December 2000? Isn’t this huge increase of 60 per cent in Australia’s foreign debt just another broken promise from the Prime Minister? Didn’t he commit to giving a high priority to reducing foreign debt when he launched the debt truck in 1995?

Senator KEMP—I am rather intrigued that I have a question on foreign debt from the Labor Party, because the Labor Party were the world champions at building up foreign debt. Through you, Madam President, let me quote some figures. During the period from June 1983, which was just after the Labor Party came to office, to the March quarter 1996, around the time the Labor Party left office—thankfully—net foreign debt increased by 668 per cent. That is the figure that I have here, which was advised to me by the department.

Senator Sherry—What is it now?

The PRESIDENT—Order! It is totally inappropriate to be shouting out questions across the chamber in that fashion, Senator Sherry.

Senator KEMP—So there was a huge rise in foreign debt under the Labor Party, which you would have to say is not surprising. The Labor Party ran up huge debts. We all recall that in some five or six years the collective deficit run up by the Labor Party totalled between $70 billion and $80 billion. That was during the period when a number of the former Keating ministers were very prominent in the cabinet. Importantly, Senator Hogg, this government, by returning the budget to surplus, has ensured that it is not contributing to any increase in net foreign debt.

Over the last five years of the former Labor government net debt increased by some $80 billion, the figure I referred to. By the end of 2000-2001, the government will have repaid over $50 billion in net debt and the ratio of net debt to GDP will have been reduced from the almost 20 per cent of GDP during the Labor term of government to around 6.4 per cent by the year 2001. This is reflected in the composition of net foreign debt. For the information of Senator Hogg and the Senate, the majority of net foreign debt—some 92 per cent—is owed by the private sector. Net foreign debt owed by the general government sector is some 6.5 per cent. The point I am making is that the increase in net foreign debt since March 1996 is solely due to the increase in private sector borrowing.

A very important point here is the debt servicing ratio. The amount of exports required to pay interest on net foreign debt was 9.8 per cent in the September quarter. Madam President, you will be interested to know, and so will Senator Hogg, that this is well below the peak of 20 per cent recorded in the September quarter of 1990. Let me make the point that, given the Labor Party’s record on foreign debt and building up debt through government borrowing, it is a surprising question to get from Senator Hogg. Senator Hogg may have a short memory but the Australian public do not.

Senator HOGG—Madam President, I ask a supplementary question. Does the Assistant Treasurer concede that a foreign debt at $301 billion is the highest level of indebtedness this country has seen since Federation, a rec-
ord of 46.6 per cent of GDP? Can he confirm that, using Mr Costello’s preferred measure of foreign debt, it now amounts to $15,696 for every man, woman and child in Australia—a massive increase of nearly 60 per cent since Mr Costello became Treasurer?

Senator KEMP—Again I draw to the Senate’s attention the irony of the Labor Party raising issues of foreign debt and net debt. Given the Labor Party’s record, it is quite astonishing. I do not think Senator Hogg listened to the last part of my answer, which I think puts it into perspective. The debt servicing ratio, which as I said was the amount of exports required to pay the interest on net foreign debt, was 9.8 per cent in the September quarter, well below the peak of 20 per cent recorded in the September quarter of 1990. This, as we all recall, was the period of the Hawke and Keating governments—governments which borrowed big and spent big. This government takes great pride in its record of the management of this economy. (Time expired)

Fuel Excise

Senator NEWMAN (2.06 p.m.)—My question is directed to the Assistant Treasurer. Will the minister inform the Senate of data which confirms that the government’s 1.5c per litre cut in fuel excise, which took effect on Friday, was passed on to motorists in full? How does the Howard government’s policy on petrol excise contrast with the policies of other governments on fuel taxes?

Senator KEMP—I thank Senator Newman for that very important question. Senator Newman would know that that has been a topic of constant discussion and debate in the wider community in recent times. As the Senate will be aware, last Thursday the government announced that fuel excise would be reduced by 1.5c per litre. In addition—and I think this is a very important point—it was announced that Labor’s policy of automatic six-monthly indexation would be abolished and that the ACCC would be given improved fuel price monitoring powers to ensure that the excise cut is being passed on. I am very pleased to inform the Senate that the ACCC’s price monitoring on Friday found that petrol prices in the five major capital cities fell by 1.7c per litre. Interestingly, in some cities the fall was higher—for example, Melbourne, where prices fell by two per cent between Thursday and Friday. Thus the government’s fuel excise cut is being passed on, assisted by the enhanced role of the ACCC’s fuel price monitoring. The ACCC, under Professor Allan Fels, is now monitoring some 4,000 sites—2,500 sites in the metropolitan areas and some 1,500 sites in regional Australia. This is a total of some 4,000 sites, and is well up on the 2,500 sites being monitored after 1 July.

Unfortunately, not all the state governments share the desire to reduce petrol prices for motorists. We know, for example, that the previous Labor government did not cut excise. Indeed, it increased excise both through indexation and through discretionary price rises in the excise rate. The Keating government increased fuel excise by 5c per litre as a discretionary budget measure over and above the effect of indexation. The Keating government increased fuel excise by 5c per litre as a discretionary budget measure over and above the effect of indexation. All of us in this chamber, or those of us who were here, recall the notorious rises after the 1993 budget. But an important point to bring to the Senate’s attention is that state Labor governments still receive revenue equivalent to the amount they used to collect under the old state fuel taxes. In all states other than Queensland the state government collects that revenue and keeps most of it. All states receive revenue equivalent to what they used to receive from the 8.35c per litre petrol taxes previously levied by the states. Only Queensland hands all of that money back to motorists. The fact is that, if Bob Carr in New South Wales followed the Queensland lead, petrol could be 7.2 per cent cheaper and if Premier Bracks in Victoria did the same petrol could be 6.6c per litre cheaper—and the story goes on around the states. I think an important point is whether Labor, who has raised this issue and has tried to debate this issue in the parliament, will raise it with their own governments in the states. (Time expired)

Goods and Services Tax: Economy

Senator McKIERNAN (2.10 p.m.)—My question is directed to the Assistant Treasurer, Senator Kemp. Can the minister confirm that, since the introduction of the GST,
foreign debt has hit a record high of $301 billion and is still growing, the Australian dollar has collapsed to be worth just over 52c, housing construction has plummeted by 23.6 per cent in this year alone, net exports are contributing only 0.2 per cent to economic growth, business investment plummeted by 5.2 per cent in the December quarter and, as announced today, the ANZ survey has shown a fall of 10 per cent in job advertising? Is this what the Prime Minister meant when he said that the GST would be good for the economy?

Senator KEMP—I can confirm that the economy has gone through a record period of expansion. I can confirm, Senator McKiernan, that the interest rates that are currently being paid are substantially below the rates which applied under the former Labor government. Madam President, you will recall that the interest rates for home loan mortgages peaked at just over 17 per cent under the previous Labor government. I can confirm the very strong performance of this government on keeping inflation low. I can confirm that this government has delivered arguably the largest tax cut in Australian history. All of those things contrast very substantially with the performance of the previous government. I can confirm that the previous government delivered a major recession to this country—no minister of which has ever apologised for it. Indeed, I think Mr Keating callously said that that was the recession we had to have. That showed you the form and the standards of the previous government. I can confirm that unemployment levels reached over one million people under the previous government. The unemployment rate peaked at close to 11.5 per cent.

Senator McKIERNAN—I ask a supplementary question. It was not a case of trying to talk down the government; it was a question to you, Minister, as Assistant Treasurer—and you failed to answer it. I ask also: isn’t it the case that one common factor in Australia’s slide into economic stagnation is the Howard-Costello GST? Didn’t Japan and Canada experience severe economic downturns after imposing the GST or increasing the rate of GST? Why did the Howard government ignore these clear international lessons before deciding to impose a GST on the Australian economy and its people?

Senator KEMP—Let me just say that, if Senator McKiernan believes that comment, we might as well ask why the Labor Party has adopted the GST as part of its policy. There is a contradiction there. Let me make the point that the assumptions which underlie the question are not correct. The outlook for growth in the economy remains sound, and the government’s tax reform package will be of great benefit to Australia’s growth performance over the period ahead, as house-
holds benefit from the significant lift in disposable incomes and businesses respond to a reduction in the tax burden on them.

Natural Heritage Trust

Senator MASON (2.17 p.m.)—My question is addressed to the Minister for the Environment and Heritage, Senator Hill. Will the minister inform the Senate how the Howard government’s Natural Heritage Trust is helping farmers and community groups to restore Australia’s native vegetation? Will the minister inform the Senate of any impediments to reaching the trust’s stated goal of reversing the decline in native vegetation by mid-2001? Is the minister aware of any alternative policies, and what would be their impact?

Senator HILL—Yes, the Natural Heritage Trust has been an outstanding success in supporting community groups who are working to repair and restore their local environment. Already the trust has invested $1.1 billion in almost 10,000 projects across Australia. The largest single component of the trust is the Bushcare program, which is directing $370 million towards projects to protect remnant vegetation and to promote revegetation efforts. This is in addition to programs such as Landcare, Rivercare and the national reserve system, which all promote the restoration and conservation of native vegetation. Of course, to the Labor Party’s shame, it has opposed this major investment in the environment.

It goes without saying that the Howard government has done more than any other government before it to save Australia’s native vegetation. The work of the Natural Heritage Trust is complemented by the Prime Minister’s $1.4 billion national action plan on salinity and water quality, and I remind the Senate that importantly the funding is dependent on the states preventing land clearing where it would lead to unacceptable land or water degradation. It is true that it has been our stated aim to reverse the decline in native vegetation cover by mid-2001.

Senator Bolkus—It is also true that you failed.

Senator HILL—I am getting to that, Senator Bolkus. I remind Senator Bolkus in particular that state governments, including Queensland—

Senator Bolkus interjecting—

The PRESIDENT—Senator Bolkus, cease shouting.

Senator HILL—State governments, including Queensland, signed up to this partnership through the Natural Heritage Trust bilateral agreement. In other words, the states committed themselves to no net loss of native vegetation by mid-2001. What has been the Queensland government’s contribution to that? We believe that land clearing in Queensland is continuing at about 450,000 hectares a year. What has happened is that the Queensland government, unlike all other mainland states, has not been prepared to provide a legislative cap. Whilst it has not been prepared to do so, land clearing has soared ahead in Queensland. If it is said that the partnership under the Natural Heritage Trust has failed to deliver that objective of no net land clearing—

Senator Bolkus—What about the cash you promised?

The PRESIDENT—Senator Bolkus, you have been persistently interjecting.

Senator HILL—and no net loss in vegetation by mid-2001, the responsibility clearly lies with the Queensland Beattie government, because the Beattie government has not been prepared to meet its share of the bargain, which is to restrain land clearing in Queensland. What do we find from the new, the latest, Beattie government? Their new minister for natural resources put out a press release in which he said, in answer to an ACF press release, ‘We would be opposed to the Commonwealth applying a cap.’

We do not think that the Commonwealth should apply a cap, either. We do not believe that federal Labor believes that the Commonwealth should apply a cap. But we do believe that the Queensland state government should do what every other state government has done, and that is to legislatively meet its responsibility towards rational and sensible natural resource management. We have said to the Beattie government over and over again that, if it were prepared to provide that cap, we would be able to financially support
it through greenhouse funds. There is no cheaper option available for Australia in reducing its net greenhouse gas emissions than a restraint on land clearing in Queensland.

Federal Labor could do something about it because, presumably, federal Labor has influence over state Labor in Queensland. But have we heard federal Labor, have we heard Senator Bolkus, come out clearly and unambiguously say, ‘Queensland must impose a cap’?

Senator Bolkus—You’ve already heard Kim Beazley.

Senator HILL—No, we have not.

Senator Bolkus—Yes, you have.

Senator HILL—He has not said that, and Labor has not been prepared to exert any influence on the state government to meet a responsibility which is in the best interests of all Australians. (Time expired)

Taxation

Senator ROBERT RAY (2.22 p.m.)—Madam President, I direct my question to the Leader of the Government in the Senate, Senator Hill. Given that the Leader of the Government in the Senate during question time last week claimed that the coalition was a government of low taxation, can he explain why the Howard government has increased Commonwealth tax collections by 22.8 per cent of GDP to 25 per cent of GDP from the period 1995-96 to the period 2000-01?

Senator HILL—It is true that I said there is a clear distinction in Australian politics on economic matters: the coalition stands for lower taxation; the Labor Party stands for higher taxation; the coalition stands for lower inflation; the Labor Party stands for high inflation; the coalition stands for low interest rates, the Labor Party’s record in government—

Senator Bolkus interjecting—

The PRESIDENT—Senator Bolkus, cease interjecting; you are disorderly.

Senator Robert Ray—What did they deliver?

Senator HILL—We will get to what we delivered. The Labor Party stand for high interest rates; just look at their record in government. Who remembers housing rates above 10 per cent, small business rates above 20 per cent?

Senator Cook interjecting—

Senator HILL—That is when Senator Cook claimed to be one of the team of finance ministers of the last Labor government.

Opposition senators interjecting—

The PRESIDENT—Order! Opposition senators will cease interjecting. Senator Ray has asked a question of the leader, and the leader is entitled to reply.

Senator HILL—Over the last five years, this government has delivered strong economic growth, low taxation—true, a reformed taxation system—low interest rates and a steadily reducing rate of unemployment. We are pleased about that. We are pleased that this country was so easily able to work through the Asian economic crisis. It would have been an absolute disaster if Labor had been in government at that time.

Senator Cook—No, it wouldn’t.

Senator HILL—It would have, I have to say to Senator Cook, because when Labor went out of government, they left a deficit of $10.3 billion. That translates into high interest rates, which translate into high unemployment. That was the record of Labor in government. In relation to what Senator Ray has said, I will give you an example. This is why I say Labor stand for high tax: look at petrol taxes. Not only did they introduce indexation—

Senator Robert Ray interjecting—

Senator HILL—Well, it’s a contrast. Labor introduced indexation; the coalition has removed it.

Senator Cook interjecting—

Senator HILL—But not only did Labor gain six-monthly increases off its high inflation rate, Senator Cook—through you, Madam President—but on five separate occasions, they also increased the excise rate on fuel above the indexation rate. They did so even after they had the gall to promise the Australian people that the 1993 budget would actually bring down tax; they came in and they put up tax again on petrol.
I do not know how they can all sit there shaking their heads when that is the truth. The Labor Party not only indexed excise on petrol, but on five separate occasions they legislatively increased it as well. Madam President, if you cannot see a contrast between a government that has now abolished indexation and given a specific cut in excise as well last week and the Labor Party, then you are simply not looking.

Senator ROBERT RAY—Madam President, I ask a supplementary question. Given that the leader has again said that the Liberal Party is the party of low taxation, how does he explain that taxation revenue has gone from $115.7 billion in 1995-96 to $168½ billion in this financial year? Just while he is on the subject of petrol prices, seeing he added to his answer: why did it take you five years to finally come to the realisation that petrol was indexed? Why didn’t you, if you thought that was wrong, do something about it in the previous five years?

Senator HILL—If tax revenue rises, it does not necessarily mean that it is because the income tax rates rise. We have had an unprecedented period of economic growth in this country, which has been brought about through sound economic policy—something that we never got under Labor. It is not surprising, if you are going to have a record period of consecutive growth, that tax revenue will rise; that does not seem to me to be surprising at all. The issue is on the rates. It was this government that brought down the corporate tax rate. It was this government that brought down personal income tax rates. It is this government that has abolished indexation of petrol excise. Clearly, that is why I can stand here and say: the coalition government is committed to lower taxes, and Labor is committed to higher taxes.

Energy Resources: Foreign Ownership

Senator LEES (2.28 p.m.)—My question is also addressed to Senator Hill, in his capacity as the minister representing the Prime Minister. It relates to the possible takeover by Dutch Shell of Woodside Petroleum. I ask the minister: does he accept that foreign ownership of Australia’s energy resources is a strategic issue as well as an economic one? How many OECD countries allow foreign companies to own and manage most of their energy resources? Can he cite any examples of countries that produce significant amounts of hydrocarbons and have allowed such a large percentage of their energy resources to already be managed by foreign companies? Finally, does he believe that it is in the national interest for Australia to allow the North West Shelf project, in particular, to have an even greater level of foreign ownership than it does now?

Senator HILL—I can get a specific answer on the detailed parts of the question, but I think it is true in general terms that countries do tend to seek to control their hydrocarbon assets, particularly gas fields, as I understand it. Australia, of course, with a relatively small economy in global terms, has needed to attract foreign capital for the development of those assets, the development of the assets brings wealth and benefits to our country, and that is why we and previous governments have been prepared to allow foreign investment in these assets. I accept that they are strategic assets as well as economic assets. I do not think anyone would dispute that.

This is not an easy issue in relation to the Shell bid for Woodside—and I think everyone accepts that as well—the reason being that Woodside is the operating party of the North West Shelf. The concern has been expressed by some that Shell, owning or controlling major gas resources elsewhere in the world, may have some conflict of interest when it comes to making decisions in relation to the further development of the Australian resource.

The matter is before the FIRB, as Senator Lees knows. The board was given a further 90 days to consider the matter in terms of the legislation, which I think was indicative of the complexity of the issue. The board will make a recommendation to the Treasurer, and the Treasurer will have to address the national interest issue in making a decision. One can expect that decision to be made fairly soon.

Senator LEES—I thank the minister. It is the development of the asset and whether or not that will in fact be impeded if Shell take over that is at issue. Minister, given that one
of the options is to allow the takeover with certain conditions, I ask: given the failure of a company like Rio Tinto to abide by foreign investment conditions on its takeover of CRA, and given the failure of Axa to keep the conditions imposed on it when it took over National Mutual, can you honestly expect Australians to believe that everything will be okay if this particular takeover goes ahead with conditions?

Senator HILL—I would not want to concede that Rio Tinto has failed to meet its conditions; that is a definition issue that I could have addressed if the honourable senator wanted that. I think it is possible to write into the conditions mechanisms that can give the Australian government, and therefore the people through the government, confidence that those conditions will be adhered to. Certainly if you accept the speculation in the press at the weekend, in particular in the *Financial Review*, it might be that the FIRB is looking at that as a possible option that would protect Australia’s interests in the areas to which the honourable senator referred, whilst at the same time not prohibiting the takeover. We as a government obviously wish to keep our markets as open as possible, for the sorts of reasons that I mentioned a while ago: we need capital investment, we need major infrastructure opportunities. But the national interest is a test that must be agreed to. *(Time expired)*

**Telstra: Copper Wire Upgrade**

Senator MACKAY *(2.33 p.m.)*—My question is to Senator Alston, Minister for Communications, Information Technology and the Arts. Can the minister confirm weekend media reports that Telstra’s three-year $600 million a year copper wire upgrade has been slashed by as much as 80 per cent? Is it true that this decision was taken just days after Mr Tim Besley had completed his report on Telstra’s performance? When was the government first informed of these cutbacks—was it before or after the Besley report was released? Finally, Minister, what are the implications of this cutback for Telstra service levels and jobs?

Senator ALSTON—I am very grateful to Senator Mackay for the opportunity to sort out a lot of the misinformation that was contained in at least one report I saw on the weekend, suggesting, for example, that Telstra had slashed spending on its basic phone network. In fact, the article itself went on to say at a later point in time that it was unclear how much the copper wire network expenditure had been cut by.

Senator Mackay—Well, what is the answer?

Senator ALSTON—I am coming to that. The fact is that Telstra advised at the beginning of the current financial year that it forecast expenditure on the customer access network of $1.4 billion for this financial year alone, and Telstra has advised this morning that it is on track to meet this expenditure commitment. Your colleague Mr Smith issued a release claiming that Telstra was not meeting its commitment to the access renewal program, which is part of the customer access network total level of expenditure. Indeed, he quoted from the Besley report. A full reading of the relevant section shows that the annual figure referred to was, in fact, an annual average over a three-year program, and Telstra has further advised it is on track with this three-year program—that is, the Besley report referred to an average $700 million per year spend over three years and Telstra remains committed to this spend. In fact, what Besley said was:

The Access Renewal program has a budget of at least $700 million per annum over three years until 2001-02.

I am again advised that Telstra remains committed to that spend. Whilst Telstra has also advised that it is adjusting the amount of expenditure for individual contractors—and you will be aware that on 5 September last year it announced that it was reducing the number of contractors who would handle the customer access network and the access renewal program from 1,000 to eight—that is, the Besley report referred to an average $700 million per year spend over three years and Telstra remains committed to this spend. In fact, what Besley said was:

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I am again advised that Telstra remains committed to that spend. Whilst Telstra has also advised that it is adjusting the amount of expenditure for individual contractors—and you will be aware that on 5 September last year it announced that it was reducing the number of contractors who would handle the customer access network and the access renewal program from 1,000 to eight—that is, the Besley report referred to an average $700 million per year spend over three years and Telstra remains committed to this spend. In fact, what Besley said was:

The Access Renewal program has a budget of at least $700 million per annum over three years until 2001-02.

Senator Mackay—Oh, I see!
Senator ALSTON—I don’t think you do actually, because you think you are winning when you are not. The amount that is being spent—

Opposition senators interjecting—

Senator ALSTON—Just listen to me—you have to listen very carefully. What is being adjusted down is the amount that they will pay to those eight individual contractors, but the amount to be spent on the customer access network and the access renewal program is as they have already committed, and nothing has changed in that regard. This is an internal adjustment within a subset.

Senator Carr—That is clear!

Senator ALSTON—I am glad it is clear.

What this means—

Senator Faulkner—Why don’t you admit you’re behind?

Senator ALSTON—Well, you see, we’re not behind. This was a very big beat-up. The PRESIDENT—Senator Alston, direct your remarks through the chair.

Senator ALSTON—The article, for example, says, ‘Telstra announced on September 5 that it was to spend $1.8 billion over three years on its copper wire network.’ That is simply not right. The figure for this year alone is $1.4 billion. The $1.8 billion over three years is the amount that they had indicated they would provide to eight contractors. They are now spending less with those but more with others—in other words, existing contracts or internal, in-house activity—so the total level remains as indicated. This is simply an adjustment. I hope that has clarified it. I am sure it will not stop Senator Mackay and her colleagues from doing their best to beat up what is a non-existent point. (Time expired)

Senator ALSTON—Thank you, Madam President. What has been adjusted downwards is the amount that will be paid to eight independent contractors. The amount that will be spent on the customer access network and the access renewal program is not being adjusted down at all. It therefore follows that Telstra have not slashed spending on their basic phone network, and that any figure of $1.8 billion on the copper wire network is wrong, because they are spending $1.4 billion this year alone. The amount that they spend on the access renewal program is an average of $700 million a year for three years, so that is $2.1 billion. The amount of $1.8 billion relates only to an amount that eight independent contractors thought they might be getting and they are not. It is going elsewhere, but the total amount is still the same.

Indonesia: Maluku Islands

Senator HARRADINE (2.39 p.m.)—My question is to the Minister representing the Minister for Foreign Affairs. I refer to the dreadful and barbarous killings and loss of life on the Indonesian Maluku islands since June 1999 when the actions of the jihadist groups gave rise to considerable loss of life. Is it a fact that an estimated 7,000 Christians on the Maluku islands are still under threat by the extremist jihadist groups? Can the minister inform the Senate whether reports that the Indonesian government has started removing the armed forces from certain Maluku islands are correct? If so, recognising the need for our relationship with our
nearest neighbour to be friendly and principled, will the government—*(Time expired)*  

**Senator HILL**—The security and humanitarian situation in the Maluku province does remain of deep concern to the government and, as I have said before, we regret the loss of life and destruction of property. Unfortunately, no lasting solution has been found to the conflict, and therefore the threat to life and property continues. The government has, I am advised, made representations over the past year on a number of occasions, making known our concerns to the Indonesian authorities at the highest level. These representations have urged restraint by security forces and protection for the human rights of all residents of the province. I understand an embassy team visited the provinces in November last year and met senior government officials as well as church leaders and NGO representatives, and an embassy official joined a delegation visiting Maluku in February which was led by the Indonesian Minister for Settlements and Regional Infrastructure. Senator Harradine would be aware of the substantial humanitarian relief that Australia has been providing.

It is true that it was stated that the military personnel on Maluku would be reduced. I understand that last October there were about 19 battalions, and it was said that they were going to be reduced to about four battalions by late February, I assume because it was hoped there would be a better security environment by then. I am advised, however, that to date there has not been a substantial reduction, which I again assume means that the Indonesian government believes it is necessary to maintain those forces while the troubles continue. We will continue to make representations in the terms that I have mentioned. We will continue to provide humanitarian relief. We hope that this conflict might be brought to an end soon and the threat to which Senator Harradine referred removed.

**Senator HARRADINE**—Madam President, I ask a supplementary question. I envy those fast talkers in this place who can get their first question out in a minute. I thank the minister for his answer. At what level will the representations be made?

**Senator HILL**—I have said that our representations have been at the highest level. I do not know about representations for the future, but I will refer that part of the question to Mr Downer, who may be able to advise us of any future specific action that Australia is planning to take.

**Communications: 3G Spectrum Auction**

**Senator CARR** *(2.44 p.m.)*—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. What is the government’s current estimate of the revenue from its upcoming 3G spectrum auction? Is it still the $2.6 billion which appears in the budget papers? Is it $1.2 billion as reported in the weekend press? Or are the brokers who were referred to in the *Financial Review* on 16 February right in estimating that the government will be lucky to scrape together $1 billion?

**Senator ALSTON**—The figure that was included in the budget of $2.6 billion covered four areas: the 3.4 gigahertz, datacasting, the third-generation two gigahertz and the 800 megahertz. That was a global figure. As far as speculation about the amount that the government is likely to get is concerned, the government is a price taker. Therefore, I think what we expect to get is pretty irrelevant to the public policy debate. It might be a matter of making global provision in the budget—and that is something that we have already done—but, as far as public comment and speculation are concerned, we will leave them to the commentators. I do not have anything more to add on that.

**Senator CARR**—Madam President, I ask a supplementary question. Minister, is it true that only four of the original seven companies that registered for the forthcoming datacasting auction have lodged their deposits? Is it also true that only two of the bidders, Telstra and NTL, have paid their eligibility payments for a licence in all the datacasting service areas? In which areas will there now be no competitive bidding? What implications does this have for the Commonwealth’s forecast of revenue from the datacasting spectrum auction?
Senator ALSTON—It is correct to say that there were originally seven who registered interest and at the closing of nominations there were four. Those four are now contesting for two spectrum blocks but, of those four, one wants spectrum only in Western Australia and the other wants spectrum in Melbourne and Sydney—it may be in Melbourne or Sydney. In terms of the amount that has been provided for, once again that is part of the global allocation that the government have made, and we will wait and see what occurs.

Electoral Matters: State and Territory Cooperation

Senator FERRIS (2.47 p.m.)—My question is to the Special Minister of State, Senator Abetz. Given the government’s strong commitment to improving the integrity of the electoral roll, has the minister written to the governments of the states and territories asking them for their cooperation in this matter? Will the minister outline what response he has received from the states and territories?

Senator ABETZ—Let me first congratulate Senators Jeannie Ferris and Brett Mason on their fine work as members of the Joint Standing Committee on Electoral Matters. The Howard government have endeavoured to establish a range of reforms aimed at strengthening the integrity of the electoral roll. Such efforts have had to battle relentless opposition from federal Labor. They do not care about the integrity of the electoral roll; they simply try to deny that problems exist. Let me quote Senator Faulkner’s statement to the Senate two years ago when he said:

I have said before that what is motivating this is simply paranoia on the part of the government...

The Labor submission last October to the Joint Standing Committee on Electoral Matters continues this approach of complacency and denial. It says:

Putting aside the matters currently before the CJC—

as though you can honestly do that—

the ... Committee ... has not been presented with any substantive material indicating the existence of electoral fraud...

In other words, they put aside or ignore the rorts, ignore the evidence, ignore the forced resignation of a Labor Deputy Premier, ignore the forced resignation of three Labor MPs and ignore the conviction of three Labor operatives. Only if you ignore the evidence or pretend it does not exist can you falsely claim that there is no evidence. I suppose it was our paranoia that landed Labor’s Karen Ehrmann in jail and forced the resignation of a Labor Deputy Premier. So much for federal Labor!

What of the states and territories? Mr Beattie continues to claim a desire for an honest electoral system but refuses to support anything that might deliver it. He talks the talk but refuses to walk the walk. Coincidentally, I read with interest that Mr Beattie’s so-called hand-picked clean team candidates at the last election have now just decided to join the most corrupt faction in Queensland, the Australian Workers Union faction. Undoubtedly, they arrived at that decision independently and Mr Beattie had no knowledge about that prior to hand-picking them.

In Tasmania, the state government is led by a former Builders Labourers Federation official, and he also refuses to clean up the electoral roll.

Opposition senators interjecting—

The PRESIDENT—Order! There is too much noise. I need to hear the answer.

Senator ABETZ—I suppose the concept of an electoral roll, let alone one with integrity, must be a foreign concept to a government led by a former BLF operative. In fairness, though, you cannot expect electoral integrity to be a priority issue for a Premier who, in his office, proudly displays a picture of the disgraced, convicted and publicly reviled former federal secretary of the BLF, Norm Gallagher. In New South Wales, a cat was enrolled—the moggy from Macquarie. It rejoiced in the name of Curacao Fischer Catt, but it unfortunately failed to scare the Labor rat pack off the electoral roll. The simple fact is that it is easier to get on to the electoral roll than it is to join a video shop. We have a cat on the electoral roll, we have the Labor rats on the electoral roll and we have Mr...
Beazley, who just does not have the ticker to clean up this menagerie on the electoral roll.

Senator FERRIS—Madam President, I have a supplementary question for the Special Minister of State. Can the minister please give the Senate any further information about the correspondence he has had with the state governments in relation to cooperation on cleaning up the roll?

Senator ABETZ—I thank Senator Ferris for the supplementary question, because what we as a federal Liberal government have tried to do is get some integrity into the electoral roll, especially for those who are applying to join the electoral roll for the first time. As I said before, it is easier to get on to the electoral roll than it is to join a video shop. What we have done is write to all the states and territories seeking their cooperation with a few regulations that we propose that would increase the integrity of the electoral roll. And every single state Labor government, despite all their protestations of fairness, integrity, cleaning out the rorters, are absolutely failing in their duty to the people of their states to cooperate with this federal venture to clean up their electoral act. You have got to ask the reason why. (Time expired)

National Museum of Australia

Senator LUNDY (2.53 p.m.)—My question is to Senator Alston, the Minister for Communications, Information Technology and the Arts. Is the minister aware that employees of the National Museum of Australia have complained of opinionated bullying by the Prime Minister’s appointee to the museum’s council, his biographer and friend Mr David Barnett? Is he aware that staff have branded Mr Barnett’s attacks on their day-to-day work as grossly inappropriate? Is the minister concerned by the criticism of Mr Barnett by two members of the museum’s academic advisory team, one of whom said his uninformed views were ‘a problem’, and the other that Mr Barnett’s intervention has ‘put the dignity of the museum at stake’?

Opposition senators interjecting—

The PRESIDENT—Order!
Senator ALSTON—In fact, I think if Senator Ray and others want to read the Supreme Court reports they will see that there is a basis there for action. But, nonetheless, the fact is:

The National Museum of Australia has not censored or watered down its exhibitions although some … might think that some sections were not “confrontationalist” enough, director Dawn Casey said yesterday.

She said:

“I can put my hand on my heart and absolutely say there was no pressure from either the Government or the board to change any of the exhibitions,” …

“Whilst there was a lively debate, the board unanimously supported both the content of the exhibitions and the statement of aims we have been developing with our expert advisers.”

It seems to me that is a very good example of the way the system ought to operate. All the propositions were tested. The board ultimately made its decision and the National Museum will reflect it accordingly, and I just hope that instead of firing cheap shots across the chamber there will be a few more people down there next weekend when the National Museum is finally launched as part of our policy and as an example of what Mr Keating reneged on comprehensively some years ago. For those who cannot remember, he said it was going to be a centrepiece of their arts campaign. Once he got back in he said, ‘We’re not in favour of mausoleums on the banks of Burley Griffin.’ A bit like I-a-w law. You will say anything to get into government; you do quite the opposite when you get there. Just for next weekend, let bygones be bygones. Come down and show your commitment to a very important national institution, and I am sure you will find all the exhibits are very worth while and that this will in fact be a great tribute to Australia and its culture.

Senator LUNDY—Madam President, I have a supplementary question. Minister, your answer indicates that you condone the behaviour by Mr Barnett. I put to you that Mr Barnett’s appalling performance as a member of the council of the National Museum is an indication that the minister should recommend his own appointments rather than follow the Prime Minister’s instructions to find his mate a job?

Senator ALSTON—Madam President, do you know what Senator Lundy is really saying: does the government condone someone who disagrees with the Labor Party’s prejudices?

Opposition senators interjecting—

Senator ALSTON—You have your view of the world and you think everyone else should accept it. That is what you are saying. Instead, what you have got on this board I think you would never have allowed. You cannot for a moment imagine how you could appoint a board in which people would somehow disagree amongst themselves or have different views. You want clones. You want everyone to have the approved view from Trades Hall Council. Unless they get the nod from the ACTU they will not be let loose. You do not want healthy, vigorous debate. You do not want what Dawn Casey described when she said:

“Tony Staley is a brilliant chairman. He allows everyone to have their say but in the end we have reached consensus and given unanimous support of the whole project.”

I know that is very unacceptable to you. You do not believe in having that vigorous debate. You do not believe in anything other than rubber-stamping your own political prejudices, and that is how you would run all other institutions.

Public Transport: Funding

Senator GREIG (3.00 p.m.)—My question is addressed to Senator Ian Macdonald, the Minister representing the Minister for Transport and Regional Services. Is the minister aware that, since 1995, rail and urban public transport in Australia has received around only two per cent of federal land transport funding compared with some 20 per cent of federal land transport funds for mass transit projects in the USA? Is the
minister aware that this government’s current land transport policy has resulted in more and more people driving by necessity rather than choosing efficient and affordable public transport? Will the government as a matter of urgency now introduce a national integrated land transport policy which will reduce our reliance on fossil fuels, increase our use and acceptance of public transport alternatives and reduce greenhouse emissions from the public transport sector?

Senator IAN MACDONALD—The goals that Senator Greig mentioned in the last part of his speech are goals which the government are seeking, and I have to congratulate Senator Hill and Mr Anderson for approaching the issue of land transport with those goals in mind. In relation to rail transport, I have to confess that I am not an expert on the particular finer statistics you quoted, but you will be aware that in the last budget—and as part of the new tax system—the government reduced the excise on fuel used on the railways. In that way, we have substantially contributed to the lesser costs of railways. We would hope that the state governments—which run most of the suburban passenger lines and other passenger lines—would be able to reduce costs because of the reduction in the excise on fuel used for the railways. Those goals you mentioned are goals the government seek. We have taken some steps, with the reduction in excise on rail transport, to that end. As for the other parts of your question dealing with detailed statistics, I will take them on notice and see whether I can get you an answer on those statistics from Mr Anderson.

Senator GREIG—Madam President, I ask a supplementary question. I thank the minister for his answer but, in regards to the ANTS package negotiations, which party was it that forced the 100 per cent excise being abolished from rail?

Senator IAN MACDONALD—I would say it was the Liberal Party, closely followed by the National Party, but I do concede that the more enlightened elements of the Australian Democrats did have some part in that. Senator Lees certainly showed what a significant leader she is in the way she took that opportunity to influence government policy and to get reductions in the price of excise on the railways. In a lot of the other work the Democrats did, they did not go quite far enough. You would appreciate that you missed out on a couple of things with the excise that we would like to correct. But I know Senator Lees and Senator Woodley are working on those and hopefully we can get just the right package. We are almost there. A little bit extra help and we will really get there.

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Foreign Debt

Senator SHERRY (Tasmania) (3.03 p.m.)—I move:

That the Senate take note of the answers given by the Assistant Treasurer (Senator Kemp) and the Minister for the Environment and Heritage (Senator Hill), to questions without notice asked by Senators Hogg and Ray today relating to the economy.

Senator Hogg posed a very important question to the Assistant Treasurer, particularly after last week’s shocking national accounts figures which showed that Australia’s total overseas national debt is now $301 billion. Let me repeat that: Australia’s national debt has now reached $301 billion.

When the Liberal-National Party came to government, the national debt stood at $190 billion; in other words, it has increased in the last five years under the Liberal-National government by some 60 per cent. Prior to the 1996 election, which saw the election of the Liberal-National Party coalition, the then shadow Treasurer, Mr Costello, could talk about little else other than national debt and restructuring prudential regulation in this country. It was the now Treasurer Mr Costello who set the benchmark. He set the benchmark of national debt—not just government debt or private debt but total national debt. He used as an indicator the level of debt for every man, woman and child in this country when he said on 30 August 1995:
... $10,000 for each man, woman and child. It represents, in human terms, if you break it down for each person, $10,000 worth of debt ...

Where does that per capita debt stand today? It stands at a $15,696 debt burden for every man, woman and child in Australia. This is the benchmark that the Treasurer set. Why has this occurred? Why do we have such massive debt? According to the Assistant Treasurer, Senator Kemp, ‘Don’t worry about it; it’s all private debt. The government’s been reducing its debt so we needn’t be concerned.’

Senator McGauran—That’s a false argument.

Senator SHERRY—Why is that a false argument? What we need to do is to look at why private debt has gone up—soared, in fact, under Senator Kemp and the Treasurer Mr Costello—and government debt has come down. Government debt has come down because this government has raised taxes. It has raised taxes as a percentage of gross domestic product.

Government senators interjecting—

Senator SHERRY—Senator Herron, Senator Ferguson and Senator Hill, you should not believe the sort of nonsense that the Treasurer has been feeding you about tax levels in this country. But it is also a reflection of the total failure of the government in respect of its savings policies in this country because, if Australians do not increase their national saving, national debt will go up.

In a number of areas this government has taken the sledgehammer to national savings in this country. For example, it has introduced deeming of superannuation savings. It has in effect reduced the superannuation savings of Australians who reach 55. It has scrapped the superannuation co-contribution of three per cent, and it has scrapped its own reshaped savings bonus. It has introduced a superannuation surcharge tax. All of these measures have reduced savings and in effect have transferred government debt to the private sector. There is another interesting area where debt has been transferred from the government sector to the private sector, and that is through the sale of Telstra—those people who bought into Telstra 2. You only need to ask them. The loss they have made has come at an expense. Effectively the government has reduced private savings through this mechanism.

The other area is the GST and total taxes under this government, and this goes to Senator Ray’s question. The Commonwealth government is now collecting 25 per cent of gross domestic product as taxes. That is the highest it has been for at least 10 years. Why is that so? If you look at table 8.43, which is Commonwealth revenue, you can see that the figure is measured as 20.8 per cent. Why is there the difference between 20.8 per cent and 25 per cent? Because the Treasurer, Mr Costello, is misleading the Australian people by not including the revenue collected from the GST. The Treasurer, Mr Costello, claims that the GST is not a Commonwealth tax. If you include the GST as a percentage of gross domestic product, which is the relevant measuring stick, for the information of the Leader of the Government in the Senate, Senator Hill, it is almost 25 per cent, which is the highest it has been for over 10 years. That is one of the reasons why private savings are so low in this country. (Time expired)

Senator FERGUSON—You said $10 million. Get your figures right if you are going to exaggerate.

Senator FERGUSON (South Australia) (3.09 p.m.)—I never cease to be amazed when I hear senators from the other side talk about the management of Australia’s economy. In 13 years of Labor management of the economy we saw a $10 million budget deficit—

Senator Sherry—$10 million?

Senator FERGUSON—A $10 billion budget deficit—

Senator Sherry—You said $10 million. I think you are the people who ought to be getting your figures right when it comes to talking about foreign debt. The figure I have here for the net government sector foreign debt for the September quarter last year is 6.5 per cent of the total foreign debt. Senator Sherry, if we talk about the foreign debt when you were in government, it is absolutely staggering that you should even think
about raising the issue of economic management when you compare the economic management of this government against the record of economic management of the former Hawke and Keating Labor governments. In every sector there has been a huge improvement over those previous governments. When could a Labor government ever claim to have had 13 consecutive quarters of annualised growth over four per cent? That is something that has never been achieved by Labor, and it is unlikely ever to be achieved by Labor in the way that they would manage the economy of Australia if ever they get that chance. In fact, Senator Sherry, if you are talking about the increase in the collection of taxes, if you have a vibrant economy, if you have an economy with a growth of over four per cent—

Senator Sherry—Be honest. It’s a percentage of gross domestic product.

Senator Ferguson—it is only natural that there will be an increase in taxes; the very reason it is there is that the economy is booming that much. A sign of this government’s good, sound management since it came to office is the 800,000 jobs we have created. We cut unemployment down to 6.7 per cent. We all remember the 11.2 per cent that we suffered when the Hawke and Keating governments were in office, particularly during the early 1990s. Yet the sound economic management of this government means that that unemployment rate is now down to 6.7 per cent, and in the process we have created over 800,000 jobs.

Another good example of the Howard government’s sound economic management can be judged by home loan interest rates. How many of you remember the interest rates that we suffered under Labor? We had home loan interest rates of 17 per cent. We now have an average housing loan interest rate of somewhere around 7½ per cent under the current government. It was not only housing loan rates that were high; as a farmer I still remember the farming community paying 24 per cent interest rates on modest loans at the peak of those interest rate hikes. If the Australian people ever decide that they could entrust the Labor Party with running our economy with sound economic management, they need only look at history to see that they have failed dismally every time they have had their hands on the economic levers.

Productivity as growth has been very high during this government’s five years in office. Of course, that has meant that we have had solid wages growth of around 4.3 per cent over the last year, compared with real wage reductions that the Hawke and Keating Labor governments managed to achieve under their so-called accord. We have had a 4.3 per cent increase in wages compared with wages reductions under the Hawke and Keating Labor governments. So I remind the Australian people that, if they should ever think of electing a Labor government again, they know exactly what they are in for: reduced economic growth. The chances are that they will have increased unemployment. Interest rates have always risen under Labor governments so Australians should expect their home loan interest rates to rise.

To top it all off, since 1996 this government has kept inflation low—and low inflation means more to the people of Australia than any of the other indicators—with a CPI growth of just 0.3 per cent over the last quarter. So I would remind Australian voters that, if they want sound economic management, the last place they should be looking for it is to the Australian Labor Party, because their record over their 13 years in office shows exactly what they are like. (Time expired)

Senator Hogg (Queensland) (3.14 p.m.)—It was interesting to hear the words of Senator Ferguson in this debate. I am sure they will find that, when the others follow, they will understand that they need to listen to what was said by their own Treasurer back when the debt truck was being launched, because those words ring true indeed. Of course, the Australian people should not forget what was said not only by the then Deputy Leader of the Opposition, Mr Costello, but also by the current Prime Minister himself.

Senator McGauran—Come on! Give it to us.
Senator HOGG—In context, Senator, you should listen. Mr Costello said:

The debt truck which was launched by the coalition last week conveys a stark message to Australians on what will be the lasting legacy of this government of debt and deficit.

That is more poignant today with the current government. We have had a blow-out in the foreign debt, which has gone from $190 billion to $301 billion in five years—a 60 per cent increase in that time. But the prophetic words of Mr Costello then were:

Australia today is staggering under the load of foreign debt. What concerns us is that we wake up a miscreant Prime Minister to the load he has inflicted upon the Australian economy and a country that is staggering under the load of foreign debt which threatens to break that country and impose on ordinary Australians some of the pressures that this government has allowed to build up.

It is no different today from when the then Leader of the Opposition spoke those words. You ask: ‘Where is the debt truck?’ The Prime Minister, at the launch of the debt truck, said:

The purpose of this debt truck is to bring home, you know, this very direct, simple, understandable (inaudible) to the magnitude of our overseas debt.

No segmentation by the Prime Minister, no segmentation by Mr Costello when talking about foreign debt in the message that was being driven home to the Australian people. He goes on, talking about the debt truck:

It will certainly be visiting many regional areas of Australia where quite unashamedly, there are a lot of marginal seats and it’s a way of getting the message directly to the people living in those seats as to what really has happened and how in a very personal way, we are paying the constant (inaudible) of those very large, overseas debt so I have, I see today’s—

This is from the Prime Minister at the launch of this very debt truck—the debt truck that has been hidden, gone into obscurity, cannot be found. Has it got a flat battery? Has it run out of petrol?

Senator Sherry—It is too expensive to run!

Senator HOGG—It is too expensive to run. Are they unable to pay the registration, due to the impost of the GST on registration? What has happened to it? It has been forgotten. It has been parked somewhere, not to be found. If the government are concerned about the foreign debt, as they were when they were in opposition, let them bring it back out—

Senator Sherry—Bigger!

Senator HOGG—bigger and better than ever, in the now marginal seat of Ryan, and campaign for the next two weeks with the debt truck in Queensland. I am sure that the Liberal candidate in Ryan would appreciate that very much. The debt being drawn to the attention of the Australian people has risen from $190 billion to $301 billion over the last five years. I am sure the people of Ryan would be most interested in seeing what you have done. Don’t hide your light under a bushel! Find the debt truck, do the sign up, and drive it around. I am sure you have a couple of good drivers on your side who will take it around—people who have helped Queensland—

Senator Sherry—Bill O’Chee!

Senator HOGG—I did not want to suggest former Senator O’Chee, but maybe Senator Brandis—who helped the Labor Party in Queensland win the state election—might be prepared, or maybe Senator Mason. There are definitely some good prospects on your side to drive the debt truck around and show the people of Ryan what you are saddling this country with. The fact is that foreign debt has now reached a record 46.6 per cent of GDP and, as my colleague mentioned, we have gone from the $10,000 benchmark to the $15,696 benchmark—no segmentation, but there is no debt truck to be found. There are plenty of drivers over there but no-one seems to be willing to get in and put their foot on the accelerator. I welcome them in the by-election that is taking place in Queensland. (Time expired)

Senator WATSON (Tasmania) (3.19 p.m.)—In prosperous economies such as Australia’s where you have a tremendous rate of growth, more people in employment, high company profits and a growing economy, it is not surprising that aggregate tax collections have increased. The difference
between the ALP and the Howard government is that people now have greater disposable incomes than they had in the days when Labor were in office.

If we look at the components that I have just mentioned, Australia is now experiencing one of the longest periods of unbroken growth in its history—something the ALP were unable to achieve. In recent years, Australia’s rate of growth has been four per cent or better on an annual basis. Four per cent growth, if sustained, means the economy doubles in size every 18 years. Economic growth has averaged 4.7 per cent since March 1996, and our economy has reaped many benefits as a result. It is not surprising, under such an environment, that tax collections have increased, despite the fact that we have introduced tax cuts.

If we look at unemployment levels, with more people in employment and more people paying taxes through the PAYE system, tax collections will inevitably rise. The current rate of unemployment, 6.7 per cent as at February 2001, is a great improvement on the 8.5 per cent in March 1996. At the same time, the total number of people in work increased from 8,309,000 in March 1996 to 9,083,000 in January 2001—an increase of 9.3 per cent. Again, because more people are in work, we are collecting more taxes. Profits, as measured by the gross operating surplus, are at record levels and have grown by 17 per cent over the last year. Strong profit growth has been accompanied by strong investment expenditures, which remain high despite a temporary fall in building and construction expenditures. Now that the GST peak has passed, that is continuing to lift. Again, this is good news.

If we compare Australia’s economic performance with that of the rest of the world, we are the envy of the world. Australia was able to come out of the crisis almost unscathed because the international community had confidence in Australian policy settings and the ability of the Australian economy to respond to major shocks. In this respect, Australia fared much better in the aftermath of the Asian crisis than countries such as New Zealand and Canada, which we often compare ourselves with.

In terms of fiscal policy, under this government the budget has moved from a deficit of over $10 billion to a surplus of over $4 billion in the present financial year. As a result, government debt has fallen from over $95 billion in the mid-1990s to less than $44 billion at the end of the present year. This has permitted a lower interest environment to be maintained, which is good news for Australia, encouraging business and home owners to invest and jobs to flow from the continuing levels of economic activity. Debt is projected to be eliminated completely by the year 2003-04, subject to ongoing government policy. As a share of GDP, government debt was 18.9 per cent in 1995-96 and has fallen to an estimated 6.4 per cent this year under the Howard government. It will go to a projected 0.08 per cent in 2002-03.

The government’s record on net foreign debt compares very favourably with that of our predecessor, the ALP. Between 1983 and 1996, Australia’s foreign debt increased from 14 per cent of GDP to nearly 39 per cent of GDP when they lost office. But under a coalition government—and this is what we did not hear from the other side—our debt is much more manageable and more contained. With a growing economy, as with a growing company, your capital does increase. Your capital includes the equity that is put in plus the borrowed component. So it is not surprising that, in such a positive environment, debt will move up, but it is much more manageable than under the Labor Party. In terms of monetary policy, inflation remains under control. For much of this government, it has been below the government’s official target of 2.3 per cent. According to the Reserve Bank of Australia, inflation in Australia remains well contained. That is good news for pensioners and good news for capital appreciation and accumulation. (Time expired)

Senator McKIERNAN (Western Australia) (3.24 p.m.)—I am tempted to make a comparison between Senator Watson’s speech and Senator Ferguson’s contribution to this debate. Senator Watson actually dealt with contemporary matters, whereas Senator Ferguson was way back in the bye-bye, in the long gone time of what happened under a previous administration, forgetting that we
have had five long, hard years under the Howard-Costello administration—five long years in which the national debt rose from $190 billion to $301 billion. Now what an extraordinary comment for Senator Watson to make that this debt is much more manageable and more contained. It has blown out by over 30 per cent in five years, yet it is more manageable and more contained!

If it is more manageable and more contained, why then are the government dipping their hands into the handbags of the grannies and the wallets of the grandfathers to claw back the two per cent of the GST that was given to them? Why are they going out and robbing the elderly of this country, the battlers? Why do they need to do that if the debt is more manageable and more contained? In speaking earlier, Senator Sherry mentioned that the value of the debt on each citizen of this country, when Labor left office and the Howard-Costello regime came into being, was $10,000 per person. Now, as we stand here in the third millennium, it has gone to $15,696 per person, yet it is supposed to be more manageable and more contained.

What world are you living in, Senator Watson? At least you are probably living in the present, which is more than can be said for your colleague Senator Ferguson, who was living and dwelling in the past and not concerned about what is happening at the moment, and not making a play and joining with the Prime Minister when calling for the state premiers to pass on the petrol excise decrease. Senator Ferguson should be the first one to do that because it is his Liberal government in South Australia that next goes to the polls. We will see what a test it will be for them. Let us test the mettle of Mr Olsen in South Australia and see how much he values the Prime Minister’s advice in passing on the reduction in the petrol excise. If the indexation of petrol was wrong, as in Senator Ray’s question—which is one of the matters we are supposed to be debating here today—why wasn’t that indexation stopped five years ago? There have been over 10 indexations of petrol since the Howard-Costello regime came into being and it was only last week that it was stopped. If it was so wrong to have an indexation scheme in operation, why wasn’t it stopped?

If it is wrong to have an indexation scheme on petrol, why isn’t it wrong to have an indexation scheme on beer? When the poor old battlers who at least are still in work—and I grant you that there are many more people in employment but not many more in full-time employment—knock off after work and go for a beer, what are they hit with? They are hit with the GST on their beer—another broken promise by the Howard-Costello GST regime that we now are in. If it is good enough to wind back and backflip on petrol, why don’t the government also backflip on beer and look after the battlers? The government are not interested in the battlers anymore, are they? If they are, they can show their mettle properly by winding back and stopping the indexation of the excise on beer, which the battlers drink after a long, hard day at work.

It is worth putting on the record again how the debt has risen since the debt truck went round Australia. It was $190 billion; it is now, as we stand here, $301 billion. That is $15,696 for every citizen of this country and that includes Senator Watson. (Time expired)

Question resolved in the affirmative.

**Public Transport: Funding**

Senator GREIG (Western Australia) (3.30 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Regional Services, Territories and Local Government (Senator Ian Macdonald) to a question without notice asked by Senator Greig today relating to transport infrastructure.

We have heard over recent months—and Senator McKiernan is reiterating much of that today—the debate confronting Australians as to what ought to be the price of petrol—that is, fossil fuels—and what, if any, ought to be the excise on that. It is an all too simplistic debate when the fundamental question we should all be asking, as citizens of Australia, is: why should we have such a sustained and comprehensive reliance on fossil fuels in the first place and what are the alternatives? I note with interest that the approximate price of unleaded petrol in the UK today is roughly $2.10 per litre—roughly
double what Australians are experiencing. Yet Australians are arguing, given the historic context in which they place their points of reference, that it is too high here in Australia. I think what is too high is our reliance on fossil fuels and the degradation to the environment which that causes.

The core of the question I asked today was: what are the alternatives? And, more importantly: why is there no comprehensive governmental and policy approach towards an integrated transport system? I think we can all agree that public transport within the cities, in particular, can be improved, and there ought to be a greater educational focus on them. But there are also ample opportunities for increasing public transport infrastructure within rural and regional areas.

We have seen, over recent months, quite a debacle over the way in which the government has approached the issue of the very fast train—an issue which excited many people, particularly along the east coast, and which presented Australia with tremendous opportunities for increasing rail focus and rail technologies in this country—and, more recently, the inadequate, ad hoc and ineffective decision of the government to abandon its plans for a third runway within the Sydney region and instead focus on regional transport services to Bankstown—which, I note, locals are already strongly up in arms about. It illustrates in two particular areas—both rail and air—the way in which the government lacks a serious policy approach towards the issue of transport.

It has often been said—and I have heard the government say this—that the issue of public transport is a state issue, not a federal issue, and the focus, therefore, should be on states and state governments. I point out that there is an often unremarked upon and forgotten section of the Australian Constitution relating to the powers of parliament—section 51. Subsection 51(xxiv) of the Constitution makes it very clear that railway construction and extension in any state can be done with the consent of that state, that is, with the Commonwealth. It reads:

Under this power, the Commonwealth may assist the states in the construction and extension of their railway systems. The Commonwealth has exercised this power by providing for the construction of railway systems within various states—for example, the transcontinental railway across South Australia and Western Australia and the railway between South Australia and the Northern Territory. It has also provided, by arrangement with the states concerned, for the construction of standard gauge railways—for example, the standard gauge between Sydney and Melbourne—to augment existing state systems.

So there it is in black and white. The opportunity is there for the government, with the consent of the states—and why wouldn’t they approach the Commonwealth under these circumstances—for adequate and necessary funding to upgrade and improve rail infrastructure within their various jurisdictions. The opportunities are clearly there within my own state—and, I know, within other states—to do just that in relation to public transport. A paper submitted by the Department of the Parliamentary Library for consideration in 1994 argued, in part:

In respect of UPT—urban public transport—Commonwealth funding to the States, in programs administered by the Department of Transport that commenced in 1974, has been characterised by no fewer than two interruptions in funding in 1981-82 and 1989-90, with funding having ceased in 1993. ... A period of further investment over a decade at this level of about $150 million per year in a structured program is also warranted, with consideration being given to the money being raised from petrol taxes.

So while we have this debate about petrol taxes and fossil fuels, I think it is imperative that we focus more comprehensively on why we should be weaning ourselves off fossil fuels and giving people the option for a better integrated national transport system, particularly with regard to rail and public transport. (Time expired)

Question resolved in the affirmative.

NOTICES

Presentation

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

That the time for the presentation of reports of the Select Committee on Superannuation and Financial Services be extended as follows:
(a) initial terms of reference—to 24 May 2001; and
(b) the benefit design of Commonwealth public sector and defence force unfunded superannuation funds and schemes—to 5 April 2001.

Senator Watson to move, on the next day of sitting:
That the order of the Senate of 22 September 1999 establishing the Select Committee on Superannuation and Financial Services be amended as follows:

After paragraph (2), insert:
(2A) The committee consider and report on any issues arising from the provisions of any bills relating to superannuation.

Senator Allison to move, on the next day of sitting:
That the Senate—
(a) notes that:
(i) the press coverage for the Australian Grand Prix in Melbourne on 1 March to 4 March 2001 again provided tobacco companies with unparalleled advertising opportunities,
(ii) Save Albert Park counted 255,370 ticketed attenders for the 4-day event, in contrast to the Grand Prix Corporation’s claim that 369,500 people were there, and
(iii) this will be the sixth year that the race has made an operating loss, and again Victorian taxpayers will underwrite the event;
(b) urges the Federal Government to ban incidental advertising of tobacco products outside the confines of the Grand Prix; and
(c) urges the Victorian State Government to:
(i) investigate alternative venues for the Grand Prix,
(ii) make public the contract signed with the Grand Prix Corporation, and
(iii) reveal the extent to which it subsidised the race.

Senator Bourne to move, on the next day of sitting:
That the Senate—
(a) notes that:
(i) the International Day for the Elimination of Racial Discrimination is observed annually on 21 March,
(ii) the reason it is observed annually on 21 March is because on that day in 1960, police opened fire and killed 69 people who were protesting against the apartheid system at a peaceful demonstration in Sharpeville, South Africa;
(b) acknowledges that the horrors of racism, racial discrimination, xenophobia and ethnic cleansing are problems which have not gone away, but which persist in many parts of the world today, such that racism remains one of the most significant human rights challenges confronting society;
(c) commends the Office of the United Nations High Commissioner for Human Rights for its efforts in preparing for this year’s World Conference Against Racism and for its devotion to the promotion of equality and non-discrimination; and
(d) urges the international community to confront the problem of racism and to redouble its efforts in seeking to eliminate all forms of racial discrimination in accordance with the United Nations Charter as well as the principles of the International Convention on the Elimination of All Forms of Racial Discrimination.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.34 p.m.)—I give notice that on the next day of sitting I shall move:

That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Family and Community Services Legislation Amendment (New Zealand Citizens) Bill 2001, allowing it to be considered during this period of sittings.

That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Aircraft Noise Levy Collection Amendment Bill 2001, allowing it to be considered during this period of sittings.

That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Lake Eyre Basin Intergovernmental Agreement Bill 2001, allowing it to be considered during this period of sittings.

I table three statements of reasons justifying the need for these bills to be considered during these sittings, and seek leave to have the statements incorporated in Hansard.

Leave granted.
The statements read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2001 AUTUMN SITTINGS

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (NEW ZEALAND CITIZENS) BILL 2001

Purpose of the Bill

The Bill will amend the definition of “Australian resident” for the purposes of the social security law so that access to social security payments for New Zealand citizens taking up residence in Australia is restricted unless they either meet normal migration selection criteria or are covered by a social security international agreement. The Bill will also ensure that all child related payments under the social security law and the family assistance law are protected from the change and that access to concessions under the social security law and the Health Insurance Act 1973 is protected.

Reasons for urgency

The changes were announced by the Prime Minister on 26 February 2001 and will provide for a 3 month period of grace. The legislation must be in place by the end of that grace period, that is, the Bill must be enacted no later than 27 May 2001. (Circulated by authority of the Minister for Family and Community Services)

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2001 AUTUMN SITTINGS

AIRCRAFT NOISE LEVY COLLECTION AMENDMENT BILL 2001

Purpose of the Bill

The Aircraft Noise Levy Collection Act 1995 and the Aircraft Noise Levy Act 1995 establish arrangements for funds expended on airport noise amelioration programmes to be recovered through the imposition of a levy on landings at the relevant airports by jet aircraft. The legislation provides for the Treasurer to declare a leviable airport and then to set the levy rate.

A levy has been collected at Sydney Airport since 1995 and has to date recovered approximately $194 million. Although Sydney Airport was declared a leviable airport in 1995 for the nine months to 30 June 1996, there has been no declaration of Sydney Airport from 1 July 1996. This situation has arisen as a result of an administrative oversight within Treasury.

Remedial action is being undertaken through the issuing of a declaration to allow the levy to apply prospectively. However, it is necessary to enact legislation to retrospectively deem a declaration to have been in force from 1 July 1996 to deal with levy collections from that date.

The Bill will simply provide for the existing legislation to operate as originally intended and will not impose any additional burden on aircraft operators at Sydney Airport.

Reasons for Urgency

To protect the past recovery of funds through the levy by obviating the possibility of claims of restitution by aircraft operators.

(Circulated by authority of the Treasurer)

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2001 AUTUMN SITTINGS

LAKE EYRE BASIN INTERGOVERNMENTAL AGREEMENT BILL 2001

Purpose of the Bill

The purpose of this Bill is to give Commonwealth recognition of, and approval to, the Lake Eyre Basin Intergovernmental Agreement between the Commonwealth, Queensland and South Australia.

The Agreement provides for the integrated catchment management of the water and related natural resources associated with major cross-border river systems in the Lake Eyre Basin.

Reasons for Urgency

The development of the Lake Eyre Basin Agreement has taken close to three years. There are increasing community expectations and concern that Commonwealth legislation approving the Agreement be finalised as soon as possible.

Timely passage of Commonwealth legislation will provide impetus to the process and persuade the relevant States to also expedite passage of their respective legislation.

Passage of the legislation will demonstrate the commitment of the Parliament of Australia to the future sustainable management of the Lake Eyre Basin.

The first meeting of the Ministerial Forum is planned to be held in April and it is important that the Commonwealth legislation is in place.

(Circulated by authority of the Minister for the Environment and Heritage)

Withdrawal

Senator CAL VERT (Tasmania) (3.35 p.m.)—On behalf of Senator Coonan and the Standing Committee on Regulations and Or-
ordinances, I give notice that at the giving of notices on the next day of sitting Senator Coonan will withdraw business of the Senate notices of motion Nos 1 and 2 standing in her name for nine sitting days after today for the disallowance of the Civil Aviation Amendment Regulations 2000 (No. 8), as contained in Statutory Rules 2000 No.295 and Exemption No. CASA EX43/2000 made under regulation 308 of the Civil Aviation Regulations 1988. I seek leave to incorporate in Hansard the committee’s correspondence concerning these instruments.

Leave granted.

The correspondence read as follows—

Civil Aviation Amendment Regulations 2000 (No. 8), Statutory Rules 2000 No. 295
30 November 2000
The Hon John Anderson MP
Minister for Transport and Regional Services
Parliament House
CANBERRA ACT 2600

Dear Minister
I refer to the Civil Aviation Amendment Regulations 2000 (No 8), Statutory Rules 2000 No. 295, that remove the requirement for flying training to be carried out in a designated “flying training area”, and simplifies the definition of that term.

The Explanatory Statement notes that, prior to these amendments, Airservices Australia had not designated any flying training areas, and that as a consequence all flying training conducted in such areas was being performed illegally. The Explanatory Statement goes on to note that this “has obvious legal ramifications for both the aviation industry and CASA as well as implications for insurance coverage”. The Committee would appreciate your advice on whether any person has incurred any disadvantage as a result of these legal ramifications, or as a result of problems relating to insurance coverage.

The Committee also notes that these Amendment Regulations, together with the contemporaneous amendments in Statutory Rules No. 294 and 296 were made on the same day. The Committee would appreciate your advice on why these amendments have not been dealt with in a single instrument.

The Committee would appreciate your advice as soon as possible but before 5 February 2001 to enable it to finalise its consideration of these Regulations. Correspondence should be directed to the Chair, Senate Standing Committee on Regulation and Ordinances, Room SG 49, Parliament House, Canberra.

Yours sincerely

Helen Coonan
Chair

02 February 2001
Senator Helen Coonan
Chair
Senate Standing Committee on Regulations and Ordinances
Room SG 49
Parliament House
CANBERRA ACT 2600

Dear Senator Coonan
Thank you for your letter of 30 November 2000 to the Minister for Transport and Regional Services, the Hon John Anderson MP, concerning the Civil Aviation Safety Authority’s (CASA’s) Civil Aviation Amendment Regulations 2000 (No 8) Statutory Rules 2000 No. 295 relating to flying training areas. I regret the delay in replying.

With regard to the Committee’s query concerning any disadvantage incurred due to legal ramifications, or due to problems of insurance coverage, CASA has advised that the need for amendment was drawn to CASA’s attention by an operator experiencing some difficulties, and that the amendment was made on the expectation that the problem would most likely spread to other areas and operators. Specifically, the progression of students flying solo may possibly have been affected, however CASA is unaware of any financial impact this may have caused.

With regard to the Committee’s query concerning the possible amalgamation of the amendments into a single instrument, CASA has provided the following advice.

Amendments Nos 7 (Statutory No. 294), 8 and 9 (Statutory No. 296) were developed in isolation from the others by different technical specialist areas within CASA and the Aviation Safety Standards Division. It did not become apparent until quite late in the development process that the three amendments would be processed for the Executive Council (EXCO) meeting of 25 October 2000.

Due to the complex and different nature that each of these amendments presented, the three amendments were processed separately for the same EXCO meeting rather than risk error and confusion in consolidating all three different areas of amendment in the one package at such a late stage of the process.

(signed)
Ian Macdonald
Acting Minister for Transport and Regional Services
Exemption No. CASA EX43/2000 made under regulation 308 of the Civil Aviation Regulations 1988
30 November 2000
The Hon John Anderson MP
Minister for Transport and Regional Services
Parliament House
CANBERRA ACT 2600
Dear Minister,

I refer to Exemption No. CASA EX43/2000 that exempts operators of single-engine craft with a maximum take-off weight exceeding 5,700 kilograms that are employed in aerial work operations from compliance with regulation 217 of the Regulations.

The Explanatory Statement notes that “CASA considers that a formal training and checking organisation is not appropriate and imposes an unnecessary burden on the operators” of aerial work operations. It is not clear from this statement whether operators of aircraft in the designated class used in aerial work have previously been required to provide a training and checking organisation, or whether there have been any previous arrangements to exempt operators from this requirement. The Committee would appreciate your advice about any arrangements that existed prior to this Exemption.

The Committee would appreciate your advice as soon as possible but before 5 February 2001 to enable it to finalise its consideration of this Exemption. Correspondence should be directed to the Chair, Senate Standing Committee on Regulation and Ordinances, Room SG 49, Parliament House, Canberra.

Yours sincerely,

Helen Coonan
Chair

With regard to the Committee’s query concerning any previous arrangements that applied to these operators, CASA has advised that no previous arrangements existed. The use of large single engine aircraft for aerial work is a recent development.

Yours sincerely
Ian Macdonald
Acting Minister for Transport and Regional Services

Postponement

Items of business were postponed as follows:

General business notice of motion no. 827 standing in the name of Senator Brown for today, relating to the centenary sittings of the Senate in Melbourne, postponed till 6 March 2001.


General business notice of motion no. 830 standing in the name of Senator Stott Despoja for today, relating to ‘Go Casual for a Cause Day’, postponed till 6 March 2001.

LEAVE OF ABSENCE

Motion (by Senator O’Brien)—by leave—agreed to:
That leave of absence be granted to Senator West for 5 March and 6 March 2001, on account of parliamentary business overseas.

COMMITTEES

National Capital and External Territories Committee

Extension of Time

Motion (by Senator Crossin) agreed to:
That the time for the presentation of the report of the Joint Standing Committee on the National Capital and External Territories on the sale of the Christmas Island resort be extended to 18 June 2001.

GENETICALLY MODIFIED ORGANISMS

Motion (by Senator Stott Despoja) agreed to:
That the Senate—
(a) notes that:
(i) the European Parliament has overwhelmingly supported the passage of a directive that it believes will result in the world’s toughest laws governing genetically-modified (GM) organisms.

(ii) this directive means crops will be subject to strict assessment and monitoring and any pharmaceuticals, food, seed or animal feed containing GM products will have to be labelled.

(iii) this directive overturns the 2-year defacto ban on GM products, but firms will only be granted licences if they provide a risk assessment and carry out continuous monitoring of any possible dangers, and

(iv) this directive will also establish a public registry, which will allow consumers to trace products;

(b) acknowledges that GM products may have benefits but may also have significant unintended consequences; and

(c) re-affirms its commitment to a strong government role in ensuring a strict regulatory environment and monitoring compliance to ensure minimal environmental and public health risk.

Senator Ian Campbell—Mr Acting Deputy President, I rise on a point of order. On a cursory reading of general business notice of motion No. 835, it seems to me that it may well indeed be outside standing orders. I would ask that perhaps you make a ruling or bring a ruling back to this place in relation to that. I also draw your attention to general business notice of motion No. 831, standing in the name of Senator Stott Despoja. Notices of motion Nos 835 and 831, regardless of the merits of the motions, seem to me to be outside standing orders.

The ACTING DEPUTY PRESIDENT—I note your comments, Parliamentary Secretary. I will refer them to the President. The President will bring back a ruling in due course on the issues you have raised.

AUSTRALIAN TAXATION OFFICE: RETURN TO ORDER

Motion (by Senator Cook) agreed to:

(1) That there be laid on the table by the Minister representing the Treasurer (Senator Kemp), no later than immediately after motions to take note of answers to questions without notice on 7 March 2001, the following documents:

(a) the Segment Accountability reports for the 2 years up to, and including, 30 June 2000, provided to the Deputy Commissioner of the Large Business and International (LB&I) business line biannually or at any other time from the following LB&I divisions:

(i) Media and Communication,
(ii) Banking and Finance,
(iii) Insurance and Superannuation,
(iv) High Wealth Individuals,
(v) Capital Gains Tax,
(vi) International, and
(vii) Strategic Intelligence Analysis;

(b) the governance reports provided by the Deputy Commissioner of LB&I to the Commissioner and/or second Commissioners for the 2 years up to, and including, 30 June 2000;

(c) a copy of the report in regards to the transfer pricing project known as the 207 project and supporting documents pertaining to the 207 project strategy;
(d) all agenda documents, supporting documents and minutes of meetings in regards to the Aggressive Tax Planning Steering Committee, chaired by Mr Kevin Fitzpatrick and Mr Michael Bersten, since the inception of the committee; and

(2) That, in complying with this order, the Minister may cause the following kinds of information to be deleted from the documents:
(a) the names of individual taxpayers; and
(b) information which would directly and specifically harm the strategic pursuit of tax avoidance,
provided that the withholding of such information does not prevent the Senate from gaining a clear understanding of the information contained in the reports, minutes, documents and supporting documents referred to in paragraph (1).

NOTICES

Postponement

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (3.41 p.m.)—I seek leave to postpone for one day general business notice of motion No. 830 standing in my name for today, relating to the Spastic Centres of Australia. That is to give the opposition additional time.

The ACTING DEPUTY PRESIDENT—I understand notice of motion No. 830 has already been deferred by notice that has been lodged. I thought you may have been referring to No. 831.

Senator STOTT DESPOJA—I am happy to have general business notice of motion No. 830 referred to the President, as requested by the Manager of Government Business in the Senate.

The ACTING DEPUTY PRESIDENT—You will need to seek leave to have it deferred.

Senator STOTT DESPOJA—I seek leave to have general business notice of motion No. 831 standing in my name for today deferred to the next day of sitting.

Leave granted.

Senator STOTT DESPOJA—I move:
That general business notice of motion no. 831 standing in her name for today, relating to the Glenelg Croquet Club, be postponed till the next day of sitting.

Question resolved in the affirmative.

HUMAN RIGHTS: CHINA AND TIBET

Senator BROWN (Tasmania) (3.41 p.m.)—I ask that general business notice of motion No. 834, relating to human rights in China and Tibet, be taken as a formal motion.

The ACTING DEPUTY PRESIDENT—Is there any objection to this motion being taken as formal?

Senator O’Brien—Yes.

The ACTING DEPUTY PRESIDENT—There is an objection.

Senator BROWN—If I may, I would like to ask the Labor Party why it objects to that motion being taken as formal. I would hope the Senate would give leave for a brief explanation for that one.

Senator O’Brien—by leave—This is a foreign affairs motion, and the Senate will have noted our response to foreign affairs motions. If Senator Brown sought to suspend in a short fashion, we would support it and we would be moving an amendment to his motion. We will not be supporting the motion in its current form.

Suspension of Standing Orders

Senator BROWN (Tasmania) (3.42 p.m.)—Pursuant to contingent notice, I move:

That so much of standing orders be suspended as would prevent Senator Brown moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business notice of motion No. 834.

This is an important motion. We are all aware that in recent weeks, even in recent days and as we are sitting here, there has not only been no move towards the implementation of human rights in China but also a crackdown, in particular, against religious
rights in China, as the Chinese regime in Beijing moves to inculcate schoolchildren and everybody else that religion is bad for them. The Chinese regime in Beijing is giving atheism a bad name. It is absolutely breaking its own public statements and its own constitution, I might add, on human rights.

You will note that my motion calls on the Australian government to do something, not the Chinese government. It calls on the Australian government to seek China’s ratification and implementation of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and it does that in the wake of the European Parliament having called on member states in Europe to do this and to, furthermore, submit a resolution to the United Nations Commission on Human Rights—and you will remember, Mr Acting Deputy President, that the United States is doing the same—at a forthcoming meeting in Geneva, to condemn all violations of religious rights and, in particular, those directed against Tibetan and Mongolian monks, certain Christian churches and certain Muslim communities, and adherents of the Falun Gong movement throughout China and its military occupied countries like Tibet and East Turkistan.

We know from reading the newspapers in this country in the last week that there are hundreds of people, including adherents to the Falun Gong movement, who are not only being brought before the courts for doing nothing more than expressing their religious beliefs but are being given savage, totally unacceptable, inhumane and cruel court sentences which involve hard labour, deportation and, effectively, removal into a gulag system in China—simply because the communist regime in Beijing does not agree that these people should be allowed to practise freedom of worship and feels threatened by that.

Senators may know that on Wednesday of last week the People’s Assembly in Beijing did in fact ratify the International Covenant on Economic, Social and Cultural Rights—but that is far short of implementing that ratification. So, while China on the one hand is ratifying international agreements on baseline standards for the rights of people to practise their religion, the regime in effect is cracking down on that very right for millions of people who should have that right. My motion calls on the Australian government to seek China to implement its obligations under those rights. I know that the Labor Party has a standard practice in here, except for when it comes to its own motions, of blocking other people’s motions—

Senator O’Brien—I was going to support your suspension motion.

Senator BROWN—Senator O’Brien, the process here is that repeatedly I have been blocked by you on motions which call—

Senator O’Brien—Yes; and today I was going to support it.

Senator BROWN—You should have flagged this to me.

Senator Carr—He did.

Senator BROWN—He did not.

Senator Carr—Yes, he did. He said he was going to vote for your motion.

Senator Ian Campbell—Give the Liberals your preferences in Ryan!

Senator Carr—He was going to support you and move an amendment.

Senator BROWN—Let’s hear that, and let’s hear the amendment.

The ACTING DEPUTY PRESIDENT (Senator Hogg)—Senator Brown, continue. Ignore the interjections.

Senator BROWN—Thank you, Mr Acting Deputy President. This new found accommodation by the Labor Party yet has to be tested, because repeatedly it has blocked any motion that I have put forward here on human rights in countries like Tibet, West Papua, East Timor and Burma. Therefore, I am calling on the Australian government for action. I am glad to see that this has opened a window of opportunity for the ALP to give some support, and I will be looking forward to hearing what the amendment is.
Senator HARRADINE (Tasmania)  (3.47 p.m.)—This is a motion for suspension of standing orders, but it is necessary, I believe, for the chamber to consider some of the essence of the proposal in order to focus on whether or not the motion is of such importance that it ought to be debated at this present point of time. I happen to think that it ought to be debated. But there is one issue in there that needs to have clarification.

The Senate will realise that the Human Rights Subcommittee of the Joint Committee on Foreign Affairs, Defence and Trade spent hours, days, on this issue of religious freedom. I was a member of that committee. The committee produced the document, Conviction with compassion. That document detailed, though not exhaustively, the violations of human rights and religious freedoms in the PRC. There are gross violations of human rights in the PRC, and these are enumerated. There is much material on the Internet about this. But it is very important for us to see what the goal is in all of this. The goal is to seek and search for the truth. A wonderful statement emanated from, I think, John Paul II:

Freedom of thought, conscience and religion is the cornerstone of the whole human rights structure and the foundation of a truly free society.

The fact of the matter is that the constitution of the PRC does in fact support the concept of freedom of religion. But the act of all of the apparatchiks in China is serving the opposite. If I can come to the issues involved here—and I raise them here in this debate on whether the motion should be formal—Senator Brown’s motion asks, in part:

That the Senate—

(a) notes the resolution of the European Parliament on freedom of religion in the People’s Republic of China that calls for the European Union and its member states to submit a resolution to the United Nations Commission on Human Rights, at its meeting in Geneva, to condemn all violations of religious rights and, in particular, those directed against Tibetan and Mongolian monks, certain Christian churches and certain Muslim communities, and adherents of the Falun Gong movement;

(b) calls on the Australian Government to seek China’s ratification and implementation of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

In doing so, let me read the resolution from the European Parliament. It certainly ad-
dresses the point that Senator Harradine took up. I might, for the information of the chamber, say that I put this full motion before the chamber last week, and the President pointed out that it was long and was therefore able to be reduced to the form it is now in. That is how it has been rewritten by her in this form for the Senate. The full motion, which I support—and I am sure many members would—is as follows:

With the European Parliament

having regard to its previous resolutions on the human rights situation in China, on Tibet and on the Union’s priorities and recommendations for the March 2001 session of the UN Human Rights Commission in Geneva,

having regard to the conclusions of the EU-PRC summit meeting of 21 December 1999 and the Council conclusions of 22 January 2001 on the EU-PRC dialogue on human rights—that is, the dialogue between Europe and China—

having regard to Article 18 on freedom of religion of the United Nations’ Universal Declaration of Human Rights,

A. whereas, in its report (COM (2000) 552 final) on the implementation of the communication on building a comprehensive partnership with China, the Commission—this is the European Commission—notes that the situation in China has regressed in terms of respect for civil, political and religious rights, a finding which is endorsed in the conclusions of the General Affairs Council of 22 January 2001,

B. whereas, ever since making it compulsory for places of worship to be registered in 1994, the authorities of the PRC have been unceasing in their efforts to further limit the exercise of the freedom of religion,

C. whereas State control over religion is already evident in the restricted number of religions that are officially recognised, and whereas any religious activity that has not been registered by the official associations is regarded as illegal,

D. whereas, although the zeal with which the policy of repressing religious activity is enforced varies depending on the attitude of the local governments, in the supposedly autonomous Region of Tibet that policy is pursued systematically and implacably,

E. whereas the religious, cultural and national heritage of the Tibetan people is threatened with extinction,

F. whereas the Falun Gong organisation was officially declared illegal in China on 22 July 1999, an arrest warrant was issued for its founder, Li Hung-Zhi on 29 July, and in the last two years, according to reports, some 50 000 members of the Falun Gong movement have been arrested, of whom almost 25 000 are now in prison, have been sent to forced labour camp or have been forcibly committed to mental hospitals, while to date 137 of them have died after being ill-treated or tortured in the course of their arrest or detention,

G. noting that since 1989, when the Vatican set up its own Bishops Conference, tensions between the authorities in Beijing and the non-official Catholic church have increased significantly and many prominent members of the clergy of the non-official Catholic church are still in prison, or have had restrictions placed on their freedom of movement, as a result of their refusal to support the official Church,

H. drawing attention to the policy of expulsion and systematic arrest of foreign Protestant priests and the harassment to which members of unregistered Protestant churches are subjected by the administrative authorities,

I. condemning the destruction of mosques and the arrest of persons who have taught the Koran without having received prior authorisation from the authorities—

Then the European Union goes on to say that it:

i. Calls on China to release all those detained or imprisoned for peacefully exercising their internationally recognised rights to freedom of belief, religion and conscience;

ii. Calls for the constitutional right to freedom of religion and belief to be fully guaranteed, together with the exercise of the associated rights of freedom of conscience, freedom of expression, freedom of association and freedom of assembly;

iii. Regrets that, after having signed the International Convention on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the PRC has still not finalised the ratification and implementation processes;

iv. Reiterates its condemnation of the continued and severe violation of human rights in Tibet and the ongoing discrimination practised against the Tibetan people by the PRC authorities on the ba-
sis of race or ethnic origin or religious, cultural or political beliefs;
v. Invites the PRC government to allow Falun Gong practitioners to practise their fundamental right to freedom of conscience, expression, association and assembly in accordance with the PRC constitution;
vi. Calls for the European Union and its Member States to submit a resolution to the United Nations Commission on Human Rights at its meeting in Geneva to condemn all violations of religious rights and, in particular, those directed against Tibetan and Mongolian monks, certain Christian churches and certain Muslim communities and adherents of the Falun Gong movement;
vii. Instructs its President to forward this resolution to the Council, the Commission, the parliaments of the Member States, the Office of the UNHCHR for Human Rights and the PRC Government and Parliament.

My motion is to have the Australian government, based on the active role taken by the European Parliament, to also express abhorrence of what is happening in China as far as people’s basic rights are concerned, and to call on China to ratify those two covenants and to implement them. It is an urgent matter and it affects millions of people. The Australian government have a time-honoured reticence in speaking up on these issues. In fact, in Australia, instead of confronting China on the appalling record on human rights and social, cultural, and religious rights, the Australian government, including the foreign minister and the Prime Minister, are very willing to talk with their Chinese counterparts about trade, investment and making money, but not about the basic human rights which we espouse as a free and democratic country. In fact, Madam Deputy President, you would be aware that that has been sidelined into what are called ‘bilateral talks’, which take place every year or so behind closed doors, in the main, with very low level bureaucratic representation, so that the Australian government can go through a list of complaints about human rights violations and seek information—for which it rarely, if ever, gets any return—and say that it has entered into formal dialogue.

We know that since this process began back in 1991 no concession, no reform, no improvement in human rights has been conceded at any stage by the dictatorship in Beijing. This is the same dictatorship that wants the world to come and see the Olympics in 2008. At the same time it is locking up thousands of people for their religious or other beliefs because it does not feel impressed with them. Currently there are at least 600 monks and nuns in the prisons of Lhasa, in their own country, for having peaceably called for freedom for Tibet. There are hundreds of thousands of other people in prison for their political and religious beliefs and, as that motion from the European Union says, more than 100 Falun Gong people have been murdered by the Chinese authorities since they were arrested and carted off simply because they have a belief set which is not amenable to the thought police in Beijing.

The least that Australia can do is join the European Union and the United States in calling for a change where it can have some sting: at the UN Human Rights Commission in Geneva. I want to hear from the government what it is going to do on this matter. Is it going to duck again? Is it going to join those other countries who vote against or who abstain from doing the decent thing by calling on China to fulfil its obligations? Last Wednesday China put through the assembly and agreed to ratify the International Covenant on Economic, Social and Cultural Rights—that includes religious rights. But it is not implementing it. Quite the contrary, it is going in the other direction. Honesty, at a minimum, is at stake here. People’s lives and people’s beliefs are being rampantly abrogated by this cruel and vicious repression of human rights in China, and it needs to be spoken up about.

I believe that this government has a record which can only be seen as the record of a forelock tugger when it comes to China. The Minister for Foreign Affairs has tackled me in the past about being on the left of politics, but here we have the Howard government kowtowing to the last large state institutionalised communist regime, with the most repressive and extensive reach into the community, abrogating human, cultural and religious rights throughout the biggest populace in the world, and this government does.
not say or do anything. It goes through a rote series of harmless exercises for domestic consumption.

Senator Calvert—You would invade China, would you?

Senator BROWN—I would invade China with an appeal to common human decency, Madam Deputy President. I would stand up and have the gumption to say, ‘I believe in democracy, I believe in people’s rights. I believe in religious rights. I believe in people’s rights to alternative cultural expression.’

Senator Calvert—So do we.

Senator BROWN—Then you should say so, Senator. And as a member of a government that says it believes in those things but does nothing effectively when it comes to your dealings with China, you stand indicted with the rest of the Howard government.

I am grateful for the opportunity to have brought this matter before the house. It is a very important one. It is going to grow in importance in the years ahead. I believe that China should be disqualified from holding the Olympics on this ground alone. But if the Olympics are held it is going to bring a huge spotlight onto the abrogation of human rights in China in the coming decade. The Australian government had better know that. By not speaking up, you end up abetting injustice wherever it occurs, and that is the situation that Australia is in vis-a-vis the military and the dictatorial authorities in Beijing.

Senator O’BRIEN (Tasmania) (4.07 p.m.)—As indicated to the Senate earlier, Labor is unable to support Senator Brown’s motion. The form of Senator Brown’s motion is inappropriate. It comprises effectively a repetition of a long motion by the European Parliament which Senator Brown has just read into the Hansard.

Labor’s view is that, firstly, the Australian Senate should express itself in its own words, not merely repeat language adopted by another legislature. Secondly, the second and operative paragraph of Senator Brown’s motion is out of date. Senator Brown should be aware, and I think he is aware, that on 28 February the Standing Committee of China’s National People’s Congress ratified the International Covenant on Economic, Social and Cultural Rights. China’s reservation on the covenant’s provisions concerning labour and trade union rights is regrettable, but this is still an important and welcome step forward. China’s ratification has indeed been widely welcomed, including by the United Nations Human Rights Commissioner, Mary Robinson, and Amnesty International. The Senate should welcome this development and use the occasion to encourage China to move towards ratification of the International Covenant on Civil and Political Rights.

I will move an amendment on behalf of the opposition which I think deals with Senator Brown’s concerns that this parliament should actually do something. This is Labor’s view as to what the Senate should do at this time. So I move the opposition amendment:

Omit all words after “Senate” substitute “welcomes the People’s Republic of China’s ratification of the International Covenant on Economic, Social and Cultural Rights and calls on the Australian Government to encourage China to ratify the International Covenant on Civil and Political Rights”.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (4.09 p.m.)—I will put the government’s position in relation to both Senator Brown’s motion and the opposition amendment. The benefit of the amendment over the existing motion is that it does remove something that the Australian government thought it inappropriate to support—that is, basically for the Senate to make judgment about something the European Parliament has done. So the Labor amendment would remove that section of it. The amendment does recognise that which has happened, I think, since Senator Brown moved his original motion—that is, the Standing Committee of China’s National People’s Congress voted on 28 February to allow ratification of the latter covenant. I think it would be unanimously agreed that that was a good thing. There may be some disagreement around the place as to how
significant that is, but the government joins others in recognising that as progress.

We would also welcome the announcement that I have just referred to, although I make it clear that, in doing so, it makes the support of the motion or the amendment redundant. Our government also urges China to take similar moves towards ratification and implementation of the International Covenant on Civil and Political Rights. Labor’s amendment calls on us to do that. I think it is probably not appropriate for us to support the Senate calling on us to do something which the government has already done, so we will not be supporting that amendment or the motion.

I will just make some comments on the motion and the amendment more generally. Restrictions on freedom of religion and belief in China, which are the subject of the resolution passed by the European Parliament which Senator Brown’s motion refers to, are a source of concern to the Australian government and have been raised many times with the government of the People’s Republic of China. The government has conveyed these concerns within the framework of the Australia-China human rights dialogue, both in the formal sessions and outside them. They include the treatment of unofficial churches and their leaders, the situation of a number of Tibetan nuns and monks serving prison sentences in Tibet and the situation of the Muslim population of Xinjiang. We have also raised the banning of the Falun Gong and the treatment of Falun Gong practitioners.

Although serious problems remain, it should also be noted that there has been steady improvement over the past 25 years in the protection of religious freedom in China. At the present time, harassment of those with religious affiliations varies widely from region to region and is generally restricted to those who try to operate outside officially sanctioned organisations and places of worship. The issue of freedom of religion and belief, including with respect to China, was examined comprehensively by the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, which Senator Harradine referred to previously in this debate. I join Senator Harradine in commending that report to all honourable senators.

That is all that I would like to place on the record on behalf of the government in relation to the substance of the motion. Although we do not support the notion of Labor’s amendment calling on the Australian government to encourage China to ratify the International Covenant on Civil and Political Rights, I have made it very clear by my words that we share the intent. I repeat that the government does welcome the 28 February vote on ratification of the International Covenant on Economic, Social and Cultural Rights and urges China to take similar moves towards ratification and implementation of the International Covenant on Civil and Political Rights.

Senator HARRADINE (Tasmania) (4.14 p.m.)—I understand what is being said here, and I realise that the PRC has in fact ratified the International Covenant on Economic, Social and Cultural Rights. It is being proposed here that we encourage China to ratify the International Covenant on Civil and Political Rights. These are movements ahead, but on the ground there has not been movement. That is no doubt the concern of the whole chamber, and I think the motion itself expresses that concern in better terms. The opposition is proposing—and it is being supported by the government—an amendment to the motion to recognise what the PRC has done in its agreement to certain international standards. Let us put those to the test. In our report to the parliament, we highlighted the fact that there had been a deterioration on the ground when it came to freedom of religion. We had a considerable amount of evidence to support that view. Indeed, the state department’s view was precisely that. That was the 2000 report on human rights violations in China.

I now come to the issue at the present moment. Senator Brown, it looks as though the motion will not get up, and I am sorry about that. But we are dealing with a situation where senators are trying to come to a unanimous view about this. I would sincerely ask the opposition and the government whether they would just take it one step fur-
ther. We have welcomed the PRC’s ratification of the International Covenant on Economic, Social and Cultural Rights, and we have called upon it to ratify the ICCPR. Just for us, why not add that, at the next meeting of the Australia-China human rights dialogue, the government give priority to the question of freedom of religion? I think that would be most appropriate.

We have had the parliament considering this question through substantial hearings in the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade. All of us—you included, Madam Acting Deputy President Crowley—know that we spend innumerable hours on committee work. Committee work eats into my time considerably. But I think committee work is very important, because you can hear what your colleagues are saying and, generally speaking, there is no politicking in the Senate committees—the ones that I am on, anyhow; there are politics in some of them. But, in areas such as this, people look at the facts and normally come up with the answers in the form of a report. I would suggest that the government consider adding a further sentence to the amendment. It would read ‘that the Senate requests that the government, at the next Australia-China human rights dialogue meeting, give priority to the issue of freedom of religion’.

The ACTING DEPUTY PRESIDENT (Senator Crowley)—Senator Harradine, could you make it clear for me: are you foreshadowing and/or moving an amendment to Senator O’Brien’s amendment to the motion, or are you moving an amendment to the motion?

Senator HARRADINE—I apologise for not making that clear. I want to make it clear that I am foreshadowing an amendment to the opposition’s amendment. I can move it.

The ACTING DEPUTY PRESIDENT—I believe you should move it now, Senator, because it needs to be put.

Senator HARRADINE—I know the opposition and the government do not have much time to consider that. If we need to ask them to do so, I would like to see them consider it between now and tomorrow, unless they can agree to it on the run. I understand the point that the opposition raises. Senator Kerry O’Brien raised the question of motions on international issues. I know that there are considerable difficulties involved. There is a lot of work to be done to have a look at whether they are appropriate. I now move my amendment to the opposition amendment:

At the end of the motion, add:

(b) requests the Australian Government, at the next Australia/China Human Rights dialogue meeting, to raise as the priority freedom of religion in the People’s Republic of China.

Senator BROWN (Tasmania) (4.22 p.m.)—Frankly, I am disgusted by the process—the gutlessness of changing a motion in here which simply calls on the Australian government to express condemnation of the fact that not only are tens of thousands of people in China behind bars but they are going to forced labour camps, they are being tortured, people are being humiliated and hundreds have died. We have a Labor amendment to the motion which puts forward the word ‘welcomes’ and encourages the Chinese dictatorship which is doing that. You can always do that. You can always find some way of using these encouraging words to these rotten dictators in Beijing. You can find some nice words which say, ‘Let’s encourage these people with the blood on their hands. Let’s be kind. We’ll use smooth words to send along to these nasty, vindictive, small-minded, inhumane wretches of men and women in the unelected dictatorship in Beijing, and they’ll take some notice of that.’ The members in here who are engaged in this process know that does not work. You should be ashamed of yourselves.

I find this process revolting. It is East Timor all over again. It is West Papua again. It is Burma, as it stands. It is not too much different from the late thirties when those people wanted to encourage Hitler and after that were encouraging Stalin and indeed Mao Zedong. Yes, you can all send your motion. You can change the motions that have teeth in them and you can send your motions to these people, saying, ‘We encourage you and we welcome your signature on a document,’
but what the Europeans have the guts to say and other members in here do not have the
guts to say is that that is not working. As
Senator Harradine says, when you look at
what is happening on the ground you see a
regression from an appalling situation to a
worse one. Why is it that the Labor Party and
the coalition are taking this disgusting atti-
tude? It is because they do not have the
gumption to be straight—let alone to speak
out as I would—and look those people in
Beijing in the eye and say, ‘We’ve got a bead
on you and we don’t like what you are do-
ing.’

If there is another explanation other than
the one I am about to give, let us hear it. It is
because the Australian government and the
alternative government of the Labor Party
believe that you cannot be straight with dic-
tators like that without injuring your trading
position, without injuring your ability to
make money. This venal, practical, prag-
matic, profit driven policy making bailiwick
which the big parties have condemns those
men and women—just like us, who have a spiritual dimension
just like us, who crave their rights and free-
doms just like us, and those of their kids—to
this inhumane injustice that is occurring in
China. That is what you are doing. I know
that you cannot send the gunboats, and we
would not want to. I know that we cannot
make Beijing do anything. But we should not
be complicit. If you do not stand up and look
these people in the eye and tell them you
know what they are doing and you condemn
them, and you will continue to do it until
they change, then in a degree you are com-
plcit.

The government of Prime Minister How-
ard and, in the move it is making today to a
lesser but not much variant degree, the Labor
Party of Mr Beazley are complicit. This is a
smart and fancy use of words here to make it
comfortable. The members in here can feel
comfortable sitting in their seats if these
words go through because it is not going to
make anybody uncomfortable down at the
embassy of the People’s Republic of China.
We can all feel good and have drinks to-
gether in the future without that strain com-
ing back into it.

I know from my dealings with these rep-
resentatives of the Beijing regime that they
can raise Cain. You know how stroppy they
can get. They are trained in it. They can
come out with all guns blazing, and it is not a
pretty sight, when you disagree with them
either in a direct meeting or in an interna-
tional get-together. So what do the Australian
representatives do in this circumstance?
They replace my words and come up with
these words—they even fail the European
parliament’s test—to begin the motion now:
‘... welcomes the People’s Republic of
China’s ratification of the ... covenant’. Mean-
while, in brackets, this is not in there:
‘We know that the very things that covenant
is supposed to guarantee are being abrogated
and in fact the rights that that guarantees
have deteriorated and are continuing to deter-
riorate under our very nose, and we are not
prepared to say anything about it,’ except
that we encourage these dastardly people in
Beijing to do something or other.

You tell that to the people in jail. You tell
that to the kids in Tibet who, if they go to
school with their religious cord around their
necks, get paraded in front of their school-
mates, vilified and made scapegoats of.
Then, having got off parade, they have their
exam marks marked down and their future
careers and their family under mark. You tell
that to them. I am not going to get sick of
this process. I will continue to hound the big
parties on this because they are doing the
wrong thing. It is not new in this place but it
should change.

China is going to be the greatest world
power before this century is out. The ques-
tion is: is it going to emerge into that great
economic power, taking aboard the human
rights which we stand for in this country, or
is this country going to be converted to
China’s human rights because it is a more
powerful country and we have to be more
complicit as we go down the line? Do not
think it cannot be so. Globalising is more
than globalising the economy; it is globalis-
ing values. For those members in here who
think willy-nilly that means the values that
we hold dear will become the global norm
later this century, you should think again.
The flow can equally go in the opposite di-
rection. If you do not stand up for them now, you cannot say, ‘I tried to stop that,’ later when international conventions get turned around and when standards drop.

This is a human matter. It is a basic matter of what our own feelings are about our fellow human beings on a planet where we are supposed to be a global community. But all the government think about is globalising the economy. When it comes to globalising human rights, values and political rights, they put that on the backburner and send welcoming notes to the communist Chinese dictatorship in Beijing, with its military repression of those who want to have some freedoms. That is what they are doing.

I end where I began. I am disgusted by this process. I am disgusted by the double standards that are involved here. It is not even double standards—the economic standard gets a far greater value in this parliament through these big, old parties than do the human values that I would put, on behalf of the Greens, at a much higher level. Sure, I do not have the numbers in here but I hope you get voted out. It is time we had more people in here who felt strongly about this sort of right and did not treat it as either a joke or a minor matter where you bring in a set of words, knock the motion sideways and then claim you have had a victory. You have not. You might think you have, but those people in Chinese jails tonight will have gained nothing from this back-off from you, the majority in the Senate, who are not going to back the motion as I put it forward.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (4.33 p.m.)—Senator Harradine has moved an amendment. I think it is appropriate that—

The ACTING DEPUTY PRESIDENT (Senator Crowley)—I assume, Senator Brown, that you were speaking to Senator Harradine’s amendment and not closing the debate?

Senator Brown—I was intending the latter but as I wish to hear the government’s explanation I will accept that assumption.

Senator IAN CAMPBELL—I wanted to make some brief remarks about the amendments. At the outset, it is unfair of Senator Brown to criticise Labor for moving an amendment to his motion when much of the motivation in so doing was to recognise the fact that, since Senator Brown gave notice of his motion, the Standing Committee of China’s National People’s Congress voted to allow ratification of a covenant. The Labor amendment, although we will not be supporting it for the reason I have already explained, recognises that reality and it welcomes it—as the government does.

I think you have to get the balance right here, whether you are a government or a member of the Senate. I wonder if Senator Brown would prefer to use the words ‘condemns the PRC for ratifying the covenant’? Do you recognise progress when it is made, even though things on the ground, to use Senator Harradine’s vernacular, are not as you would have them? Would Senator Brown like to see Australia’s beliefs, customs and institutions transported across to China? As senators, we would all prefer to see all people in China have exactly the same freedoms, liberties and democratic processes that we are so blessed with and take for granted in our country. And we should never take them for granted, of course.

If you look at what Senator Brown was getting upset or angry about—and I am not trying to say that in a nasty or judgmental way—Senator Brown has said that he is very angry and is disgusted by the process. In fact, what Labor are trying to—and far be it from me to defend Labor in this place—is to remove the first section of the motion. All that first section does is to note a resolution of the European Parliament to its member states to submit a resolution to the UN in Geneva. I said very briefly that the government does not think it is appropriate to comment on a call made by the European Parliament which calls on its member states to submit a resolution to the UN in Geneva. I said very briefly that the government does not think it is appropriate to comment on a call made by the European Parliament to its member states. How can one get angry, upset or feel disgusted by an amendment that seeks to remove part of Senator Brown’s motion that we are debating which simply says that we note a resolution? You can get angry and upset about lots of things in life, but not about removing a
clause in a motion that says we note something the Europeans have done. He condemns us for tugging our forelocks to China.

We had a debate in this country last year about cutting off our historical roots to another European nation: Great Britain. If you read Senator Brown’s motion it is really saying, ‘The Europeans have got it right and we’ve got it wrong.’ I think this country is old enough and mature enough to decide for itself. We are certainly far closer in our relations with all parts of our region than anybody in Europe—although perhaps it is not right to say ‘anybody in Europe’; there are probably a few notable people in Europe generally, and in their parliament in particular, who have a very good understanding of China and other parts of Asia. But Senator Brown is angry, upset and disgusted by an amendment that just removes the first part of the motion. Quite frankly, all the Labor amendment does to part (b) of Senator Brown’s motion is call on the Australian government to do something. The first half of the motion, as we have explained already, is redundant because China has already ratified the International Covenant on Economic, Social and Cultural Rights. The Labor amendment recognises that reality and then calls on China to ratify the International Covenant on Civil and Political Rights.

I do not understand how you can possibly get angry, Senator Brown, unless you are just trying to put on a show and get angry for the sake of being angry. What Senator Brown is seeking to do is no different from what the Labor Party is seeking to do. He can say that we as a nation or as a parliament need to get angry and upset about it and be made sick by the process, but what Labor is doing is in effect exactly what Senator Brown wants to do. Senator Brown is not proposing that we react in some other way to China’s actions within their standing committee of 28 February. Labor joins with the government in welcoming that as progress. Maybe it is not enough progress and maybe we would like to see progress at a faster rate—I am sure we would—but when you see progress, regardless of whether it is the progress you want or not, you should welcome it.

I listened very carefully to what Senator Brown said, because it is very easy to get angry about these things for very good reasons. I cannot disagree with any of the reasons that Senator Brown put forward in relation to how individuals are treated—whatever they are discriminated against, within any nation. It should make no difference where you live. As I said earlier, we are blessed and very lucky to live in a country like Australia where these rights are protected. We have fought for them and built institutions to protect them, and we should never take them for granted. So I cannot disagree with your motivations, Senator Brown; we share those. In his entire contribution to this debate I did not hear Senator Brown say anything that differentiated the call to action. He did not move an amendment to his own motion saying that we should do something else. He just does exactly what Labor does, so I do not know how he could possibly vote against it. We will see what he does when the time comes.

Senator Harradine’s amendment does request that the Australian government take certain action within the human rights dialogue. It is a far more constructive amendment but, again, I make it clear that the government have conveyed our concerns within that dialogue, and quite specifically in relation to religious freedom. We did raise matters relating to unofficial churches and their leaders, as I have said previously. We have raised the issue of the Tibetan nuns and monks and the prison sentences they are serving in Tibet. We have raised, both formally and informally, the situation of Muslims, particularly in Xinjiang. Once again, specifically within the framework of the human rights dialogue, the government are doing exactly what Senator Harradine has called on us to do. He has asked us to make it a priority at the next human rights dialogue, so he has been constructive about it. I say to Senator Harradine that we are doing what he has called on us to do, so I would suggest that it would be somewhat redundant for the government to be voting for that motion.

It is entirely appropriate for the Senate to pass that motion, but I would find it cumber-
some and unusual to be voting for a motion to call on our government to do something that we are already doing. I think it is a tougher position for a member of the government who sits in the Senate. In relation to these matters it is probably easier if you are not a member of the government. I entered this debate for a second time—because I find it very hard to understand how Senator Brown can be so worked up over the action of the Australian Labor Party in moving an amendment to his motion which, if anything, makes his motion more sensible, makes its intentions more clear and in no way diminishes the intentions of it.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (4.43 p.m.)—I rise—and I think, probably, in a mature moment of reflection, ill-advisedly—because I understood that the debate had been closed and the next step was to put the matters to the vote. But the government—and I do not criticise them for this—have risen to indicate their view on the amendment moved by Senator Harradine, and I assume, therefore, that the debate has not closed. I note out of the corner of my eye that Senator Brown is furiously making notes. I assume he will seek the call shortly in order to reply further. Given that that is the way this is laid out, it is appropriate to take a moment to put the Australian Labor Party position on the record on what we regard as a vitally important but extremely complex issue.

Much of what I would say has, to some extent, been said, not by us but by the government—and I acknowledge some of the points made by Senator Ian Campbell. Our amendment to Senator Brown’s motion is to say what Australia thinks. Senator Brown’s motion says what the Europeans think and says, ‘Let’s endorse that.’ But I am aware—and I mean no offence to the Europeans—of occasions in the past when we have taken strong stands on human rights, and the Europeans have not always taken the same strong stand. I am aware of times in our relations with China when we have pursued an enlightened approach and the same approach has not been pursued by the Europeans. The Europeans are entitled to their position, and I criticise them not one whit for holding one, but the key point of our amendment is to say what Australians think. If this chamber is to speak on the matter, it is appropriate that we speak as Australia. Our amendment is to do that. What the motion lacks is the full text of what the Europeans have said, and I do not have it to hand.

China has moved, in recent weeks, to endorse the International Covenant on Economic, Social and Cultural Rights. That move by China has been recognised internationally as a positive thing. It would be churlish in the extreme if we did not also recognise it as a positive thing. But Senator Brown has taken this opportunity to chastise us all for want of principle, if I understand what he has said. That is rejected utterly by the Australian Labor Party, and there is no foundation in our history for making that charge against us. What is the principle is not best defined by Senator Brown; he has defined it in a way to work with his argument.

The fundamental question here is: does an absolutist approach, and a declaratory approach of condemnation, succeed in changing the situation to materially improve the human rights of people about whose rights we complain, or does a mixed approach change the situation and improve the practical access to human rights that we seek? The absolutist approach is perfect for grandstanding. It is an approach in which you can be pure and not have to take any responsibility for the outcome. But in many cases—and I do not say in all, because there is a place for absolutism in this debate—it is counterproductive and creates a sense of isolation from the rest of the world and a determination to press on, in the face of international condemnation, to enforce quite rigorous standards to which we are fundamentally and absolutely opposed.

There have been a number of occasions in our bilateral history with China and in China’s participation in global affairs when patient and effective diplomacy has caused people to be released from prison and has caused the Chinese leadership to sit up and take notice about what the world thinks on human rights. After the Tiananmen Square
massacre, Australia broke off government relations with China and sought to support international opinion in terms of the condemnation of those acts. My recollection is that a number of European countries rejoined that situation much sooner than Australia did. In the case of Australia, this is part of our region and part of the area of our direct influence. My recollection is that on a number of occasions, because we have been principled in these things, our voices have been listened to when people who have been able to compromise their principles have been dismissed.

It is fundamental for us to make our position on where we stand on matters of international concern—such as human rights—plain, up front and immediate. It is also for us to make clear up front where we stand on other issues such as access to economic growth so that people can have an income in which they can make human rights decisions. Questions of access to shelter, to food, and to decent standards in society are fundamental as well. We do not shrink from arguing that economic growth that can deliver those outcomes and ensure that people can properly exercise their choices and not be forced to not have access to proper standards in which those choices do not have any meaning, is an important goal in this debate too and should be emphasised.

I want to make it plain that I do not accept the chastisement that has been directed at the Australian Labor Party. I do not accept it for myself or for the Australian Labor Party. We have always made clear where we stand on principle, and we have always pursued an active campaign to try, in a sensible and constructive way, to deliver the principles for which we stand. Often it is not within our gift to achieve it, but always our efforts should be bent towards that objective, and maintaining a practical and positive role here is fundamentally important to that. Economics is not to be dismissed from this argument; it is fundamental to this argument. Let me summarise our role this way: one can be a perfect absolutist but achieve nothing effective. The issue here for us is being effective while maintaining an absolute commitment to our principles. That is what we propose to continue to follow.

Our amendment, if carried, would acknowledge and, in a positive way, approve and congratulate China for adopting a fundamental international convention of economic, cultural and social rights. We think—and we do not apologise for thinking this—that is a positive step forward and we think it notches a new standard in international conduct, so we will stick with our amendment. Then there is the further issue of Senator Harradine’s amendment. Senator Harradine in many ways has made a speech which does demand a pause and does demand thought. He has sought to amend what are the priorities for the government in its bilateral dialogue with China. It may be, for all I know, that in that bilateral dialogue the issue of religious rights is already at the top of the totem pole and is the fundamental issue pressed; it may be that it is one of a series of issues. Looking at that dialogue and what the priorities are for Australia, I can certainly agree that religious rights is a priority for this nation. I can think of a couple of others. Trade union rights, for example, is another issue that might be commonly regarded as a priority for this nation. I have no difficulty in accepting, on behalf of the Labor Party, the Harradine amendment in this case because I know that this will be an expression of view that the government will take on board from this chamber. As I said, it may be that that is already where the balance of effort is put. So I indicate on behalf of the ALP that we will accept this amendment to our amendment.

Senator BROWN (Tasmania) (4.53 p.m.)—In response to the very similar submissions from the government and the opposition, with the exception that the opposition indicates it is going to adopt Senator Harradine’s amendment to its amendment, I say that there is a background here which has to be understood—that is, that the government will block any condemnation of the Chinese dictatorship when it comes to human rights and adopt the ‘softly, softly, we encourage you, we hope you will do better’ approach, which has now reformulated this motion and that, on the other side of the chamber, the Labor Party will
block any motion that I bring in here or that
any other member, except themselves, brings
in which directly condemns the Beijing
authorities and their repressive ways.

It was within that total stricture, that
clampdown on the proper functioning of a
Senate to be able to open up debate and to
directly say what it thinks on such matters,
that I formulated this motion, which noted
what the European parliament had had the
gumption to do—it has got no such restric-
tions on itself—and called on the govern-
ment to seek ratification and implementation
of these two covenants. What we have ended
up with is, in particular, the removal of any
mention of the European resolution, because
that resolution had some gumption. The
European resolution, which involves many
countries in Europe, condemned all the vio-
lations of religious rights as well as rights to
freedom of expression that had been enu-
merated in the very long motion that I read
out. That has now been removed from this
motion by the big parties. They did not even
have the ticker to leave that there, even
though it is just noting what the Europeans
did. I guess it is because, by comparison,
what is happening here is this parliament
today is so wimpish.

Senator Ludwig—Is that the best word
you can come up with?

Senator BROWN—I did have some other
words, but I am staying within the rules that
I am sure you, Madam Acting Deputy Presi-
dent Crowley, will apply. Senator Cook, in
his exposition said, ‘Oh, no, we can’t con-
demn like the Europeans do because it is
absolutism—that is what the Europeans have
done; because it is grandstanding—that is
what the Europeans have done; because it is
counterproductive—that is what the Europe-
ans have done; because it is isolating from
the rest of the world—that is what the Euro-
peans have done.’ Take off the blinkers!
What Senator Cook and the government
alike are saying is that we dare not upset
people in Beijing by emulating the words of
the Europeans. Moreover, Senator Cook has
the gall to say that we are speaking here on
behalf of Australia. I invite you to go out
into the streets, Madam Acting Deputy
President—and I invite Senator Cook to do
this—and ask whether people in Australia
believe that we should be backing down
from emulating the European parliament’s
words in these matters of religious and social
freedoms in China.

I reiterate that it is appalling what is hap-
pening in China. Notwithstanding their sig-
nature on the covenant, they are not imple-
menting that; they have regressed. That is
what the Europeans have had the gumption
to say. Moreover—and let us be clear about
this—there is an agenda afoot here whereby
the European parliament is calling on the
European governments to back the United
States in getting tough on China in the rele-
vant human rights forum. And do you know
what Australia is going to do, Madam Acting
Deputy President? It is going to vote against
those governments, at best it is going to ab-
stain, because it prefers China to them when
it comes to this matter. It did last time; it did
the time before. The Australian government
is not going to line up with Denmark, which
has had the gumption to stand up to the
communist dictatorship in matters of human
and religious rights; it is not going to stand
up like Denmark does. There is a different
standard, a different level of courage in-
volved here. The big parties here are failing
in their obligation to stand up for this mas-
sive abrogation of human rights which is
occurring to our north.

I cannot do anything about that. I am em-
arrassed to bring a motion like the one I
brought into this parliament here, which
notes what the Europeans are doing and then
calls on the government here to get the Chi-
nese to sign a couple of conventions. Here
we have the Senate knocking out the first bit
because they don’t even want to note what
the Europeans are doing. What an amazing,
disappointing and frustrating set of circum-
stances this is. No wonder people are calling
on more alternatives for their vote. This does
not represent what the people of Australia
think. This represents what the World Bank,
the World Trade Organisation, the corporate
sector and the stock exchange think, but it
does not represent what Australians think.
They have a bit more go in them than what
their representatives are exhibiting here to-
day.
The ACTING DEPUTY PRESIDENT (Senator Crowley)—The question is that the amendment moved by Senator Harradine to Senator O’Brien’s amendment be agreed to.

Question resolved in the affirmative.

The ACTING DEPUTY PRESIDENT—The question now is that Senator O’Brien’s amendment, as amended, be agreed to.

Question resolved in the affirmative.

The ACTING DEPUTY PRESIDENT—The question now is that Senator Brown’s motion, as amended, be agreed to.

Question resolved in the affirmative.

DELEGATION REPORTS

Parliamentary Delegation to Hungary and Poland

Senator COONAN (New South Wales) (5.01 p.m.)—by leave—On behalf of Senator Crane, I present a report of the Australian parliamentary delegation to Hungary and Poland, which took place from 15 to 26 October 2000.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Message received from the House of Representatives agreeing to the amendment made by the Senate to the following bill:

Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 2000

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

National Museum of Australia Amendment Bill 2000

VETERANS’ AFFAIRS LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) 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) (5.04 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This Bill advances the Government’s program to harmonise offence-creating and related provisions in Commonwealth legislation with the Criminal Code.

The Criminal Code will codify the most serious offences against Commonwealth law and establish a cohesive set of general principles of criminal responsibility.

The purpose of this Bill is to apply the Criminal Code to all offence-creating and related provisions in Acts falling within the Veterans’ Affairs portfolio, and to make all necessary amendments to these provisions to ensure compliance and consistency with the Criminal Code’s general principles.

While the majority of offences in legislation in the Veterans’ Affairs portfolio will operate as they always have, without amendment, there are some that will require adjustment.

Amongst the most significant amendments is the express application of strict liability or absolute liability to some offence-creating provisions. Under the Criminal Code an offence must specifically identify strict liability or absolute liability, as the case may be, or the prosecution will be required to prove fault in relation to each element of the offence. This is necessary to ensure that the strict or absolute liability nature of some provisions is not lost in the transition to the application of the Criminal Code’s general principles. If relevant offences are not adjusted in this manner many will become more difficult for the prosecution to prove, and therefore reduce the protection which was originally intended by the Parliament to be provided by the offence.

The Bill will similarly improve the efficient and fair prosecution of offences by clarifying the physical elements of offences and amending inappropriate fault elements.

This harmonisation of offence-creating and related offences in Veterans’ Affairs legislation with the Criminal Code is an important step in the Government’s programme of legislative reform
that will achieve greater consistency and cohesion in Commonwealth criminal law.

Debate (on motion by Senator Denman) adjourned.

**MEDICARE LEVY AMENDMENT (CPI INDEXATION) BILL (No. 2) 2000**

**Second Reading**

Debate resumed from 27 February, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (5.07 p.m.)—The Medicare Levy Amendment (CPI Indexation) Bill (No. 2) 2000 could be described as a technical bill which makes an adjustment to Medicare payments. This bill proposes, if I could put it in more precise terms, to amend the Medicare levy low income exemption thresholds for individuals, married couples and sole parents in line with the consumer price index, or CPI, movements. The shading-in thresholds, which ensure that taxpayers earning just over the low income threshold will not face the full levy, will also be adjusted in line with CPI movements. This has been done by the Howard government in each year that it has been in government, except for 1998-99. Indexation was suspended in 1998-99, with the support of Labor, because the relevant CPI figure was negative. The thresholds for individuals will increase from $13,550 to $13,807 for 2000-01. Individuals whose income is between $13,807 and $14,926 will be subject to the shading-in provisions, yielding a Medicare levy of 20 per cent of their income over $13,807. The family income exemption threshold is being increased from $22,865 to $23,299 for couples with no children, increasing by $2,140 for each dependent child in the family. Sole parents will enjoy the same exemption provisions. The low income threshold is also adjusted in the Medicare levy surcharge legislation, which imposes a tax penalty on taxpayers who do not have private health insurance. This bill is estimated to cost $1 million in 2000-01, $35 million in 2001-02 and $20 million in 2002-03.

This bill continues Labor’s practice of annually indexing Medicare levy thresholds, and on that basis Labor will be supporting this legislation. However, we think the second reading motion that attaches to this bill should be amended. As a consequence—and I believe this has been circulated in the chamber; I note the nod from the Clerk, which is the most authoritative advice I can have on that point—I move:

At the end of the motion, add:

“but the Senate condemns the Government for its treatment of Medicare and the effective “Americanisation” of the health system, and its taxation policies generally given the impact these policies have had on the Australian economy”.

As I said, the bill is a mechanical or technical bill, but it does raise the broader question of the government’s approach to Medicare. It also introduces the broader question of the government’s attitude to taxation. It is on those matters that some remarks are appropriate.

At the present time we are seeing under this government, the Howard government, an Americanisation of our health system, which is creating two health systems in Australia: one for the wealthy and one for the rest of us. We think that drift towards an American style system, which is being accelerated by the policies of this government, is something to be utterly resisted. If there is one thing that Australians stand united on in the field of health it is that Medicare provides the best system in order that all Australians can have access to proper and appropriate health care as they need it, and any dilution of that system—any watering down or shifting of entitlement—has to be viewed very carefully.

The Howard government has opposed Medicare for more than a quarter of a century. In our view, Mr Howard has committed to dismantling Medicare as a universal health system and is starving our public hospitals for funds, causing Medicare to become a poor cousin to the private health system. The Howard government views public hospitals only as a safety net for poor families and pensioners. When he came to office, Mr Howard cut $800 million from our public
health system in the infamous budget of 1996-97 and has since failed to index Commonwealth grants, as recommended by an independent inquiry. So the true value of the cuts has never been restored and the true value of the budget outlay on health has been eroding over those years due to movements in consumer prices.

Our commitment on coming to government will be to revive Australia’s public health system by investing in more beds and supporting the provision of more nurses and doctors and new medical technology. This will mean faster, affordable, quality treatment for all Australians. Compare that to the Howard government’s plans where only the wealthy can be sure that they will get treatment when they need it. We are committed to revitalising Medicare and returning our health system to the world’s best. I make those remarks in support of that part of my second reading amendment that deals with the Americanisation of our health system. But I will now turn to some more general remarks about the changes to the tax system that we have all witnessed in Australia in the last few weeks and the miraculously vanishing surplus that the Howard government boasted of as a benchmark of its so-called better economic management credentials.

The first and most significant thing is just what the tax burden is in Australia. We know that the Howard government has increased the total Commonwealth tax collections from 22.8 per cent of GDP in the year 1995-96—the year when Labor left office—to now, in the year 2000-01, 25 per cent of GDP. The amount of tax collected overall in this country has increased during the period of the Howard government.

We get lectured in this chamber day in, day out during question time with, in my view, quite sloppy economics, based around the mantra that the Howard government is a low taxing government and Labor is a high taxing government. Do not look at what they say; always look at what they do. What they have done on this occasion has increased the overall burden of taxation; it has gone up. That is what they do and that is what people should focus on. Under this government total tax revenue has grown, according to their own budget papers for each year, from $115.7 billion in the year 1995-96—that is the total amount raked in by tax—to an estimated $168.5 billion, which I include the GST in, for this current financial year, the year 2000-01.

That is an increase in the amount of money collected—and I am now talking not about percentages but gross figures—of $52.8 billion in extra taxes paid by Australians during the period of the Howard government being in office. A low taxing party? I do not think so. Now every Australian taxpayer, on average, is paying $5,443 per head extra in taxes, as a consequence of this government. You can put taxes up and then you can provide tax cuts and pretend that you have done something wonderful. What is far better is to keep a rein on the total level of taxes so that people themselves have that money in their pocket and can spend it in the economy.

Let us just look at a few of the backflips. The most notorious one was on the business activity statement, a backflip executed as a double somersault with pike by the Treasurer in the week before last, when he almost got it right: he almost took the whole of the Labor proposition on modifying the business activity statement and announced that just a week later as his own policy. But I do suspect those elements that he did not pick up from us will be elements that will come back to haunt him.

Something needed to be done about the business activity statement. It was killing business: it was tying up small business operators after their normal working hours for a long time, trying to make the sums reconcile; it was giving them an extra cost in consultations with their accountants; it was giving them extra costs in purchasing the electronic accounting equipment needed; and it was an inefficient way of actually assessing what the business contribution was for the GST. But this government visited on the business community—one that it claims that it is concerned about—such a system. We always believed that it should be changed. The pity about it is that it took so long for the government to believe that. It only changed its mind, one can say, after it got massively de-
ated in Western Australia and Queensland and decided something had to happen at last: ‘We will pinch this policy off Labor.’

Last week we had the issue of trusts. If I can cart the chamber back to July of last year—or prior to that, October of the year before, 1999, when the government put down its ANTS package. This was the package it tabled which justified the GST. People who remember will remember the big thick document that the government tabled with all of its commitments on ANTS. The subtitle of that document—something that I will come back to and will persist in reminding the government about—was *Not a new tax, a new tax system*. At the point of ANTS, when they introduced the GST, what did this government tell Australians? It told us all that this was a revolutionary change in the tax system.

I might say in parentheses that, in question time today we heard—as we heard last week, as well—the government spokesman for the Treasurer say, ‘But Labor introduced the indexation of petrol under the Hawke government.’ All I remind the chamber of—and this is the point I simply want to make, and I do not want to unnecessarily dwell on it—is that the government changed the whole tax system in Australia on 1 July last year and it called its change ‘Not a new tax, a new tax system’. When it did so, it did so after a comprehensive report set out in the ANTS document saying what was in and what was out. It changed the business tax system at the same time. So it cannot reach back and say now that the indexation of excise for petroleum products is something that belongs to Labor; it is something that belongs to this government.

But the amazing irony and barefaced cynicism of Treasury spokesmen for this government is this: we debated in this chamber last Thursday afternoon—and the Thursday afternoon of the previous week’s sitting as well—a private member’s bill that had I introduced into this chamber to knock off the indexation of petroleum. What happened last Thursday was that the Prime Minister announced that he was going to do it. But what happened in this chamber last Thursday is that his party filibustered the private member’s bill to prevent us voting on it. So they cannot claim—and this is a detour from my general remarks about taxation—the moral high ground on taxes on petrol. They are responsible for them. Whoever gave birth to them, they owned them. They owned them when they embraced them and when they operated from them and when they benefited from them—and they certainly owned them after they changed the entire tax system, as they claim to have done on 1 July.

But coming back to trusts, people who are generally classed as higher wealth individuals with income to spare—that is, in the technical phrase, ‘discretionary income’—can manipulate their income affairs to get a lower level of tax to benefit themselves through private trusts. When the government introduced the GST, they promised in their ANTS package, which was due to come into effect on 1 July 2000, that they would stamp out this practice by taxing those trusts not at 15 per cent but at the same rate as businesses. That is what the government promised they would do. When it came to the point on 1 July, the Treasurer then said, ‘We’ll defer that part of the decision to 1 July 2000.’

What happened last week? The government deferred it again, indefinitely—and not just because on the public record it is a matter of plain fact a number of front benchers in the government are beneficiaries from these trusts, but because there is an election in Ryan in Queensland in two weeks time that they are running scared from, believing that they might lose. They know that, if they persisted with this issue, some of the people whom they want to vote for them would be absolutely offended. They deferred it indefinitely, beyond the next election, so that whoever is the next government of Australia will have to face this issue; and they did it cynically, knowing that in the polls the next government is most likely to be a government from the Labor Party, not from the Liberal Party.

That brings me to the petrol issue again. The fundamental question here on petroleum is: what is the windfall gain in taxation revenue that the government have obtained because of higher petrol prices? We have asked
this question directly of the government; they have replied to our inquiries, but they have never answered them. We have examined officers of the Department of the Treasury, who, under government instruction, have declined to answer. We think it is the right of all Australians to know how much tax they pay and why. We know that Australians have paid more tax on petroleum because of higher prices, because the GST is a percentage. If you pay GST on unleaded fuel with a base price of 80c a litre, then you pay 8c GST. If you pay GST on petrol with a base price of one dollar, you pay 10c GST. It just follows that the higher the price of petrol, the more tax you pay. We have asked the question, ‘Well, how much more tax in aggregate have Australians paid as a consequence of this growth tax?’—and we have said that it is the right of Australians to know this figure—and what have the government said? The government have said, ‘We don’t know,’ and then they have said, ‘We will not tell you.’ If we do not know this figure, how can we be sure that the Australian motorist is getting a fair deal from this government? Let me illustrate that point.

The Prime Minister, earlier this year and late last year, said, ‘We have announced a $1.6 billion package on roads, and this package is handing back to Australian motorists the windfall gain in taxation from petrol.’ But read the fine print. His package is $1.6 billion over four years on roads. ‘Over four years’—remember that part, it is the critical bit. The Australian Automobile Association, which represents motorists and is a voluntary organisation, has calculated that, according to it, the actual windfall gain to the government is $1.5 billion per year. When the Prime Minister says ‘$1.6 billion on roads, and I’m giving it back’, that is over four years. But the Automobile Association, a non-political body with no axe to grind other than the interests of motorists, says that the windfall gain is $1.5 billion, and it is per year—and, even now, with the cut in the 1.5c of indexation to excise being costed at $550 million in the balance of this financial year, we still have not got the windfall back. By the government not saying how much the windfall is, the only respectable figure in public debate is that figure given to us by the Automobile Association. Because the government do not challenge that figure, we are entitled to believe it. And if we believe it, the government are still playing the thimble and pea trick and not returning the windfall gain.

We know that foreign debt is now a record $301 billion, or $15,000 per head. We know that net exports only contribute 0.2 per cent to economic growth, despite the very low value of the Australian dollar. We know that business investment for the December quarter is down by 5.2 per cent. We know that, according to today’s ANZ job survey, the number of advertisements for new jobs is down by 10 per cent, presaging an increase in unemployment. We know that the consensus publication of economic opinion says the Australian economy is stagnating and that stated on the front page of many newspapers today and on the weekend is that we are teetering on the brink of recession—and the government say that the GST is still good for the economy!

**Senator LEES** (South Australia—Leader of the Australian Democrats) (5.27 p.m.)—The bill we are dealing with, the Medicare Levy Amendment (CPI Indexation) Bill (No. 2) 2000, relates to Medicare. I will just comment briefly on what it is doing: increasing the threshold for the Medicare levy in line with the CPI. It is quite a simple piece of legislation and one that the Democrats support, because we believe that those on low incomes should not pay the Medicare levy. If we do not index for inflation, then gradually more and more people will be caught up and will fall above the threshold, resulting in more and more people finding, despite being on very low incomes, that they have to pay this levy.

But I would like to comment also that, as far as payment by those on low incomes goes, one of the key issues facing many people who are struggling to make ends meet is the growing amount of co-payments. As long as this government underfunds Medicare, as long as in particular it keeps the amount paid to doctors for consultations at lower and lower levels when compared to the true value—looking at inflation, they have not even been indexed for inflation regularly—the pressure comes on doctors to no longer
bulk-bill, not even for those people who have a Healthcare card.

The difficulty we hear back, through rafts of anecdotal evidence, is that this makes it extremely difficult for families on low incomes. If you have more than one child who is sick, some doctors will agree to only the extra $8 or $9 or maybe $12; but in some surgeries now they are asked to put the whole $35 or maybe $40 on the table before seeing the doctor—and, as you know, if you have several children who are ill, it is extremely difficult to work out who is actually the sickest. And it does not end there: pharmacists tell us that they then see the family who have managed to foot the bill and have paid the co-payment or perhaps the entire amount, which they will obviously claim back; but the problem in the short-term is cash flow. The family then fronts up to the chemist with a number of scripts and the chemist is then asked, ’Well, I’ve really only got money for one or two of these; which ones should I fill?’

So I say very strongly to government that, while you are dealing with this issue—and making sure with the CPI that we exclude people on the original limit you define as a low income in line with inflation—people on low incomes are still at the wrong end as far as the amount of money they have to pay for services goes; but the problem in the short-term is cash flow. The family then fronts up to the chemist with a number of scripts and the chemist is then asked, ’Well, I’ve really only got money for one or two of these; which ones should I fill?’

One of the most damning statistics as far as our current health system is concerned is that one’s health status decreases with income—in other words, the poorer you are, the sicker you are; the wealthier you are, the generally healthier you are. Anyone looking through the details will see that groups in the community missing out on adequate services include people in rural and remote areas and the Aboriginal community. Aboriginal and Torres Strait Islander people with poorer health status actually have access to fewer Commonwealth resources than do non-Aboriginal and Torres Strait Islander people. We believe that the whole issue of equity and access, while helped a little by this bill, has to be now looked at afresh in a raft of other ways.

When I came into this chamber, I thought for a moment we were just dealing with something specifically on taxation with nothing to do with health. So I will just digress for a minute, as Senator Cook has, and look at tax reform. The reason we stayed in tax reform was to get money for these very services so the states could properly fund their end of the health system, particularly our hospital and community health sector. For the Commonwealth, the money will be there to adequately fund Medicare, to remove some of the pressure on doctors and to look at the values study that has gone on for several years looking at where Medicare benefits need to be changed. We stayed in tax reform—we make absolutely no apology for that—to get a revenue stream so that we could put money not just into our public health system but also particularly into public education.

As we are looking at indexing the lower threshold, the Democrats also want to deal with the higher threshold in exactly the same way—in other words, index it. While we have before us a bill that will make sure that more people do not fall into the Medicare levy threshold and trip over it, we also need to make sure at the top end that we do not have more people tripping over into the additional payment. The level the government did set, when we debated this back in 1997, was $50,000 for individuals and $100,000 for families. To keep that in line with the
government’s original intention and policy, we need to index that up as well. I will speak more on this as we get to the committee stage. I have circulated the amendments. Basically, if CPI indexation is good enough at the bottom, it should apply to the top as well, so we do not have families on middle incomes falling over into the area where they are paying the additional Medicare levy.

Senator SHERRY (Tasmania) (5.34 p.m.)—We are addressing the second reading of the Medicare Levy Amendment (CPI Indexation) Bill (No. 2) 2000. The levy provisions provide for the increase in the low income exemption threshold for individuals, married couples and single parents. The bill also increases the shade-out threshold which applies for the purposes of the Medicare levy. The legislation we are considering amends both the Medicare Levy Act 1986 and the A New Tax System (Medicare Levy Surcharge Fringe Benefits) Act 1999. These amendments will apply to income tax assessments for the year 2000-01 and later years.

I think it is well known what theme in respect to government this legislation deals with. It deals with revenue raising. To that end, my colleague Senator Cook has moved on behalf of the Labor opposition that the Senate condemns the government for its treatment of Medicare and the effective Americanisation of the health system and its taxation policies generally, given the impact these policies have had on the Australian economy. This is a high taxing government. I intend to come to some detail shortly in outlining just how and why this is a high taxing government.

One of the subterfuges, one of the covers, it uses for its revenue raising measures is to call them surcharges—a tax when you are not having a tax. You call a revenue raising measure a surcharge in order to avoid the promise that the Prime Minister, Mr Howard, and the Treasurer, Mr Costello, gave to the Australian people in the lead-up to the 1996 election. That promise they gave, one of those never ever promises—as it has turned out—was that there would be no increase in existing taxes and no new taxes. That was the ironclad commitment given. We all know about the GST. I will come to that in terms of its revenue raising in a little while. The most prominent of the so-called surcharges was the superannuation surcharge. This was introduced in the 1996 budget. It was intended to collect up to an additional 15 per cent from this new tax on superannuation savings.

The theme of my contribution to this debate, consistent with the second reading amendment moved by my colleague Senator Cook, is that the Liberal-National Party government is a high taxing government, not just in total moneys collected but also as a percentage of gross domestic product, which is the relevant yardstick for measuring how much money governments collect. I want to look at the ways in which this is a high taxing Liberal-National Party government. We obviously have a clear example with the legislation before us, the Medicare Levy Amendment (CPI Indexation) Bill (No. 2) 2000, and the amendments we are considering. We had a surcharge which I think only lasted for about six months—the East Timor tax surcharge. That was probably Mr Howard’s and Mr Costello’s first major backflip when they dropped it. Apparently at that time revenue collection was very strong and the budget was in substantial surplus, so they dropped that tax. But that was a tax under another name, a surcharge.

Just returning to the issue of superannuation tax, page 5.10 of the Budget Strategy and Outlook 2000-01, the official budget paper, details the taxes collected from superannuation funds. In the year 1999-2000, superannuation tax amounted to $3,893 million; in the year 2000-01, the current financial year, it is estimated that the tax from superannuation funds will be $5,175 million—an increase of 32.9 per cent. That is an increase in superannuation tax. That includes the superannuation surcharge tax that I referred to earlier, but what is interesting is that, if you try to find the detail of this new tax, this new surcharge that the Prime Minister and the Treasurer introduced in 1996, it does not give the detail of the revenue raised. They have hidden the collection of this new tax within general superannuation funds’ taxation. They have done this because they are embarrassed about the new...
tax and the moneys it is raising. They have also done it for another reason, and at the moment I am putting on notice some questions to find out the new level of revenue collected by the so-called super surcharge following the change to reportable tax payments with the inclusion of the fringe benefits tax, because my information is that the new superannuation surcharge tax is collecting substantially more than the half a billion dollars budgeted for because of the inclusion of FBT. Be that as it may, the government has introduced a new tax and it has increased the base of that tax. We would like to know what revenue is being raised. We would like to know why it is being hidden in the general tax category of superannuation funds.

That is the first area where there has been a substantial increase in taxation. The second area I want to refer to is company tax. In the financial year 1999-2000, revenue from company tax was budgeted to be $23,666 million; in the current financial year, 2000-01, it is budgeted to be $30,857 million—an increase of 30.4 per cent. I emphasise again: an increase of 30.4 per cent. Let us go to excise tax. Petrol excise has been in the news recently, and we all know why. I am not going to go into the considerable debate that has occurred about that. However, I would point out to the Senate that the revenue to be collected from indirect tax on petroleum products, specifically unleaded petrol, in 1999-2000 was just over $5,044 million; in the year 2000-01, it is budgeted to be $5,993 million—an increase of 18.8 per cent. Again, I emphasise: an increase of 18.8 per cent. The figure for the current financial year will obviously have to be reduced following the government’s backflip, backdown, roll-back of the excise indexation. Notwithstanding that and the subtraction of whatever the figure may be, there will still be a substantial increase in excise duty from unleaded petrol.

Let us look down the list. For leaded petrol, there is actually a slight reduction of 6.3 per cent in the excise collected. The reason for that is that leaded petrol is being phased out as motor vehicles are being replaced, so it is understandable that revenue would reduce. The next on the list is the diesel excise, the diesel tax. In the year 1999-2000, the government collected $4,614 million; the estimate for the year 2000-01 is $5,232 million—an increase of 13.4 per cent. That is another massive increase. Let us look at beer excise, and this is the real ripper. In the year 1999-2000, the excise on beer collected $892 million; in the year 2000-01, it is budgeted to collect $1,441 million—an increase in the tax on beer of 61.6 per cent. Let us look at potable spirits. In 1999-2000, the government collected $152 million; in the current financial year, it will collect $245 million—an increase of 61.7 per cent. That is another massive increase. These are not small increases in tax collection.

Let us go to income tax, and then I want to go to total revenue collected as a percentage of gross domestic product. Let us look at total income tax in terms of the amounts to be collected and as a percentage figure. According to page 5-20 of the budget papers, total income tax was $116,471 million in the year 1999-2000. In the year 2000-01, the current financial year, total income tax increases to $123,753 million—an increase of 3.3 per cent. In the out years of 2002-03 and 2003-04, there is a 6.3 per cent increase and an eight per cent increase respectively in total tax collected.

What does all this mean? This means the Liberal-National Party government is the highest taxing government in the last 10 years. We had a response from Senator Hill in today’s question time that tax revenue is going up because the economy is growing and because there are more people employed. That in part is true. I accept the validity of that argument in part but not in full. The traditional and the accepted way of measuring the level of tax is as a percentage of gross domestic product. What is the proportion of the total economic production, the total economic cake, that is collected in tax in this country? It is a percentage of gross domestic product. Every economist, every accountant and every financial adviser will agree that percentage of gross domestic product is the critical yardstick and the critical measurement of tax levels in this country. It is the best way of comparing like with like,
of comparing current tax revenues to the revenues collected in previous years by previous governments.

We look at page 8-43 of the budget papers for Commonwealth government sector cash taxation revenue as a percentage of gross domestic product, and we look at the real growth. It is interesting that in 1996-97, when the Liberal-National Party came to government, the taxation collected as a percentage of gross domestic product was 23.3 per cent. In 1997-98, it was 23.1 per cent. In 1998-99, it was 23.8 per cent. In 1999-2000, it was 23.6 per cent. According to this table, in the year 2000-01 it has dropped to 20.8 per cent. In 2001-02, it drops to 21 per cent, and it is 21 per cent again for the following two out years. If you look at the table, tax as a percentage of gross domestic product dropped, according to the budget papers. But—and there is a big ‘but’—there is a major exclusion in taxation as a percentage of gross domestic product. What is that exclusion? It is GST revenue. GST has been excluded from the tax collection revenue of the Commonwealth government.

We all know that we have been engaged in massive discussion, massive debate and thousands of pages of legislation in this parliament—and in particular in the Senate—on the GST. It is a tax collected under a Commonwealth head of power. It is a tax that comes into the Commonwealth Treasury. It is a tax collected by legislation we have dealt with in this chamber. What have we been talking about? What have the government been proudly boasting about over the last 18 months? They have been boasting about the GST and how necessary it is. I do not agree with that, but that is what they claim. Yet they do not have the pride to include it in taxation revenue.

What is the true figure, then, of the percentage of gross domestic product of tax revenue to the Commonwealth? You need to include GST revenues. If you go to the index at the back of the budget papers and you look up ‘revenue’ on page 5, there are lots of different categories of revenue listed but—surprise, surprise—you cannot find GST revenue listed. You look under ‘GST’ and you go over to page 3. You have ‘goods and services tax’ and you have various pages listed there, but when you go to those pages you cannot find an estimate of the revenue to be collected from GST.

**Senator Bolkus**—It is like the wine at Kirribilli.

**Senator Sherry**—That is right. I do not know what has happened to GST collection, but you cannot find it. If you do go through every page of the budget papers you will find it on page 4-20, but it is not included in the index. You have to look to find it.

**Senator Bolkus**—It is a hidden tax.

**Senator Sherry**—It is a real hidden tax. The revenue is listed there with the budget estimates for GST collections: in the year 2000-01, it is $24 billion; in 2001-02, it is $28 billion; in 2002-03, it is $29 billion; and in 2003-04, it is $30.7 billion. If you add the GST revenue to all the other revenue that the Commonwealth government, the Liberal-National Party government, is collecting, you get some interesting figures. In the current financial year, tax as a percentage of gross domestic product is 24.336 per cent of GDP. In the next financial year, 2001-02, it rises to 24.9 per cent of gross domestic product. That is almost 25 per cent of the total economic cake, including the GST. In 2002-03 and 2003-04, it is 24.87 per cent and 24.85 per cent of gross domestic product respectively.

If we compare this total tax take by the Liberal-National Party government, the last time tax collection as a percentage of gross domestic product was over 24 per cent was in 1986-87 when it was 24.4 per cent and in 1987-88 when it was 24.2 per cent. In other words, the Liberal-National Party—and my colleague Senator Ray questioned Senator Hill on this, and he dodged the issue as much as he could today—this financial year and for the next three financial years, as measured by tax collected as a percentage of gross domestic product, is a high taxing government. It is the highest taxing government since 1969-70, according to the table on page 8-43, and I suspect—I will have to get the library to give me the figures prior to 1970—bar the wartime period, it would be the highest taxing government, as a percentage of
growing domestic product, in Australian history. The highest taxing government, bar the wartime period, since Australian Federation!

I think they are very important issues, and they are the reason why my colleague Senator Cook has moved the amendment. Not only for this reason, of course; the GST is the greatest problem facing the Australian economy. The GST has dealt a sledgehammer blow to the Australian economy. It may in fact have sent the economy into recession. We will see what the evidence adduces in that regard in the next couple of national accounts figures. It certainly has slowed the economy down in a number of areas. The evidence is very clear that that is what is causing the dip in economic activity. Whether it is a recession we will find out soon. Of course, this happened in Japan when a GST was introduced and subsequently increased. This government was warned. It proudly boasted the GST was going to solve Australia’s economic problems.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.54 p.m.)—I thank all honourable senators for their contributions to the debate on this bill. It was, at the beginning, a debate on the Medicare Levy Amendment (CPI Indexation) Bill (No. 2) 2000 although I think only Senator Lees has directed her remarks to that legislation! It is of course appropriate to have wide-ranging debates in the second reading and get down to the details in the committee stage. Senator Sherry spoke on a range of issues, and he is to be credited with finally having run this line about high taxes, getting Senator Ray to ask a question about it today. I do not know why they did not ask Senator Sherry. It has been a campaign he has been running for quite a time. If you repeat these sorts of lines often enough, sooner or later you actually convince yourself that it is true. The best part of Senator Sherry’s speech, which we will have to quote back to him now from here till when he retires, is that tax revenue is going down. He would like to think that a tax that we collect, in our benevolence, on behalf of the states is in fact a tax to the Common-wealth. Perhaps Senator Sherry could suggest to the premiers that they raise that tax on their own behalf.

Labor of course do not have policies on tax. Whatever policies they bring out are usually just at the last minute. I do not think they have repudiated the policy they had in the last election yet. Senator Sherry came in here a number of years ago and said, ‘It’s okay. Just wait till we have our Hobart conference; we will release our tax policy.’ We are still waiting. At the last election they brought out a humdinger of a tax policy. It had two major platforms. It did not take up much space in paper. It had a special new tax on four-wheel drives. That was the first item in their tax policy, and the second one was a retrospective capital gains tax.

Senator Sherry—Don’t forget the tax credits.

Senator IAN CAMPBELL—Senator Sherry, you are welcome. You can get up and make speeches about your—

Senator Sherry interjecting—

Senator IAN CAMPBELL—It is important. I said it only had two parts of his tax policy. Senator Sherry has corrected me and said there was a third. There was the important tax on four-wheel drives. I do not think they have taken it out of their policy yet. So that is two points, and there is a third point—

Senator Sherry—No, they’ve gone.

Senator IAN CAMPBELL—They’ve gone! Sorry, but we are not sure about the tax credits. So they are back to a blank piece of paper. Senator Sherry also tried to fill in some detail on roll-back. I noticed he put a lot of thought into this: he talked about backflips, backdowns and roll-back all in the same breath. I do not know when Mr Beazley or whoever happens to be the leader when we get to the next election will define roll-back as backflip and backdown. We do not know what roll-back is yet. I think the small business community are waiting with bated breath to find out just what you are going to roll back.

The important thing that Senator Sherry made clear was that in fact the government have significantly reduced income tax. We have significantly reduced taxes, particularly
on those people earning less than $50,000 a year. Not only did we promise to deliver significant tax cuts to people, particularly those earning less than $50,000 a year; we legislated them. We made them l-a-w, we delivered them, and the people of Australia are getting those tax cuts in their pay packets now—$12 billion worth of tax cuts. Not only did we do that but we abolished an entire system of five different rates of indirect taxes, rates that had been put up indiscriminately by Labor year after year without any compensation to low income earners—no compensation whatsoever.

None of us should ever forget that the Australian Labor Party, when it came to tax, used to put up tax year in, year out. They came up with new taxes like the fringe benefits tax and the capital gains tax and they never compensated low income earners. They came in here and prattle on about their concern about the low paid. What did they do in 1993? They increased the indirect, hidden taxes on a whole range of household goods that everyone uses every day—things like toilet paper, detergents and toothpaste. They whacked the taxes up indiscriminately and never delivered one cent of compensation, particularly to those who needed it most. They have the audacity to come in here and try to mislead people about compensation that this government paid.

We actually delivered on what—at least, with the honesty he had at the time—the then Treasurer Paul Keating sought to deliver in 1984. He told the Australian people that you needed to have a modern tax system, that you needed a small tax on spending.

Senator Sherry interjecting—

Senator IAN CAMPBELL—That is what I am talking about—what Paul Keating wanted to deliver. He said that you had to deliver compensation to low income earners and you had to deliver income tax cuts. To his credit, he had the guts to at least propose some big changes then.

These people opposite were not prepared to do what the then Treasurer sought to do: deliver a serious tax change. A government came along that had the honesty to put that change before an election and deliver it afterwards—unlike Labor when they were last taken to the people. They campaigned all during the 1993 election and said, ‘No more indirect tax increases.’ They got re-elected, whacked up the excise on fuel, whacked up wholesale sales taxes, offered no compensation and in 1996 they bore the political price of that.

You could argue, if you needed to, about whether or not one item should be included in tax revenue. When you collect a goods and services tax on behalf of the states and pay all of the revenue to the states—and all of that revenue goes towards hospitals, schools and roads—you can try and fire a cheap political shot and argue about levels of taxation, but you cannot do that and then say that the states should have all that spending. You should also, if you want to be honest about that—and Senator Sherry chooses not to be—look at the state taxes that have been replaced. Would he suggest that the state of New South Wales pay back their GST revenues and put a bed tax back on? Would Senator Sherry suggest that all of the taxes that have been removed by the states actually go back on? You cannot have it both ways, but he will argue that until the cows come home.

He cannot get away from a comparison of expenditures of governments. This government has been very careful to keep expenditure under control and is able, therefore, to deliver the benefit of surpluses and the very important benefit for all householders—particularly those on low and middle incomes—of low interest rates. The people of Australia know, when they repay their mortgage payments, that they have the lowest interest rates in something like 30 years.

Senator Sherry—We killed inflation.
Senator IAN CAMPBELL—They say they killed inflation. They killed thousands and thousands of small businesses who were unable to pay interest rates, in many cases in excess of 30 per cent. They destroyed a million jobs during the ‘recession that we had to have’. Furthermore, they gave no credit to a government that tried to control expenditure. It is not popular to control expenditure. Every time we came into this place to cut expenditure, the people opposite blocked those expenditure cuts. Whenever they come out with a new policy, it is going to cost hundreds of millions of dollars. So, firstly, they oppose all of our expenditure reductions; secondly, they oppose tax measures; and, thirdly, whenever they can release a policy, it costs hundreds of millions of dollars.

Senator Cook said they are going to spend more on health, education and doctors, and they would have you believe that they could deliver a surplus as well. They only way you can do that—and back in 1985 Senator Cook at least had the honesty to say so—is to increase tax. On 1 May 1985—and he has not really moved a lot from there—Senator Cook said:

The Labor Party is a high taxing party. It needs to be to carry out its reforms.

The Labor Party have always been a high taxing party—the figures show it, the record shows it. Worse than that, they have been a big spending government. They put up spending to record Australian levels. In 1995-96, the last time that the Keating government brought down a budget, they had increased own purpose outlays to 25.9 per cent of GDP. Under this government, in this current fiscal year, spending as a proportion of GDP will be down to 22.8 per cent.

You can run but you cannot hide, if you are the Labor Party trying to paint this picture. They had a terrible fiscal record. To go back to another Senator Peter Cook quote, on 23 November 1995, he said:

This current budget, the budget we brought down in May this year, put the budget into surplus—and not just a surplus this year but also a surplus next year—without there being a contribution to that surplus by asset sales.

The record shows that that surplus Senator Cook was talking about was, in fact, a surplus of negative $10 billion. That was one of the most gross deceits in Australian political history, by the Keating cabinet and its members, who went around saying that there was a surplus. The Australian people know why they were paying high interest rates under Labor: because Labor was spending with both hands. They were spending and taxing, running up huge deficits. The people of Australia paid by way of high interest rates. The people of Australia will never forget that, and they will not forgive senators who come into this place and who seek to distort that record through chicanery and double counting.

Amendment not agreed to.
Original question resolved in the affirmative.

Bill read a second time.

Ordered that consideration of the bill in committee of the whole be made an order of the day for a later hour.

CRIMES AMENDMENT (FORENSIC PROCEDURES) BILL 2000 [2001]

Second Reading

Debate resumed.

Senator COONEY (Victoria) (6.07 p.m.)—I was speaking on the Crimes Amendment (Forensic Procedures) Bill 2000 [2001] prior to suspension of the debate for question time, and I will direct some further thoughts about it. I was talking, amongst other things, about the fact that people will now be able to take samples of hair. Whereas there is nothing in the present act that authorises the taking of hair by removing it with the root, now the proper authorities will be able to remove the hair with the root. This is to do with DNA sampling and it indicates how you can get legislative creep, particularly in the area of criminal law and particularly when the mood at the moment is to take on law and order as a popular program in the community. As I said, the point of taking the hair including the root is to allow DNA testing to be done.

DNA is a means of investigation that should have a high value placed on it. As I
was saying when I was speaking previously in this debate, when contrasted with things like confessions and admissions DNA is immutable. It is clear evidence—I think the expression used to be ‘real evidence’—that cannot be affected by a person’s feeling of disability in the face of questioning. It contrasts markedly in that respect with a bill that we will debate later in the year, as I understand it, which will give power to the National Crime Authority to question people, away and removed from the public, in a building that is at the discretion of the NCA rather than that of the person who is being questioned. In those circumstances, where a person must answer questions no matter what, you do get real problems as to whether or not the evidence you obtain by those questions is good, firm evidence. It is interesting to contrast forensic evidence brought into being by blood tests, fingerprints or DNA with the other sort evidence that comes from people having to state answers to questions no matter what. It is true that the evidence itself would not be available for use, but things that flow from that will be. It is interesting to contrast forensic evidence brought into being by blood tests, fingerprints or DNA with the other sort evidence that comes from people having to state answers to questions no matter what. I think the minister taking this bill through the chamber has experience as a great— if I may use that expression—criminal lawyer, and he would understand clearly what I mean about confessions and statements made under duress.

If the papers are to be believed, DNA evidence has saved people on death row in the United States. People have been convicted, no doubt on confessions they have made, and they have been saved from death because of DNA testing. Where that is the situation, much reliance is to be placed on the DNA samples and much reliance is to be placed on evidence that is real evidence. So it comes down to the question of the way in which this evidence is to be obtained. As I said previously, we are not the sort of society that allows evidence to be obtained no matter what. We do not allow torture, and we do not allow people to go beyond what we think is reasonable. How do we know that people have not gone beyond what is reasonable? That is the question we have to ask in this context. No doubt this will come out during the committee stage of the debate, but the issue in this bill is whether or not this evidence, this real evidence, is obtained in a way that we as a civilised society feel it should be obtained.

Once that evidence has been obtained and is no longer of any use, the question arises of how it should be used. A lot of it will be used to build up a database, and it is said that that database should be used to build up information about people who are in the criminal world. I suppose the issue then becomes, particularly with legislative creep, that more and more people will be drawn into that pool where information, through their fingerprints and their DNA, is kept on them. The time might well come when everybody should have their DNA available for anybody else to use, including the law enforcement authorities. Perhaps we even ought to keep the DNA of the great people from the Attorney-General’s Department to see whether or not their fingerprints are on certain legislation that comes into this chamber.

You can see the point I am making. Once we start keeping these databases—and this is a question that Senator Greig and others have dealt with—where does it all stop? I must confess that I am getting to the point now where I think that perhaps there should not be privacy anymore and that what we ought to do is bare our lives to everybody else. At my age, and with the zip and the zoom going out of things a bit, I would not really mind that, but people of a younger generation might be somewhat concerned. We do not want to get to the point where we have information about some people but not about other people, because that information can be used in very powerful ways and there has to be some balance in society between the citizens and the people who bear authority over the citizens. I think there is a bit of a danger in that the balance between those two groups—the authorities and the citizens—is starting to wander a bit in favour of the authorities.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.15 p.m.)—I thank senators for their careful consideration of this bill and for their valuable contributions. I note Senator Cooney’s comments in relation to the safeguards that are needed in legislation like this, and I note that
Senator Coonan, in chairing the Scrutiny of Bills Committee, has really looked out for these sorts of things on behalf of the Senate for some time now.

The Crimes Amendment (Forensic Procedures) Bill 2000 [2001] builds on existing forensic procedures provisions in the Crimes Act and contains important measures to ensure police enforcing our federal criminal offences can use the latest technologies to solve crime. So we already have provisions dealing with matters of a forensic nature. This bill was introduced into the Senate on 30 August 2000 and was considered by the Senate Legal and Constitutional Legislation Committee. That committee reported on the bill on 5 December last year, and it recommended that the Senate pass the bill subject to four recommendations. The government has prepared some amendments to address the committee’s recommendations. I might mention the amendments because they are perhaps the most important of the amendments proposed by the government. There are a good many amendments proposed by the government which are technical and deal with drafting and going some way to improving the bill, but the amendments I will mention deal with the recommendations of the legal and constitutional committee.

Amendments (10) and (11) proposed by the government involve the adoption of the committee’s recommendations 1 and 2, and the government accepts these recommendations. Government amendment (11) states that proposed subsection 23XWV(3) should be made consistent with proposed subsection 23XWV(2). Government amendment (11) achieves this by inserting the words ‘taken or information’ in subsection (3). Government amendment (10) provides that constables must expressly inform volunteers that they have a choice as to which database index their DNA profile may be stored on. That accommodates the other recommendation proposed by the Senate committee.

The committee’s third recommendation concerns the lack of uniformity across the jurisdictions regarding forensic procedures legislation. The committee specifically noted that the Commonwealth parliament has limited scope to influence the legislative pack-ages enacted in the states and territories. My predecessor, Senator Vanstone, made considerable efforts in her participation in the Standing Committee of Attorneys-General to ensure consistent legislation. The role of the Model Criminal Code Officers Committee has also been important in this process. These efforts have resulted in much greater consistency than could ordinarily be expected. Anyone familiar with the divergence of laws in Australia’s federal criminal justice system would recognise this. The government will not, however, rest on these achievements and remains committed to consistent legislation in this area.

I will continue to pursue consistent legislation at the level of the Standing Committee of Attorneys-General. This recommendation was not one which could be incorporated readily in a provision of this bill, but I make that statement to indicate that the government agrees fully with the sentiments of that recommendation of the Senate Legal and Constitutional Legislation Committee. I think the committee expected that this is as much as we could do, because one could not just insert a provision in the bill to deal with that.

In relation to the committee’s fourth recommendation, I have engaged in discussions with the federal Privacy Commissioner and the Commonwealth Ombudsman in developing a response. Some serious issues have been raised in relation to the oversight of the national DNA database system. In addition to extending the legislation to include the Privacy Commission and the statutory review of Commonwealth forensic procedures, I have written to state and territory ministers with a view to getting agreement on cooperation between Commonwealth, state and territory bodies to ensure there is effective oversight of not only the operation of a DNA system within each jurisdiction but also the overall operation of the national system. This is best achieved by including formal independent monitoring mechanisms in the CrimTrac agreement with the states and territories so that the total scheme is properly audited and monitored. I am making these statements because I did undertake with the federal Privacy Commissioner that I would make these
statements in reply in this debate. Of course, matters will no doubt be taken further during the committee stage.

I might also mention that I expect to discuss oversight arrangements at the next meeting of the Australian Police Ministers Council in June. While recognising that CrimTrac is conscious of accountability issues and is constructive in the development of appropriate procedures, adequate and independent monitoring of a national DNA database system is critical if we are to have an effective system that ensures that any problems are quickly identified and remedied. The best way to do this is to ensure that there is adequate independent monitoring in each jurisdiction, and across the jurisdictions, which can, in turn, properly investigate complaints and pool information and better practices to safeguard information and ensure that DNA material is collected and matched in accordance with procedures. This is extremely important and must be addressed.

The procedures in this legislation and the legislation of the states and territories are to be put in place to prevent an undue impact on the lives of individuals who provide DNA for the system and to ensure that information obtained from it is used only for the purposes for which it is collected. It is therefore very important that we take steps to ensure that there is adequate independent oversight of compliance with agreed procedures. In view of the interjurisdictional nature of the scheme it is vital that we have arrangements that ensure that the oversight function is like the system itself: interconnected and properly coordinated. These arrangements must also ensure that complaints can be investigated easily without jurisdictional barriers becoming a problem. By encouraging compliance and avoiding problems later these measures will also play a role in improving the effectiveness and efficient use of the system by law enforcement agencies.

I consider these issues can be addressed within the 12-month period before the proposed review, but in order to ensure that there is adequate follow-up on this issue it is proposed that the legislation be amended to provide for a further review within two years of that date if the review report indicates there are still deficiencies. This will cover the situation if there has been less progress than expected. So we have the review in 12 months and, if that reveals that there has not been the progress that was desired, then a further review is possible within two years of that date. Let me make it clear: there is not just the one-off review; there is a facility for further review if matters have not progressed satisfactorily. Similar arrangements would also appear to be useful in relation to other elements of the CrimTrac system. I will also be taking up the broader application of the proposed monetary and accountability mechanisms with state and territory ministers.

I now come to recommendation No. 4. The legislative changes proposed in relation to this recommendation are: firstly, to include the Privacy Commissioner on the independent review team; secondly, to ensure the independent review considers the effectiveness of the independent oversight and accountability mechanisms for the DNA database system; thirdly, to defer the review until 12 months after the commencement of these new provisions—this will enable the review to assess the procedures in light of an operational DNA database; and to assess progress in developing the accountability mechanisms. With this deferral we will be able to see how these provisions are operating in the meanwhile. There is a provision for a review due now but the government is of the view that this, perhaps, would not be worth while and wishes to defer it for 12 months and then have the review in the fashion mentioned.

The final response is to cause the minister to ensure a further review is undertaken if the initial written report tabled identifies any inadequacies with the matters considered in the initial review—that is the review within two years after that first review that I mentioned. Proposed government amendment No. 27 deals with these matters. Proposed government amendment No. 24 merely adds the Commonwealth Ombudsman and joins the Privacy Commissioner as a person to whom database information can be disclosed without that disclosure constituting an of-
fence. This amendment recognises the own motion investigation powers of the Ombudsman and will improve independent oversight of the legislation.

I mentioned that there were some other minor amendments put forward by the government. These are technical amendments contained in the proposals put forward by the government, all of which will improve the bill. I will not describe each of them individually. Suffice to say that they are government amendments Nos 1 to 9 inclusive, government amendments Nos 12 to 19 inclusive, and government amendments Nos 21 and 22. I direct those senators following the debate to those government amendments as being ones which are essentially technical in nature.

These amendments are required to ensure a neat fit between the existing forensic procedure provisions and those contained in the bill. For example, incorrect cross-references are corrected, section headings altered, protections and safeguards accorded to suspects are extended to offenders and volunteers, and the database index definitions refined to ensure references to a corresponding law of a jurisdiction are not inadvertently qualified by the defined terms within a meaning unique to the Commonwealth.

I have gone on at some length here because it was important that I place on record the reasons for these amendments and, also, the results of my discussions with the Commonwealth Ombudsman and the federal Privacy Commissioner. I know that the Democrats are proposing four amendments. The government will be agreeing to the Democrat amendment No. 1 on sheet 2143. However, we will be opposing the other three amendments. In all other respects I commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time.

Sitting suspended from 6.28 p.m. to 7.30 p.m.

In Committee

The bill.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.30 p.m.)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 1 March 2001. I seek leave to move amendments (1), (8) and (9) together.

Leave granted.

Senator ELLISON—I move:

(1) Schedule 1, item 6, page 7 (lines 5 and 6), omit “investigating officer”, substitute “investigating constable”.

(8) Schedule 1, item 56, page 21 (line 25) to page 22 (line 7), omit “A constable” (wherever occurring), substitute “An authorised applicant”.

(9) Schedule 1, item 56, page 22 (line 2), omit “constable”, substitute “authorised applicant”.

These amendments replace ‘investigating officer’ with ‘investigating constable’ and ‘constable’ with ‘authorised applicant’ and amends the definition of ‘authorised applicant’ so it correctly refers to an investigating constable instead of an investigating officer. The former term is already defined in section 23W A of the Crimes Act 1914 and brings it into conformity with that legislation.

Senator LUDWIG (Queensland) (7.31 p.m.)—I have a quick matter. Minister, I do not have section 23W A of the Crimes Act in front of me, but perhaps you could shed some light. If, for argument’s sake, a crime or an alleged crime was committed under the Crimes Act 1914 in Cairns—a regional centre of Queensland—would there be ‘investigating constables’ as defined under section 23WA available?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.32 p.m.)—I will take that question on notice. The officials will look for section 23WA of the Crimes Act, and we will get back to Senator Ludwig shortly.

Amendments agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.32 p.m.)—by leave—I move government amendments (2), (11), (19) and (22): (2) Schedule 1, item 7, page 7 (line 16), omit “Division 14”, substitute “section 23YQ”.

Amendments agreed to.
(11) Schedule 1, item 56, page 29 (line 3), after “material”, insert “taken or information”.

(19) Schedule 1, page 39 (after line 16), after item 75, insert:

75A Subsection 23YG(2) (note)
Omit “section 23XV”, substitute “section 23XU”.

(22) Schedule 1, page 45 (after line 4), after item 81, insert:

81A Section 23YT
Repeal the section.

The Senate may recall that government amendment (11) related to one of the Senate committee recommendations. As I recall, it was recommendation 1. That was really something that was technical in nature. Government amendment (11) proposes that subsection 23XWV(3) be made consistent with the proposed subsection 23XWV(2). Proposed amendment (11) achieves this by inserting the words ‘taken or information’ in subsection (3). That is technical in nature, as are government amendments (2), (19) and (22). Government amendment (2) corrects a faulty cross-reference in a legislative note and amendment (19) does the same. Government amendment (22) repeals existing section 23YT of the Crimes Act 1914, which is no longer required in light of the provisions regulating the carrying out of forensic procedures on offenders and volunteers.

Senator LUDWIG (Queensland) (7.34 p.m.)—On behalf of the Australian Labor Party, I indicate that we support government amendments (2), (11), (19) and (22). We also note that the government has picked up the majority recommendation in the report of the Senate Legal and Constitutional Legislation Committee. It is pleasing to see in this instance that the government has taken note of a recommendation within a Senate committee report and been able to amend the legislation accordingly to adopt that recommendation. I will not say it is a rare occurrence but, in terms of ensuring that there is proper scrutiny of bills, the process does provide some reward when this side sees a recommendation adopted and brought forward.

Senator GREIG (Western Australia) (7.35 p.m.)—To expedite things, I can indicate to the Minister for Justice and Customs that the Democrats will be supporting all of the government amendments proposed here tonight. If the minister, with the consent of the opposition, wanted to move them conjunctively, you would have our support for that. But that may perhaps interfere with some further questioning that Senator Ludwig may have.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.35 p.m.)—Perhaps Senator Ludwig can consider that for the moment. It could expedite matters. I will see whether we have an answer to his previous question.

Senator LUDWIG (Queensland) (7.36 p.m.)—Perhaps I can take the opportunity to say that the government could move together government amendments (3), (4), (5), (6) and (7)—down to the first Democrat amendment. I foreshadow that we will be disagreeing with the next amendment, the Democrat amendment.

Amendments (by Senator Ellison)—by leave—proposed:

(3) Schedule 1, page 9 (after line 15), after item 24 insert:

24A Subsection 23WA(1) (definition of order)
Repeal the definition, substitute:

order means:

(a) in relation to a suspect—an order of a magistrate under section 23WS or interim order of a magistrate under section 23XA; or

(b) in relation to an offender—an order of a judge or magistrate under section 23XWO; or

(c) in relation to a volunteer—an order of a magistrate under section 23XWU.

(4) Schedule 1, page 10 (after line 12), after item 29 insert:

29A Subsection 23WA(1) (definition of relevant offence)
Repeal the definition, substitute:

relevant offence means:

(a) in relation to a person who is a suspect:

(i) the indictable offence in relation to which the person is a suspect; or
(ii) any other indictable offence arising out of the same circumstances; or

(iii) any other indictable offence in respect of which the evidence likely to be obtained as a result of a proposed forensic procedure carried out on the suspect is likely to have probative value; or

(b) in relation to an offender—the offence for which the offender was convicted and to which an application for an order authorising a forensic procedure relates.

(5) Schedule 1, page 12 (after line 32), after item 36 insert:

36A Section 23WB
After “suspect” (wherever occurring), insert “offender or volunteer”.

36B Subsection 23WB(4)
After “suspect’s”, insert “offender’s or volunteer’s”.

(6) Schedule 1, page 13 (after line 17), after item 41 insert:

41A Subsection 23WJ(2)
Omit “the taking of a hand print, fingerprint, foot print or toe print”, substitute “a non-intimate forensic procedure”.

Note: The heading to subsection 23WJ(2) is altered by omitting “most” and substituting “intimate”.

(7) Schedule 1, page 15 (after line 17), after item 54 insert:

54A After section 23XV
Insert:

23XVA Right of independent analysis
(1) A suspect must be given the right to have any sample taken from the suspect or a crime scene, that is used for the purposes of proceedings against the suspect, and the results of the analysis of that sample, examined by an independent scientific expert.

(2) The investigating constable may require any independent examination of the sample and the results of the analysis to be carried out in the presence of the investigating constable or a person nominated by the investigating constable.

I spoke specifically in my speech in the second reading debate about what we Democrats believe ought to be a statutory right of citizens, and that is an opportunity to independent analysis of DNA sampling taken from the suspect or a crime scene. For example, if somebody is accused of a rape and there is either a semen or pubic hair sample taken as a part of the investigation, or if in a white-collar crime investigation DNA sampling has been taken—perhaps from a licked envelope or a fingerprint on a computer keyboard—and that information is being used in evidence against the accused, then at the very least that person deserves the opportunity, through their legal representation and through the case in front of them, to seek independent scrutiny of that evidence.

The amendment which I am proposing and which appears on the sheet in front of you would insert into section 54A after section 23XV, in relation to the right of inde-
pendent analysis, firstly, that a suspect must be given the right to have any sample taken from the suspect or a crime scene and used for the purposes of proceedings against the suspect, and the results of the analysis of that sample examined by an independent scientific expert; and, secondly, that the investigating constable may require any independent examination of the sample and the results of the analysis to be carried out in the presence of the investigating constable or a person nominated by the investigating constable.

Senator Cooney made reference in his contribution in the second reading debate to this as the situation we have in relation to drink driving, for example, when the accused has the opportunity to have their blood sample analysed. It would be a blood sample. I was going to say it would include a breath test, but of course it would not because there would not be an opportunity to do that after the incident. But certainly, in relation to blood taken from someone who has been accused of drink driving, the statutory right is there for them to have independent analysis of that. When we are dealing with something as fundamentally private and potentially open to abuse, we do need this statutory safeguard.

I know that the authorities, the police crime investigation units, do their best under most circumstances; but we know the historical reality is that evidence can be, and is, tampered with. There are examples of that within Australia. The one which springs to mind, although it does not relate to DNA, is the case of the Mickelberg brothers. Senator Ellison may be a little familiar with that, given the Western Australian context of it. I do not claim to be an expert on that case, but I recall that, in part, the sentencing of the Mickelberg brothers—the case involved a substantial gold theft—was in relation to alleged fingerprints found at the scene of the crime.

My recollection is that for many years the Mickelberg brothers—who were ultimately and, I think, rightly found guilty of some of the accusations levelled against them but not all—argued for additional and independent expert witness evidence, to give scrutiny to what they claimed to be a miscarriage of justice in terms of fingerprinting. They argued, I think, that fingerprints found on materials involved in the case were in fact fraudulent. Expert evidence which came many years later supported that claim. I think too that we know of other more famous examples of people who have been imprisoned under false and fraudulent circumstances. The name escapes me of the particular team of people in the UK who were falsely imprisoned under wrongly claimed bombing allegations involving an IRA incident: the Guildford Four, or some such similar name.

In essence, I am saying that we need this community safeguard. I am not saying that people necessarily will go out of their way to create false evidence, but the historical reality is that that has happened and can happen. Anybody who is accused of any crime, be it white-collar crime or a crime of violence, and has DNA sampling used in part as evidence against them ought to have the clear statutory right to seek independent analysis of that for their own security. It is an essential civil libertarian step, and I ask the chamber to support it.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.43 p.m.)—I place on record that the government opposes this amendment. The existing section 23XU provides that a suspect must be given a portion of the sample taken from that suspect, provided sufficient material is available. The suspect is then able to commission an independent analysis. But you will note the proviso that I make: provided sufficient material is available. So the current system is that you can have that DNA material available for independent analysis but only provided there is sufficient material. You see, sometimes you might get a crime scene where there is a finite sample which is not possible to be shared.

What we have in the current system is a predisposition to giving people a chance for independent analysis, but it is governed by that practicality of the extent of the sample concerned. I might add that where there is insufficient material, section 23XUA provides that the suspect can nominate a person to be a witness to the analysis, and it can be
someone who is suitably qualified. That is a fall-back provision to allow for some sort of scrutiny by the suspect. I think it is a desirable proposal to have the availability of independent analysis. All we are saying is that the current provisions allow for the practicability of where you just might not have sufficient material to share. In that case, the suspect can have a witness present for the analysis of that material. On that basis, the government cannot support this amendment, although it does understand the reasons for it.

Senator LUDWIG (Queensland) (7.45 p.m.)—Labor, similarly, will not be supporting the amendment moved by Senator Greig. As for additional comments I might add, the government is saying, as I understand the position, that there is a current predisposition to allow for that eventuality. However, I would also add that the idea of a right of independent analysis and proper scrutiny is one of those things that should be as of right. In terms of Labor’s approach to this, the difficulty is that the amendment was only provided to us quite late in the overall scheme of this process. It was perhaps not Senator Greig’s fault, and I am certainly not trying to lay any blame in that respect.

The bill itself went through a committee of inquiry and, if some of these matters had required further and deeper analysis, it could have been done at that stage and a broader view might have been able to be developed. The terms of amendment 23XVA suggested by the Democrats also present a legal minefield that it certainly would be beyond my ability as a layperson to try to correct. On the face of it, it does look to be an appropriate clause. But when you read the words themselves I think, without reflecting badly on Senator Greig, they do tend to be a little convoluted and perhaps create more of a legal minefield than actually solve a problem that might confront someone. But I understand that that will be available as it is now, except where the position is that there may not be enough material to share. But it is also one of those matters that, as was put by Senator Ellison earlier on during the second reading stage, we can consider during the review period as well. We may then wish to take up some of these proposals at that point.

Senator GREIG (Western Australia) (7.47 p.m.)—In response to Senator Ludwig, I would say that the Democrat amendments were circulated as promptly as the Democrats’ time and resources allowed for. I apologise if that caused any inconvenience. But my understanding is that certainly the spirit of what I am talking about here is something that was canvassed within the committee process, so there has been discussion and debate on the matter. It is not as though I have suddenly brought it in as a new initiative.

I would direct a question, if I may, Chair, to Senator Ellison. He quoted from I think section 23XU relating to samples when he said ‘sufficient material to share’. I am reading here from the parliamentary Internet materials available within this area. Subsection (1) of 23XU reads:

This section applies to a sample taken from a suspect under this Part if there is sufficient material to be analysed both in the investigation of the offence and on behalf of the suspect.

I think that is the section you read. My understanding is that this does not include crime scene evidence. Minister, my question is: can you confirm whether section 23XU(1) does or does not apply to DNA evidence taken from the crime scene itself?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.49 p.m.)—The sections I mentioned—I think they were 23XU and 23XUA—relate to samples taken from a suspect; they do not refer to a crime scene. However, in relation to a crime scene, the problem becomes even more problematic, because you might be looking at a very different situation. For instance, a particle that might be present on a carpet or a rug or whatever could be even more finite than a sample that is available from a suspect—and I think that highlights the problem I have mentioned. But Senator Greig’s point is right: it refers to the taking of a sample from a suspect and is to be distinguished from a crime scene per se.

Senator GREIG (Western Australia) (7.50 p.m.)—I thank the minister for that clarification. Certainly, from my point of
view, that reinforces what I believe is the necessity of this amendment. There clearly is a difference between the suspect, himself or herself, and the crime scene itself: the crime scene is not covered by the protections that the minister is advocating here tonight. On that basis, I think it is very important that we pursue the amendment that I propose, notwithstanding some of the practical difficulties that may present. But there are practical difficulties I think in all aspects of law, and I think the civil liberties implications of this one override those concerns. I still would hope for the support of the chamber on this amendment.

Amendment not agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.52 p.m.)—by leave—I move government amendments Nos 10, 12 to 18 and 20:

(10) Schedule 1, item 56, page 25 (lines 18 to 26), omit the paragraphs, substitute:

(b) that the volunteer has a choice as to whether the information is stored on the volunteers (limited purposes index) or the volunteers (unlimited purposes) index of that system;

(ba) if the information is placed on the volunteers (limited purposes) index—the purpose for which the information is placed on the index and that the information may only be used for that purpose;

(c) if the information is placed on the volunteers (unlimited purposes) index—that the information may be used for the purposes of a criminal investigation or any other purpose for which the DNA database system may be used under Division 8A;

(12) Schedule 1, item 58, page 29 (after line 16), after item 58, insert:

58A Paragraph 23XX(3)(a)
Omit “suspect”, substitute “person”.

58B Subsection 23XX(4)
Omit “suspect” (wherever occurring), substitute “person”.

58C Paragraph 23XX(5)(c)
Omit “suspect”, substitute “person”.

58D Paragraph 23XX(5)(g)
Omit “suspects”, substitute “persons”.

58E Sections 23XY and 23Y
Omit “suspect” (wherever occurring), substitute “person”.

(13) Schedule 1, item 64, page 31 (line 10), omit “suspect”, substitute “person”.

(14) Schedule 1, item 65, page 31 (lines 19 to 21), omit the paragraph, substitute:

(a) at any place (whether within or outside Australia) where an offence (whether a prescribed offence or an offence under the law of a participating jurisdiction) was, or is reasonably suspected of having been, committed; or

(15) Schedule 1, item 65, page 32 (lines 16 to 20), omit the definition of serious offenders index, substitute:

serious offenders index means an index of DNA profiles derived from forensic material taken from:

(a) serious offenders in accordance with Division 6A, or under a corresponding law of a participating jurisdiction; and

(b) suspects who have been convicted of a prescribed offence or an offence under a corresponding law of a participating jurisdiction.

(16) Schedule 1, item 65, page 32 (lines 28 to 31), omit the definition of suspects index, substitute:

suspects index means an index of DNA profiles derived from forensic material taken from suspects in accordance with Division 3, 4 or 5 or under a corresponding law of a participating jurisdiction.

(17) Schedule 1, item 65, page 33 (lines 7 to 16), omit the definition of volunteers (unlimited purposes) index, substitute:

volunteers (unlimited purposes) index means an index of DNA profiles derived from forensic material taken:

(a) from volunteers who (or whose parents or guardians) have been informed under paragraph 23XWR(2)(c) that information obtained may be used for the purpose of a criminal investigation or any other purpose for which the DNA database system may be used under this Division, in accordance with Division 6B, or under a corre-
sponding law of a participating jurisdic-
tion; and
(b) from deceased persons whose iden-
tity is known.
(18) Schedule 1, item 65, page 34 (lines 10 and 11), omit “in relation to a serious offence or prescribed offence”.
(20) Schedule 1, page 40 (lines 29 to 31), omit paragraph (g), substitute:

the purposes of an investigation by the Privacy Commissioner or the Ombudsman of the Commonwealth or of a participating jurisdic-
tion.

I point out that government amendment (10) is in response to the Senate Legal and Constitu-
tional Committee’s recommendation No. 2. The others are technical in nature and unless the committee wants to go into detail on those I would otherwise commend those amendments to the Senate. In relation to Senator Ludwig’s earlier question about an officer in Cairns carrying out an investiga-
tion—and I will try and see if I can recall it correctly—the term ‘constable’, which I men-
tioned earlier, is defined to cover AFP police officers and state and territory officers investigating Commonwealth offences any-
where in Australia. On that basis, that would include your police officer in Cairns. If that does not cover the question then Senator Ludwig can take that further, but that it is what the definition of ‘constable’ entails and therefore it includes a state police officer in Cairns.

Senator Ludwig (Queensland) (7.53 p.m.)—Yes, Senator Ellison. It is appreciated. It does clarify the matter for me and I do not need to pursue the matter any further.

I can say that, in respect of government amendments (10), (12), (13), (14) to (18) and (20), Labor’s position is that we do agree with those amendments. Most of them are technical in nature. We do note again that the Senate Legal and Constitutional Committee has made some recommendations which this government has seen fit to include within the amend-
ing legislation. On behalf of the committee, I think I am at liberty to say that it is pleasing to see that the reports are utilised in this fashion and that there is some scrutiny of legislation which provides benefit and a more improved outcome, at least from our perspective—and, it appears, from the government’s perspective as well. We can say in addition to those comments that the matters that the amendments have gone to will also ensure some fairness in the system.

Senator Greig (Western Australia) (7.54 p.m.)—As with the last batch of govern-
ment amendments, these also attract the support of the Australian Democrats, for the reasons I outlined earlier.

Amendments agreed to.

Senator Greig (Western Australia) (7.55 p.m.)—by leave—I move Democrats amendments Nos 2 and 3 on sheet 2130:

2) Schedule 1, item 77, page 41 (lines 28 to 34), omit subsection (2), substitute:

(2) Forensic material, or information ob-
tained from it, that was taken in accor-
dance with a law of a State or a Terri-
tory must not be retained or used for
investigative, evidentiary or statistical
purposes of the Commonwealth unless
the taking of the material or the deriva-
tion of information from it would not
constitute a breach of, or failure to
comply with, any provision of this Part
relating to the carrying out of forensic
procedures.

(2A) Subsection (2) does not apply to foren-
sic material, or information obtained
from it, that is taken in accordance with
a law of a State or a Territory if the
taking of the material or the derivation
of information from it would constitute
only a minor or technical breach of, or
failure to comply with, any provision of this Part relating to the carrying out of forensic
procedures.

(3) Schedule 1, item 81, page 43 (lines 15 and 16), omit “or is prescribed by the regulations
for the purposes of this definition”.

These amendments combined go to the issue of cross-jurisdictional use. They aim to pre-
vent the Commonwealth from retaining im-
properly obtained DNA information. This
would preclude the Commonwealth from enter-
ing into its DNA database forensic in-
formation obtained in a way that substan-
tially departs from the safeguards in the bill.

I have spoken to these amendments at some
length in my speech in the second reading
debate and I do not propose to revisit those
in detail again here. But in essence what we
are talking about is DNA materials that would have been obtained through a legislative regulatory regime of a lower benchmark than might be prescribed in another state or within the overarching CrimTrac program. I think that is a backward and dangerous step and that there ought to be uniformity in that regard. By moving these two amendments together what I am seeking to do is to have stronger civil libertarian safeguards in relation to the issue of DNA regimes at both state and federal levels.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.56 p.m.)—The government opposes Democrats amendments (2) and (3) and I might quickly place on record the reason for our opposition. Firstly, in relation to Democrats amendment (2), the government is of the view that the amendment would be impractical and could lead to needless litigation. Saying that, one has to bear in mind that Australia’s federal criminal justice system results in criminal matters falling predominantly to the states and territories. Despite the Commonwealth having worked closely with the states and territories to achieve consistent results, the federal system has inevitably resulted in discrepancies between the forensic procedures laws enacted or proposed by the various jurisdictions.

In recognition of jurisdictional discrepancies in other contexts, the uniform Evidence Act was enacted several years ago to avoid the situation where evidence can be excluded in one jurisdiction where that evidence would be acceptable to a court in another jurisdiction. The approach adopted in the Commonwealth having worked closely with the states and territories to achieve consistent results, the federal system has inevitably resulted in discrepancies between the forensic procedures laws enacted or proposed by the various jurisdictions.

Under the government’s proposal, the parliament can disallow regulations prescribing a jurisdiction which is considered to have laws that diverge too much. The proposed legislation recognises that, while the government’s aim has been to get substantial correspondence between jurisdictions, this has not been fully achieved so it may be necessary to prescribe the laws in some jurisdictions. For example, one jurisdiction may be consistent with the Commonwealth law except for one aspect. In that situation, the parliament needs to have the opportunity to determine whether the differences are of such significance that matching with DNA from that jurisdiction should be suspended.

Under the government’s proposal, the parliament can disallow regulations prescribing a jurisdiction which is considered to have laws that diverge too much. The Democrat amendment would generate technical arguments about borderline differences and bring about unnecessary litigation. It could jeopardise the use of DNA evidence from the national system. What we are looking to achieve as much as possible is a uniform national system, if you like, in relation to DNA. That goal is a demanding one because we know that each of the states and territo-
ries will have their own legislation. The government does feel that the proposals that it has in this bill do go some way to doing that and, if it were to accept Democrat amendments Nos 2 and 3, this goal would be even more diminished.

Senator LUDWIG (Queensland) (8.01 p.m.)—Labor’s position is clear: we will be opposing Democrats amendments Nos 2 and 3. Dealing with No. 3 quickly, it is capable of being subject to a disallowance motion. Being from the Regulations and Ordinances Committee myself, I understand that that will eventually come before the committee, so I will not go in depth on it here. There is power there for an oversight role.

Democrat amendment No. 2 was also a matter that was discussed during the committee stage, and I think Senator Greig alluded to this in an earlier Democrat amendment. I am sure it was a matter that exercised the mind of most of the officers, various NGOs and other bodies who had input into the original draft bill of 1995, the latest draft model bill of 2000 which was released in February with a discussion paper and then subsequently this Crimes Amendment (Forensic Procedures) Bill itself. At the very heart of the amendment is the concept of trying to ensure there is uniformity within the system. To that extent, Labor can agree. What it cannot agree with is the drafting and the style of legislative response to try to drive that uniformity. Labor believes that the drive towards uniformity can be achieved. The minister, Senator Ellison, has himself in part put his foot on the sticky paper by indicating that he will do everything possible in the future to ensure that uniformity is put at the forefront and also that it will be a matter that will be raised at the meeting of the attorneys-general.

Leaving aside some of the practical difficulties, trying to get uniformity in state and federal legislation is by no means, as I understand it, an easy task. We do have a catch-all, in the sense that Labor understands that the matter will be reviewed within 12 months, and we will certainly be bringing the government under close scrutiny. The issue of the drive towards uniformity will be high on the agenda. To that end, as I have indicated, Labor will not be agreeing to the amendments proposed by Senator Greig, notwithstanding some of the technical difficulties that the government has alluded to in addition to our view that it is a matter that can be addressed in the ensuing 12 months.

Amendments not agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.04 p.m.)—by leave—I move government amendments Nos 21 and 23:

(21) Schedule 1, item 81, page 43 (line 31), after “one”, insert “or more”.

(23) Schedule 1, page 45 (after line 4), at the end of the Schedule, add:

83 After paragraph 23YV(1)(b)
Insert:
(ba) the effectiveness of independent oversight and accountability mechanisms for the DNA database system; and

84 Subsection 23YV(1)
Omit “second anniversary of the commencement of this Act,”, substitute “first anniversary of the commencement of Schedule 1 to the Crimes Amendment (Forensic Procedures) Act 2001 referred to in subsection 2(2) of that Act”.

85 Subsection 23YV(4)
(paragraph (b) of the definition of independent review)

Omit “and a nominee of the Ombudsman”, substitute “, a nominee of the Ombudsman and a nominee of the Privacy Commissioner”.

86 At the end of section 23YV
Add:
(5) If a written report tabled under subsection (3) identifies inadequacies in respect of the matters referred to in subsection (1):
(a) the Minister must cause a further independent review to be undertaken within 2 years of the tabling of that report to ascertain whether the inadequacies have been effectively dealt with; and
(b) subsections (2), (3) and (4) apply in relation to the report of that further review in the same manner as they
apply in respect of the report of the original review.

Government amendment No. 23 is relevant to recommendation No. 4 of the Senate Legal and Constitutional Legislation Committee, which the government has taken on board. That recommendation dealt with the inclusion of the Privacy Commissioner on the independent review team. It also ensured that the independent review considered the effectiveness of the independent oversight and accountability mechanisms for the DNA database. It also provided for the deferral of the review until 12 months after the announcement of these new provisions. It is a worthwhile recommendation, as are those other ones, and I want to place on record the government’s appreciation to the members of the Senate Legal and Constitutional Legislation Committee who gave a thorough review of this bill. Senator Cooney, who was in the chamber earlier, is a longstanding member of that committee and has made a valuable contribution on these particular provisions. The government commends those amendments to the Senate.

Senator GREIG (Western Australia) (8.05 p.m.)—Mr Temporary Chairman, as you can see from the running sheet, I have an amendment to government amendment No. 23. I am wondering at which point it is best for me to move that.

The TEMPORARY CHAIRMAN (Senator Bartlett)—Now would be the go.

Senator GREIG—I move Democrat amendment No.1 on sheet 2143 revised:

(1) Amendment 23, Schedule 1, item 83, at the end of the item, add:

(bb) any disparities between the legislative and regulatory regimes of the Commonwealth and participating jurisdictions for the collection and use of DNA evidence; and

(bc) any issues relating to privacy or civil liberties arising from forensic procedures permitted by this part; and

This amendment relates to the review processes existing under the current legislation and amended by the government’s bill. As outlined in my speech during the second reading debate, we would see the review specifically required to address disparities between the various jurisdictions participating in the national scheme. We would also see the review specifically required to address privacy and civil liberties that may arise with the view to focusing the review and ensuring that it adequately examines these measures. Specifically, the amendment adds to the end of amendment No. 23, schedule 1, item 83, paragraph (bb), which states:

any disparities between the legislative and regulatory regimes of the Commonwealth and participating jurisdictions—that is, the states and territories—for the collection and use of DNA evidence—Encapsulated there is the opportunity for some kind of public record and reference to state clearly what the disparities are between the different regimes.

The Democrats’ concern there is that, while we have different levels of playing field within the states and territories and while we have the overarching CrimTrac Commonwealth program, it is likely that most people directly involved in or accused under the circumstances which will be created with the passage of this bill will be unaware of the differences between jurisdictions. I think it is imperative that that is unambiguous and accessible on the public record. It may be there now if you research it, but this specifically focuses it into a point of reference.

My amendment also seeks to add proposed subsection (bc), which relates to any issues dealing with privacy or civil liberties arising from forensic procedures permitted by this part. I think it will more clearly give direction and opportunity to the independent review team and perhaps in this case, through the position of the Privacy Commissioner on that board, focus clearly and unambiguously on civil liberties matters, which clearly arise from this bill. As I said, we are dealing with the fundamentals of life in terms of DNA, which are open to abuse. The bill provides opportunities for human rights issues, which are not a strong focus of the current government, to be better protected. I understand the minister said in his second reading speech—if I heard him correctly—that the government would be supportive of
at the government would be supportive of this amendment. I have not yet had an opportunity to get an indication from the opposition, but I understand that they too will be supporting it. If that is the case, I think all citizens should be grateful that the legislation will be greatly enhanced through the successful passage of this amendment.

Senator LUDWIG (Queensland) (8.09 p.m.)—I can say on behalf of the Labor Party that we will be supporting the amendment. We do see this as the appropriate place to put those issues that we canvassed earlier—that is, to allow the review process to adequately handle any matters that may unduly arise. It is a position where we could spend a considerable amount of time, trouble and effort drafting provisions which may be of no use, in the sense that civil liberties are well protected and that the rights of the individual are not unduly trammeled and that the rights of the individual are not unduly trammeled by the Crimes Amendment (Forensic Procedures) Bill 2000 [2001]. During the legislation’s operation, if matters do come to light they can be dealt with expeditiously during the review process.

We think on the whole that the government has, with the amendments, put together a package that tries to achieve a balance between the rights of the individual and the ability of the legislation not only to give effect to a database but also to allow the administrators to deal with procedures, to deal with both offenders and volunteers in the system and to assist the enforcing agencies in their endeavours to fight crime. Therefore, we can say that we will support the amendment.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.10 p.m.)—I can say on the government’s behalf that it supports the amendment proposed by the Democrats. I will not go into detail. Suffice it to say that it is a useful amendment. I thank both the opposition and the Democrats for their cooperation in relation to the passage of what is a most important piece of legislation. As Senator Ludwig says, it balances law enforcement against the rights and freedoms of the individual, and this is always a testing exercise in the passing of any legislation for legislatures around the country. It is really a very important piece of legislation, and the cooperation of the senators who have contributed today is appreciated.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (8.11 p.m.)—I do not want to hold up this debate, but I rise briefly as the Democrats’ privacy and biotechnology spokesperson to endorse the comments made by Senator Greig on the Democrats’ behalf in this debate. I want to ask the minister: given that the issue that has been central to part of this debate relates to the protection of genetic information and ensuring that individual privacy is not breached in any way, does the government have in its possession the terms of reference for the NHMRC and ALRC inquiry relating to genetic privacy and discrimination? I note that the Minister for Health and Aged Care made some comments on the 7.30 Report tonight.

Given that the Democrats have been responsible for advocating and initiating this and given that we were unsuccessful in having our privacy amendments relating to genetic information passed by the Senate in the law that extended privacy to the private sector, are there any other specific projections relating to the privacy of genetic information that the government can provide to the Senate tonight in the context of this debate? Otherwise, I am happy for the minister to take that on notice. But I do bring the Senate’s attention to the fact that genetic privacy would have been guaranteed through the privacy amendment bill, which extended privacy law to the private sector and was supported by Labor and the Democrats, although not insisted upon by the opposition. The opportunity to secure genetic privacy and ensure that it was not used against individuals in a discriminatory manner was lost.

The government has given an undertaking to look into some of these issues through the inquiry that I referred to. In fact, the 7.30 Report said, ‘So concerned is the government with some of these issues that it has initiated an inquiry.’ Unfortunately, it was a couple of years too late. We now have reported cases of genetic privacy discrimination in Australia. Are those terms of reference available, given the government’s
comments this evening in the context of this debate and the government’s references on television this evening? Perhaps they could be made available to the Senate. Not only would that assist the Democrats in this debate but we could also investigate it for the purposes of future privacy and biotechnology debates that come before the Senate.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.13 p.m.)—Suffice it to say that the broad-ranging inquiry which has been initiated by the government will examine the complex and significant privacy discrimination and ethical issues posed by advances in gene technology. That is, of course, wider than just the use of a national DNA database for law enforcement purposes. The inquiry, I am advised, will report on 30 June 2002 regarding the legal and ethical issues surrounding the protection of genetic information and will consider whether laws are needed to protect the privacy of genetic samples and information and to provide protection from inappropriate discriminatory use of genetic samples and information. It will also reflect on the balance of ethical considerations relevant to the collection and use of such samples.

The government believes that the inquiry is timely and will ensure that a comprehensive review of the genetic privacy issues posed does occur. As to the more detailed terms of reference, I will have to take those on notice. Suffice it to say they are very much wider than the bill which we have before the Senate tonight. I might say that the government has been at pains to ensure that there are privacy considerations in this bill. That is why I met recently with the federal Privacy Commissioner and the Commonwealth Ombudsman.

The TEMPORARY CHAIRMAN (Senator Bartlett)—The question is that the amendment moved by Senator Greig to government amendment (23) be agreed to.

Question resolved in the affirmative. Bill, as amended, agreed to. Bill reported with amendments; report adopted.

Third Reading
Bill (on motion by Senator Ellison) read a third time.

Senator Greig—Noting that that vote went through on the voices, can I ask that Hansard clearly records that we Democrats voted against the bill at the third reading.

The ACTING DEPUTY PRESIDENT (Senator Hogg)—That will be done.

BUSINESS
Consideration of Legislation

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.17 p.m.)—I propose to move that intervening business be postponed until after consideration of government business order of the day No. 11, Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Bill 2000 and a related bill. (Quorum formed)

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (8.20 p.m.)—Could I just make it clear to honourable senators that the order of business is in fact as scheduled. The rearrangement was for after the Medicare piece of legislation. The rearrangement that was just foreshadowed by my colleague refers to what will occur after the Medicare legislation is dealt with. So the Medicare levy bill will be dealt with now and the defence legislation will be the next item.

Senator CARR (Victoria) (8.21 p.m.)—I am at a loss to appreciate why the government are changing the program so willy-nilly, and why they are not consulting the opposition about these matters. We bend over backwards, I might suggest to you, to be helpful and cooperative. In fact, some might say we are too keen to do these things. Can we get a clear understanding from the government as to why they are seeking to change the program at this time and what is in fact the legislative program for the evening?
Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (8.21 p.m.)—by leave—

There was a minor miscommunication not between the opposition and the government but in amongst the administration of the Senate. A piece of paper was handed to a minister which should have been handed to him after the Medicare bill. It was a minor breakdown in communication. On behalf of the government and all the officers concerned, I apologise for any inconvenience to any senator. There has been no rearrangement, as there would never be without proper consultations. It has been a minor communication breakdown.

Senator Carr—Which bill do you wish to discuss now?

Senator IAN CAMPBELL—We will discuss the Medicare bill now and the defence legislation afterwards.

MEDICARE LEVY AMENDMENT (CPI INDEXATION) BILL (No. 2) 2000

In Committee

The bill.

Senator LEES (South Australia—Leader of the Australian Democrats) (8.23 p.m.)—by leave—I move Democrats amendments (1) to (4):

(1) Schedule 1, page 3 (after line 4), before item 1, insert:

1A Section 6

Omit “$100,000” (wherever occurring), substitute “$103,123”.

1B Subsection 6(2)

Omit “$1,500” (wherever occurring), substitute “$1,547”.

1C Subsection 6(2)

Omit “$103,000”, substitute “$103,094”.

1D Paragraph 12(1)(a)

Omit “$50,000”, substitute “$51,562”.

(2) Schedule 1, page 4 (after line 2), before item 3, insert:

2A Section 3A

Omit “$100,000” (wherever occurring), substitute “$103,123”.

2B Section 3A

Omit “$1,500” (wherever occurring), substitute “$1,547”.

2C Section 3A

Omit “$103,000”, substitute “$103,094”.

(3) Schedule 1, page 4 (after line 14), after item 8, insert:

8A Subsection 8B(2)

Omit “$50,000”, substitute “$51,562”.

(4) Schedule 1, page 4 (after line 18), after item 10, insert:

10A Subsection 8E(2)

Omit “$50,000”, substitute “$51,562”.

The bill that we have before us indexes the bottom rate. It raises the rate from $13,550 to $13,807, so people need to earn that before they pay the levy at all. However, the high income threshold remains fixed at $50,000. If we do not do something about indexing that, then gradually, with inflation, we will creep up to the point where we are catching those people who are really only on quite average incomes in the group who pay the additional Medicare levy. I argue it makes little sense: if we are going to index one, we should be indexing the other. Therefore these amendments are being moved. The gap between the two is obviously getting smaller and will continue to get smaller unless the higher one is also indexed.

In 1997, when we approved the high income earner surcharge, we approved it on the basis of its application to a fairly narrow range of the population. But, as wages increase, we see more and more people falling into this group. I think the longer term impact is not desirable; it will start cutting in at what are very average middle income levels. Therefore we argue very strongly that if one of the two lines is to be indexed, the other one should be as well.

Senator SHERRY (Tasmania) (8.24 p.m.)—I wonder if we could have an indication from the government about whether they are supporting the amendments.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (8.24 p.m.)—The government does not support the amend-
The Medicare levy surcharge is an added incentive for taxpayers to take out private health insurance so that people contribute more to the cost of their own health care. The government could not agree to index the thresholds for the surcharge levy because that would be counter to the policy that the surcharge should remain an effective incentive. As stated back in 1993 by former health minister Graeme Richardson:

It must be remembered that Medicare was always intended to coexist with the private health system, not to replace it. Initial estimates of the cost of Medicare assumed that at least 40 per cent of Australians would maintain their private cover.

The effect of a reduction in the number of people who chose to take private cover saw, during a decade or so, that the reinsurance pool was gradually whittled away, the Medicare rebate for in-hospital services was reduced from 85 to 75 per cent and the 1993 Medicare agreements provided the states with increased patient throughput at the expense of private patients. This systematic cost shifting saw private health insurance premium rises of a massive 40 per cent.

The success of the surcharge and the health insurance rebate in encouraging Australians into private health insurance is intended to free up resources in the public system for public patients. Indeed, we have done more for the public hospital system than any other government. Over the five-year life of the health care agreement signed in 1998, Commonwealth grants for public hospitals will increase by 28 per cent in real terms. We believe that a robust health system requires both a strong public system and a strong private sector, and that people should have the choice of whether to use the public or the private sector according to their own circumstances. The Medicare system ensures access to high quality health care for all. The majority of Australians support this system.

One minor technical point I would like to draw to the attention of the Senate is that amendments 1C and 2C would seem to us to be wrong because the figures appear to be inconsistent with the other amendments, although it has to be said that it is not clear to us on what basis the indexation factor was chosen. The Democrats have also argued that there is an issue of Senate accountability here. I am not sure about that. They seem to be saying that the parliament said that people who earn more than $50,000 in real terms should be subject to the levy and that the Senate has a responsibility to ensure that the position in real terms does not change. I think that is all I need to say, but I am happy to answer further questions.

Senator SHERRY (Tasmania) (8.28 p.m.)—I wonder if Senator Lees can explain—and I might have missed it—the basis of the indexation.

Senator LEES (South Australia—Leader of the Australian Democrats) (8.28 p.m.)—I will begin with the last point that Senator Campbell made. We are arguing that when the Senate set the figure at $50,000 it was intended that we get towards the upper end of the income scale. We are moving the bottom indexation up so that those who have to pay the Medicare levy pay it at a higher income, and therefore we argue that the level for those who have to pay the surcharge should also be indexed up so that it is paid at a higher level—in other words, we keep the relativity between the two.

As for Senator Campbell’s comments that what the government is trying to do is force more people into private health insurance, I am sorry but we simply do not support that. We should not be making a hurdle earlier and earlier over which people will trip and therefore be pushed into an insurance product. It is one thing to say that we need a strong private system next to the public system. What we are arguing strongly is that we do not need an insurance product to ensure a strong private system. If the government wants to support a health system it puts money into health, not into an insurance product. Therefore I argue very strongly that we should not let this stay at $50,000 and let inflation eat into it so that people who are at the lower end of the middle and upper income scale get caught up in this progressively as wages increase. We are simply keeping the relativity between the lower amount, at which you begin paying the ordinary Medicare levy, and the higher amount, at which you are liable for the surcharge if you do not take out private health insurance.
Senator SHERRY (Tasmania) (8.30 p.m.)—I did look in the budget paper but I could not find the disaggregated tax expenditure record for the revenue raised by this ‘surcharge’. I wonder if the minister could give me some detail on the history and the projections both of what the government has collected in the past and of what it will collect in view of the amendments we are considering to the bill.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (8.30 p.m.)—I was only given this bill to handle in the last couple of hours, but I believe these amendments were only circulated late today. I know for sure that we do not have estimates of the revenue implications of Senator Lees’s amendments. As I recall reading earlier, we do have in the legislation estimates of the cost of indexing the lower threshold. I do not know whether I need to bring that knowledge to Senator Sherry’s attention.

Senator LEES (South Australia—Leader of the Australian Democrats) (8.31 p.m.)—The bill has only recently appeared on the Notice Paper; indeed, I understand that the minister’s office was quite surprised that it was called on today. Therefore, we did not circulate our amendments ahead of time as we were expecting this some time later. However, these are quite simple and straightforward amendments. Senator Sherry, we also need to remember that, if we do leave it at $50,000 and people’s wages are indexed and end up higher than that, if they are pushed into private health insurance the government is going to pay 30 per cent of the cost of it anyway. So it is not just a pure cost; we would also have to take off any amount that the government will also have to pay by way of the 30 per cent rebate for those who end up going into the insurance process.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (8.32 p.m.)—I noted during the second reading debate that the discussion had moved across a whole range of legislation and that that was not unusual during second reading debates. But it day. But there are costings on the government measures in the bill, and it is a cost of some $56 million over this financial year and leading up to 2002-03. Senator Sherry, we do not have the disaggregated figures for the surcharge available but I am told that we should be able to get them for you. Would you like me to take that on notice?

Senator SHERRY (Tasmania) (8.32 p.m.)—Yes, thank you. I was going to get to the point that Senator Lees just raised. I wonder if the parliamentary secretary can tell me the difference between a surcharge and a tax.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (8.33 p.m.)—I have followed the very amusing debate that Senator Sherry and the Assistant Treasurer have been having over many years, and I would not dare to try to steal any thunder. I am sure that Senator Sherry could himself write a very nice article on the difference and that it would be at least as informed as, if not more informative than, anything I can inform him of.

Senator SHERRY (Tasmania) (8.33 p.m.)—I will not thank Senator Campbell for the answer. What concerns me about that answer is that there is a trend in government budget papers to not disaggregate so-called surcharge revenue. I am pleased that you have taken on notice my question in respect of the Medicare levy surcharge. I note in passing, and you were here earlier to hear my contribution during the second reading debate, that in Budget Paper No. 1, statement 5, page 5-10, under ‘Company and other income tax’, in ‘Superannuation funds’ there is no disaggregation of the surcharge figure either. I would appreciate it if you would take that on notice as well, Senator Campbell.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (8.34 p.m.)—I was not being critical of the Democrats about the distribution of amendments. It is just that we have not done any costings on these amendments because we did not see them until today.
would be entirely inappropriate to take your question on behalf of the Assistant Treasurer on a bill that has nothing to do with that subject. If Senator Sherry wants that information, I am sure that he can seek it through a question on notice or during questions without notice at 2 p.m. tomorrow afternoon or any other afternoon.

Senator SHERRY (Tasmania) (8.35 p.m.)—That is a disappointing response. As I have said, this does impinge on the theme of consistently hiding particular figures in the budget. The surcharge in respect of Medicare and the surcharge in respect of superannuation are two points that were raised during the second reading contributions.

By way of general comment on Labor’s attitude to the amendments moved by the Australian Democrats, there does appear to be some logic in the argument put forward by the Australian Democrats. Both during my second reading contribution and here I touched on the so-called superannuation surcharge, which is indexed at the bottom end and at the top end. However, we do have a basic problem. The amendments were circulated today, as I understand it. I accept Senator Lees’s comment that the bill was brought on very late and, in fact, that she did not have knowledge of it until today. The basic problem in our supporting the Democrats amendments this evening is that we know so little about the Medicare levy surcharge and who is actually paying it. As I said earlier, the 2000 tax expenditure report records that the surcharge income has dropped from $140 million in 1999 to a projected $25 million in the current and future years. We would like some further information. Apparently, the great bulk of taxpayers have been forced to take up private health insurance by the combination of the levy and the Lifetime Health Cover rules, which make it more expensive to pay the tax than to pay health insurance.

When the surcharge was first introduced, the Labor opposition argued that the funds should be earmarked for public hospitals so that those who chose not to buy private health insurance would, in effect, be paying the equivalent as a contribution towards the cost of their treatment in the public system. The Liberal-National government did not accept that view and, since that time, has squeezed the public hospital system and refuses to fully index the payments to the states, despite the finding of an independent arbiter who was appointed to determine the rate at which Australian health care agreements should be indexed. What we do not know to date is who is still paying the tax and what the revenue impact of the proposed change would be. I think there is a strong case for the government to be required to table the facts about the levy, and I am pleased with the assurance given by the parliamentary secretary. I will reserve judgment on the details until we receive a response from the government, along with an assessment of what the impact of the Democrat amendments would be.

As I said earlier, I do not reflect on Senator Lees and the Democrats regarding the arrival of the amendments today. The government has brought this legislation on today, so we have not had the time that we would have liked to deal with the information, as I outlined earlier. The opposition think that possible indexation is a valid issue and we will look at it further, but because of the timing of these amendments we will not be supporting them this evening.

Amendments not agreed to.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Bill (on motion by Senator Ian Campbell) read a third time.

BUSINESS

Consideration of Legislation

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (8.40 p.m.)—I move:

That intervening business be postponed until after consideration of government business order of the day No. 11 (Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Bill 2000) and a related bill.

That intervening business be postponed until after consideration of government business order of the day No. 11 (Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Bill 2000) and a related bill.

For the record—and I certainly hope I am not getting too sensitive about these things—in relation to the scheduling of the Medicare
Levy Amendment (CPI Indexation) Bill (No. 2) 2000 and the circulation of amendments, the bill was on the forward program for today, so it was general knowledge that that bill was coming on. For people who were aware of the program, I think it looked like a very doable program, unlike many Monday programs, and that bill was listed for today. We are slightly ahead of schedule, which is unusual for the Senate.

Question resolved in the affirmative.

DEFENCE LEGISLATION AMENDMENT (ENHANCEMENT OF THE RESERVES AND MODERNISATION) BILL 2000
DEFENCE RESERVE SERVICE (PROTECTION) BILL 2000
Second Reading

Debate resumed from 7 February, on motion by Senator Ian Campbell:

That these bills be now read a second time.

(Quorum formed)

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (8.44 p.m.)—We are debating the Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Bill 2000 and the Defence Reserve Service (Protection) Bill 2000, which seek to give legislative effect to the reserves measures announced by the government on 22 December 1999 in relation to call-out and on 24 August 2000 in relation to other issues.

The Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Bill 2000 seeks to widen the circumstances in which reserves can be called out for compulsory continuous full-time service. It begins a process of modernising the structure and organisation of the reserves of this country and empowers Defence to implement an employer support payment, or ESP, to compensate employers for the absence of an employee on extended reserve service. The Defence Reserve Service (Protection) Bill 2000 implements a graduated series of protections and benefits that will apply to various forms of service in the reserves. It includes a prohibition on discrimination and employment, rights to defer and to resume studies and, in the case of compulsory service following call-out, to postpone certain financial liabilities.

I indicate at the outset that the opposition will be supporting these bills, although we have reservations remaining about some aspects of the bills, including our continuing concern about the government’s failure to properly address problems confronting the defence reserves. These will be detailed in a second reading amendment which I will move shortly. Much of the content of these two pieces of legislation is derived from opposition policy. Rather than the criticism we so often hear about the opposition being policy lazy, the government has taken the lazy way out itself in relation to this legislation. It has plagiarised the opposition’s policies, including reinventing the concept of a Ready Reserve, which was abolished in the first couple of years of the Howard government.

The bills we are debating today are products of a particular political and policy context. The coalition, since gaining office, has stated time and again that the reserves would have to shoulder a growing proportion of our national defence effort. The government has slashed the number of full-time Defence Force positions by approximately 8,000 as part of its so-called Defence Reform Program, yet the more the coalition has made statements about reservists needing to play a larger part in the Defence Force, the more recruitment has plummeted. Thus, in the 12 months to June 2000, the number of active Army reservists actually shrunk by a massive 18 per cent, from fewer than 22,000 to a little under 18,000.

To appreciate the seriousness of the recruitment position of the Army reserves, I will refer to comparative data that has been compiled by the shadow minister for defence, science and personnel, my colleague Mr Laurie Ferguson. It covers the eight years commencing in July 1992. In the first six of those years, the Army reserve managed an average of 4,800 recruits each year. In contrast, over the last two years we have seen the worst recruiting outcome for reserves in living memory. In 1998-99, the number of recruits collapsed to 2,281, and last financial
year it fell even further to 1,566. Amongst the reserve community, there was almost universal agreement that various coalition policies were directly contributing to this problem.

On Anzac Day 1999, the then Minister for Defence, Mr Moore, announced he had commissioned a paper from the Chief of the Defence Force on the state of the reserves, to be finished by June 1999. In the event, apart from the announcement about call-out, it took cabinet until August 2000 to tick off measures to assist the reserves. In the intervening period, the problems of recruitment and plummeting morale got worse, and this is the real background to the bills that are before us today.

I turn now to the major changes that the government proposes. Under sections 50E and 50F of the Defence Act 1903, the reserve forces can at present be called out for continuous full-time service only in extremely limited circumstances. This limits significantly the ability of the reserves to contribute to the total range of functions that the modern defence force performs. Apart from a direct defence emergency, reservists can serve on a continuous full-time basis only as a result of an individual voluntary undertaking. Recently, East Timor and the Olympic Games have shown that many reservists will do this but at a real personal cost. The opposition have been open to reconsidering the current position regarding call-out because we recognise that there are some potential problems with the current situation. The modern defence force not only is involved in the protection of Australia’s territorial integrity but also participates in peacekeeping missions and the provision of humanitarian assistance.

Under the current legislation, there is no real basis upon which reserve units can participate in these missions. Initially the government included circumstances such as war, a defence emergency, defence preparation, peacekeeping, peace enforcement, civil aid, humanitarian assistance and disaster relief. After negotiations with the opposition, the government agreed to amend the bill to define all the circumstances in which such a call-out could occur. I stress that the call-out provisions we are talking about do not extend the established powers and functions of the Defence Force; they are concerned solely with the ability of Defence to require some or all of the reserves to contribute towards these existing functions. Nevertheless, the provisions do have obvious and possibly major implications for reservists, their families and their employers.

The bills also represent the first stage in a process of streamlining the structure and organisation of the reserves. Currently at least three separate acts deal with the basic structure of the Defence Force. They provide that each separate service shall consist of at least three components: permanent forces, emergency forces and the reserve forces. In fact, the Defence Act currently provides that the Army may consist of five separate components. The bills provide for the ADF to henceforth consist of a permanent force and a reserve force for each of the three services. This is a straightforward and sensible proposition. The bills also empower Defence to define training requirements for reservists.

Together these provisions will enable Defence to implement by regulation a revised structure of defence service. We understand that the government proposes to establish five separate categories of reserve service, each with their own particular training and service requirements. Those five are likely to be high readiness active reserves, similar to Labor’s now abolished ready reserves; high readiness special reserves, such as medical and information technology personnel; active reservists; stand-by reservists; and retired reservists. The opposition will reserve judgment on these proposals until we see the detail from the government.

The bills also empower the government to implement its announced employer support payment, or ESP. This compensates employers for disruption and additional expense caused by the absence of an employee on extended reserve service. The actual rules for ESP are not detailed in the bills and will be outlined in a subsequent regulation. The government has indicated that the ESP would be payable in respect of an employee’s third and subsequent week of absence. It will be generally set at the rate of average weekly
earnings, which is currently just under $800 per week, and will be payable to a range of employer classifications. In principle, the opposition is not opposed to the concept, but it reserves final comment on the ESP when the regulations are announced. The opposition also hopes that suitable monitoring and evaluation processes will accompany its introduction.

Contrary to coalition claims, the ESP is not the first time that employers have been offered incentives to encourage their employees to serve in the reserves. Labor’s Ready Reserve scheme, abolished by the coalition despite almost universal acclamation at its successes, incorporated a similar provision. The Defence Reserve Service (Protection) Bill implements a graduated series of protections and benefits that will apply to various forms of service and reserves. It includes a general prohibition on discrimination against an employee on the grounds that they are currently serving in the reserves, have served in the reserves or are considering serving in the reserves. In addition, it provides for additional but time limited employment protection for workers who are absent from the workplace on what is called protected defence service. This additional protection includes the right to have an absence treated as leave without pay that does not break an individual’s contract of employment. Students who are serving in the reserves are also offered protection when they undertake certain forms of continuous full-time defence service. Finally, in the event of continuous full-time service that results from a call-out order, the bills provide reservists with certain protections in relation to their financial liabilities.

The opposition welcomes the thrust of these measures. Indeed, for some time we have been campaigning for just such legislation to be introduced along with organisations such as the Defence Reserves Association and the ACTU. I remind the Senate that back in October 1999 the Leader of the Opposition, Mr Beazley, introduced a detailed private member’s bill on the matter. That bill was supported by the ACTU and by significant sections of the reserve community. At the time the government—in the form of Ministers Reith and Scott—insisted that there was no need for any new legislation and that the existing protections were adequate. I welcome the policy backflip and part appropriation of Labor’s bill.

A variety of concerns have been raised with the opposition about the regime of protection that the government proposes. These concerns include the need to provide a means of mediation, a possible continuing role for the Industrial Relations Commission and an explicit power to order the reinstatement of someone who has been dismissed in contravention of the legislation. A central requirement is for a special mechanism to enforce the protections that the legislation supposedly provides. The government have indicated to the opposition that they will establish by regulation a special agency or office to perform this function. We welcome this decision which is consistent with Labor’s own 1999 proposal to establish an office of reserve forces with broadly similar functions. This proposal was also incorporated into Mr Beazley’s private member’s bill.

The government has indicated that the key functions of its proposed agency would be to conduct mediation with employers and, in the event of this being unsuccessful, to seek redress in the courts on behalf of a reservist. It has also indicated that reinstatement orders could be sought under two separate clauses of the bill. It has also been suggested to the opposition that employers should reasonably expect to receive adequate written notice of the proposed absence of an employee on defence service. Defence has indicated to the opposition that it needs to do better in this regard and it has been suggested that a rejuvenated system of formal training notice to be given to the employer would best overcome this problem.

I turn now to the concerns that we have about the government’s overall approach to the reserves. These concerns are summarised in our second reading amendment. First, we remain concerned that the government still appears unwilling or unable to articulate a coherent policy on the expected contribution of reservists and reserve units to our national defence effort. The Defence Reserves Association believes that reservists should not be
committed for full-time service on a purely individual basis, filling gaps here and there in the Regular Army. While the changes to call-out proposed by the government could potentially assist in this regard, I can find no clear statement of the government’s position on this matter.

The government is also silent on the need to restore defence leave as an allowable award matter. I remind the Senate that the coalition’s decision after the 1996 election to remove defence leave as an allowable award matter was taken despite strong advice to the contrary from the Defence Force. The opposition has a copy of the relevant official minute to the then junior minister, Mrs Bishop, which makes this advice perfectly clear. Minister Reith’s foolish ideological reflex to strip back awards has absolutely undermined the ability of the reservists to serve. Since that initial decision, both the official Defence Reserves Support Committee and the Victorian Council of the Liberal Party have urged the government to reconsider—all to no avail. For our part, the opposition has introduced three separate private member’s bills seeking to reintroduce the provision. On each occasion the government has gagged debate. I urge the government to reconsider this matter.

But, of course, the government has been equally inclined to ignore sensible advice on the issue of common induction training in the Army. This system requires new recruits to attend a full-time induction course alongside those joining the Regular Army. According to the government’s market research, this system is consistently raised as a key barrier to the recruitment of young people into the Army Reserve. Many were hopeful that cabinet would agree to replace common induction training when it considered the state of the reserves in August last year. While we hear constantly of change, the government is incapable of admitting that common induction training has had a negative impact on the Army Reserve.

Our amendment also regrets the government’s failure to implement employment and education protection measures before the deployment to East Timor. Our ability to properly rotate ADF units during our ongoing deployment in East Timor depended on the willingness of literally hundreds of reservists to plug the staffing gaps that were apparent in the Regular Army. Labor has nothing but admiration for those dedicated individual reservists who did so, and did so willing and selflessly. The employment, education and financial liability protections that are proposed in these bills are an admission that what happened on that occasion should not be allowed to recur.

Our amendment also refers to the government’s failure to reverse the dramatic decline in recruitment levels. The extent of that decline is on the public record, and I referred to it earlier in my contribution tonight. First we were told it was just a by-product of the state of the economy. Then the government proceeded to spend more on advertising, as if a few slick commercials—costing an awful lot of money—would solve the problem. Now it appears to believe that its proposed employer support payment will solve every problem we have. All the while the government has resisted indications that there were wider factors at work—like confusion about the role of the reserves, the lack of award and legislative protection, the obstacle of common induction training, poorly targeted recruitment efforts and the abolition of the Ready Reserves. There is also a degree of discontent about pay and conditions and access to equipment, and this is harming retention and recruitment efforts. Reservists feel they were short-changed by the coalition’s new tax system—being slugged with the GST but receiving no compensation in the form of any increase to their training allowance. Being tax free, the latter did not benefit from the associated income tax changes.

In conclusion, I repeat that the opposition will be supporting these bills. They contain a number of positive measures—in fact a number of Labor measures, Labor initiatives—whose implementation we, of course, do not wish to delay. But, equally, we note that there is a lot more work for this government to do on these matters. The second reading amendment I am about to move on behalf of the opposition highlights many unresolved issues and signals to the government that the opposition intends to keep the
pressure on with regard to the reserves, as we have done since the last election. I particularly commend the shadow minister for defence, science and personnel, Mr Laurie Ferguson, for his efforts in this regard. I think his efforts have been rewarded by the changes the opposition has seen forced upon the government in relation to this legislation. I commend the opposition’s approach and move:

At the end of the motion, add:

“but the Senate condemns the failure of the Government to introduce arrangements to optimise the successful operation of the Defence Force, including the Government’s failure to:

(a) articulate a coherent policy on the expected contribution of reservists and Reserve Units to our national Defence effort;

(b) reintroduce defence leave for reservists as an allowable award matter;

(c) review its disastrous experiment with Common Induction Training in the Army;

(d) implement employment and education protection measures before the deployment of reservists to East Timor;

(e) reverse the dramatic decline in recruitment levels in recent years;

(f) address anomalies in pay and conditions for reservists;

(g) properly manage the provision of training opportunities and of necessary equipment;

(h) clarify ongoing levels of funding for its announced measures beyond the current financial year; and

(i) consult adequately with relevant stakeholder groups”.

Senator HOGG (Queensland) (9.04 p.m.)—I rise to support the comments made in this debate by my leader, Senator Faulkner, but I also want to go a little bit further on some of the figures that will need to be explained later on in this debate. When I come to those, I will clearly flag them with the advisers, such that they might take note and answer some of the questions in relation to those figures.

Interestingly, there is a fairly good description of the reserve system in the Bills Digest—Nos 70 and 71 of this year. It traces the background of the formation of the reserves and shows how from Federation the reserve concept came out of a militia concept which comprised conscripts. Those people were used internally but not in external affairs protecting the nation. Of interest in the background was the fact that since the Miller review in 1974 the reserves have struggled to find an appropriate role. The Bills Digest goes on to say that there have been some 14 inquiries or reorganisations that have impacted on the reserves. Bills Digest No. 70 indicates that the last inquiry was conducted by the Joint Standing Committee on Foreign Affairs, Defence and Trade. That committee, commenting on the matter of reserves in its August 2000 report entitled From phantom to force: towards a more efficient and effective army, stated:

... despite all these reviews and inquiries, fundamental and sustainable reform to produce a useful reserve has not eventuated.

They characterised, out of those various reviews that are referred to, two major problems, the two major areas of concern being civilian employment pressures on reserves—and I will come to that later—and the call-out arrangements for reserves. So it is something that is well documented over time; it is not something that has just happened. But of course the current government have decidedly, as my colleague Senator Faulkner said, run down the reserves and the concept of the reserves. But now we are seeing a complete reversal.

In the figures that Senator Faulkner referred to on the shortfall in the targets in recruitment—and he actually referred to the number of people who were recruited—it is interesting to look at the percentage of the target that were recruited. In 1998-99 only 51 per cent of the target for reserves were recruited. In 1998-99 only 51 per cent of the target for reserves were recruited; in other words, it just was not the numerical number that was important; it was the target—and the target was missed abysmally. In 1999-2000, the number reached was only 31 per cent of the target number of reserve recruits required, and that is without any changes whatsoever—31 per cent of
what the Army required. In 2000-01, at the recent estimates, I asked Defence personnel questions about how they were travelling at this stage. They were unable to tell me. They said they would take it on notice, and so I have no real indication at this stage. Nonetheless, it does seem that there has been a downward trend in recruiting within Defence.

Also in the *Bills Digest* it was noted that there has been a substantial separation rate, and that came out of the Joint Committee on Foreign Affairs, Defence and Trade inquiry, where they said that in the year to December 1999, 23.45 per cent of reservists had left the Army. That was attributed to employment pressures and the nature of the reserve itself. In this year’s budget, the 2000-01 budget, there was an allocation of $20 million for the reserve initiative. At estimates recently I asked how that $20 million was being spent, because it was something that was clearly identified as a one-off, special allocation within the budget.

It was interesting to hear the response that I got out of the people from the Department of Defence, the various officers and bureaucrats. I was told that the $20 million would not be spent this year; that only $10 million of that $20 million would be spent in this financial year. I was given a break-up of how that $20 million would be spent. I was told that $2 million to $3 million would be spent on the implementation of the employer support payment. That is interesting. Then I was told that $3 million would be spent on the acceleration of reserves of civil accreditation. That is for training programs, and that is out of a total of $4.8 million, which means that there is still $1.8 million hanging over for next year.

An amount of $0.35 million was to be spent on enhancement of the Defence Reserves Support Council, and that leaves another $0.35 million for next year; $1.5 million to be spent on a survey of reservists, money which would be totally spent this year; and $1.8 million to be spent on the development of the communications and public awareness strategy for reserves, leaving a small amount of $0.1 million for next year; and nil to be spent on swipe card technologies. And that money would all be spent next year.

But in the interesting category of the implementation of the employer support payment, there would be an outstanding amount—by my calculations—of between $6¾ million and $7 million in this financial year. One cannot blame that lack of spending on the opposition. It shows the inertia of the government. The government have had the opportunity to introduce this legislation and to get the legislation to work. However, what one finds is that the government have been tardy—one again. One finds that, whilst they are only anticipating spending $10 million this year, they are saying that $2 million to $3 million will be spent on the employer support payment and $6¾ million to $7 million will be deferred until next year.

That is predicated on two things. Firstly, there is the passage of this legislation, which we are quite prepared to support: bipartisan support is there. Secondly, it will depend on regulations. I understand that there are regulations to be brought down in relation to this legislation. That raises the question: what regulations? What regulations will be required? When will those regulations be ready? What will be the starting date of those regulations?

That further raises the question: how much of the money that has been allocated in this important area of the implementation of the employer support payment really will be spent this year, given that we are at March now? If there were a miracle drafting session implemented immediately for the regulations and the promulgation of those regulations, one would think that there would be very little by way of employer support payments in this financial year. It also raises the question: will the outstanding amount of the $10 million that is said to be spent this year be put over into next year’s budget? So some reassurance on those matters is important indeed.

There is no doubt that the government have been slow to respond, and our involvement in East Timor in particular, as my colleague Senator Faulkner said, has shown the weakness in our defence forces in terms of the hollowness there, in terms of finding the
appropriate people to fill the gaps that have shown up. As I said, almost $7 million by my calculations—and I do not think they are too far wrong—out of the proposed budget figure is dependent upon the passage of this legislation and will now be deferred in total until next year. Given the result of the reserve recruiting for the last three years, one wonders why the government have been so slow to respond on an issue that has bipartisan support—and that is an important point that should not be lost sight of in this particular case.

I turn briefly to the problems that have been attributed to causing the difficulties in recruitment and also in securing the people necessary for training in the common induction programs. Senator Faulkner touched on the first issue, which is the withdrawal or removal of leave as an allowable matter for awards from the Workplace Relations and Other Legislation Amendment Act 1996. Of course, that obviously had an impact on the people who were prepared to join and/or stay in the reserve forces. But it is interesting to note in Bills Digest No. 71 the comment on the Defence Reserve Service (Protection) Bill 2000. Under state awards and legislation, in reference to this particular piece of legislation, the comment is made:

There is a certain irony in the Government’s defence of its policy to simplify federal awards (removing military leave). It has argued that the award system did not work and individual workplaces should determine their own arrangements for military leave. Yet the combined affect of the two Bills will serve to act as a clout against employers who will not co-operate by releasing (and reinstating) employees.

It describes that as ‘a clout’. So where it was seen as being anathema to an employee-employer relationship and removed from the Workplace Relations Bill and other legislation, here it is now being described as a clout against employers. Quite clearly, it is something that is highly worth while in the defence of our nation—and that is why it has the bipartisan support that it has. When one goes to the very start of the legislation and looks at the terms of that legislation, one finds why it is absolutely necessary to have that protection for those people who are prepared to put their lives on the line, to put themselves out, by joining the reserves, by joining the defence forces of this nation to protect our nation. That is the industrial relations side of it.

But then one turns to the training requirements. I did a little bit of research on this and I have not dug out every piece of mine that I could quote from estimates, but I am sure that those who follow me at estimates would like to do so and read them back to me at some stage. But I go back to the estimates held on 22 October 1996. It was Senator Chris Evans, who was heavily involved in the committee at that stage, who asked a question of Major General Hartley about the proposals then to introduce common induction training for the reserves. In response to a question from Senator Chris Evans, Major General Hartley said:

Clearly, we have to go through a process of determining how best we can use these reserve days. One of the options that we face, for instance, is having a longer period of initial training, which, presently, is two weeks. We might raise that to six weeks.

That was the start of the change. Then we move to the estimates of 20 August 1997 and Senator West. I have not come to Senator Hogg yet, so I will not bore you completely. But Senator West, in discussion with Major General Dunn, said:

... my understanding was that the training program for reservists had changed, that it was moving from the two-week to the six-week. Certainly I have got a recollection of that from last estimates, but I have also got a recollection of seeing it in a television news bulletin.

Brigadier Boyle:

That is correct, Senator. What is actually happening is that as part of the revitalisation of the reserves—

I do not know whether Brigadier Boyle will ever regret those words ‘revitalisation of the reserves’—

particularly in 4 Brigade—

and 4 Brigade was the brigade where this trial was happening—

they are trialling a range of options for common induction training for both regulars and reserves. What that means for reservists is that we have had one large group, 550, over the Christmas period,
trialed for a six-week, full-time training period, initial training, of that induction ...

and so on. We pursued that over a number of estimates, never really sure whether the six-week training period was working but having a fair gut feeling that that was not the case. So we get to the last estimates on 21 February this year. On that occasion, I was having a discussion with Major General Willis. I said:

What is happening with induction training for the reserves?

Colonel Stedman responded:

That falls mainly within the purview of Army. Army have a policy of common induction training and their preferred solution for reservist recruits is that they go down and do a continuous 45-day period of training. However, Army have been looking at alternative solutions to that training based on modules and have developed an alternate approach with a three-week module followed by I believe a period of about a week back in the reservist’s unit and another three-week module at some point in the future, I am not entirely sure whether it is within 12 or 24 months, to complete the equivalent of a common induction training single 45-day period over two periods of training.

So, if you think I was confused, you are right. I then went on and asked:

Has that been implemented yet?

Colonel Stedman:

I am not sure. I would have to take that on notice.

Then Major General Willis intervenes—and I quote:

I think it has. I think it might have started this year.

No wonder our reserves are in trouble: the people at the top do not know what is going on. What we have here today are important legislative changes, hopefully, that will bring some stability, some certainty and some surety for the reserves so that they have a reasonable and a sure idea as to the commitments that they need to take in terms of their training; and, secondly, that their employers have an understanding of the training that those persons will undergo.

One would hope that any trialling and any experimentation in this area will now be drawn to an end. One would further hope that there is a clear undertaking on the part of the government to ensure that this legislation works, that any sense of discrimination that exists currently is completely wiped out of the minds of employers and that employees have the confidence to enlist in the reserve, a very worthwhile and laudable task indeed.

I want to raise, once again, the issue of the regulations. As I understand, there are regulations to be brought down in terms of the employer support payment. I also understand that there are regulations to be brought down in terms of the agency which will be brought into existence to help people with complaints of discrimination. I also understand that there will be regulations in respect of the five proposed categories of reserve service and the training obligations attached to each category. There may well be other regulations that need to be brought down as a consequence of this piece of legislation. Without holding the legislation up, if in the minister’s reply we could have some indication of what the other areas where there will be a need for regulation are, when it is anticipated that those regulations will be drafted and when they will come into force, it would be very helpful indeed.

I believe that the second reading amendment moved by my colleague Senator Faulkner clearly sums up the position of the opposition—that we are supportive of the legislation that the government have been tardy in raising. It was introduced into the House of Representatives on 2 November and is being considered here only today. I commend the opposition’s second reading amendment.

Senator HUTCHINS (New South Wales) (9.25 p.m.)—It gives me pleasure to follow my colleagues Senators Faulkner and Hogg in this important bit of—

Senator Hogg—Are you supporting this?

Senator HUTCHINS—I am supporting it.

Senator Hogg—That is two of us.

Senator HUTCHINS—We go to the same caucus, though. It does give me pleasure to rise and speak about this important piece of legislation, the Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Bill 2000, in relation to Australia’s national security. If you read the
As Senator Hogg mentioned, in 1974 under a Labor government Dr T.B. Millar carried out a comprehensive study of the Army. He made certain recommendations in relation to reserve units and the Army in general. A number of Dr Millar’s recommendations and reforms were pursued by various governments. However, despite the intentions of the report, the reserves never became the total force that was expected of them. Their structure and operations have been under constant review. In fact, the reason they never became the total force that was expected was budget and training constraints. Between 1987 and last year, a number of reviews and restructures occurred in the reserve forces. In fact, it led to the report *From Phantom to Force: Towards a More Efficient and Effective Army*—which you, Mr Acting Deputy President Ferguson, may have been actively involved in. As you may recall from the hearings in relation to that report, a number of restructurings occurred in the reserves from 1981 right up until 1994. I quote from the Joint Standing Committee on Foreign Affairs and Trade report of August 2000:

Despite all these reviews and inquiries, fundamental and sustainable reform to produce a useful reserve has not eventuated.

The committee found that the principal difficulties to reform were civilian employment pressures on reservists and the call-out arrangements for the reserves. This is the response of the government to that joint committee’s report, *From Phantom to Force*.

As has been highlighted by both Senators Faulkner and Hogg, we do not believe the bill goes sufficiently far to ensure the issues that were raised in that very significant report by that joint committee are at all addressed. One of the things that is not addressed, as has been outlined by Senators Faulkner and Hogg, has been the issue of reserve forces pay. That is the case because the government has some ideological bent on wages and conditions based on the ability of an independent tribunal to determine what they should be and, in particular, because of the ideological decision of the government to take away certain items from determination by the commission. We will have to recognise in this debate—and I think it needs to be bipartisan—that, if we want a ready reserve and we want them capable of doing the things that are required of them as they sign up, then we are going to have to confront the situation, pay them better and give them better conditions. To a degree, that is addressed in this bill in terms of employees and employers.

Last year I had the fortune to be invited to the Lancer Barracks in Parramatta, the suburb that my offices are in. Despite Senator Tierney alleging last Thursday that my offices are in Phillip Street, Sydney, I think the 11th floor—you may be able to correct me on that, Mr Acting Deputy President Campbell—my offices are in Parramatta in the heartland of the western suburbs. You have indicated the 12th floor, Mr Acting Deputy President. The Lancer Barracks are not far from my offices.

I went to the Lancer Barracks last year to see one of the servicemen’s parades at the invitation of the commanding officers, and I stuck around and had a talk and a drink with a number of the enlisted men and the reservists. They were very angry with this government. They felt they had been penalised because they were prepared to put away time and effort and possibly career opportunities to serve this country in a reserve capacity. They were equally angry with the government because a number of the financial fringe benefits had been taken from them, even though a number were still in place. These soldiers gave me the impression in no uncertain terms that, when their term in the reserves was up, they were no longer going to make themselves available. The reasons for that were, firstly, we are not prepared to give them the conditions and the protection they are entitled to, even though this bill does go down this path, and, secondly, by some ideological position of the government, the terms and conditions of the money that
we want to pay them will not be determined by some sort of independent tribunal.

I raise this because I think as a nation we are going into a four-year period of instability in our part of the world, and I will come to why I specify the four years in a second. In August 2000, 13 officers and 200 other ranks of the total Australian contingent of 1,550 in East Timor were reserves; 48 reservists were deployed in Bougainville; a rifle company of 55 reservists was located at Butterworth in Malaysia; and 200 other reservists were on full-time service around locations in Australia.

We have all seen the newspaper and television reports of the harrowing tales about what has been happening in our region over the last 24 months. We only have to look at our own engagement in East Timor to see the massacres and religious and cultural fighting in Aceh. We have seen what has been happening in Borneo in the last few weeks. We wait to see what will happen in Fiji as a result of the High Court decision last week. We have a growing independence movement in west Papua New Guinea. We have the situations that occurred in the Solomons and in Ambon. And God knows what is going to happen in New Caledonia over the next few years. We have as our nearest neighbour New Zealand, a country which we have been to war with as allies. They appear to me to be not spending as much on their defence forces as should be expected. In fact, it would appear to me that their defence readiness is declining. So that leaves us here in Australia to look after this region and this region’s interests. I am not sure that we go far enough in this bill to make sure of that.

As I mentioned earlier, the dissolution of Indonesia is before us, with all the difficulties that are besetting it. The former Suharto regime is being investigated for corruption. There is continued military involvement in political affairs. We have these ethnic clashes in Borneo, which, as I understand it, are related to forced migration of Madurese Muslims to that area from the 1950s. So all over our region we have this difficulty which we may be called upon to respond to. Maybe it will be a situation where we are on our own, we may be triple O, because the comments that are being made by the new Secretary of State, Mr Colin Powell—and that is why I say four years—are disturbing for us. I think it is a serious situation for us and our national security in the future.

A very interesting article written by Mr Lawrence F. Kaplan was published in The New Republic of January this year entitled, ‘Yesterday’s Man: Colin Powell’s Out-of-date Foreign Policy’. Mr Kaplan is very critical of Mr Powell and quotes him significantly in his four-page article. I have a number of considerable concerns with what Mr Powell has said, and they will need to be pursued by our government, whoever is in power. One of the most overriding concerns is what Mr Powell sees as America’s national interests as opposed to what I think has been America’s leadership role and their interests in making sure that our globe is stable and secure. Mr Kaplan says:...

That one sentence contains the three central ingredients of Powell’s worldview. The first, now canonical in the officer corps, is that military leaders should not “quietly acquiesce” to judgments by their civilian superiors about the use of force. The second, which has been enshrined in a doctrine named after Powell, is the refusal to wage “halfhearted warfare.” the insistence that every potential military engagement requires either overwhelming force or none at all. But the Powell Doctrine addresses more than just how to fight wars; it also addresses when to fight them—namely, for “vital interests,” not for “half-baked reasons” like “nation-building” and “humanitarianism.” Powell summarizes his doctrine this way: “[I]f the national interest at stake? If the answer is yes, go in, and go in to win. Otherwise, stay out.” Sounds reasonable enough. Just not for the world the Bushies are about to inherit.

That is what General Powell’s overriding policy might be in relation to the engagement of the United States in our world. In fact, in the Sydney Morning Herald of 19 January this year Mr Powell said that, in relation to Australia’s number one regional concern, Indonesia, Washington and Canberra would ‘coordinate’ their policies. He stated:
But let our ally, Australia, take the lead, as they have done so well in that troubled country.

In the Canberra Times a day later, Mr Sulaiman Abdulmanan warned Australia:

I don’t think it’s a kind of mandate for Australia to intervene in what’s happening in Indonesia.

Nor do I, and I am not sure exactly what the intent of Mr Powell’s statement was. But it does leave me uneasy as to the future of our country and the obviously increasing instability in Indonesia.

We have a situation where our forces could be seen to act alone as in East Timor. We may have to engage ourselves in other parts of the Pacific or South-East Asia on our own as a result of what appear to be Mr Powell’s isolationist policies. I will quote again from the Lawrence Kaplan article. This is, once again, Mr Kaplan’s view:

But, even in cold strategic terms, Powell’s brand of foreign policy restraint is out of place in today’s world. His definition of vital interests as consisting merely of sea-lanes, oil wells and canals would, if enshrined in official policy, translate into the abdication of American leadership. “In the aftermath of the cold war,” says Andrew Bacevich, a professor of international relations at Boston University and a retired Army colonel, “we have shouldered global responsibilities, including enforcing international norms, which Powell’s vital interest criteria fail to address.”

When America refused to act in Bosnia, for instance, the humanitarian crisis quickly began to threaten a vital American interest—the stability of the Atlantic alliance. Powell may not like it, but the United States remains the hinge of the international system. And when it sits idly by in the face of threats to that system, international order erodes. Quickly.

That is why I say that, in terms of this bill, the ideology that the government has adopted, particularly in looking after the wages and conditions of these men and women, is going to get in the way of our national interests and our national security. Already, as has been highlighted by Senators Faulkner and Hogg, we have a rapidly decreasing ready Defence Force. In August 2000, there were only 27,300 people, including reservists, in our defence forces. This figure is 3,200 short of the target of 30,500. This has partly occurred due to the failure to recruit sufficient numbers of reservists, as their numbers have drastically fallen by over 25 per cent—from 23,000 to 17,000. I do not think that either of the bills will reinstate defence leave as an allowable award item.

With all that I have spoken about in terms of my concern for our national security and what might appear to be the abdication of America in taking the leading role—something that she has done so well for so long, particularly in our part of the world—it behoves us to make sure that not only this government but any future governments take into account the fact that we need a skilled and ready reserve to ensure that our national interests and the interests that we determine as national, whether they are in our own country or overseas, are addressed immediately. One significant way to do that is to make sure employees and employers are adequately looked after and to make sure that we look after people who put themselves out to look after our interests by putting on the khaki, blue or grey. I hope that, when we have an opportunity to look at Senator Faulkner’s amendments in the debate in the next period, we will make sure that these difficulties are addressed.

Senator SANDY MACDONALD (New South Wales) (9.42 p.m.)—I do not want to let the opportunity to speak on this legislation pass, because it is important to Australia’s defence. I listened with interest to Senator Hutchins. I wish I had listened to more of what he had to say. These two pieces of legislation, the Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Bill 2000 and the Defence Reserve Service (Protection) Bill 2000, are important bills and have, I believe, general community support. They will make for a more effective reserve component of the ADF to meet the changing demands posed by: firstly, Australia’s strategic environment, of which we are all aware; secondly, the changing nature of modern civilian employment, because in the world in which we live many people have part-time jobs and other employment arrangements which make it difficult to operate solely on the basis of nine to five from Monday to Friday; and, thirdly, the increasing requirement to make em-
ployed reservists who have specialist skills that are essential for a modern and balanced military force available to our defence effort, whenever and whatever that might be. There is an increasing range of specialist skills that are not necessarily provided by the permanent ADF that the reserve is ideally placed to provide.

This is about a user-friendly workplace for the reserve, and I think it is important to recognise that. Today’s reserves comprise about 40 per cent of the total ADF. Over the next 10 years, reserves will become a more important element, given the likelihood of frequent and concurrent operations, and the reserves will increasingly become the only way to provide an essential surge capacity both in numbers and, as I mentioned, in specialist skills.

It is important to recognise that reserves are no longer simply a mobilisation base. In the last two years the ADF have utilised more reservists on full-time service than at any time since the end of World War II. They have done so in the humanitarian role that was played in PNG in the important job in Bougainville, where reservists I think have been able to serve during the whole period of the deployment; in East Timor, of course; and in the Pacific involvements we presently have. These bills are the result of policy initiatives to provide the flexibility that is necessary. The changes will enable the government to call out reserves as a whole or in part for a wide range of operations including combat, defence emergency, peace enforcement, peacekeeping, civil and humanitarian aid, and disaster relief. The legislation clearly shows the government is conscious of the responsibility to use the increased powers wisely.

Importantly, the changes will provide the framework to introduce new categories of reserve service—again, a user-friendly workplace—to allow for some units and individual reservists to be held at higher levels of readiness. Also included in these changes are amendments that will protect the jobs of reservists and support their families and employers. Employer support for the reserve is obviously essential. This legislation will allow the payment of financial incentives to assist employers and self-employed reservists at the rate of average weekly earnings, presently around $800 a week. These initiatives are estimated to cost around $20 million per annum, and in my opinion this is money that is very well spent. It especially gives self-employed reservists a great deal of flexibility and encourages them to be involved in their training, and it also gives them a full-time commitment, if that is the way that they choose to go for perhaps a short time.

The government is determined to address the issues of reserve recruitment by redirecting the focus back to the communities from which reservists are drawn. Throughout regional New South Wales, these reserve units play a vital part in their local communities. Where I live in the New England north-west area, we have a very famous Army Reserve unit, the 12th/16th Hunter River Lancers. They have their regimental headquarters in Tamworth but in addition they have squadrons in both Armidale and Muswellbrook. There are others of which senators who come from New South Wales would be aware, like the 41 Battalion on the North Coast and many other units like the 1st/15th Armoured Regiment. These Army Reserve units comprise some 5,000 reservists in New South Wales. They will be very pleased that these bills will help the ADF to adopt more flexible recruiting and management strategies. This bills will also help in the retention of military experience by offering incentives to full-time members of the ADF to continue their service in the reserves rather than leave the ADF completely. Permanent force members will be able to transfer to the reserves and reservists to a lower level of readiness. This will help retain trained people in the ADF generally.

I want to finish by commending the role of the reserve in Australia’s superb performance at the Olympic Games, in which I understand about 3,000 reservists took part, and for long periods of time—many months for some. I also want to commend them in their role in INTERFET and now in UNTAET in East Timor. All reservists should be proud of their efforts, and every opportunity must be given to reservists to do the exciting jobs that
they give up their own time to train for, currently in East Timor and in Bougainville.

I would like to make special note of some serving members of the 12th/16th Hunter River Lancers. Last week their commanding officer, Lieutenant Colonel Phil Harris, welcomed back six members of his regiment who had been serving with the Australian contingents in East Timor, in Bougainville and in Butterworth, Malaysia. Two members of the regiment, Major Garry Stone of Armidale and Sergeant Rick Colefax of Tamworth, returned from four-month tours of duty in Bougainville. Corporal Grant Pendergast of Kingstown, Corporal Ian Hodgson of Armidale and Trooper John Bender of Armidale returned from East Timor, where they had served as armoured vehicle crewmen. Corporal John Keating of Tamworth returned from three months in Malaysia, where he was part of the security company for the RAAF base. I commend these bills to the Senate.

Debate interrupted.

ADJOURNMENT

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

That the Senate do now adjourn.

Innovation Statement: Backing Australia’s Ability

Senator TIERNEY (New South Wales) (9.50 p.m.)—I would like to conclude tonight a series of speeches I have been making on the federal government’s Backing Australia’s Ability initiative. This is a massive $2.9 billion investment in Australia’s future which has benefits for the country’s research and development industry, education, science and technology. Tonight I want to talk about the benefits this package will have in regional Australia. Coming from the Hunter Valley, I am pleased with the initiative and the funding that will be received under this program. Backing Australia’s Ability is all about generating new ideas, bringing those ideas to life and turning them into success through either products or new services. This $2.9 billion is a major commitment to the talent of this country and the potential for local ideas to have a future. It is also a major commitment to the skilled work force in the growing areas of biotechnology, research, science and technology.

I would like to briefly discuss the initiatives within Backing Australia’s Ability that will benefit country Australia. Firstly, impediments to companies getting started will be removed, with businesses getting greater access to start-up capital funding. For small businesses this is a major boon. Small businesses play a major part in regional economies and are generally the largest employers of the work force in those areas. The initiative also ties into the $21.7 million new industry development program, which specifically targets agribusiness and technology in country Australia and is one of the key components of the innovation program. It will mean that agribusinesses will gain the skills and resources required to successfully commercialise their businesses, product technologies and services.

I have seen this sort of thing happen very well in the past in areas like Southern Cross University with their Cellular Valley: they take agribusiness and put together research, product development and major companies working in the pharmaceutical areas and create in a rural area a major new part of the economy. That has happened successfully and has become a major economic driver for the Lismore area via Southern Cross University. Similar things have happened in many other universities around New South Wales. I see it, for example, at the University of New England whereby its involvement with a number of research centres, such as Chiswick and the beef CRC, helps to drive that local economy. It has occurred also in the Hunter Valley, in my own area of Newcastle. The University of Newcastle is the largest regional university in Australia and it has become a major driver of the Hunter economy. Part of that is the research and development of the university, which is then turned into new product and services and helps create a new economy in regional Australia.

Within Backing Australia’s Ability these regional universities will now be able to gain increased access to grant funding through the Australian Research Council. Those funds under Backing Australia’s Ability have actu-
ally doubled. In a major Senate inquiry about five years ago I saw that ARC grants were delivering only about 17 per cent of the projects that were put up. Our estimate is that the figure is about double that, about 30 per cent—really first-class research that should be backed. Under this new initiative, Backing Australia’s Ability, we are actually delivering a doubling in the ARC grants. That will then spread across projects in all universities and there will be a major boost to the regional universities because the total pool of money available up to the year 2006 will be $550 million each year—half a billion dollars into this world-class research pool. There will also be increased levels of infrastructure funding for regional universities. The pool of that money over the next five years has grown to $337 million, bringing in a much-needed improvement in the research facility base in all universities, including rural and regional universities.

Also in keeping with the information age there will be a new $34 million online curriculum content program over five years providing very wide access to education. There is a new generation of Internet coming and it will provide a much wider and deeper technology that can be accessed and will enhance education right across rural and regional Australia. This is good news for many people out in country areas, particularly in my area of the Hunter Valley—towns like Dungog, Gloucester and Pacific Palms. People in these areas have had to travel many miles to universities and TAFEs and with this new technology they will be able to gain greater access. With innovations like the online curriculum content program that has been funded under Backing Australia’s Ability those small towns will gain greater access to that type of education. People will also benefit from the government’s plans to spend $155 million over the next five years creating 21,000 new undergraduate places with priority given to maths, science and IT.

In the Hunter Valley we are also seeing great ideas and examples of research and development moving out into the marketplace. In September last year the minister for industry, Nick Minchin, announced that a local company, Sensational Foods Pty Ltd, had been given a grant of $1.3 million for its seafood packaging business. This was the largest R&D funding for one particular company that has ever come to the Hunter Valley. The project will extend the shelf life of seafood. It is a very simple and effective idea. It is Australian technology, and not only will it improve our place in the Australian marketplace but it is also a type of technology which will have benefits right around the world. Research will benefit Australia’s growing aquaculture industry and will profit from the value added market opportunity that extends shelf life. Sensational Foods is one of the Hunter’s fastest growing companies, employing about 30 staff. That is just an example of what one company can do with a little bit of research and development—developed within the company but assisted by federal government funding.

Under the innovation program companies who undertake research and development will be supported by the federal government in a number of ways. To provide an incentive for businesses to increase their R&D investment the government has enhanced the tax concession arrangements. This is very different from the way in which the Labor Party did it, which was widely scrapped by some unscrupulous businesses. We did not really get much benefit from that. This government has more carefully targeted the concession up to a premium rate of 175 per cent, but it must have a labour related component of the R&D expenditure, thereby guaranteeing more employment in research and development.

Then to continue and enhance the spin-off opportunities from industry research collaboration the government will boost the cooperative research program by 80 per cent over the next five years at a cost of $227 million. More flexibility will also be incorporated so that larger CRCs can be established and small and medium-sized enterprises are provided with greater access to the program. One example of a CRC in a country area that is doing particularly well is the Reef Research Centre. This is carrying out research into how to minimise the spread of exotic organisms via ships’ ballast water through the ports of the world. This research is being
undertaken by two rural universities, the University of New England and the James Cook University. There are many other examples of successful investment in rural and regional Australia—investment that has come through R&D and through the support of this government. We have had a major boost in Backing Australia’s Ability to this program and the outcome will be an expansion of the rural economy through this initiative.

New Farm, Queensland: Cutters Landing Development

Senator ALLISON (Victoria) (10.00 p.m.)—I rise to draw the attention of the Senate to a campaign to save a tiny park from being gobbled up by development in Queensland. The park is on the corner of Welsby and Lamington streets in New Farm, Brisbane, and is earmarked as the site for 13 townhouses as part of the Mirvac residential development on the old sugar refinery site.

Mirvac have a preliminary approval for this. While the park is private land, it has an interesting history of early corporate benevolence. It is part of a giant, 18-acre parcel of land owned since the turn of the last century by the Commonwealth Sugar Refinery. While there are many sugar mills in Queensland, there were only ever two refineries—one at Bundaberg and one at New Farm. For many years, the residents heard the regular thump, thump, thump as barges of milled cane were unloaded onto the wharf from the river and sent into the refinery. Thousands of people were employed there and, about 100 years ago, local history has it that CSR set aside this tiny half-acre park for its workers. They apparently had their lunch there and their family picnics and Christmas parties. Local legend has it that various and vigorous football games were played between CSR and other organisations. New Farm residents say their parents played in the park as children, and a rusty netball pole and hoop are testament to this and to the hours of practice of the local team.

Recently the whole 18-acre site was sold to the giant Australian residential developer Mirvac, a $2.3 billion company which made $137 million in profit after tax last year. It is a very large and very desirable parcel of land in Brisbane that stretches down to the river, the Powerhouse complex and across to New Farm park, which will be developed shortly into 330 residences. New Farm residents have been caught on the hop with this development. While the developers put up notices as required, they did not signpost this little park until approval was gained because, under planning laws, the park did not require it. A number of residents have only just realised that 13 townhouses will be built on their little park. It is not the world’s most spectacular park. It is not wilderness or world heritage, or even the home of any endangered spotted anything. It is just a tiny pocket park with some 100-year-old trees and half an acre of grass. The mature native and non-native trees are habitats for birds and other wildlife. However, it would be a great shame for the park to go, and the residents are trying to persuade Mirvac to redesign their very large development to keep the park available.

While New Farm has parks, it is filling up with units, and most of those units have no backyards. The Mirvac development will bring another 700 people to the area. It will be harder than ever for those people to find green space after all of the urban infill has been finished. To their credit, Mirvac and the Brisbane City Council have already moved a long way to make the development lower density than originally planned. They have decided, for instance, to keep a path running down the middle of the site as an arbor walk. They will add lights for security and they will protect many of the large trees there. Mirvac will also build their part of the river walk with three access points for New Farm residents. Interestingly the company are donating $635,000 in cash to council parks as part of their required parkland contribution. The New Farm residents think it would make more sense if they kept the money and left the park for real parkland contribution instead of replacing an existing green space with more brick and cement.

It is important to know that Mirvac do have choices in the matter. They have the choice to be a good corporate citizen and good neighbour by replanning their development site to keep the park available to their residents as well as to those who live in
the surrounding area. They could easily move the 13 houses to other parts of the site. The local residents say they ought to be able to do this without losing a cent. The Business Council of Australia readily proclaims to us publicly that companies like Mirvac are now into the ‘triple bottom line’—that is, economic, community and environmental responsibility, as well as a profit for shareholders. The question here is whether they can match the reality with the rhetoric.

Urban infill and increasing density in our cities is a good thing. We all understand that continuing the great Australian urban sprawl is not sustainable and, even in New Farm, development can bring great changes and benefits to the environment. The Mirvac development will add to the amenity of residents—no-one challenges that. However, this small shred of natural environment, this piece of open space, is an important reminder of the importance to people everywhere of being able to share public spaces. They are breathing spaces in every sense of the word—children and their parents know this better than most. What national parks and world heritage areas are to the nation I would argue that neighbourhood open spaces are to mums and dads and their kids and dogs.

Residents held a public meeting on-site a week ago, and 150 people turned up. People in cities all over the world have to be vigilant in protecting their green spaces because very few new ones are ever created. I would suggest that Mirvac need to move with the times and work with the community they are set to make so much money from. The CSR park is part of New Farm and part of Brisbane’s legacy. The very size of the Mirvac development means that Mirvac have a large say in the future of the area. I would like to suggest tonight that this legacy, this small park, should be left for the future.

**Youth: Poverty**

Senator LUNDY (Australian Capital Territory) (10.07 p.m.)—I would like to address the subject of youth and poverty this evening. Coalition government policies are sending more and more young people into poverty and putting their futures at risk. Under the Howard government, the gap between the haves and the have-nots has widened, and too many young people are disproportionately represented in measurements of disadvantage.

The callousness of this government towards young people has been brought into focus by some recent studies. The latest poverty reports show that simply being young places a person in a high risk category for poverty in Australia. The recently released report, *Financial disadvantage in Australia—1999: the unlucky Australians?* found that single people of labour force age and sole parents are at the greatest risk of being in poverty. Of the singles, the report says that 27.1 per cent of 14- to 24-year-olds living at home—that is, not full-time students—and a striking 27.4 per cent of 15- to 24-year-olds who have left the parental home and are still single are in poverty. According to the NATSEM/Smith Family report:

This is the highest poverty rate experienced by any of the family types shown ... and suggests a high degree of disadvantage among this group.

This high degree of disadvantage among young people is being fuelled by the policies of the Howard government. A constant boast of the Howard government is the strength of the economy, yet more and more Australians, including young people, are asking: ‘If things are so great, why am I doing it so tough?’

Until recently, the government has boasted about the growth in employment, but when you pull apart the figures it is clear that young people have missed out. It is an outrage that 56,300 fewer full-time jobs exist now for 20- to 24-year-olds than existed for this age group in 1995. This is despite a much vaunted growth of nearly half a million full-time jobs since December 1995. In fact, the exact figure is 446,100 extra jobs held by all Australians over 15 years old. For 15- to 19-year-olds, the growth in employment in the five years to December 2000 has been in part-time jobs only, and only 400 extra full-time jobs for 15- to 19-year-olds exist over the December 1995 number.

The rate of youth unemployment remains nearly four times higher than the rate for the general population. In December, the unemployment rate for 15- to 19-year-olds seeking
full-time work was 23.2 per cent, compared with 6.5 per cent for all persons. Young people clearly face a disproportionately high rate of unemployment due to the disappearance of many entry-level jobs. The restoration and creation of new employment opportunities for young people will be a high priority for Labor in government, as well as expanded on-the-job training, apprenticeships, traineeships and skills programs.

Young people are bearing the brunt of this government’s cutbacks to education and social support. This government has also slashed funding to universities; it has doubled HECS payments for most students; and it has decreased the threshold income level for HECS repayments by about $8,000, making life more difficult for young people starting out on new career pathways. This year, a young person earning only $22,346 will have to pay an additional three per cent tax for HECS repayments.

Changes in 1998 to youth allowance payments, allegedly in order to simplify and standardise payments, have resulted in gross inequalities. In July 1998, about 15,000 of the 16- and 17-year-olds receiving the youth training allowance—roughly half the number on the youth training allowance—failed to qualify for youth allowance. There is evidence that the number of 16- to 17-year-olds in crisis and requiring emergency accommodation has increased. One reason for this is that the federal government’s youth allowance has meant that families unable to support their unemployed 16- to 17-year-olds have been forced to support an ‘unreasonable to live at home’ application. The ‘unreasonable to live at home’ category applies specifically to 17-year-olds. In May 1999, 37.6 per cent of those in the independent youth allowance category had been assessed as ‘unreasonable to live at home’.

Young people have missed out on the moderation of the income tests applied to other groups under the new tax system package. That is, the reduction of extra income earned over the free area limit for those on pensions is now reduced by 40 cents in the dollar instead of 50 cents in the dollar. For those on youth allowance, the 50 per cent loss of income over the free area limit is 10 per cent higher than for those on other pensions. This makes no sense, as allowances in general are regarded as short-term assistance to people who are being encouraged to join the work force. In contrast, pensions are more likely to be paid to those not expected to rejoin the work force.

The 50 per cent taper acts as a disincentive to part-time or casual employment, which in many cases can lead to self-sufficiency and independence. I question the kind of message this type of policy is sending to young people. This income test taper is particularly harsh for unemployed young people on youth allowance. Each dollar earned over $62 per fortnight reduces it by 50 cents in the dollar, and income earned over $142 per fortnight reduces it by 70 cents in the dollar. For a government which constantly draws attention to the growth of welfare dependence poverty traps, like high taper rates, this should be a priority; sadly, it is not. As if the pre-existing inequities in youth allowance imposed by the coalition were not enough, young people on youth allowance will also be subject to the coalition’s 20 March pension clawback. Many youth allowees will suffer clawback of some of their rent assistance. While the government is increasing the rent assistance threshold by four per cent on 20 March, it is increasing the maximum rate by only two per cent. Not only will this squeeze some youth allowance recipients but others will lose eligibility for rent assistance altogether.

Of greater concern is the fact that the non-indexation of youth allowance on 20 March will mean that those losing some rent assistance will suffer a cut to their total entitlement. The Department of Family and Community Services has admitted that around 70,000 young people will be affected. Young people are also over-represented in Centrelink breach rates. Financial penalties for not meeting the activity test, for example, can be very severe and can result in a young person losing accommodation, being unable to meet transport and clothing costs, being forced into debt, and being unable to participate in vocational training, voluntary work or other activities.
Marie Coleman, writing recently in the *Canberra Times*, drew attention to the disregard and difficulties typically faced by young people in attempting to meet their obligations and in dealing with Centrelink and employment agencies. Fines of $850 are common and can be actioned if a young person fails to make just one phone call.

Youth homelessness is also increasing. Supported Accommodation Assistance Program data indicates that the largest age group of those seeking help are those aged 15 to 19 years—in fact, 22 per cent. The 20- to 24-year-old age group makes up approximately 16 per cent of people seeking help. Two per cent of people using homeless services are under 15 years of age. In 1998, 67,100 children accompanied adults who required access to homelessness services—a huge increase on previous years.

Young people are particularly vulnerable to the coalition’s GST because they are paying more in GST and getting back less. Young people have the lowest weekly incomes of all households of working age people. This is because young people are often working part time and studying, can often be paid less if they work full time and are more likely to be unemployed. Young people also spend a higher proportion of their income on goods and services that carry a GST. This means that when the CPI figures eventually flow through to allowances they undercompensate young people for the rising cost of living. In 1998-99, the average weekly household income was $817.09. An average of $686.41 was spent on goods and services, representing 84 per cent of weekly expenditure, compared with 73.7 per cent for the 45 to 54 age group. Young people are also more likely to rent in the private market and therefore get slugged with GST-induced rent rises.

All these things together make the GST a tax on being young. The callousness of the Howard government is driving young people into poverty in Australia. The government then asks an underfunded non-government sector to foot the bill when people inevitably fall into crisis. The coalition has not made life better for young people. It has turned a blind eye to the needs of this group of Australians and has shown itself to be uncaring and out of touch. I believe young Australians deserve better.

**Tasmania: Comalco Aluminium Smelter**

Senator WATSON (Tasmania) (10.16 p.m.)—I rise tonight to pay tribute to the achievements of a company that has played a large role in the economy of Tasmania for over 45 years. I am speaking of the Comalco aluminium smelter at Bell Bay in northern Tasmania. This company has made an enormous contribution to the Tasmanian community, providing direct and indirect employment to thousands of Tasmanians. On 23 September 1955, the first ingot of primary aluminium produced in Australia was officially poured by the then Minister for Supply, Howard Beale, who later became Sir Howard. The need for an Australian aluminium smelter was first mooted in 1936. It was Australia’s desperate need for aluminium for aircraft production during the Second World War that finally produced action. In 1944, the Commonwealth and Tasmanian governments agreed to establish an aluminium industry in Tasmania. Both governments agreed on an equally shared capital fund of £3 million, which was estimated to be enough to set up a plant to produce 10,000 tonnes of aluminium per year. By 1999, Comalco produced 151,000 tonnes of quality aluminium per year, had 600 direct employees and 150 contractors, paid out over $32 million in wages, paid a further $81 million to its 532 Tasmanian suppliers, generated a further 1,800 Tasmanian jobs indirectly and paid $2.7 million in government taxes.

Electricity is a major raw material in the production of aluminium and accounts for around one-third of the plant’s costs. In the 1950s, it was Tasmania’s competitively priced electricity that resulted in the choice of location for the smelter. Today, Comalco has a contract for the annual supply of 256 megawatts to the year 2014. Comalco has continually upgraded its capacity and contracts to use more power. This has helped underwrite most of Tasmania’s major hydroelectric schemes. In 1955, the Trevallyn power station in Launceston was commissioned just to supply Bell Bay. The increase in demand for power has generated direct jobs in the power industry, with the usual
flow-on effect to other industries and services.

Throughout Tasmania and further afield suppliers benefit from this industry. Comalco privatised its maintenance department and it now services the Bell Bay plant and other industries and individuals. The need for suppliers of safety clothing and equipment, office equipment, machinery, transport and all the other items necessary for the successful operation of the plant has generated and supported hundreds of other businesses, both large and small. The flow-on effect is quite enormous.

Research and development programs have played a large part in the activities of the plant. Innovative technologies were pioneered and tested here at great saving to the industry worldwide because of the smaller ‘pot’ size used in the smelting process. This means that experiments that fail waste far less resources than would otherwise occur at newer plants.

There are other sides to the story of this industry: the humane and ecological sides. In 1949, George Town, five kilometres away, at the mouth of the river Tamar, had a population of about 300 people, mostly fishermen, pensioners and farmers. In fact, it was a sleepy seaside village—a pleasant little town. This was about to change. Construction workers needed temporary accommodation, while operating personnel needed permanent houses away from the plant. In 1950, the construction camp at Bell Bay originally housed 160 men. By 1954, this had grown to 584. In George Town, the Tasmanian Housing Commission built 250 houses for the staff. In 1950, the first house was occupied and by 1957 the Australian Aluminium Production Commission had built a further 120 houses. This does not take into account the houses built by private individuals.

Many of the early workers were displaced people from postwar Europe. Some 30 different nationalities were represented in the community—a truly multicultural society. These families had the opportunity to enjoy the high standard of education provided in this country. Their sons and daughters have become doctors, lawyers, teachers and such-like. Many of the early families have stayed on and are now enjoying their retirement in George Town.

Over the years, Comalco has led by example as a good corporate citizen, with community assistance programs to promote excellence in all fields including education, culture and performing arts. Important initiatives resulted in such things as sponsorship of statewide mathematics programs, tennis championships and young athletics. Comalco has helped the community in other practical ways, with donations of computers, office equipment and video cameras to schools and organisations. It has also given a great deal of in-kind sponsorship.

Any industry development will have some effect on the environment. Comalco is always looking at continual improvement in environmental performance. This has resulted in the most technologically advanced fume scrubbing system available in the aluminium industry. The project, which has been awarded a Tasmania Award for environmental excellence, has achieved a 95 per cent reduction in fluoride emissions as well as an assortment of other reductions. Another program designed to help the environment is the Comalco Wetlands. This project was designed primarily as a filter system for run-off from the site. More than 10,000 native trees, shrubs and grasses have been planted, with the main emphasis on providing a habitat for local native wildlife. Many schoolchildren participated in the initial planting and continue to be active in the monitoring of the ecosystems. In conclusion, Comalco has indeed played a great part in postwar development in Tasmania. It has touched many lives, it has generated jobs, it has been a good corporate citizen and it has cared for the environment. I take this opportunity of congratulating Comalco.

Child Sexual Abuse

Senator HEFFERNAN (New South Wales—Parliamentary Secretary to Cabinet) (10.23 p.m.)—I rise to speak on behalf of the generations of Australian children who have had their innocence stolen by sexual abuse. Over the last four years I have comforted, listened to and supported many members of what I call the generation of stolen innocence. I rise also to recognise the thousands
of dedicated people and many organisations who support the cause of justice for these people. In my state of New South Wales, this includes the hardworking and often frustrated members of the Child Protection Enforcement Agency; the fair dinkum members of our legal and judicial institutions who are appalled at the level at which some of their colleagues are compromised; the members of our religious and teaching institutions who feel betrayed by the failed logic of moving perpetrators to garden duties, overseas postings, silent insertion into other schools and parishes; and, worst of all, those witnessing the systematic manipulation into silence and often legal submission of vulnerable victims by false notions of guilt, fear and entanglement.

I wish to express my deep concern with the flawed logic that I believe lies behind the decision to issue suppression orders from the New South Wales Industrial Relations Commission with regard to teachers and schools involved in appeals against dismissal under the Child Protection (Prohibited Employment) Act 1998. This law was enacted as a direct result of recommendations from the Wood Royal Commission and its examination of paedophiles. To argue that the suppression order is to protect the carriage of justice and the reputation of the teacher and school is a quaint logic which must also support the argument that the students and parents of the school are not entitled to know their teachers and are not entitled to make a judgment about the suitability of a particular teacher to whom the parents have entrusted their sons and daughters. This law was enacted to try and end the ‘bees to the honey pot’ culture that attracts child sex predators to such places as schools, children’s institutions, and religious and youth groups.

The Child Protection (Prohibited Employment) Act must not be watered down by a series of precedent setting decisions. I am amazed that such a potential watering down could occur in the seemingly unsuitable, dry jurisdiction of industrial relations. I note with concern the backup of cases with suppression orders. I think it is time that parents who entrust the safety and wellbeing of their children to the institution are consulted and that these cases stand the test of public scrutiny. I note that convicted child sex offenders in New South Wales can readily escape the provisions of the New South Wales act by vacating New South Wales. For too long, a culture of silence has protected many people who have seen it as a perk of office to have sex with children. This culture of silence, originally developed to protect pre-1984 lifestyle criminality but sadly now holding these people to ransom, protects paedophiles, drug traffickers and other criminal elements and has invaded and compromised, in my home state of New South Wales, sections of our parliamentary, judicial, legal and religious institutions.

There should be no higher priority for any government than the safety of our children and their protection from predators such as the ones highlighted tonight on the ABC Four Corners program in its expose of the child porn ring Wonderland. Most child sex offenders are compulsive serial offenders—a fact which should serve to reinforce my call to demand full public scrutiny of those in our New South Wales schools whom the parents entrust with the care and safety of their children, and to demand the lifting of the suppression orders on these teachers seeking relief from the Child Protection (Prohibited Employment) Act. It is time the New South Wales Attorney-General investigated and reported why parents are not being told what they have a right to know.

United States: Conduct of Presidential Election

Child Sexual Abuse

Senator SCHACHT (South Australia) (10.27 p.m.)—I want to use the opportunity of the adjournment debate to speak on two different matters. Firstly, I will make some remarks on the American presidential election last year. Secondly, I want to comment briefly on the contribution made tonight by Senator Heffernan.

In my time in the Senate I have taken considerable interest, through the Joint Standing Committee on Foreign Affairs, Defence and Trade and in particular its Human Rights Subcommittee, in the issue of the proper conduct around the world of free elections.
that lead to results where the will of the people is clearly reflected. Australia has had a very proud role in assisting in overseeing elections in the last 20-odd years. In particular, officials from our Electoral Commission have assisted in the conduct of elections in countries emerging from totalitarian regimes. Our officials were involved in elections as long ago as the Zimbabwe elections more than two decades ago and, more recently, in Cambodia. We have had observers at elections elsewhere in Africa, but I am referring particularly to the involvement of our electoral officials.

The reason our electoral officials are asked is because we have a system in Australia under the Commonwealth Electoral Act, established by this parliament, of independent professional public servants who run the electoral system in accordance with the law this parliament has passed and maybe amended from time to time. That has meant that there is very little argument at the end of the day about the conduct of elections in Australia and about the outcomes. No matter how partisan we may be in election campaigns, on election night and in the days that follow everybody knows the process, everybody accepts it and the public has great confidence in it.

It is unfortunate, therefore, that the leading democracy of the world has the most ramshackle election processes that one could imagine, and that is of course the United States of America. People have warned for years that the way the Americans administer and conduct their elections could ultimately lead to a dispute that would bring great stress and undermine the result. Unfortunately, the election last year in America brought about exactly what some people had been predicting. Overwhelmingly that result was brought about by the fact that America does not have a national electoral commission, as we do in Australia. Elections are not conducted in accordance with electoral legislation of the national Congress or, in many cases, even of the state legislatures, but are under the control of the county organisations. So, as we saw in that amazing situation in Florida, different counties had different interpretations of how the votes should be counted or not counted.

In Australia, if you had suggested in a close count that any candidate could not ask for a hand recount of every ballot paper, both formal and informal, you would have been laughed out of our democratic system. But that is exactly what happened in Florida. In some counties it was decided not to count or check what we would call the informal vote. As a result, by a margin that varies between 300 to 500 votes, Mr Bush was declared elected—but only after the intervention of the Supreme Court of the United States, which, in a five to four vote, said that the votes could not be hand checked because there was not enough time.

That decision of the American Supreme Court received considerable criticism—and so it should. In particular, one would have to doubt the credibility of the court when one finds that the Chief Justice of the American Supreme Court, Justice Rehnquist, has been identified as trying on behalf of the Republican Party, way back in the 1960s when he was a lawyer in the state of Arizona, to stop minority groups—blacks and people with a Spanish background—from voting in certain polling booths. In those days in Arizona they had very restrictive rules to try to limit people’s voting. Mr Rehnquist was part of an organisation that, on polling day, was out there trying to stop people exercising their right to vote. His was the fifth vote, if you like, in the five to four vote that said that there should not be a hand check in Florida, that the result as declared by partisan officials—part of the Republican administration of that state—for partisan reasons should stand.

So in the United States of America, an American President, Mr Bush, not only got elected with 500,000 votes less than the popular vote for his opponent but also was elected in the state of Florida under their electoral college by a margin of 300 or 400 votes when all the ballot papers were not able to be checked. Since then, under freedom of information, a number of newspapers have had access to those ballot papers and have shown that, if they had been allowed to be checked, Mr Gore probably would have won the election. Irrespective of what the
newspapers may estimate, the absurdity is that the Supreme Court of the United States said that you could not check every ballot paper—that had to be stopped. If, for example, in the election in Cambodia, which the UN conducted, it had been said in a disputed region that the result was very close but, by the way, they were not going to hand check a number of the informal votes, America would have quite rightly been one of the first countries complaining that that result had been rigged. Yet in their own system, because of their own lack of a national electoral commission running properly and separate from political parties, they have allowed a President to be elected when there is some doubt about his legitimacy. Unfortunately, it is hard to have confidence that the American Supreme Court and this particular Chief Justice, Justice Rehnquist—looking at his record in the 1960s—did not make a partisan decision in favour of the party that appointed five of the nine judges. That is very unfortunate, and I think a lot of people around the world are disappointed in view of the fact that America plays a particular role in promoting, and being the leader of, the free world.

There is another matter that I would like to comment briefly on. Senator Heffernan made some remarks about the problems of paedophilia in Australia. He has a very strong view—quite rightly—like the rest of us, but I believe that the way to deal with this is not to automatically chase people down and expose them in the way that I think Senator Heffernan may be suggesting. I do not think that, in the end, will deal with the problem. It is a very widespread problem. I saw the Four Corners program tonight. It was horrifying to see how a group of people had used the Internet system to abuse children in the most horrific way. I would point out to Senator Heffernan that there are a whole range of issues in our schools. For example, I was just as horrified by the fact that a school such as Trinity College in New South Wales had apparently not acted quickly enough to get rid of the bullying, which also included sexual abuse between students and students being victimised by other students in the school. I think that is an equally important matter. But, again, one should not raise it in a sensational way. One has to hope that the schools and the education system deal with it in a rational way and adopt better practices to ensure that these things do not happen as regularly as they have unfortunately been happening in our community.

United States: Conduct of Presidential Election

Senator McGauran (Victoria) (10.36 p.m.)—I did not think I would be speaking on the American election results this evening, but I feel obliged to counter Senator Schacht’s points—although he may have come in a bit more prepared than I have. I do agree with him that the American system as compared with the Australian system just does not shape up. We have a lot to be proud of in this great democracy of ours. There are holes everywhere in the American electoral system, because it is based primarily on the county system, which is just so foreign to us. I hope the Americans move to change that. That would be the answer to the dilemma they have just experienced in their electoral system.

Senator Schacht stands up here and says, ‘Therefore the system is not fair.’ But they all played under those rules, Senator Schacht. When you say that Vice-President Gore received more votes and therefore should have been elected, you are trying to rewrite the rules. It is a sour tactic; it is a failed tactic. The fact is that the American system runs on the college system. That is what both men went into the race knowing, and that is the result. It is pure sour grapes. Having not agreed with the American electoral college system, you then turn your attack on the American Supreme Court. Not even the Gore camp attacked the Supreme Court decision.

Senator Schacht—I beg your pardon?

Senator McGauran—They did not. Then you scratched the surface even more. You then, not accepting the Supreme Court judgment—

The President—Senator McGauran, you should be addressing your remarks to the chair, not across the chamber.

Senator McGauran—A common failing of mine. Madam President, Senator Schacht did not accept the judgment of the
Supreme Court based on the Constitution. They were trapped by their own constitution with their decision. Therein lies the reason they gave that decision. They said, ‘Yes, a count can be undertaken, but not within the constitutional time limits.’ The court was trapped by their own constitution, whatever opinion they had. I have never heard that story about this particular Supreme Court judge before, and I remember when I watched the CNN religiously that not one person attacked the integrity of any judge on the Supreme Court. This is the first we have ever heard of some scurrilous story that Senator Schacht has picked up in his travels about a certain Supreme Court judge in America.

Senator Schacht interjecting—

Senator McGauran—We never heard that story before until he told it in the Australian parliament. He has picked that up on some Washington corner last time in his travels. Senator Schacht, this is my point: why are you challenging the existing American electoral college system—I believe that is what it is called? Why are you attacking the integrity of the Supreme Court in their judgment? Madam President, why is Senator Schacht attacking the judgment of the American Supreme Court, based on the Constitution of America? Why is Senator Schacht attacking the integrity of the Supreme Court? Why? Because his side lost. I know that he is a long way from being an American Democrat, but his side lost. Further to that, he is absolutely wrong. Since the inauguration of President Bush, yes, there has been an FOI carried out by certain newspapers, I believe, in regard to the physical count. So they have continued the physical count beyond the inauguration of President Bush. What did they find? They found in the particular counties in Florida where it was disputed that President Bush won the hand count. It did not get much publicity, did it? But he actually won the count.

Senator Schacht interjecting—

Senator McGauran—You say he did not; I am saying he did. Let us clear this up tomorrow in the adjournment debate. Those FOIs found that, even where there had been a hand count, President Bush won—narrowly, but he hung on to his narrow lead. I make that point.

Senate adjourned at 10.41 p.m.

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:
Aged Care Act—Schedule of Residential Care Services determined to be Adjusted Residential Care Services as at 1 November 2000.
Civil Aviation Act—Civil Aviation Regulations—
  Civil Aviation Orders—
    Instruments Nos CASA 98/01 and CASA 108/01.
    Statutory Rules 2001 No. 34.
Class Ruling CR 2001/1
Copyright Act—Regulations—Statutory Rules 2001 No. 29.
Export Inspection (Service Charge) Act—
  Regulations—Statutory Rules 2001 No. 28.
Migration Act—Regulations—Statutory Rules 2001 No. 27.
Navigation Act and Protection of the Sea (Prevention of Pollution from Ships) Act—
Product Ruling PR 2001/16.
Superannuation Industry (Supervision) Act—
Textile, Clothing and Footwear Strategic Investment Program Act—Textile, Clothing and Footwear Strategic Investment Program Scheme Amendment 2001 (No. 1).
Indexed Lists of Files

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

Indexed lists of departmental and agency files for the period 1 July to 31 December 2000—Statements of compliance—Department of Communications, Information Technology and the Arts.

Environment and Heritage portfolio.

PROCLAMATIONS

A proclamation by His Excellency the Governor-General was tabled, notifying that he had proclaimed the following provisions of an Act to come into operation on the date specified:

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Administrative Arrangements Orders
(Question No. 168)

Senator Faulkner asked the Minister representing the Prime Minister, upon notice, on 23 November 1998:

For each government department and portfolio agency:

(1) With reference to the new administrative arrangements orders (AAO), can the following details be provided:
   (a) a breakdown of staffing numbers as at October 1998 (ie before machinery of government changes) for each department and agency;
   (b) each new departmental structure and reporting arrangements including functions lost and where they have gone, and functions gained and where they originated; and
   (c) a breakdown of the financial implications for each department or agency arising from the new AAO.

(2) With reference to the staffing changes arising from the new AAO, can the following details be provided:
   (a) where a function has been moved from a department:
      (i) the number of positions and staff employed in that work unit, and how many positions and staff followed the function to the department,
      (ii) the number of positions and staff, and their classification, from that work unit that have remained in the department,
      (iii) the number and classification of staff who will be deemed surplus to requirement, and
      (iv) the number of staff who will take a redundancy;
   (b) where redundancies have been taken, were they voluntary or forced;
   (c) what is the cost of these redundancies; and
   (d) where a department has gained a function, the number and classification of positions and staff who will transfer to that department with that function.

(3) With reference to changes to property and rent requirements arising from the new AAO, can the following details be provided:
   (a) a list of the locations where each department currently accommodates staff, including:
      (i) how many are at each location,
      (ii) the amount of space rented, per square metre, and
      (iii) what rate of rent is paid per square metre.
   (b) how the AAO changes will affect each department’s accommodation requirements;
   (c) where functions have been removed from a department:
      (i) the amount of space that will now be vacant and where,
      (ii) the short- and long-term plans for using this space, and
      (iii) what will be the costs of terminating leases or retaining unused space; and
   (d) where a department has gained functions;
      (i) the amount of additional space that will now be required and where,
      (ii) the short- and long-term plans for providing this space, and
      (iii) at what cost.

(4) With reference to the outsourcing of government information technology (IT) services and the new AAO, can the following details be provided:
(a) a brief update on where each department was in terms of progress towards outsourcing of IT requirements, as at October 1998 (ie before machinery of government changes);
(b) any changes to each department's IT outsourcing planning because of the new AAO; and
(c) whether any department or agency will have to renegotiate IT service contracts, either current or pending; if so, are negotiations underway or completed; if completed, what is the financial impact for the Commonwealth and, if categorised commercial-in-confidence, indicate whether the new renegotiated contract is a net cost or saving.

(5) With reference to agencies' workplace agreements and the new AAO can the following details be provided:
(a) where a department is gaining staff from another agency, will they be transferred across retaining their current classification structure, conditions and pay rates under their former agency's workplace agreement, or will they be reclassified and transferred to the new department's workplace agreement;
(b) how will the 'no-disadvantage' test be applied; and
(c) what are the financial implications to the department and to the individual members of staff of the application of workplace agreements to new staff.

(6) With reference to the corporate, legal and public relations services and the new AAO, can the following details be provided:
(a) where any corporate, legal or public relations services have been outsourced by each department or agency, what changes or impacts have arisen from the new AAO; and
(b) will any such contracts need to be renegotiated or terminated as a result; if so, at what cost.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator's question:
I am advised by my department as follows:

(1) to (6)
The following re-allocation of functions was effected by the Administrative Arrangements Order of 21 October and 17 December 1998

AGRICULTURE, FISHERIES & FORESTRY
Gains:  Agrifood, including Supermarket to Asia (from the industry portfolio); United Nations Food & Agriculture Organisation (from the foreign affairs portfolio)
Losses:  Petroleum and minerals (to the industry portfolio); Resources and energy (to the industry portfolio); Australian Geological Survey Organisation excluding land and water resources (to the industry portfolio)
Total staffing:

<table>
<thead>
<tr>
<th>30/6/98</th>
<th>30/6/99</th>
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</thead>
<tbody>
<tr>
<td>3,886</td>
<td>3,722</td>
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</table>

ATTORNEY-GENERAL'S
Gains:  Customs other than tariffs and excise (from the industry portfolio); Native Title (apart from funding of bodies representing claimants under the Native Title Act which remains with ATSIC) (from the Prime Minister’s portfolio)
Losses:  Family Relationship Services programme (to the family and community services portfolio)
Total staffing:

<table>
<thead>
<tr>
<th>30/6/98</th>
<th>30/6/99</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,627</td>
<td>2,515</td>
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</table>

COMMUNICATIONS, INFORMATION TECHNOLOGY & THE ARTS
Gains:  Information industries/Year 2000 (from the industry portfolio); Office of Government Information Technology (from the finance portfolio)
Losses:  Built heritage and shipwrecks (to the environment portfolio)
<table>
<thead>
<tr>
<th></th>
<th>30/6/98</th>
<th>30/6/99</th>
</tr>
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<tr>
<td><strong>Total staffing:</strong></td>
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<tr>
<td></td>
<td>1,379</td>
<td>1,460</td>
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<tr>
<td><strong>DEFENCE</strong></td>
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<tr>
<td>No Change</td>
<td></td>
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<tr>
<td><strong>EDUCATION, TRAINING &amp; YOUTH AFFAIRS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Gains:</strong></td>
<td>None</td>
<td></td>
</tr>
<tr>
<td><strong>Losses:</strong></td>
<td>Employment (to the employment portfolio); Australian Maritime College (to the transport portfolio)</td>
<td></td>
</tr>
<tr>
<td><strong>Total staffing:</strong></td>
<td></td>
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<tr>
<td></td>
<td>4,511</td>
<td>1,597</td>
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<tr>
<td><strong>EMPLOYMENT, WORKPLACE RELATIONS &amp; SMALL BUSINESS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Gains:</strong></td>
<td>Employment (from the education portfolio); International Labour Organisation (from the foreign affairs portfolio – AAO transfer on 17 December 1998)</td>
<td></td>
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<tr>
<td><strong>Losses:</strong></td>
<td>Maritime policy and transport (to the transport portfolio)</td>
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<td><strong>Total staffing:</strong></td>
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<td><strong>ENVIRONMENT &amp; HERITAGE</strong></td>
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<td><strong>Gains:</strong></td>
<td>Built heritage and shipwrecks (from the communications portfolio); Aboriginal heritage protection (from the Prime Minister’s portfolio (ASTIC) – AAO transfer on 17 December 1998)</td>
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<tr>
<td><strong>Losses:</strong></td>
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<td><strong>Total staffing:</strong></td>
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<td></td>
<td>1,261</td>
<td>1,732</td>
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<tr>
<td><strong>FAMILY &amp; COMMUNITY SERVICES</strong></td>
<td></td>
<td></td>
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<td><strong>Gains:</strong></td>
<td>Family and children’s services, including disability services (from the health portfolio); Child Support Agency (from the Treasury portfolio - ATO); Family Relationship Services programme (from the Attorney-General’s portfolio); Australian Institute of Family Studies (from the health portfolio)</td>
<td></td>
</tr>
<tr>
<td><strong>Losses:</strong></td>
<td>None</td>
<td></td>
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<td><strong>Total staffing:</strong></td>
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<td><strong>FINANCE &amp; ADMINISTRATION</strong></td>
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<td></td>
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<tr>
<td><strong>Gains:</strong></td>
<td>Client service charters implementation unit (from the industry portfolio)</td>
<td></td>
</tr>
<tr>
<td><strong>Losses:</strong></td>
<td>Australian Made Logo Scheme (to the industry portfolio); Office of Government Information Technology (to the communications portfolio); Office of Government Information and Advertising (to the Prime Minister’s portfolio); Government Photographic Service (AUSPIC) (to the Prime Minister’s portfolio)</td>
<td></td>
</tr>
<tr>
<td><strong>Total staffing:</strong></td>
<td></td>
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<tr>
<td></td>
<td>3,039</td>
<td>1,925</td>
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<tr>
<td><strong>INDUSTRY, SCIENCE &amp; RESOURCES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Gains:</strong></td>
<td>Resources and energy (from the agriculture portfolio); Petroleum and minerals (from the agriculture portfolio); Australian Geological Survey Organisation excluding land and water resources (from the agriculture portfolio); Australian Made Logo Scheme (from the finance portfolio)</td>
<td></td>
</tr>
</tbody>
</table>
**Losses:** Agrifood functions, including Supermarket to Asia (to the agriculture portfolio); Customs (to the Attorney-General’s and Treasury portfolios – Note responsibility for the trade measures review office was transferred from the industry portfolio to the Attorney-General’s portfolio on 17 December 1998); Client service charters implementation unit (to the finance portfolio); Consumer affairs, excluding country of origin labelling (to the Treasury portfolio); Export Finance & Insurance Corporation (to the foreign affairs portfolio); Information industries/Year 2000 (to the communications portfolio); International expositions (to the foreign affairs portfolio)

**Total staffing:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Staffing</th>
</tr>
</thead>
<tbody>
<tr>
<td>30/6/98</td>
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<td>2,391</td>
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</tbody>
</table>

**PRIME MINISTER & CABINET**

**Gains:** Office of Government Information and Advertising (subsequently renamed Government Communications Unit) (from the finance portfolio); Government Photographic Service (AUSPIC) (from the finance portfolio)

**Losses:** Native Title apart from responsibility for funding of bodies representing claimants under the Native Title Act (to the Attorney-General’s portfolio); Aboriginal heritage protection (to the environment portfolio – AAO transfer on 17 December 1998)

**Total staffing:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Staffing</th>
</tr>
</thead>
<tbody>
<tr>
<td>30/6/98</td>
<td>452</td>
</tr>
<tr>
<td>30/6/99</td>
<td>458</td>
</tr>
</tbody>
</table>

**TRANSPORT & REGIONAL SERVICES**

**Gains:** Maritime policy and transport (from the employment portfolio); Australian Maritime College (from the education portfolio); Rural Transaction Centres (election commitment)

**Losses:** None

**Total staffing:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Staffing</th>
</tr>
</thead>
<tbody>
<tr>
<td>30/6/98</td>
<td>843</td>
</tr>
<tr>
<td>30/6/99</td>
<td>906</td>
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</table>

**TREASURY**

**Gains:** Consumer affairs apart from country of origin labelling (from the industry portfolio); Excise (from the industry portfolio)

**Losses:** Child Support Agency (to the family and community services portfolio)

**Total staffing:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Staffing</th>
</tr>
</thead>
<tbody>
<tr>
<td>30/6/98</td>
<td>548</td>
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<tr>
<td>30/6/99</td>
<td>542</td>
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</table>

**Australian Taxation Office**

**Total staffing:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Staffing</th>
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</thead>
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<tr>
<td>30/6/98</td>
<td>17,581</td>
</tr>
<tr>
<td>30/6/99</td>
<td>15,266</td>
</tr>
</tbody>
</table>

Where staff transfers were involved, these occurred after discussions between agencies in relation to numbers, timing and conditions of employment. Although the general approach of staff following functions was appropriately followed in most cases, in some instances the movement of functions did not result in staff movements but in subsequent financial adjustments.

The administrative arrangement changes, while not as extensive as some in the past, nonetheless were afforded careful management and in some cases staged implementation by agency heads. As the changes were made alongside routine administrative and management decisions involving staffing levels and the performance of functions, it is not possible to attribute in the detail sought the precise implications of the changes. Significant financial, staffing and management impacts were reported in agencies’ annual reports.
Members and Senators: Telecard Expenditure
(Question No. 3105)

Senator Murray asked the Special Minister of State, upon notice, on 11 October 2000:
With reference to the government telecard issued to members and senators, what is the total expenditure for each individual member and senator for the 1999-2000 financial year?

Senator Ellison—The Special Minister of State has provided the following answer to the honourable senator’s question:
Details of Telecard usage 1999-2000. Please note comments below the table.

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<thead>
<tr>
<th>Name</th>
<th>Telecard usage (adjusted for discount)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABBOTT, the Hon Tony</td>
<td>Nil</td>
</tr>
<tr>
<td>ABETZ, Senator the Hon Eric</td>
<td>55.93</td>
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<tr>
<td>ADAMS, the Hon Dick #</td>
<td>1,053.93</td>
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<td>ALBANESI, Mr Anthony</td>
<td>28.68</td>
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<tr>
<td>ALLISON, Senator Lyn</td>
<td>Nil</td>
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<tr>
<td>ALSTON, Senator the Hon Richard</td>
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<tr>
<td>ANDERSON, the Hon John</td>
<td>Nil</td>
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<tr>
<td>ANDREN, Mr Peter</td>
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<tr>
<td>ANDREWS, Mr Kevin</td>
<td>348.28</td>
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<tr>
<td>ANTHONY, the Hon Larry</td>
<td>Nil</td>
</tr>
<tr>
<td>BAILEY, Ms Fran</td>
<td>18.35</td>
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<tr>
<td>BAIRD, the Hon Bruce</td>
<td>Nil</td>
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<tr>
<td>BARRESI, Mr Philip</td>
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<tr>
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<td>BEVIS, the Hon Arch</td>
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<td>BRERETON, the Hon Laurie</td>
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<tr>
<td>Name</td>
<td>Telecard usage (adjusted for discount)</td>
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<tr>
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<td>WORTH, the Hon Trish</td>
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<td>ZAHRA, Mr Christian</td>
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</tbody>
</table>

# Footnote requested by individual Senators & Members:

- Mr Prosser wanted the following noted: “Mr Prosser was a Member of the Parliamentary Government Delegation to the 54th Session of the United Nations General Assembly in New York between 17 September and 19 December 1999.”
- Mr Smith wanted the following noted: “In respect of calendar year 1999, the amount reflects the provision to the Member of a lap-top computer for which telecard usage is authorised to facilitate on-line communication.”
- Mr Adams wanted the following noted: “My usage has been restricted to the times the computer is used in the electorate and not in the dock.

* Former Senator or Member who served during 1999-2000 financial year.

**Arts Network East Gippsland: Funding**  
(Question No. 3190)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts, upon notice, on 30 November 2000:

(1) What was the level of funding provided to the Arts Network East Gippsland in the 1998-99 and 1999-2000 financial years.

(2) Under what programs were these funds provided.

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

(1) Nil.

(2) N/A

Note: In 1999-2000, ABC Online received an Australia Council grant of $52,590 under the Partnerships category of the Council’s Community Cultural Development Fund for a partnership project between the ABC, Arts Network East Gippsland and Vic. Net to provide on-line publishing opportunities for Gippslanders. Arts Network East Gippsland did not receive funding from the grant, instead Arts Network East Gippsland provided in-kind support to the partnership.

**Superannuation: Surviving Spouses Benfits**  
(Question No. 3249)

Senator Brown asked the Minister representing the Minister for Finance and Administration, upon notice, on 19 January 2001:

Is it true that pre-1976 superannuants (since 1922) do not get the benefit whereby a surviving spouse is allowed the full pension for 6 weeks before it drops to a 5/8 pension?

Senator Abetz—The Acting Minister for Finance and Administration has supplied the following answer to the honourable senator’s question:

Pensions to surviving spouses of pensioners under the Superannuation Act 1922 (the 1922 Act) are paid at the rate of 67 per cent (or higher if there are eligible children) of the pensioner’s rate from the date of death of the pensioner.

ATTACHMENT A

**SPOUSE’S PENSION UNDER THE SUPERANNUATION ACT 1922 - CONTINUATION AT THE FULL RATE FOR 7 PAYDAYS AFTER THE DEATH OF A PENSIONER.**

This paper explains the background to arrangements in the CSS and the PSS that are referred to by the Superannuated Commonwealth Officers' Association (the SCOA) as the “bereavement package” and looks at the case for its extension to the Superannuation Act 1922 (the 1922 CSS).

The bereavement package is the arrangement in the CSS and the PSS whereby a spouse's pension is paid at the full pensioner's rate for the 7 paydays (6 fortnights) following the death of a pensioner before being reduced to the lower (67%) spouse’s rate.
The "bereavement package":
was introduced originally into the CSS and the PSS to assist the scheme administrators with a situation
which was causing overpayments of pensions where the death of a pensioner was not advised for a
number of paydays after the date of death;
was based, in design, on the social welfare and veteran’s affairs benefit which is to assist a spouse to
cope with additional expenses arising from the death of the pensioner system (on the death of one part-
ner pension is continued at the full (unreduced) rate for 7 paydays before reducing to the single rate);
and
was funded from expected savings from reduced availability of CSS and PSS invalidity benefits.
The "bereavement package" was not extended to the 1922 CSS. As there are only pensioners in that
scheme no savings could be made from the invalidity retirement procedures changes or any aspect of
that scheme.
Proponents of extending the bereavement package to the 1922 CSS generally support this with two ar-
guments, ie, costs and equity.

Cost
In relation to costs the claim is that the Government saves money when a pensioner dies so there are
savings to fund the benefit. This claim does not stand scrutiny. The Commonwealth’s superannuation
costs already take into account life expectancies. Also such comments do not take into account the fact
that life expectancy has improved since the 1922 CSS scheme was introduced (and since it was closed
in 1976) and as a consequence, overall costs for the 1922 CSS, if anything, are more likely to increase
compared with previous expectations.
The cost of extending the bereavement package to the 1922 CSS has reduced considerably since it
commenced in the CSS and the PSS in 1990. There are now only 3,661 1922 CSS pensioners remain-
ing. If it is assumed that 75% will be survived by a spouse the average annual cash cost would be
around $225,000 per annum in today’s dollars. The full cost over the expected life of the scheme is
estimated to be of the order of $3m npv.
No savings from the 1922 CSS can be envisaged as that would mean reducing pensions paid under that
Act.

Equity
On equity grounds it has been argued that the 1922 CSS should line up with the other Commonwealth
schemes. Also, it is pointed out that unlike 1922 CSS pensioners, many CSS pensioners will receive
the bereavement package even though they were retired before the new invalidity retirement processes
(which funded the bereavement package in the CSS) commenced. However, there were differences in
the pensions payable under the CSS and the 1922 CSS before the introduction of the bereavement pack-
age and in some cases the 1922 CSS is more generous than the CSS. For example, the whole of the
benefit under the 1922 CSS (ie, both the employer and member-financed components) had to be taken
as a pension and, unlike the CSS, the whole of the pension is indexed (ie increased to maintain its pur-
chasing power). In the CSS only the employer-financed part of the pension is indexed. Also, CSS mem-
bers must serve longer and to a greater age before qualifying for maximum benefits than was the case
for the 1922 CSS.
There are other equity considerations other than the comparison between the various schemes. Persons
who have qualified for a spouse’s benefit in the 1922 CSS could be aggrieved if the benefit is intro-
duced for future spouses’ benefits only.

Department of Education, Training and Youth Affairs: Contracts to Deloitte Touche
Tohmatsu
(Question No. 3263)

Senator Robert Ray asked the Minister representing the Minister for Education, Training
and Youth Affairs, upon notice, on 24 January 2001:
(1) What contracts has the department, or any agency of the department, provided to the firm Deloitte
(2) In each instance what was the purpose of the work undertaken by Deloitte Touche Tohmatsu.
(3) In each instance what has been the cost to the department of the contract.
In each instance what selection process was used to select Deloitte Touche Tohmatsu (open tender, short-list or some other process).

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

The Department of Education, Training & Youth Affairs and its agencies have provided the following contracts to Deloitte Touche Tohmatsu in 1999-2000:

<table>
<thead>
<tr>
<th>Firm</th>
<th>Purpose</th>
<th>Cost (paid 99-2000)</th>
<th>Selection process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deloitte Touche Tohmatsu</td>
<td>Analysis of 1998 Financial Statement of Higher Education Institutions</td>
<td>$30,925</td>
<td>Not advertised because value was not expected to meet Departmental Threshold for advertising—3 written quotes required, exemption obtained based on pre-eminent expertise—only one supplier approached</td>
</tr>
<tr>
<td>Deloitte Touche Tohmatsu</td>
<td>The Review of Greenwich University's Financial Credentials</td>
<td>$19,500</td>
<td>Not advertised because value was not expected to meet Departmental Threshold for advertising—3 written quotes required, exemption obtained based on pre-eminent expertise—only one supplier approached</td>
</tr>
<tr>
<td>Deloitte Touche Tohmatsu</td>
<td>SAPfihre Phase 2 Post Implementation Audit</td>
<td>$19,200</td>
<td>Not advertised - exemption Pre-eminent expertise – only one supplier approached</td>
</tr>
<tr>
<td>Deloitte Touche Tohmatsu</td>
<td>SAPfihre and APMIS GST payment processing review</td>
<td>$56,000</td>
<td>Not advertised - exemption Pre-eminent expertise – only one supplier approached</td>
</tr>
</tbody>
</table>

The Australian National University is also listed under the Administrative Arrangement Orders as a responsibility of the Minister’s portfolio for the period in question. The Australian National University has not been approached in preparing a response to the question because it operates with a greater degree of autonomy than other Departmental agencies.

Department of Education, Training and Youth Affairs: Contracts to KPMG (Question No. 3280)

Senator Robert Ray asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 24 January 2001:

(1) What contracts has the department, or any agency of the department, provided to the firm KPMG in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by KPMG.

(3) In each instance what has been the cost to the department of the contract.

(4) In each instance what selection process was used to select KPMG (open tender, short-list or some other process).

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

The Department of Education, Training & Youth Affairs and its agencies have provided the following contracts to KPMG in 1999-2000:

<table>
<thead>
<tr>
<th>Firm</th>
<th>Purpose</th>
<th>Cost (paid 99-2000)</th>
<th>Selection process</th>
</tr>
</thead>
<tbody>
<tr>
<td>KPMG Limited</td>
<td>Australia Assistance with DETYA GST implementation</td>
<td>$238,811</td>
<td>Not advertised - exemption due to inexpediency</td>
</tr>
<tr>
<td>KPMG Consulting</td>
<td>Consulting Stage 1 of review costs of providing higher education teaching and research training</td>
<td>$167,000</td>
<td>Not advertised - exemption Pre-eminent expertise – select tender conducted</td>
</tr>
</tbody>
</table>
Senator Robert Ray asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 24 January 2001:

(1) What contracts has the department, or any agency of the department, provided to the firm PricewaterhouseCoopers in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by PricewaterhouseCoopers.

(3) In each instance what has been the cost to the department of the contract.

(4) In each instance what selection process was used to select PricewaterhouseCoopers (open tender, short-list or some other process).

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

The Department of Education, Training & Youth Affairs and its agencies have provided the following contracts to PricewaterhouseCoopers in 1999-2000:

<table>
<thead>
<tr>
<th>Firm</th>
<th>Purpose</th>
<th>Cost (paid 99-2000)</th>
<th>Selection process</th>
</tr>
</thead>
<tbody>
<tr>
<td>PricewaterhouseCoopers</td>
<td>Provision of Advice on Establishment and Operation of Fidelity Funds</td>
<td>$16,000</td>
<td>Not advertised because value was not expected to meet Departmental Threshold for advertising - 3 written quotes required and obtained.</td>
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<tr>
<td>PricewaterhouseCoopers</td>
<td>Examine the financial statements of 60 schools and provide a report on each schools, a final report and any recommendations</td>
<td>$39,000</td>
<td>Not advertised because value was not expected to meet Departmental Threshold for advertising - 3 written quotes required, exemption obtained based on pre-eminent expertise – only one supplier approached.</td>
</tr>
<tr>
<td>PricewaterhouseCoopers</td>
<td>Development of a rational funding model</td>
<td>$35,000</td>
<td>Select tender process conducted. Specialist field of work and initial cost.</td>
</tr>
</tbody>
</table>

The Australian National University is also listed under the Administrative Arrangement Orders as a responsibility of the Minister’s portfolio for the period in question. The Australian National University has not been approached in preparing a response to the question because it operates with a greater degree of autonomy than other Departmental agencies.
<table>
<thead>
<tr>
<th>Firm</th>
<th>Purpose</th>
<th>Cost (paid 99-2000)</th>
<th>Selection process</th>
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</thead>
<tbody>
<tr>
<td>PricewaterhouseCoopers</td>
<td>Review of National ITABs Round 3</td>
<td>$79,600</td>
<td>Contract for Round 1 of the review was offered for open tender. The contract was signed for the first round with engagement for subsequent rounds subject to satisfactory performance by the consultant in the preceding round. PricewaterhouseCoopers performance at the end of round 2 was assessed as satisfactory</td>
</tr>
<tr>
<td>PricewaterhouseCoopers</td>
<td>Review of Recognised Bodies</td>
<td>$85,000</td>
<td>PricewaterhouseCoopers were invited to conduct the review on the basis of their satisfactory performance in the Review of National ITABs and the link between that project and the Review of Recognised Bodies. The selection of PricewaterhouseCoopers was taken to avoid unnecessary setup costs and delays in completing the review and to build on the synergy created in the review of the national ITABs.</td>
</tr>
</tbody>
</table>

The Australian National University is also listed under the Administrative Arrangement Orders as a responsibility of the Minister’s portfolio for the period in question. The Australian National University has not been approached in preparing a response to the question because it operates with a greater degree of autonomy than other Departmental agencies.

### Department of Education, Training and Youth Affairs: Contracts to Ernst and Young (Question No. 3314)

**Senator Robert Ray** asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 24 January 2001:

1. What contracts has the department, or any agency of the department, provided to the firm Ernst and Young in the 1999-2000 financial year.
2. In each instance what was the purpose of the work undertaken by Ernst and Young.
3. In each instance what has been the cost to the department of the contract.
4. In each instance what selection process was used to select Ernst and Young (open tender, short-list or some other process).

**Senator Ellison**—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

The Department of Education, Training & Youth Affairs and its agencies provided the following contract to Ernst and Young in 1999-2000:

<table>
<thead>
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<th>Firm</th>
<th>Purpose</th>
<th>Cost (paid 99-2000)</th>
<th>Selection process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ernst and Young</td>
<td>Benchmarking/Market testing of selected Corporate Services Project</td>
<td>$532,261</td>
<td>Not advertised – Used existing Exclusive Use or Panel Arrangement</td>
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</tbody>
</table>

The Australian National University is also listed under the Administrative Arrangement Orders as a responsibility of the Minister’s portfolio for the period in question. The Australian National University has not been approached in preparing a response to the question because it operates with a greater degree of autonomy than other Departmental agencies.
Department of Education, Training and Youth Affairs: Contracts to Arthur Anderson
(Question No. 3331)

Senator Robert Ray asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 24 January 2001:
(1) What contracts has the department, or any agency of the department, provided to the firm Arthur Anderson in the 1999-2000 financial year.
(2) In each instance what was the purpose of the work undertaken by Arthur Anderson.
(3) In each instance what has been the cost to the department of the contract.
(4) In each instance what selection process was used to select Arthur Anderson (open tender, short-list or some other process).

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:
The Department of Education, Training & Youth Affairs and its agencies have provided no contracts to Arthur Anderson in 1999-2000.
The Australian National University is also listed under the Administrative Arrangement Orders as a responsibility of the Minister’s portfolio for the period in question. The Australian National University has not been approached in preparing a response to the question because it operates with a greater degree of autonomy than other Departmental agencies.

Special Minister of State: Executive Agencies
(Question No. 3376)

Senator Robert Ray asked the Special Minister of State, upon notice, on 29 January 2001:
(1) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained from the Attorney-General’s Department.
(2) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained by the department from other sources.

Senator Abetz—The answer to the honourable senator’s question is as follows:
(1) During 1999-2000 the costs of services provided by the Attorney General’s Department was $8,837.50. Services provided by the Australian Government Solicitor (which is a Commonwealth Authority established within the Attorney General’s portfolio) was $3,067,109.73.
(2) The cost of legal services provided by other firms in 1999-2000 was $3,973,214.45.

Education, Training and Youth Affairs Portfolio: Legal Advice from the Attorney-General’s Department
(Question No. 3377)

Senator Robert Ray asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 29 January 2001:
(1) What has been the total cost to the Department in the 1999/00 financial year of legal advice obtained from the Attorney-General’s Department?
(2) What has been the total cost to the Department in the 1999/00 financial year of legal advice obtained by the department from other sources?

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:
(1) The cost to the Department of Education, Training and Youth Affairs (DETYA) in the 1999/00 financial year of legal advice obtained from the Attorney-General’s Department was $4,373. The cost of legal advice obtained from the Australian Government Solicitor during the same period was $882,184. These figures include disbursement costs such as external counsel fees, photocopying and courier charges.
(2) The total cost to DETYA in the 1999/00 financial year of legal advice obtained from other external sources was $350,643. This figure includes disbursement costs such as external counsel fees, photocopying and courier charges.
Health and Aged Care Portfolio: Executive Agencies
(Question No. 3408)

Senator O’Brien asked the Minister representing the Minister for Health and Aged Care, upon notice, on 31 January 2001:

(1) How many executive agencies are there in the Minister’s portfolio.
(2) In each case: (a) when was the executive agency established; (b) why was the agency established; and (c) what was the cost of establishing the agency.
(3) In each case, can a breakdown of all costs incurred in establishing the executive agency be provided, including accommodation, human resources (including payroll management) and information technology resources.
(4) In each case, have any corresponding savings been identified by the department from the establishment of the executive agency.
(5) In each case, what is the public benefit flowing from the establishment of the executive agency.

Senator Vanstone—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

(1) Nil
(2) Not applicable
(3) Not applicable
(4) Not applicable
(5) Not applicable.

Education, Training and Youth Affairs Portfolio: Executive Agencies
(Question No. 3409)

Senator O’Brien asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 31 January 2001:

(1) How many executive agencies are there in the Minister’s portfolio.
(2) In each case: (a) when was the executive agency established; (b) why was the agency established; and (c) what was the cost of establishing the agency.
(3) In each case, can a breakdown of all costs incurred in establishing the executive agency be provided, including accommodation, human resources (including payroll management) and information technology resources.
(4) In each case, have any corresponding savings been identified by the department from the establishment of the executive agency.
(5) In each case, what is the public benefit flowing from the establishment of the executive agency.

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

(1) to (5) There are no Executive Agencies, as defined in the Public Service Act 1999, currently in the Department of Education, Training and Youth Affairs.

Immigration and Multicultural Affairs Portfolio: Executive Agencies
(Question No. 3412)

Senator O’Brien asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 31 January 2001:

(1) How many executive agencies are there in the Minister’s portfolio.
(2) In each case: (a) when was the executive agency established; (b) why was the agency established; and (c) what was the cost of establishing the agency.
(3) In each case, can a breakdown of all costs incurred in establishing the executive agency be provided, including accommodation, human resources (including payroll management) and information technology resources.
(4) In each case, have any corresponding savings been identified by the department from the establishment of the executive agency.

(5) In each case, what is the public benefit flowing from the establishment of the executive agency.

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

(1) None.

(2) to (5) Not applicable.

Sport and Tourism Portfolio: Executive Agencies
(Question No. 3417)

Senator O’Brien asked the Minister representing the Minister for Sport and Tourism, upon notice, on 31 January 2001:

(1) How many executive agencies are there in the Minister’s portfolio.

(2) In each case: (a) when was the executive agency established; (b) why was the agency established; and (c) what was the cost of establishing the agency.

(3) In each case, can a breakdown of all costs incurred in establishing the executive agency be provided, including accommodation, human resources (including payroll management) and information technology resources.

(4) In each case, have any corresponding savings been identified by the department from the establishment of the executive agency.

(5) In each case, what is the public benefit flowing from the establishment of the executive agency.

Senator Minchin—The Minister for Sport and Tourism has provided the following answer to the honourable senator’s question:

(1) Nil.

(2) Not applicable.

(3) Not applicable.

(4) Not applicable.

(5) Not applicable.