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SITTING DAYS—2001

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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on the following
Parliamentary and News Network radio stations, in the areas identified.

- CANBERRA 1440 AM
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- MELBOURNE 1026 AM
- ADELAIDE 972 AM
- PERTH 585 AM
- HOBART 729 AM
- DARWIN 102.5 FM
The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 9.30 a.m., and read prayers.

PETITIONS

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

Food Irradiation

To the honourable the President and the members of the Senate in Parliament assembled:

The petition of the undersigned shows:

The residents of Australia are opposed to any possible approval to the proposed nuclear irradiation plant for Narangba or any other location in Australia now or in the future. They are also grieved by the request of Application A413 to the Australia New Zealand Food Authority to include herbs and spices, herbal infusions, peanuts, cashew nuts, almonds and pistachio nuts in Standards A17 and 1.5.3 Irradiation of Foods in the Food Standards Code.

Your petitioners request that the Senate should:

• Have the Australia New Zealand Food Standards Council (ANZFSC) and the Australia New Zealand Food Authority (ANZFA) reject Application A413—a request to include herbs and spices, herbal infusions, peanuts, cashew nuts, almonds and pistachio nuts in Standards A17 and 1.5.3 Irradiation of Foods in the Food Standards Code.
• Amend Standards A17 and 1.5.3 Irradiation of Foods in the Food Standards Code to ban food irradiation outright in Australia and New Zealand.
• Prohibit the process of food irradiation for domestic or export consumption and the import and sale of irradiated foods in Australia.
• Prohibit the establishment of nuclear irradiation plants at any location in Australia now or in the future

by Senator Bartlett (from 641 citizens)

Asylum Seekers

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

Whereas the 1998 Synod of the Anglican Diocese of Melbourne carried without dissent the following Motion:

That this Synod regrets the Government’s adoption of procedures for certain people seeking political asylum in Australia which exclude them from all public income support while withholding permission to work, thereby creating a group of beggars dependent on the Churches and charities for food and the necessities of life;

and calls upon the Federal government to review such procedures immediately and remove all practices which are manifestly inhumane and in some cases in contravention of our national obligations as a signatory of the UN Covenant on Civil and Political Rights.

We, therefore, the individual, undersigned Members of the Wesleyan Methodist Church, Glenroy, Victoria 3046, petition the Senate in support of the abovementioned Motion.

And we, as in duty bound will every pray.

by Senator McGauran (from 52 citizens)

Petitions received.

BUSINESS

Government Business

Motion (by Senator Abetz) agreed to:

That the following government bills be considered from 12.45 p.m. till not later than 2 p.m. this day:

No. 7 Wool International Amendment Bill 2001,
No. 8 Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Bill 2001,
No. 9 Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Bill 2001,
No. 10 Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001,
No. 11 Family and Community Services Legislation Amendment (Application of Criminal Code) Bill 2001,
No. 12 Industry, Science and Resources Legislation Amendment (Application of Criminal Code) Bill 2001,
No. 13 Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Bill 2001,
No. 14 Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001,
No. 15 Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 3) 2001,
No. 16 Customs Tariff Amendment Bill (No. 5) 2001,

General Business

Motion (by Senator Abetz) agreed to:
That the order of general business for consideration today be as follows:
(1) general business notice of motion No. 1023 standing in the name of Senator Cook, relating to the effect of GST policies on small business; and
(2) consideration of government documents.

Consideration of Legislation

Motion (by Senator Abetz)—by leave—agreed to:
That the following government business orders of the day may be taken together for their remaining stages:
No. 14 Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001, and

NOTICES

Postponement

Motion (by Senator Abetz) agreed to:
That the business of the Senate notice of motion No. 1 standing in the name of the Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts (Senator Ian Campbell) for today, relating to the reference of the provisions of a bill to the Legal and Constitutional Legislation Committee, be postponed to a later hour.

INTERACTIVE GAMBLING AMENDMENT BILL 2001

First Reading

Motion (by Senator Abetz) agreed to:
That the following bill be introduced: A Bill for an Act to amend the Interactive Gambling Act 2001, and for related purposes

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

Bill read a first time.

Second Reading

Senator ABETZ (Tasmania—Special Minister of State) (9.34 a.m.)—I table the explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted

The speech read as follows—
The Interactive Gambling Act 2001 was passed by Parliament on 28 June 2001. With this Act, the Government took decisive action to address the further spread of problem gambling. The Act responds to serious community concern about the potential for online technologies to exacerbate problem gambling.

Under the Act it is now an offence to:

• provide an interactive gambling service to customers in Australia;
• provide an Australian-based interactive gambling service to customers in designated countries; and
• publish or broadcast an interactive gambling advertisement in Australia.

The advertising ban is a key element in minimising the accessibility of harmful forms of interactive gambling. The ban is comprehensive in its scope, and includes a prohibition on the promotion of ‘words that are closely associated with an interactive gambling service (whether also closely associated with other kinds of services or products)’. This provision is designed to prohibit the surreptitious marketing of interactive gambling services via, for example, the promotion of clothing or accessories bearing the service’s brand.

However, it has come to the Government’s attention that the ‘close association’ provision could unintentionally prohibit the advertising of land-based casinos in cases where those advertisements might be closely associated with an interactive gambling service.

For example, an Australian-licensed land-based casino might develop and provide an interactive gambling service wholly to customers outside Australia who are not in designated countries. Such a service would not be in contravention of the main offence provisions of the Act. However, if the land-based casino gives a name to its online service that is similar to the name for its land-based licensed service, there is a risk that over time advertisements for the land-based product will be ‘closely associated’ with the interactive gambling service that it provides legally outside Australia. The advertising prohibition in Part 7A of the Act, as originally introduced, did not intend
to prohibit the advertising of land-based casinos as outlined in this example.

While the Government is concerned about the growth and accessibility of offline gambling, this has always been a matter for States and Territories to address.

For this reason, the advertising ban needs to be amended to allow this unintended consequence to be rectified.

The Interactive Gambling Amendment Bill 2001 provides for a regulation-making power in relation to the advertising ban. Using this power, regulations may be made to exempt advertisements of a specified kind from the definition of ‘interactive gambling service advertisement’. These regulations will be disallowable by Parliament.

The Government will use the Ministerial Council on Gambling to continue to pressure States and Territories to combat the socially harmful effects of land-based gambling services.

Ordered that further consideration of this bill be adjourned to the first day of the 2002 autumn sittings, in accordance with standing order 111.

CENTENARY OF THE AUSTRALIAN NATIONAL FLAG

Motion (by Senator Abetz, at the request of Senator Hill) agreed to:

That the Senate—

(a) recognises and celebrates the centenary of the Australian National Flag which occurs on 3 September 2001;

(b) honours the ideals for which our national flag stands, including our history, geography and unity as a federated nation;

(c) notes that this is the world’s only national flag ever to fly over one entire continent;

(d) acknowledges that our flag has been Australia’s pre-eminent national symbol in times of adversity and war, peacetime and prosperity;

(e) recognises that our flag now belongs to the Australian people and has been an integral part of the expression of our national pride; and

(f) expresses its respect for the Australian National Flag as a symbol of our profound achievements as a federation; our independence and freedom as a people; and our optimism for a common future together.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Release of Documents

Senator O’BRIEN (Tasmania) (9.35 a.m.)—I ask that general business notice of motion No. 1024 standing in my name for today, relating to the release of unpublished documents provided to the Rural and Regional Affairs and Transport Legislation Committee, be taken as formal.

Leave not granted.

Suspension of Standing Orders

Senator O’BRIEN (Tasmania) (9.35 a.m.)—Pursuant to contingent notice, and at the request of the Leader of the Opposition in the Senate, Senator Faulkner, I move:

That so much of standing orders be suspended as would prevent Senator Faulkner 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. 1024.

Last night at the whips meeting when motions were debated I specifically asked how this motion would be dealt with. I was told the matter would be called formal. Today I have indicated to the Leader of the Government in the Senate that what he has done is a breach of that understanding, and a breach of that understanding without notice. If the leader ever wants to come in here and claim that he has been ambushed, he should be reminded that that is what he has just attempted to do.

I have no problem with seeking to deal with this matter. The matter goes to the releasing of certain documentary information in the possession of the committee secretariat. The matter has been the subject of debate in the Senate for some time. The particular information is the subject of advice which the Australian Government Solicitor has provided, which I would propose to deal with in the substantive debate on this matter if this matter is deemed to be urgent. It is a matter of great public interest.

Those who saw the Four Corners program on Monday would have seen that there is a great deal of public consternation about the
conduct of the search for a vessel known as the Margaret J. This information in the possession of the committee is extremely relevant to that. Its release will, in my view, greatly assist the public understanding of what took place. Its non-release will mean that this matter is delayed until well into next year. I do not believe that is in the public interest. For that reason the carriage of this motion is urgent. I would urge the Senate to support the motion for the suspension of standing orders which I have moved.

Senator Hill (South Australia—Leader of the Government in the Senate) (9.38 a.m.)—I want to argue that it is not urgent, because it is not in the public interest for the documents to be published at this time. The reason it is not in the public interest is that I am advised that the coroner is of the view—

Senator Robert Ray—Who advised you? Why should we believe you? We don’t take your word on anything these days

Senator Hill—Why don’t you ring the coroner? I am advised that the coroner believes that the publishing of these documents at this time could prejudice his inquiry. Historically, in circumstances such as this, the Senate does not take actions that might run the risk of prejudicing a coronial inquiry. So it is not a question as to whether or not the documents should be published; the issue is when the documents should be published.

Senator O’Brien—You want to help the cover-up, do you?

The President—This is not an interactive debate. Senator Hill has the call.

Senator Hill—Cover-up? I have said that there is no objection to the documents being published, but I think at this stage it would be a much more sensible thing for the Senate to forward a copy of the documents—a set of the documents—to the coroner and allow his coronial inquest to take place, not to run the risk—

Senator Robert Ray—You can’t do that. You get the originating body to send it to the coroner, not us.

Senator Hill—You could do that also. It may well be that the coroner already has a set of the documents. The point I am making—

Senator West interjecting—

Senator Hill—If the Labor Party thinks there is some short-term political gain—it sounds like a familiar story, doesn’t it?—by taking the risk and publishing these documents, running the risk of prejudicing a coronial inquiry, then so be it if that is what the numbers in this place determine. But, on the government side, we would think that is a most unwise thing to do. If Senator Ray is saying that it would not be normal practice for the Senate to forward the documents to the coroner without the agreement of the party who provided those documents to the Senate, I accept that point. I am only putting up an alternative. An alternative would be to seek the agreement of the party that provided the documents to the Senate that they be forwarded to the coroner.

I cannot see the risk. What is the downside of not taking the risk of prejudicing a coronial inquiry? From the government’s point of view, we cannot see any downside at all. It just would seem to be responsible and sensible public practice to cooperate and support the coronial inquiry rather than take actions that might have some short-term political benefit. Obviously Senator O’Brien thinks it will help some cause. Why take the risk and not only prejudice the Senate’s reputation as an institution in matters of this nature but, more importantly, maybe prejudice the outcome of an inquiry that could have very serious ramifications?

I would urge the Senate to decide that this is not an urgent matter today. Senators on all sides can then make their own inquiries of the coroner and verify what I have said or otherwise. They can come back in a fortnight’s time and pursue the matter further if that is their wish. Alternatively, they might, on reflection, think that it is a better course of action to allow the coronial inquiry to carry out its business, and then the Senate can conduct whatever form of inquiry it might have that has not adequately been picked up and dealt with by the coroner.

Senator Bartlett (Queensland) (9.43 a.m.)—The question before the chair is whether or not we suspend standing orders to allow the substantive motion for the return to order to be considered. There are some im-
portant issues in this matter that I am sure it is appropriate to have put on the record, and our spokesperson on this issue, Senator Greig, will outline the Democrats’ position on this issue at that time. In terms of the motion before the chair, the Democrats would support suspending standing orders. I suggest that we do that and then get on to the substantive debate about the actual return to order.

Senator ROBERT RAY (Victoria) (9.44 a.m.)—I thought we would probably have the substantive debate on the suspension of standing orders and then foreshorten it on the other one, as a more logical way of proceeding with facilitating government business. That seems to be what is happening. There is a problem with what Senator Hill said today, that there can be only one inquiry at once. I wonder why the privilege inquiry is going on into the Tambling matter at exactly the same time as a court case. It is possible—

Senator Hill—Are you publishing documents?

Senator ROBERT RAY—Yes, that could well happen. Senator Hill says he understands that the coroner has said that the publication by the Senate of documents received may prejudice his inquiries. I wonder how it could prejudice his inquiries. The coroner has not contacted any of us to say this. Even if he did, he would have to demonstrate it. It is not like you are affecting a jury here; coroners are extremely experienced people.

Senator Faulkner—And he has not contacted Senator Hill, either. Senator Hill said he was advised of it.

Senator ROBERT RAY—I do not know whether or not he has contacted Senator Hill, but I have certainly seen no written advice that he has, and Senator Hill was not that assertive about it. The fact is that these documents were sent to a Senate committee that suddenly has decided not to continue with the inquiry at this time—that is how I understand it. That means the documents have yet to be ‘received’ by the committee, yet they have been circulated. None of the documents are currently covered by parliamentary privilege in one sense—as they have not been ‘received’—yet they have been circulated. Unless someone here today can show absolute evidence—or make an absolute assertion that we can understand and trust—that it is the coroner’s view that this might prejudice his inquiries, I cannot understand how it can. The same documents, of course, can go to the coroner. Just because they come to the parliament does not mean they cannot go to the coroner. They cannot go to the coroner, as Senator Hill has suggested, via the parliament. That is the absolute worst option.

So at the moment let us suspend standing orders, especially as the government said yesterday this would be dealt with formally and has reversed its position without informing anyone today. We should at least suspend standing orders and hear whether a substantive case can be made that the formal receipt of these papers will prejudice other inquiries and, if that is the case, whether that overrides the Senate’s right to inquire into these matters.

Senator CRANE (Western Australia) (9.46 a.m.)—I am chairman of the committee that has been dealing with this matter, as most of you in here know. I was not aware that any commitment was given yesterday that this motion would be formal. I certainly was not told.

Senator O’Brien—It was given at the whips meeting last night.

Senator CRANE—I am not disputing that fact; I am just making that point. In fact, from my point of view it was never going to be formal. There are some points that I would like to make on this matter and the suspension of standing orders to deal with this matter. The committee has been contacted in writing by counsel for the coroner, as Senator O’Brien knows. We were requested in that letter not to continue with the inquiry at that time because of the concerns of the coroner. We discussed it in this place last week, and the government members of the committee decided that they were not of a view to continue with it. The opposition opposed that motion. That is already on the record, so I am covering old ground.
In terms of the further developments yesterday, we had received the documents. The committee did circulate the documents to committee members. Those documents were given to us in confidence, which raises another very serious question, as far as I am concerned, and that is the issue of having in-confidence documents in our hands and how we handle them in this place. Given that situation, where the committee has not dealt with those in-confidence documents other than to receive them, we moved a motion at our committee meeting last week that all members of the committee would return those in-confidence documents to the secretariat and put them under lock and key until such time as we required them to continue our hearing. I hope that covers the two issues that Senator Ray raised. We have received them; we received them in confidence. We decided not to deal with them until we commenced our hearing. I am sure that Senator O’Brien would confirm that fact.

So, whether or not we debate the issue, I think that if we do make a decision to publish the documents we would be setting a precedent, as I understand it from the Clerk. He was not 100 per cent—only 99.9 per cent—certain last night when I talked to him that there had never been a situation before where, before a committee had dealt with the in-confidence status, documents were released to the public by the Senate.

Senator Carr—I thought you said it had already been dealt with by the committee. Which one is it?

Senator CRANE—No, we have not dealt with the in-confidence matter. The documents are still held under lock and key by the committee.

Senator Carr—I just want you to clarify your statement.

Senator CRANE—I am clarifying the situation, Senator Carr. That has been done. Yesterday I spoke to the coroner again, following our letters with regard to this matter and his situation. He was aggressively and adamantly convinced that this could prejudice his inquiry. It is a pity about what has occurred down there and the publicity that has already taken place. He is absolutely and totally—as much as he could be—opposed to my committee continuing the inquiry at this time. It does not mean we will not inquire into all these issues. The inquiry is in suspension at this moment. There is no reason why you cannot run two inquiries. It is a matter of whether it is wise to run this particular inquiry prior to the coronial inquiry. We say it is not wise to run it. In fact, the coroner raised with me the question of what we said in the Senate the other night—both Senator O’Brien and I spoke on this issue—particularly some issues that Senator O’Brien raised. He said to me, ‘I have already been prejudiced in terms of carrying out this particular process.’

Senator O’Brien—He is not entitled to question what I said in the Senate.

Senator Robert Ray—You have dobbed him right in.

Senator CRANE—In that discussion I informed him that I would be putting his views to this place when this was debated. So I have not dobbed him in. That is the position of the government on this issue.

Question resolved in the affirmative.

Procedural Motion

Motion (by Senator O’Brien, at the request of Senator Faulkner) agreed to:

That general business notice of motion No. 1024 may be moved immediately and have precedence over all other business this day till determined.

Motion

Senator O’BRIEN (Tasmania) (9.51 a.m.)—I move notice of motion No. 1024 in the following terms:

That all documents in the possession of the Rural and Regional Affairs and Transport Legislation Committee from the Australian Maritime Safety Authority and its constituent bodies in relation to its inquiry into the administration of AusSAR in relation to the search for the Margaret J, not previously published by the committee, be published.

Senator Crane advised the Senate, quite correctly, that the majority of the committee have resolved that the committee’s inquiry into the tragedy of the Margaret J be postponed until after the coronial inquest has
been concluded. As I understand it, it would have been competent for members of the committee to bring that matter to the Senate because it was a hotly contested matter. That is not what has occurred. What I have brought to the Senate is a proposal for the publication of documents received by the Senate. That follows a program aired on the ABC on Monday night by Four Corners, entitled ‘Left for dead’. I have no doubt in my mind that there is the distinct possibility that in this case three fishermen were left for dead and that there are matters revealed in documents in the possession of the committee which, in my view, are very important to the public debate on this matter.

In relation to the matter I have had conversation with a number of people, including the Commissioner of Police, who has asked if there are documents that he can see in relation to the question of whether there was any attempt to cover up this matter. I am not quoting him; I am paraphrasing what he said. I do not think it is appropriate that I use the words that he used. We are told that the coroner will receive all the material the committee has received. I certainly would not contemplate taking this action if there were any serious threat to the coroner dealing with this matter in terms of legal problems.

The reason that I have no concerns about that is that the committee now has before it impartial advice—that is, advice not provided to an interested party in proceedings on their instructions. I categorise any advice that AMSA has received on these matters as advice received by an interested party in those proceedings, the coronial inquest proceedings, with a vested interest. But what we have received is a copy of the Australian Government Solicitor’s advice on this matter and we also have advice from the Clerk of the Senate, Harry Evans. I will quote the advice that the Clerk of the Senate provided on the matter, dated 3 July, which is before the committee:

There is nothing to prevent documents being submitted to both the committee and the coroner, provided that either the committee or the coroner is willing to accept copies of the documents if the other body simultaneously has the originals.

The Senate, I suspect, if it passes my motion, will be receiving copies of documents. The advice goes on:

Nor does the mere submission of a document to the committee make it a proceeding in parliament and therefore unexaminable elsewhere. There will be nothing to prevent witnesses before the coroner being examined on the content of the documents, which has also been submitted to the committee.

Pretty clear-cut advice. What does the government Australian Government Solicitor say?

Senator Faulkner interjecting—

Senator O’BRIEN—I think the advice is on the committee record. I am happy to table it if there is any doubt about that. This material that I now quote, which is also dated 3 July, is already on the public record in that it has been supplied in answer to a question on notice, as I understand it. It is addressed to Mr Greg Feeney, the First Assistant Secretary of the Department of Transport. It is under the signature of Mr Robert Orr QC, Deputy General Counsel, Australian Government Solicitor. I will read the summary section of the advice rather than the complete part of the advice because I think it is sufficient for the argument. On page 2 of the document, point 3 reads:

Question: Would the production of documents presently in the possession of AMSA to the Senate committee have the effect of limiting the ability to produce those documents subsequently in a court or a tribunal?

Answer: No. Provided copies of the documents were produced to the committee, the originals or other copies could be provided to the coroner.

I would have thought the advice that is now on the public record, both from the Clerk of the Senate and the senior counsel on behalf of the Australian Government Solicitor, makes absolutely clear that the production of these documents can have no impact in terms of limiting the coroner’s power to examine other copies of the documents or originals should the material be published.

Those who saw the Four Corners program on Monday night would have seen an expose of what was essentially a blatant attempt to mislead the Senate estimates committee by officers of AMSA in relation to their efforts
around the search for the crewmen of the Margaret J. What was outlined was a series of estimates examinations going back to 1997 about a previous search for a fisherman who was lost when the Red Baron sunk off the west coast of Tasmania and a scandalous set of affairs where the search and rescue body refused to initiate a search, even though there was an EPIRB activated 20 kilometres, approximately, off the Tasmanian coast in the water when the boat sunk and persistent and repeated refusals to act upon what should have been an immediate activation of night capable helicopters or other vessels to get out and try to save the two fishermen who were in the water, one of whom died.

We also saw evidence about the Margaret J issue. On the material presented by Four Corners it is absolutely clear that there is evidence being placed before the estimates committee that, according to AMSA, the Tasmanian police made no request for Australian search and rescue to take over or take any significant coordination role in the search for the Margaret J. Yet Four Corners produced a document, AMSA’s own document, which says in two places that AMSA did receive those requests.

There is other material on the record which goes, in my view, to a conversation about how the events which took place during the search would be the subject of a common reportage by both bodies to the public, that reportage not being in accordance with the actual facts of what took place. There is a question, of course, in relation to that conversation as to whether it goes so far as to have been a conspiracy to pervert the course of justice, because at that time I believe it would have been known that there would be a coronial inquest. Even if you do not accept that that was the intent, in my view there is clearly in the conversation—which is recorded and in the documents to be revealed—an intent that the full facts not be revealed to the public. I do not think that that can in any way be contradicted. The production of these documents is in the public interest. It is not in the public interest, in my view, for this matter to be covered up.

In the case of the Red Baron coronial inquest, we established through a Senate estimates committee that all the facts did not go before the Tasmanian coroner. As a result, it is my view that the coroner’s finding was insufficient and inadequate because the coroner had not received all the information which should have been before him. Resulting from that, I understand that the Commonwealth is the subject of legal action by Mrs Whelan, the wife of the fisherman who died. That action is afoot, and I do not propose to say any more about that. There were a number of questions before the estimates committee about that search, and we have commenced a Senate inquiry into this particular search.

As I said, we had the option of coming to the floor of the Senate to seek to overturn the decision of the committee on processing that inquiry, but it is my view that, given what was published on Monday, the nature of the documents and the fact that their production will not prejudice the coronial inquest—clearly, on the advice of the Australian Government Solicitor and on Mr Evans’s advice—there is no reason why the public should not be given access to these documents and there is no real reason which can be advanced as to why proceedings before the coroner would be prejudiced. The fact that there will be public comment on this matter, in my view, is only fit and proper, and I urge the Senate to support general business notice of motion No. 1024.

Senator HILL (South Australia—Leader of the Government in the Senate) (10.01 a.m.)—The purpose of the coronial inquiry is to get to the truth, and the coroner should be given the opportunity to achieve that goal in the best way that he sees fit. The advice of the chairman of the relevant Senate committee is that it is the coroner’s view that the document should not be published at this time, that it might prejudice his inquiry. I am saying that it would be extraordinary in those circumstances for the Senate to disregard the coroner’s view and to take this action. There is no issue of a cover-up; who would want to cover up anything in these circumstances? What the public deserve is to learn the truth, and the Senate, I would have thought, would want to facilitate and cooperate in achieving that goal.
I have tried to understand Senator O’Brien’s argument on this issue: it seems to be that, without taking this course of action, the coroner would not be able to have access to this information. That is not so at all. All relevant information should be put before the coroner. The fact that it is put before a Senate committee and put before a coroner is not unusual. The fact that it is put before a Senate committee does not mean that it cannot go before a coroner as well. The debate today is simply whether the Senate should publish information when the coroner believes it might prejudice his inquiry. It is a very simple issue. I find it extraordinary that Senator O’Brien, on behalf of the Australian Labor Party, should be advocating a course that is at odds with the view of the coroner. If Senator O’Brien says that his objective is to ensure full public disclosure, nobody would quarrel with that. It is only a question of timing; it is a question of whether the Senate would be acting in a way that is, in the view of the coroner, prejudicial to the charge that he has before him and the objective, the purpose, of his inquiry.

Senator Crane is Chair of the Rural and Regional Affairs and Transport Legislation Committee, the committee involved. He has spoken to the coroner; he has reported to the Senate that it is the coroner’s view that publishing the documents at this time could prejudice his inquiry. I would have thought that it was a far more sensible thing for the Senate to do today to either adjourn this for a fortnight and revisit it then, or, alternatively at this time, if Senator O’Brien feels that these documents will not get to the coroner, to seek the permission of the owner of the documents to provide them to the coroner. If that is not forthcoming, then the issue can come back into this chamber and it would be debated in a different light. I just do not understand why Senator O’Brien would take the risk, why he is arguing that the Senate should take the risk of prejudicing an inquiry that is designed to get to the truth in this matter.

If the Senate adopted this motion today, it would be setting a most undesirable precedent for the future. The history of this Senate has been to cooperate with other public institutions in order to achieve the right outcome, in order to ensure that public confidence in the various institutions that are designed to elicit the truth, and public confidence in the administration of search and rescue bodies or other bodies, is well founded. It is a pity to hear Senator O’Brien say that this is a cover-up by the government. Why would this government have any interest in a cover-up? This government’s interest is to get to the truth and this government does not want to prejudice a coronial inquiry in getting to the truth; through the chairman of the committee, this government has listened to the coroner, who has said that he believes that that outcome might well flow from the course of action that Senator O’Brien wants to take today. It is a very simple issue.

If the Australian Labor Party, for some reason or other, has predetermined this issue and is going to demand that the Senate interfere in the coronial process in this way today by the publication of these documents, we are not going to be able to persuade the ALP to another course of action. But I at least hope that the Australian Democrats will listen to the view of the coroner. If they do not believe Senator Crane, I suggest that they phone the coroner; that they adjourn this matter until later in the day and, in the meantime, speak to the coroner. If they come back and they believe that the coroner is mistaken or that Senator Crane is mistaken or whatever, then there might be a basis for another debate. But, whilst we have on the record Senator Crane saying that it is the coroner’s view that this could prejudice his inquiry, I would say that it would be most unwise for the Senate to take the action that Senator O’Brien is advocating and to run the risk. I certainly urge the Australian Democrats not to support the motion at this time but to take their own independent soundings of the view of the coroner, to take whatever other advice they might find helpful, to ensure that the Senate does not run the risk of undermining what is clearly going to be a most important coronial inquiry.

Senator GREIG (Western Australia) (10.09 a.m.)—When Senator O’Brien first approached me some three or four weeks ago
to solicit my support or get an indication from me on behalf of the Australian Democrats as to how we might approach this issue as a term of reference before the appropriate committee, Senator O’Brien can confirm that I was quite reluctant. I made the point, I am sure, that this is a serious and tragic issue and not one that I wanted to see out there in the public arena to be perceived as a political football, so I approached the issue with some trepidation. After some further discussion with Senator O’Brien and having expressed my concern that there may be a conflict of interest here in what the committee was doing and what the coroner was doing, Senator O’Brien then showed me the letter that he has now read into Hansard from the Solicitor-General and also drew my attention to advice from the Clerk of the Senate, Mr Harry Evans. On that basis, I consented. I felt that it was therefore not unreasonable for that term of reference to then go before Senator Crane’s committee.

Then as it happened, just as the committee was about to get under way with its investigation, the government, using its numbers on that committee—and it has that right—closed the committee down or closed that term of reference down, effectively arguing contrary to what Senator Hill just promoted. Senator Hill just said that it is not unusual or wrong for a Senate committee to be investigating something while at the same time that issue is before the coroner, yet it seems to me that is exactly what happened in stifling the process that was about to get under way through the appropriate committee.

Having read both pieces of documentation produced by Senator O’Brien and having also had a briefing in my office—arranged, I understand, through the minister’s office—with AMSA representatives, I felt that I had reached the point of being able to make a considered judgment on this. And my judgment on this has not changed: I feel that it is not unreasonable for this to progress. We Democrats, as I am sure you would appreciate, Mr Acting Deputy President Bartlett, are often in the invidious position, when Labor and Liberal disagree, of being battered on both sides with the pros and cons of all kinds of arguments and it can sometimes be difficult to make a decision. My decision, however, remains—and it is the original one, where I gave an undertaking to Senator O’Brien that I would support this.

It seems to me that the documents in question are merely raw data. As to the investigation and interpretation of that raw data, that is rightly up to the coroner. But in simply producing that raw data for investigation by the Senate, I see no wrongdoing or pecuniary interest in that in terms of conflicting with what the coroner is doing. Senator Crane has made the point that the coroner is protesting. He has that right, but I have yet to hear any solid argument as to what that particular protest is. I hear the claim, I hear the allegation, that there is a conflict of interest and that the Senate ought not take this action, but I hear no substance behind it. So my position on this remains unchanged. I feel that Senator O’Brien’s motion is in order and deserves support.

Senator CALVERT (Tasmania) (10.12 a.m.)—As a member of the committee, I would just make one brief contribution. As senators, I thought we were here to look after and represent our states but, having listened to Senator O’Brien today, it seems to me that the rule of law in coronial inquiries has been superseded by Four Corners programs and what he thinks about things. The fact is that this coronial inquiry is set down for 29 October in Burnie, 45 witnesses are going to be called to give evidence and, if that is not enough, we have had a letter from the counsel assisting the coroner, Lorenzo Lodge, directly asking the committee to defer its hearing until after the coronial inquiry. I think that was a pretty fair request.

I just wonder how far we go in the Senate and how much we interfere with what is happening in state jurisdictions. I have got every sympathy for the families of those people, and what Senator O’Brien said may be right: it may be a cover-up. But surely to goodness we have a duty to respect the law of the state, to respect the fact that we have had requests from the coroner and to respect the fact that this is not going to drag on because it has already been set down for hearings on 29 October with 45 witnesses. We should not do something that may prejudice
that. I think back to one day a long time ago when former Senator Tate made a statement in question time. Everybody thought it was quite an innocent statement, but it did prejudice a case in Tasmania and that case was thrown out of court for that very reason. So something he said prejudiced that case. I just warn the Senate that, if something happens in this coronial inquiry and it is sheeted back to us, it is a bit late then, isn’t it?

_Senator CRANE (Western Australia)_ (10.14 a.m.)—I will just make a few brief comments. The first point that I wish to make is that there is certainly no cover-up, and I am sure that Senator O’Brien appreciates this. On behalf of the government senators, I would point out to the Senate that in this matter we are in a similar situation to the inquiry into Whyalla Airlines. We did start that inquiry, but very quickly we decided to defer it because we were trespassing, I believed—I or the committee believed; it was not just me—into areas that could well prejudice that coronial inquiry.

At the hearing itself, we had a private meeting and decided not to continue. In this case, we have made a decision prior to that because of certain requests put before us. There were three requests before us not to continue. The first was from AMSA itself and another was from the Commissioner of Police in Tasmania. We did defer then until the end of August, because we were informed that the coronial inquiry would be finished by the end of August or thereabouts. So we decided to continue. It was at the request of the coroner, through a letter written by his support counsel, that we then decided to defer. I just want to make people understand that. We already have, as a committee, a precedent.

These are very difficult issues. My concern—an absolute concern, and I have that in writing here—was that we might at some point in time do something to prejudice or compromise the rights of those families, which we would never forgive ourselves for. For the sake—and Senator Calvert set this out—of a few weeks, a small period of time, to allow that process to go through and for us to then conduct our inquiry, we thought that was the proper process. But we are not dealing with that here; we are dealing with the release of these documents.

_Senator Carr_—You are going to drop into an election.

_Senator CRANE_—We deferred. These things are never shut down; they continue into the next parliament. There are processes here that would allow it to continue, and I certainly would not be closing it down. But there is a proper process and there are all sorts of things you have to take into consideration in dealing with this. We believe that this particular time is not the right time to continue. We believe that we should allow the coronial inquiry to go ahead, as we did in the Whyalla situation, and then allow the matter to be dealt with.

I would like to tell you what the coroner said, because I did speak to him yesterday. And I invite Senator Greig to pick up the phone and to ring him up and speak to him or his adviser—we have got the telephone numbers here, we have got the information, so you can do that. This is what he said—I took notes on it and I said that I would be quoting his notes, so I am not compromising him. He said he was aggressively opposed to the release publicly of any documents that we have or that come into our possession with regard to his coronial inquiry. He believes that the statements of Senator Kerry O’Brien have already compromised him by virtue of the fact that, for him to review them thoroughly, he would be offending section 16 of the Parliamentary Privileges Act.

I am not a lawyer and I am not going to try and make judgments in regard to that particular aspect. I have taken some preliminary advice on that. But that is what he said to me, and I think we should respect that. We received a further letter late last night from AMSA, which I circulated to the committee as soon as I got in here this morning. It says:

Some of those allegations have also been the subject of comments in the Senate. The practical difficulty that the coroner will need to meet for every issue that has been canvassed in the Senate is how to accept evidence that may tend to question the Senate debates (either by direct or indirect reference to the subject of the Senate debate). If AMSA’s transcripts of the tape recorded conversations are made publicly available and are the
subject of comment in the Senate before the coronial inquiry is conducted, the difficulty faced by the coroner will be escalated and evidence that otherwise may be relevant to the proper conduct of the coronial inquest may be prejudiced.

I think that is a very sound point with respect to how we should deal with this matter. That is not dissimilar to previous advice we have received—and there is quite a lot of it, and if people want to peruse it the committee has it—on that points.

I will quote from the Solicitor-General’s letter under the signature of Robert Orr to Senator O’Brien. It is easy to selectively quote from those letters, but this is a very similar comment to that of the Clerk of the Senate in the first advice he gave us. Point 13 of the letter says:

13. According to Odgers’ Australian Senate Practice (9th edition, 1999, pages 219-225) the rationale for the sub judice principle is that a parliamentary debate on a matter before a court could influence the court and cause it to make a decision other than on the evidence and submissions before it. Such a danger could arise from a canvassing of the issues before the court or a prejudgment of those issues. The danger of prejudice to court proceedings is much greater where a jury is involved in the proceedings, because judges are unlikely to be influenced in the formation of their judgments by public or parliamentary debate. But it is recognised that the danger may exist in other cases.

The Solicitor-General makes that particular point. The Clerk of the Senate says:

The risk of this occurring, however, would appear to me to be fairly small.

That is not a dissimilar comment on the issue. Nonetheless, in both instances we are warned that it could happen. For the sake of the period of time we are talking about, for the sake of doing our job and not defying the position of the coroner and for the sake of the previous information we received from the other two principal witnesses—the officers from the Tasmanian police, represented by Mr McCreadie, the commissioner, and from AMSA, all expressing a similar concern—we should wait. The Senate has a particular responsibility to heed that particular concern, wait just a little longer and allow the coroner to deal with the matters before him.

Finally, I too watched *Four Corners* the other night and I did not like what I saw. I think that anybody here who watched it would not have liked what they saw. But much emphasis and time was spent on the Red Baron issue, which has nothing whatsoever to do with these papers that we are talking about. It is another issue and part of a process we will have to deal with. The coroner will not be dealing with that issue. The other part of the program was what I would call the selective doing over of one of the witnesses, a Ms Barrell. Much time was spent on that. I sat through the first round of the hearings on that at the time. It was selectively done. I was not at the last estimates, so I cannot comment on that, although I have read the transcript. Obviously, she came under a certain amount of fire in those hearings. Those issues and whether she is competent to do the job or not competent to do the job—which I do not want to make a judgment on here—we will deal with in our inquiry.

The coroner should be allowed to get on with his job, particularly in view of his strong request to me. You have to take my word for that, but anybody can pick up the phone and ring him up, which I did yesterday. We should respect his view on this case. We should defer this—and I underline that word ‘defer’; I get offended when I hear words such as ‘cover-up’ if they are pointed at me or any of my committee members, because it is something that has not happened—

Senator Calvert—Or ‘close it down’, as Senator Carr said.

Senator CRANE—Or ‘close it down’, which is not correct. That has not been how this committee has operated in the 10 years that I have been on it. I urge you, Senator Greig, to reconsider you position. I also appeal to Senator O’Brien, whom I have the greatest respect for. In this case the motion he has moved is not appropriate.

Senator HARRADINE (Tasmania) (10.25 a.m.)—These are serious questions. The matter is of great public interest and importance not only to Tasmanians but to the whole issue of maritime safety. In this chamber I normally vote for propositions such as this, which is to make public as much infor-
mation as possible. Normally, that is something the Senate should guard jealously—its right to ensure that papers held by the executive are able to be published so that the public is more informed about a particular matter.

The second point about this is that it is very important—in the interests of justice, of seeking the truth and of recommendations being made to ensure that this never happens again—that the coronial inquiry is not undermined in any way. I was going to automatically vote for Senator O’Brien’s motion, but statements have been made here about this which have given rise to concern. Those statements relate to the coroner’s insistence that the production and publication of the documents will in some way affect his inquiry adversely. If that is the case, then the most important issue in this matter—that is, to get a just outcome and recommendations which will lead to action so this tragedy does not occur again—could well be undermined.

But that has to be tested, and I would certainly like to see an official approach to the coroner asking him just how the publication of these documents is going to prejudice his inquiry. To be quite frank, that is a very important consideration for me. We really do need to know how it is going to be prejudiced. I do not see that we can judge that right here and now. I would prefer to see this matter adjourned to the next day of sitting so that individual senators, members of the committee and others within this chamber are able to obtain information from the coroner as to just how the publication of these documents is going to prejudice his inquiry. Therefore, I suggest the debate be adjourned and that, under standing orders, the debate resume on the next day of sitting. I move:

That the debate be now adjourned.

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—I am advised that you are not supposed to move the adjournment of the debate after having spoken, but as long as there is a willingness to put the motion I will put it.

Senator Harradine—I could seek leave to continue my remarks.

Question put.

The Senate divided. [10.34 a.m.]

(Ayes: 28, Noes: 32, Majority: 4)

AYES

Abetz, E. Alston, R.K.R.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Chapman, H.G.P.
Cooman, H.L. * Crane, A.W.
Eggleston, A. Ellison, C.M.
Ferris, J.M. Gibson, B.F.
Harradine, B. Harris, L.
Herron, J.J. Kemp, C.R.
Knowles, S.C. Lightfoot, P.R.
Macdonald, J.A.L. Mason, B.J.
McGauran, J.J.J. Minchin, N.H.
Tehen, T. Tierney, J.W.
Vanstone, A.E. Watson, J.O.W.

NOES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Bolkus, N.
Brown, B.J. Buckland, G.
Campbell, G. Carr, K.J.
Cherry, J.C. Collins, J.M.A.
Conroy, S.M. Cook, P.F.S.
Cooney, B.C. Crossin, P.M.
Evans, C.V. Forshaw, M.G.
Gibbs, B. Greig, B.
Hogg, J.J. Hutchins, S.P.
Lees, M.H. Ludwig, J.W. *
Lundy, K.A. McLucas, J.E.
Murphy, S.M. Murray, A.J.M.
Schacht, C.C. Sherry, N.J.
Stott Despoja, N. West, S.M.

PAIRS

Campbell, I.G. Denman, K.J.
Heffernan, W. Ridgeway, A.D.
Hill, R.M. Bourne, V.W.
Macdonald, I. Crowley, R.A.
Payne, M.A. Mackay, S.M.
Troeth, J.M. Faulkner, J.P.
Reid, M.E. McKiernan, J.P.

* denotes teller

Question so resolved in the negative.

Senator O’BRIEN (Tasmania) (10.39 a.m.)—in reply—The views of counsel assisting the coroner have been conveyed to
the committee previously in writing. It was a letter of about six or seven paragraphs which went very much to the question of the desirability of the committee taking evidence. Let me say that, in relation to the issues before this Senate—the publication of the documents—we can be satisfied by the advice of senior counsel on behalf of the Australian Government Solicitor. I repeat and stress that this is the full quote:

In answer to the question would the production of documents presently in the possession of AMSA to the Senate committee have the effect of limiting the ability to produce these documents subsequently in a court or tribunal? Answer: no, provided copies of the documents were produced to the committee. The originals or other copies could be provided to the coroner.

That is consistent with the advice of the Clerk of the Senate.

In relation to the paragraphs of a letter that Senator Crane read out—and I am not seeking to be critical—it was not clear when he read them out that they were from a letter of the chief executive of AMSA and not from a legal adviser or counsel assisting the coroner.

Senator Crane—Why don’t you table them? Table all of them.

Senator O’BRIEN—That is not a matter that I want to do without having a closer look at them, because I got them only this morning. That letter is signed by Mr Davidson. Mr Davidson is a player in this matter in the sense that he was one of the witnesses before the estimates committee. He gave evidence which, in my view, is not consistent with the facts revealed in these documents, but that will be for others to judge when they actually see these documents when and if they are produced. In my view, there is nothing in the letter from Mr Davidson that would lead me to the view that there is a means of prejudicing the coronial proceedings by the publication of these documents. Indeed, if the coroner’s view is accurately conveyed to the Senate by Senator Crane, then I believe it is clear that the coroner is confused as to the effect of parliamentary privilege on these documents. I think perhaps he should take advice.

I have never spoken to the coroner, but I have spoken to counsel assisting the coroner in relation to these matters. I have also spoken to the Commissioner of Police for Tasmania in relation to certain evidence contained in these documents in the general sense, without revealing the nature of the evidence, of course, because that would be improper. He was keen to have access to that evidence. The carriage of this motion will facilitate that. The carriage of this motion will facilitate all parties appearing before the coroner having knowledge of these matters. That will, in my view, assist people who may wish to place submissions before the coroner in relation to the matter.

As I said, I have taken this step in what I consider to be the public interest. There is a great deal of public interest in this matter. There is a significant amount of public policy that turns on this issue. It is my view that the Commonwealth-state arrangements between the Commonwealth and the state of Tasmania on search and rescue are inadequate. These documents will go directly to that question of great public interest and important public policy. I ask the Senate to support the motion now before it.

Senator Crane—I would like to see all of the letters Senator O’Brien and I quoted from tabled. Can I seek leave to table them?

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—You can seek leave to table them.

Senator O’BRIEN—All those letters?

Senator Crane—You quoted from some documents, as did I. There is the one that we received this morning, there is the letter from the Solicitor-General, Mr Orr, and what have you. I just seek leave to table those.

Senator O’BRIEN—And the Clerk’s?

Senator Crane—Yes.

The ACTING DEPUTY PRESIDENT—Can we just clarify which letters are being tabled, please.

Senator Crane—There is the one from Mr Orr, from the Government Solicitor; there is the one from the Clerk of the Senate, Mr Evans; there are a number from Mr Clive Davidson—there is one I received last night and which I circulated this morning. I think those are the three, aren’t they?
Senator O’BRIEN—And Mr Lodge’s, yes.
Senator Crane—And Mr Lodge’s, yes.
Leave granted.
The ACTING DEPUTY PRESIDENT—The question now is that motion No. 1024, standing in the name of Senator O’Brien, be agreed to.
Question resolved in the affirmative.

AUSTRALIAN FLAG

Motion (by Senator Brown) not agreed to:
That the Senate notes that 3 September would be an excellent date for this nation to begin the process of finding a new flag with an entirely national motif reflecting Australia’s special and independent place in the world.
Senator Brown—I record my apparent lone support for that motion.

ASYLUM SEEKERS AND DETENTION CENTRES

Motion (by Senator Greig, at the request of Senator Bartlett) not agreed to:
That the Senate—
(a) notes:
(i) repeated concerns expressed by many sections of the community about the conditions in Australia’s detention centres and the treatment of some asylum seekers in those centres,
(ii) plans announced by the Minister for Immigration and Multicultural Affairs (Mr Ruddock) to build three new detention centres,
(iii) statements made by the President of the Law Council of Australia that the practice of mandatory detention is questionable in the light of several international conventions and that mandatory detention is excessive and not necessary for all asylum seekers; and
(b) calls on the Australian Government to immediately reconsider its policy of mandatory detention and to save taxpayers’ money by scrapping plans to build extra detention centres.

AUSTRALIA’S JOINT DEFENCE FACILITIES

Motion (by Senator Greig, at the request of Senator Bartlett and Senator Bourne) agreed to:
That the Senate—
(a) notes the proposed meeting of Australian Prime Minister, Mr Howard, and United States President, Mr Bush, on 10 September 2001;
(b) recalls its resolutions of 29 June 2000 and 1 March 2001 in regard to missile defence issues;
(c) notes the substantial international efforts made by successive Australian governments to promote the ratification and entry into force of the Comprehensive Test Ban Treaty (CTBT);
(d) considers the proliferation of weapons of mass destruction and ballistic missile delivery systems to be a most serious international security issue;
(e) notes the desire of the United States (US) Government to deploy a National Missile Defence (NMD) system and as a consequence to fundamentally amend or otherwise walk away from the 1972 Anti-Ballistic Missile Treaty (ABMT);
(f) expresses concern that abandonment of the ABMT and deployment of a NMD system is likely to damage international cooperation to combat the proliferation of nuclear weapons and may fuel a new nuclear arms race in the Asia-Pacific region;
(g) calls on the Prime Minister to urge President Bush to reconsider both his opposition to US ratification of the CTBT and his intention to deploy a NMD system; and
(h) reaffirms its view that Australia should not support, or be involved in, NMD research, development or trials.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Extension of Time

Motion (by Senator Crane) agreed to:
That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the administration of AusSAR in relation to the search for the Margaret J be extended to the last sitting day in March 2002.

Publications Committee

Report

Senator COONAN (New South Wales)
(10.48 a.m.)—On behalf of Senator Light-
foot, I present the 28th report of the Publications Committee.

Ordered that the report be adopted.

BUDGET 2001-02
Consideration by Community Affairs Legislation Committee
Additional Information

Senator COONAN (New South Wales) (10.48 a.m.)—On behalf of the Chair of the Community Affairs Legislation Committee, Senator Knowles, I present additional information received by the committee relating to hearings on the budget estimates for 2001-02.

COMMITTEES
Privileges Committee

Report

Senator ROBERT RAY (Victoria) (10.49 a.m.)—I present the 99th report of the Committee of Privileges, entitled Possible unauthorised disclosure of a submission to the Parliamentary Joint Committee on Corporations and Securities, together with a Hansard transcript of proceedings, a volume of submissions and documents compiled by the committee, and a volume of documents provided by the Australian.

Ordered that the report be printed.

Senator ROBERT RAY—I move:

That the Senate take note of the report.

On 27 June 2000, the Senate referred the following matter to the Senate Standing Committee on Privileges, on the motion of the chairman of the Joint Statutory Committee on Corporations and Securities, Senator Chapman:

Having regard to a letter dated 22 June 2000 to the President from the Chairman of the Parliamentary Joint Statutory Committee on Corporations and Securities, whether there was an unauthorised disclosure of a submission to the Parliamentary Joint Statutory Committee on Corporations and Securities, and, if so, whether a contempt was committed by any person in relation to that disclosure.

The President gave precedence to the matter on 26 June 2000. Between 12 and 14 February 2000, the Weekend Australian and the Australian featured articles by its national business correspondent on an investigation by the Australian Securities and Investments Commission, ASIC, into a company known as Yaman. No prosecutions had resulted from the long-running investigation. The Joint Statutory Committee on Corporations and Securities sought and received a confidential briefing on the investigation. The briefing was preceded by a written submission from ASIC which the committee agreed, on 7 February 2000, to receive on a confidential basis. This submission formed the basis of the articles.

The Senate Standing Committee on Privileges conducted an intensive inquiry into the matter, including a public hearing on 25 May 2001. All details of these proceedings are included in the report and the accompanying transcript and documents. The committee was unable to discover the source of the disclosure, not least because neither the journalist nor his publishers revealed the identity of the person or persons who divulged the information. As the committee made very clear in its dealings with the Australian, it understood the journalist’s need to keep his source confidential. It is a pity that news organisations do not have a comparable understanding of the need for parliamentary committees to protect their own informants.

The committee has nonetheless concluded that the disclosure to the journalist was improper and probably deliberate. The committee has no doubt that the improper publication of the articles in the Weekend Australian and the Australian, based on the confidential submission to the Joint Statutory Committee on Corporations and Securities, was deliberate. These conclusions have led to seven formal findings, which are set out in paragraph 60 of the report, and culminate as follows:

That the person or persons who disclosed the information to the national business correspondent has/have committed a contempt of the Senate.
That Nationwide News Pty Limited, the publisher of *The Weekend Australian* and *The Australian*, as the organisation responsible for the actions of its employee the national business correspondent, has committed a contempt of the Senate.

Given the serious nature of these contempts, the committee has recommended the following penalties:

(a) In respect of the person or persons, if ever discovered, who disclosed to the national business correspondent of *The Weekend Australian* and *The Australian*—either a fine at the maximum amount of $5,000 authorised by the *Parliamentary Privileges Act 1987*, or that the Senate initiate a prosecution for an offence under section 13 of the *Parliamentary Privileges Act 1987*.

(b) In respect of Nationwide News Pty Limited—

that the Senate resolve to administer a serious reprimand to Nationwide News Pty Limited as publisher of *The Weekend Australian* and *The Australian*, and that such a resolution be transmitted to the publisher by the President of the Senate.

In light of these findings and penalties, the Joint Statutory Committee on Corporations and Securities is required, under standing order 82, to give at least seven days notice of a motion to determine that a person has committed a contempt or that a penalty be imposed. I therefore now seek leave to give notice of a motion.

Leave granted.

Senator ROBERT RAY—I give notice that, on Monday, 17 September 2001, I shall move:

(1) That the Senate endorse the findings at paragraph 60(a) to 60(g) of the 99th report of the Committee of Privileges.

(2) That the Senate impose the penalty recommended at paragraph 61(b) of the 99th report of the Committee of Privileges and agree in principle to the committee’s recommendation at paragraph 61(a).

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

PHIL BOTHA MEMORIAL FUN RUN

Senator HARRIS (Queensland) (10.55 a.m.)—by leave—I move:

That the Senate—

(a) notes that the sixth annual Phil Botha Memorial Fun Run takes place on 5 September 2001 to raise money for Canteen, the Youth Cancer Support Group;

(b) recognises that cancer inflicts enormous pain and suffering on our community, and that money is needed to fund research and treatments;

(c) notes that the run has raised significant amounts of money to support people suffering from cancer;

(d) notes that the run is a relay of 120 kilometres in length; and

(e) asks each senator to give his or her financial support to this worthy cause.

The Phil Botha Memorial Fun Run is an annual fun run to raise funds that are then donated by the security staff of this place to a worthy cause. This year the funds raised will go to an organisation called CanTeen. That is particularly appropriate as this is a support group for teenage cancer victims. The support group takes these young people away on organised camps. The purpose of these camps is to have a one-on-one period with these young sufferers of cancer to do two things: one, listen to their concerns and, two, explain to them in some detail the process they may need to go through as a result of their illness. I support the security staff of this place and ask that all senators duly support the fun run.

Question resolved in the affirmative.

COMMITTEES

Native Title and the Aboriginal and Torres Strait Islander Land Fund Committee

Report

Senator FERRIS (South Australia) (10.57 a.m.)—I present the report of the parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund on the examination of the annual reports for 1999-2000, together with the *Hansard* report of the committee’s proceedings, submissions received by the committee and comments on adverse mentions in evidence presented to the committee.

Ordered that the report be printed.

Senator FERRIS—I move:

That the Senate take note of the report.
Just as Senate legislation committees do, the Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund also reviews annual reports. The native title committee is entitled to take a broad approach to its powers and duties in this regard under the Native Title Act 1993; that is, in its examination of annual reports since March 1995 the committee has conducted what might be regarded as performance audits of the Native Title Tribunal, the Indigenous Land Corporation and the Aboriginal and Torres Strait Islander Land Fund.

The report I tabled today covering these annual reports continues with the objective of reviewing the performance of those bodies. In so doing, the committee reports comprehensively. For example, the Senate may wish to note that this inquiry into three annual reports required four public hearings and, in addition, some 20 submissions were received. The Native Title Tribunal is now well established as a significant statutory authority. In 1999-2000 it maintained 215 employees and had an operating expenses budget for the year in excess of $23 million. The tribunal occupies an important place in national affairs as a consequence of its role on aspects of land management across the states and the territories.

The committee has commented in previous reports on the tribunal’s workload and, at the close of the reporting period, although 241 claimant applications had been discontinued or combined with others, there remained 539 claimant applications awaiting resolution. Notably, the tribunal has indicated that more resources will now be available for the mediation of claimants’ applications, and this is a very welcome development.

One matter that has continued to concern the committee, however, is the use of consultants by the tribunal. In the reporting period, the tribunal engaged 49 consultants with a total expenditure of almost $2 million, which represented an increase of 12 extra consultants and almost $900,000 in expenditure over 1998-2000. The committee believes in the principle that tribunal members should be engaged to do the work of members and that, when there is a shortage, that should be the subject of advice from the tribunal president to the Commonwealth government, so that adequate numbers of staff and members can be appointed. However, that said, the committee does record its impression that the tribunal is a most professional authority performing its functions well.

The tribunal has also performed an important service in assisting with the introduction of a new regime for the developments affecting land use; that is, the provision of indigenous land use agreements, which were introduced as a result of the amendments to the act in 1998. I should note that the committee has recently concluded its inquiry into the ILUA regime and expects to table a report later in this session. The tribunal was of considerable assistance to the committee during that inquiry.

The Aboriginal and Torres Strait Islander Land Fund was established to assist indigenous people to acquire land and to manage it. In 2004, the Commonwealth allocations to the land fund will cease. Should the target balance not be met by that time, a top-up payment will be made to bring the account to $1.106 billion, indexed from 1994. The value of the fund at 30 June 2000 was more than $784 million. ATSIC’s 1999-2000 report contains the land fund report as an appendix. Importantly, in the reporting period, an amount of $50,712,000 was drawn down to the Indigenous Land Corporation, and similar amounts are to be drawn down to the ILC from the fund indefinitely. The ILC’s operations then are funded from the land fund. Whereas the land fund annual reports are contained in an appendix to the ATSIC report, the ILC itself presents its own report. As I have already said, an amount of almost $51 million was drawn down to the ILC in the year 1999-2000.

The ILC’s recent history must be described as unfortunate and very troubled. In the reporting period, the board approved the purchase of only 18 properties, a significant decline on the 69 properties approved in the previous year. While the ILC has attributed this decline to the land needs process of planning, it causes the committee considerable concern, and it is a matter that will be
monitored in the future. Further, two inquiries affecting the ILC were commissioned during the year 1999-2000. Firstly, the then minister, Senator Herron, commissioned an inquiry by Stephen Skehill into the behaviour of ILC directors. Secondly, the ILC board requested an inquiry, completed by Mr Andrew Rogers QC, into the purchase of two cattle stations in Western Australia. Regrettably, the Skehill inquiry arose from a request by four ILC directors for the minister to terminate the appointment of the ILC’s chairperson, Ms Sharon Firebrace. Ms Firebrace subsequently also made a variety of allegations concerning directors.

While Mr Skehill’s report was delivered to the minister on 1 December, the findings have not been made public. The Skehill report deals with sensitive and complex matters, and the committee has not been able to examine them. Nevertheless, the committee notes Ms Firebrace’s admission that the minister suggested on three separate occasions that she should stand down from her position. In these circumstances, regrettably the committee seriously must question Ms Firebrace’s claims about the causes of dysfunction within the ILC during her two-year term of office, which expired in August this year.

With regard to the Rogers inquiry, I understand the report has been completed but has also not been released. However, Mr Rogers has released a statement in which he confirmed that he had found no evidence to support the allegations of criminality and serious misconduct in relation to the purchase of those two cattle stations. Importantly, the committee has concluded that, in the course of its inquiry, it may have been misled by Ms Firebrace about two separate matters. These conclusions will be referred to the Senate Standing Committee of Privileges.

In summary, the committee has been very concerned about the unfortunate performance of the ILC over the past two years. Many of the events that have affected the ILC and its programs have been widely made public, and this is to be regretted. However, there is reason to believe that the ILC’s performance has affected the delivery of benefits to indigenous people by way of land ownership. The committee is very hopeful that the newly appointed chairperson and general manager will direct the ILC into a more positive performance. I commend the native title committee’s 18th report to the Senate.

Question resolved in the affirmative.

Community Affairs References Committee Report

Senator CROWLEY (South Australia) (11.07 a.m.)—I present the report of the Community Affairs References Committee on child migration, entitled Lost Innocents: righting the record, together with the Hansard record of the committee’s proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator CROWLEY—I move:

That the Senate take note of the report.

This report describes a very sorry chapter in Australia’s history. It is a very unusual report, and the first thing I want to do is thank the secretariat, Elton Humphery, Christine McDonald, Peter Short, Leonie Peake and Ingrid Zappe, because they have done an extremely wonderful job in dealing with this very challenging report. First of all, it is a historical document. It was not one you could fling together in a short while. We needed to make sure that the inquiry took its place in a sad history on this subject. There were 252 submissions plus 93 confidential ones. That is a fair amount to read through. There were also previous Australian state government reports—in Western Australia and the Forde inquiry in Queensland, which was not exactly to these terms of reference but very similar—an extensive United Kingdom report, and also the history of child migration to other parts of the British Empire, to Canada in particular, in the 19th century. So there was a very extensive amount of reading necessary to accompany our report.

Secondly, those confidential submissions contained stories of great hurt, pain and anger. They required the people who were presenting them to recall memories that they had spent years suppressing. The staff of the secretariat had to read them and they had to know those stories. The committee read them
and listened to the witnesses telling the stories, and so did the Hansard officers. I made a point of contacting the Hansard people and asking how they were coping: fortunately the Hansard people who accompanied our committee hearings were people with community service and counselling backgrounds and they could cope. If you sit, as we did, for sometimes four hours or more listening to the stories of extreme tragedy and abuse, it is very perturbing and it was necessary for everybody at the end of the hearings to debrief themselves, including the people from Hansard.

Tough and all as it was for all of us, it was nothing to what it was for our witnesses. Those witnesses, with great generosity, recalled to the front of their brain things that they had been suppressing for many years. I believe our committee owes a great debt of gratitude to those witnesses who were prepared to come and tell us those stories. In this report we may have an emphasis on the stories of tragedy and disaster because many of the people who have coped and succeeded, despite being child migrants and going through the same kind of institutional care and difficulties, did not write submissions to tell us how they had coped. We appreciate that the emphasis is on the hard things that happened, but that is a priority concern of this whole child migration inquiry process. As I said, we could not have had a report without the generosity of so many of those witnesses.

We have established beyond doubt—it was known but I think it is important that we have it in a report—that it was both the British and the Australian governments who signed off and agreed to this child migration program. The responsibility to protect the children, to have the duty of care, was then transferred from the Australian government to state governments. But, in the transfer to the state government’s relevant minister and then on to the receiving agencies, while the responsibility was transferred the care and protection was not. Too often we had stories of how it had failed. We heard arguments about the standards of the day: if you look back now you could be wrong because you do not know what the standards of the day were. It was not lawful in the early fifties to sexually abuse children. It was not lawful in the fifties to physically assault and beat and flog children. It was probably outside of the law to demean, humiliate and monster children. Even so I think we would say that many of the stories were outside of the standards of the day. Many people growing up in Australia at that time, even in some of the institutions of that time, did not suffer the degradation that the child migrants in those institutions suffered.

Two of the most important issues that recurred again and again in this report were that, whether the children were beaten, whether they were sexually abused or not, every one of those children suffered a loss of identity. ‘Who am I? Where did I come from? Do I have a family? Where is that family?’ were questions that were true of every child migrant. That is why, amongst other reasons, our report is called Lost innocents: righting the record. The children were lied to; the children were misled; the children were taken from their homes and their homeland; they lost their identities; and they finished up in institutions where many of them were victims of physical, sexual and psychological abuse. It is important to know that when those children went looking for their families they found that records about them had been falsified. It is not clear to the committee, and we cannot say absolutely, that the falsification of these records was known to the UK government, but it would be a bit of a surprise if it was not. There were shocking stories like, ‘Well, we’ve got too many Margarets; you can be called Mary.’ That is tedious and belittling. Even more importantly, there were other accounts where people’s names were more deliberately falsified, particularly their surnames, so that trying to find a birth certificate or a ship’s manifest that had your name listed so that you could one day perhaps try and find family was a very difficult task. Many of our recommendations go to assisting the migrant children with trying to right the record to find their families.

The other thing that was very important was that many of the migrant children, now adults, felt it was so important to at last have
the opportunity to tell their story, to be heard and to be believed. Many of them who escaped from homes as children told us of contacting the police or being taken to a hospital where it was obvious that they were beaten black and blue, but they were not taken seriously. The police, the authorities, the doctors and the nursing staff ignored their accounts of what was happening to them and nothing happened. For that reason, our report is called *Lost innocents*. These were innocent children. They were lost—lost to themselves, lost to their country of origin and lost to their families. We heard stories of mothers who had written a pile of letters, none of which were passed through to the children, so that when a child left an institution five or eight years later they found amongst the records a pile of letters from a mother they had not known, whom they were told had died, a mother who the committee heard had been told that their children were dead. When you hear these stories you realise the importance of having an opportunity to put on the record the true story.

The other important point I want to raise is that the damage done to those children does not stop with those children. Any record of outcomes for child migrants to this country shows that they have a much higher incidence of suicide, marriage breakdown, drug abuse, alcoholism and so on. Many of the people told us that it was very hard, in fact near impossible, for them to maintain good relationships. The wonderful thing is that, despite the abuse, the pain and damage, many have gone on to make successful adults. They have survived.

The important message coming out of this report—one of a number for me—is that we have drawn a line in the sand and made clear that this kind of behaviour is extremely bad for children. One memorial to the witnesses to this committee and to this report is that never again should this happen to a child in Australia. ‘Never again’ ought to be one of the conclusions of this report because we know the damage done to children does not stop with them. It is passed on to their children and their children’s children. It is an extremely expensive process if you look at simply the hard economics and forget the human suffering. The cost of support services to the children and grandchildren is extremely expensive and there is also the damage done to them and the harm they wreak on themselves and others. For economic reasons alone you would ensure that it never happened again. More importantly, as our committee heard again and again, for basic human decency, for the better way to care for children and for ordinary things like loving children you would ensure that children were never again picked up from one country and taken to another, passed through many authorities until they finished up in institutions that were cold, harsh and unloving and in many cases physically, sexually and psychologically abusing.

I believe this report does close a very important chapter in the history of migration to this country. I think it is an important story that has to be told. We make a number of recommendations that helped people trace their family, look for the records and write that record. We ask that the government acknowledge the Australian government’s role in all of this. *(Time expired)*

**Senator KNOWLES (Western Australia)**

(11.17 a.m.)—Today, as Senator Crowley has said, we have seen the tabling of the report on child migration to Australia. Firstly, I would like to thank all the witnesses who gave so much of themselves to the Senate, via either verbal or oral evidence. Many Australians—and I was certainly one of them—are aware
of the past practice of child migration. I lived most of my childhood in Western Australia, and many of the children were sent to Western Australia. I was aware of young girls and boys being brought to Australia and placed in institutions. Many of those young boys and girls were about my age. I thought, rather simplistically at the time, that they were all orphans because they lived in orphanages. My family would often invite some of those children to our home for meals or events, such as Christmas. They always seemed so grateful, but now with hindsight I think they were never truly happy.

What I never knew was that so many of them were living a life of sheer hell on earth. The parents of those children thought their children had died and the children thought that their parents had died. They were all very much alive, but fractured throughout the world. The stark realisation for me during this inquiry, hearing the terrible tales of endurance, was that those entrusted with the care of innocent children betrayed that trust far beyond what anyone of sound mind could ever contemplate. As a Western Australian I well remember the name and the reputed reputation of Brother Keaney. The public impression of him was of almost a saint for what he had allegedly done for orphaned children, as opposed to what he had allegedly done to orphaned children. Given that high opinion that most had of Brother Keaney, to subsequently learn of the horrific actions of this beast was almost beyond belief. If one were to read some of the evidence given to the committee about this creature, they would be left in no doubt as to why the committee has made a very strong recommendation that he be stripped of his OBE.

Sadly, Keaney of course was not the only man or woman of the cloth who did shocking things to children. Some have died, some have had to face justice and some have got off scot-free. I want to state quite clearly here that I do not and will not subscribe to any school of thought that all Christian Brothers and nuns of today have sought to extend themselves to offer support and assistance in every way, shape and form to those who suffered at the hands of their predecessors.

I do believe that the Australian Commonwealth governments of the day were conned by the British government into believing that all the children in question were orphans when in fact many were not. I think the Commonwealth and state governments were conned into believing that those in whom the care of children was entrusted were in all cases fit to do so. The most unfortunate aspect of the role of governments is that they had totally inadequate checking procedures in place and, it seems, where gross irregularities were brought to the attention of the authorities they were rarely acted upon. I suppose that we can draw alarming parallels to what still happens in some cases today where children tell an adult about abuse and that adult either does not believe the child or fails to act on the claim.

Sadly, we are not just talking about dreadful sexual abuse but also about criminal abuse. We are talking about children who had their identities ripped from them, who had their families torn from them, children who were lied to for years, and on and on, children who were denied love or special attention, children who were denied their right to a proper education, children who had mail and gifts from family members withheld, children who were beaten senseless and, subsequently, of course, adults who have suffered horrendously. To think that many of these children in question have been extensively and excessively used also as child labourers is an atrocious but true proposition. To add further insult, the payments that were due to the children were withheld and no records were kept.

I must also recognise that there were some who state categorically that they were not the subjects of such abuse and have gone on to lead happy, fulfilling and prosperous lives. However, they seem to be in the vast minority. One must not overlook those who were sent from Malta. While the focus primarily
has been on the British child migrants, many who suffered in similar ways came from Malta. For that reason, the committee has recommended that they have extended to them all the services that are recommended for the British.

I cannot help recognising the work of many who have devoted much time and energy to assist the former child migrants: the Child Migrants Trust, the Christian Brothers fund, C-BERS, which assists men and their families all over Australia, the Sisters of Mercy and the Poor Sisters of Nazareth. Equally, I refer to the International Association of Former Child Migrants and their Families, the Child Migrant Friendship Society of Western Australia, the British government and some of the state governments. The Commonwealth Department of Immigration and Multicultural Affairs also provides funding for this special group of people. In commending these organisations I observe that there are a number of the sending and receiving agencies that have, in my opinion, not done enough to make amends for past wrongs. I hope that they will consider making greater assistance available in the very near future.

Having heard so much evidence and having given it such deliberate and deep consideration, the committee has decided that the best thing governments can do now is to assist those affected to trace their families, have greater access to record archives, meet long-lost members of their families, assist with travel, provide counselling, provide educational services, and provide funds for permanent relocation, if that is what the child migrant wishes. This direction is in accordance with the wishes of the overwhelming majority of those so affected.

One sad reality is that it appears—and, of course, naturally follows—that Australian children were also the subject of the same levels and types of abuse suffered by the British child migrants. The report in no way overlooks their plight or their suffering. This report, however, is the product of specific terms of reference dealing only with the origin, treatment and outcomes of the child migration scheme.

I would like to thank the Prime Minister and the Minister for Immigration and Multicultural Affairs, Philip Ruddock, for providing their support for three members of the committee to travel to London and Ottawa. We realise that such approval is anything but routine, but it did help us to gain a better understanding of events that took place in those countries.

One thing that struck me throughout the giving of evidence was the will and ability of many to focus on the future as to what can be done by way of practical assistance. I do not believe that this in any way is an unreasonable request. Therefore, I believe that our recommendations in this unanimous report reflect those requests.

I would also like to make an observation about the conduct of the inquiry. I think it has been done with goodwill, with a goal to achieve a satisfactory outcome for those people who have been affected, and in a bipartisan fashion. It is a pleasure to see that a committee can actually work again in such a way. I thank my fellow colleagues on the committee who made that happen. I have to say that to have a colleague on the committee who was more knowledgeable about this issue than us was also a great asset—a great comfort in many ways, but also a great difficulty. (Time expired)

Senator MURRAY (Western Australia) (11.27 a.m.)—I am going to struggle a bit with this. Mr Acting Deputy President, I ask that Senator Knowles might read the speech for me.

Leave granted for Senator Knowles to read Senator Murray’s speech.

Senator KNOWLES (Western Australia) (11.28 a.m.)—Senator Murray’s speech reads as follows:

I acknowledge the presence of former child migrants in the gallery. They represent all those who bravely opened their painful personal lives for the greater good of all the former child migrants. Their sacrifice of their privacy and their sharing of their pain was so that we should know and understand that it must not be in vain. The recommendations of this report of the Community Affairs References Committee, titled Lost innocents:
righting the record, must be adopted and carried out. The former child migrants deserve no less.

This report, as the title says, is a record as much as a report. In some ways it is itself a memorial. It is part of the great Australian story and it is a historical as well as an oral record. It is a report that chronicles evil, catalogues pain and suffering, and charts ruined lives. It is also a report that touches on the mystery and beauty of the human spirit. In its writing and its evidence it bears witness to those who have triumphed over adversity or to those who have found their own healing. We hear how other child migrants have been helped through the humanity, love, compassion and concern of their fellow human beings.

The experience has now thrown up people in all walks of life. It has thrown up poets and writers and men and women who have dedicated their own lives to caring for others. It has thrown up the permanently damaged and the ones in between. Suicide and early death have taken their toll. For the child migrant witnesses, the hearings were part of a long journey to be believed and understood. For the academics, historians and organisations, the hearings will give greater understanding. The inquiry has opened and closed a dark chapter in Australian history. For the committee, it represented a journey of great personal discovery. We have been asked at times to look into the face of evil. We have heard stories that made us weep—the secretariat, committee members and Hansard staff alike. For me, as a child migrant to Rhodesia at the age of four, it has also been a journey of self-discovery at the opening of my own private road which I am still walking.

I warmly thank Senator Rosemary Crow-ley and Senator Sue Knowles—the chair and deputy chair—for taking on this task and for showing in their humanity and response how much we are joined by compassion rather than set aside by politics. They have been wonderful to work with on this essential project and I am personally indebted to them. I also thank the other committee members—Senator Gibbs, who sat next to me at most hearings and who was tearful or angry, depending on the story; and Senator Tchen. When you go through something like this together, because of the sheer emotion, intensity and depth of it, because of what you learn about human nature, you create bonds with each other which otherwise would not be there. Those committee members who have shared these times with me know what I mean.

I warmly thank the secretariat—particularly the professional, gentle, determined and thoroughly decent Elton Humphery. He assembled a remarkable writing, researching and organising team. This report is testament to Elton, Christine, Ingrid, Peter and Leonie who, with the committee, have produced a really weighty and well-crafted report which combines an intellectually sound and objective analysis of the problems with the very necessary passion that great distress demands. Of course, special thanks also go to Marilyn Rock, my researcher, and to my wife in particular.

As a historical record, by telling this story the report’s job is done. Child migrants now know that we believe them. No-one on the committee realised before just how important that was to them. In terms of the report being a prompt to action, we are still in suspense. The resolution of this issue is impossible without early and full government action. Our recommendations are unanimous. They deserve the full unanimous support of all members and all senators in this parliament—and of members of all parliaments in Australia. Let the Commonwealth and state governments act quickly to make these recommendations come alive with the money, resources and political will that is necessary to deliver them. I moved the motion which got this work done by the Senate, but no remarks of mine would be complete without thanking Mr Beazley for providing the Democrats with the support necessary to get this motion up in the first place. He and I met at a protest vigil that the former child migrants held in front of parliament. He gave me his word then that he would support the inquiry.

The most important recommendations in this report—those that have the highest priority—are those that relate to the fundamental dominant needs as expressed by former
child migrants themselves. Their first need is to discover and connect with their identity, their relatives, their family history, and their origin. Their second need is to be provided with specialist counselling which will help heal, at least to a sufficient extent, those who have been damaged by their experiences. That counselling must be available as a remedial measure for those who experience flashbacks and relapses.

I cannot let the topics of identity and counselling pass by without mentioning the amazing work of the Child Migrant Trust and its founder, Margaret Humphreys. Inevitably, as a crusader, she has had her critics and has made the odd enemy, but in both Great Britain and Australia her organisation has provided much of the stimulus that has assisted others hurt by this terrible policy to find some redress through this report. That organisation has also helped hundreds find their roots and get specialist counselling.

One thing that deeply concerned me about this report was my discovery that, if you add together indigenous Australian children, non-indigenous Australian children and the child migrants who were in Australian institutions in the last century, it is likely that the figure will run to somewhere between 100,000 and 200,000. From the stolen generation report and from this report it is quite apparent that a sizeable proportion of children in institutions were criminally, sexually and physically assaulted or damaged in the other ways outlined in the report. The proportion is likely to be highest among those who were in institutions run by Catholic orders such as the Christian Brothers and the Sisters of Mercy. The evidence is that a proportion of children who have been abused can themselves descend into alcohol, drug and substance abuse, domestic violence, crime, paedophilia, and other antisocial and criminal activity.

It seems to me that if we were ever to research the matter thoroughly, we might find that a lot of the cost and harm apparent in our society has, as its cause, the terrible treatment so many children received in Australian institutions. These knock-on generational effects have to be addressed because, if we can find a way to heal damaged people, we might be able to lessen the tremendous cost our society bears in the form of antisocial behaviour, domestic violence, suicide and crime.

To conclude, we now have this historical record of the story of child migrants, so let us look to the future and secure assistance for former child migrants. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT BILL (No. 2) 2001

First Reading

Bill received from the House of Representatives.

Motion (by Senator Alston) agreed to:

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

Bill read a first time.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.37 a.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—

The Bill continues the Government’s commitment to improving the learning outcomes of educationally disadvantaged students, particularly in the key areas of literacy and numeracy. This Bill provides for the 2001-2002 Budget measure, that announced $33.3 million over the period 2001-02 to 2002-03 to continue strategic assistance in schools and support literacy and numeracy research. The bill amends the States Grants (Primary And Secondary Education Assistance) Act 2000 which authorised funding for the 2001-2004 funding period.

The funding will commence in January 2002, with the bulk ($23.9 million), provided as grants to education authorities through the Strategic Assistance for Improving Student Outcomes Programme (SAISO). The remaining funding ($9.4 million) is to be provided under the Grants for National Literacy and Numeracy Strategies and Projects Programme to support strategic national research and development initiatives.
The bill also ensures that the Government’s commitment to maintaining special education per capita funding levels is honoured. A minor increase in funding of $760,000 for special education per capita funding will ensure that the full level of ‘Strategic Assistance’ funding required is available so that independent schools are not disadvantaged by the new arrangements for special education per capita funding introduced in the Act.

The bill also increases funding to Strategic Assistance to non-government school students to correct a technical error in a previous update of funding amounts from 1999 final prices to 2000 final prices changing the per capita amount from $527 to $561.

This Bill continues the significant contribution of the Commonwealth towards implementing the National Literacy and Numeracy Plan, agreed by Commonwealth, State and Territory Ministers for Education, to support the National Goal ‘that all students should have attained the skills of numeracy and English literacy such that every student should be numerate, able to read, write, spell and communicate at an appropriate level’.

Literacy and numeracy for all is the key social justice issue in education. Through the Strategic Assistance for Improving Student Outcomes Programme the Commonwealth is making a significant financial contribution towards improving the learning outcomes of educationally disadvantaged students and is working with education authorities to ensure that the public reporting of student literacy and numeracy outcomes drives change and improvement in this vital area.

The National Literacy and Numeracy Plan provides for assessment of all students by their teachers as early as possible in the first years of schooling and early intervention for those students identified as having difficulty. Schools Ministers have agreed to national benchmarks in literacy and numeracy in Years 3, 5, and 7 against which all children’s achievement can be measured and reported. Importantly, the National Literacy and Numeracy Plan also provides for professional development for teachers.

The commitment to improving literacy and numeracy through the National Literacy and Numeracy Plan is already showing results. In 1997 the National School English Survey showed that some 27% of Year 3 students failed to meet a minimum acceptable standard of literacy. Nationally comparable data on Year 3 Reading released in March 2000 showed that in 1999, the percentage of Year 3 students not achieving the minimum standard had fallen to around 14%.

Debate (on motion by Senator Denman) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

COMMITTEES
Legal and Constitutional Legislation Committee
Reference

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.38 a.m.)—I move:

That the provisions of the Migration Legislation Amendment Bill (No. 6) 2001 be referred to the Legal and Constitutional Legislation Committee for inquiry and report by 18 September 2001.

The matter before the Senate is a motion standing in the name of Senator Ian Campbell to refer the Migration Legislation Amendment Bill (No. 6) 2001 to the relevant legislation committee for report back to this chamber on 18 September next—in other words, a process that would allow the matter to be further debated and hopefully resolved by the Senate and, therefore, the parliament.

It is a very important piece of legislation. The bill is aimed at addressing two critical challenges facing Australia’s refugee protection arrangements and our ability to effectively contribute to international efforts to protect refugees. First, the continuing influx of unauthorised arrivals to this country is a tangible indicator of increasingly sophisticated attempts to undermine the integrity of Australia’s refugee determination process. The evidence is clear and growing that large numbers of these people have had, but have disposed of, identifying documentation before arriving in Australia. The smuggling operations which are providing this travel often give to these arrivals highly detailed information and coaching on appropriate claims, country knowledge and Commonwealth assessment procedures to maximise their chances of successfully gaining a visa.

We cannot lose sight of the fact that refugees will be amongst those people travelling to Australia without authority, but it is critical that Migration Act powers to test these claims effectively match the challenge being
posed by organised and sophisticated attempts at national identity and claims fraud.

The second major challenge lies in the increasingly broad interpretations being given by the courts to Australia’s protection obligation under the refugees convention and protocol. The convention does not define many of the key terms it uses. In the absence of clear legislative guidance, the domestic interpretation of our obligations has broadened under cumulative court decisions so that Australia now provides protection visas in cases lying well beyond the bounds originally envisaged by the convention. These generous interpretations of our obligations encourage people who are not refugees to test their claims in Australia, adding to perceptions that Australia is a soft touch.

These matters have been the subject of extensive and ongoing public debate for very many months, and the increasingly generous interpretations provided by the Federal Court, in particular, have been matters of widespread discussion and, I think, increasing concern. A decision made only recently by the Federal Court which effectively said that lack of career satisfaction could constitute persecution is simply the latest high-water mark of the extent to which the courts will go to water down, or make broadly available, entitlements that were never envisaged by the convention or, indeed, the Australian parliament. So it ought to be quite clear that we are confronted here with not only a very important set of measures designed to tighten and strengthen the integrity of our migration system, but matters that have been looked at very carefully by those in our region and in other places who seek to exploit any sign that Australia is a soft touch.

Previously we had thought there were some 2,000 boat people—overwhelmingly organised and orchestrated by professional people smugglers—who were heading to our shores wanting to seek asylum, presumably via Christmas Island or nearby places in the first instance; but those operations have been put on hold. The number now seems to be closer to 5,000, so there are very significant implications for the way in which Australia behaves in the current crisis and the way in which we indicate to the world our attitude when handling future matters. It is quite clear that the reason we have not had this additional 2,000 on our doorstep right now is that they are waiting and watching to see not only how the current impasse is resolved, but the extent of Australia’s determination to take a stand on this issue.

That is why it is incredibly disappointing to find that the opposition parties in this place have signalled their intention to join with the Australian Democrats to effectively oppose the debating of this bill, to frustrate legislation passing through the parliament. You can shake your heads as much as you like but we all know that adjourning this matter to a references committee for report back on 16 October is simply saying that you are squibbing the issue. You do not want to debate these important issues; you do not want to do anything to assist the Australian government or the Australian people to resolve very difficult issues. It is incredibly disappointing, because only yesterday we had Mr Beazley starting off his statement in the House by saying:

In these circumstances, this country and this parliament do not need a carping opposition; what they actually need is an opposition that understands the difficult circumstance in which the government finds itself, and to the very best of my ability I will ensure that that situation prevails.

I am sure that not even Mr Beazley pretends for a moment that you can look at the current crisis in isolation. You simply cannot quarantine it from all the other activities that are going on around us or the ways in which people smugglers are marshalling their forces to make an even greater concerted assault on Australia’s shores.

You have to ask yourself why on earth the Labor Party would be adopting this stance. These issues have been in the public arena for months and months. The Labor Party has not indicated any basis for concern about the proposals. In fact, it has generally tried to indicate sympathy for the approach that we are taking, and a recognition of the need. I can understand why Senator Bartlett would have quite a different view of the world, and he has been consistent in that. I do not think it is a view that has a great deal of support in
the Australian community, but one respects his right to stay out there on the margin and argue what many would regard as an extreme case. But that is not where the Labor Party has been on this issue.

The Labor Party has, until now, indicated considerable sympathy for the approach that the government is taking. For example, I heard Senator Ray say last night not only that Mr Ruddock has an incredibly difficult job but that Australia could not allow people to queuejump and push further down the queue—because of the operations of professional people smugglers—those who have genuine claims and might be wallowing in refugee camps in Pakistan.

That is a sentiment with which the government agrees. We do not for a moment pretend that there are not appalling refugee situations occurring in many places around the world. Australia’s well-earned reputation as a very generous receiver of those with genuine refugee claims should be maintained. In the Indochinese war and through the problems that arose from that, in terms of refugees, I think Australia’s reputation was second to none. We have not resiled from that situation. We continue to be a very compassionate nation.

Where you can identify serious problems, however, where you can see that the court’s interpretations are not only increasingly out of touch with the Australian people’s view of the world but also moving a long way away from the refugee convention’s general intent, where the UNHCR itself has said that these measures do not constitute any breach of our obligations under the refugee convention, it is clearly a matter that the Australian government is entitled to pursue, and to pursue quickly.

These are not issues on which you can simply take your time and have nice interesting and longwinded debates in committee processes and the like, or in fact—as I think the Labor Party strategy is—defer any further legislation until after the next election. That is not an outcome open to us, for the simple reason that the eyes of the world, and particularly those of professional people smugglers, are on every action we take. If they see signs that we are going to have gridlock for the next three or four months, then they will be in like Flynn. They will take that as a very positive incentive to pursue their activities. I know that when one people smuggler was interviewed on SBS not long ago he said just that. He said, ‘The moment the Australian government actually takes steps to turn back boats or tightens up its regime, we will have to rethink our strategy.’ And that is exactly what is going on now. We all know and understand that. That is why I cannot for a moment imagine that, when Mr Beazley talks about the difficult circumstance in which the government finds itself, that does not apply to all of these issues. It is simply not possible to quarantine it to the current vessel, the *Tampa*.

Against that background it is very disappointing. Mr Sciacca said on radio last Tuesday, for example:

At the moment the people smugglers, as you call them, think that Australia is in fact a fairly soft touch. They think that as long as they can get here, we are going to allow them all in. The Labor Party knows this. The official spokesman is saying we have a reputation as a soft touch. And you will clearly enhance that reputation big-time if you send a signal that the parliament is not prepared to tighten up the regime. In other words, it is business as usual. All the incentives that have got them to the point where they are circling Australia will continue to operate, and you will simply escalate the problem.

One has to ask why it is that the Labor Party seems to have embarked on this strategy. We got some indication of it yesterday from remarks by not only Mr Hollis but also Mr Quick. I would not take anything that Andrew Theophanous said at face value, but he claimed there are at least 10 Labor backbenchers who are now unhappy with their own party’s stance. A report states:

Mr Quick said, ‘There is a bit of disharmony among the backbenchers but I guess each person makes up their own mind. I wouldn’t call it a revolt. Labor’s decision to block the laws was not aimed at heading off a revolt,’ but conceded some backbenchers were upset.

That may well explain why we had last night’s extraordinary display, within a matter
of hours of the Leader of the Opposition indicating that he was prepared to put party politics to one side. It does look very much, on the face of it, as though Labor’s strategy in relation to this legislation is driven by a desire on the part of Mr Beazley to appease his internal critics. In other words it is, ‘Go along. Do a deal with the Democrats. Basically take the soft option. But don’t do what you know needs to be done.’

It is not as if you have been out there arguing the moral case against these provisions. It is not as if you have in any shape or form indicated why we do not need to tighten up the current legal regime. What you have done is to send all the signals to the contrary. You have said that you understand the problem, that action needs to be taken. But all of a sudden, out of the blue, what do we find? A determination to avoid your responsibilities; that is what it boils down to, and that is the tragedy of weak leadership. That is where you have this albatross around your neck. You have a leader who always looks for the easy way out, who is never prepared to get in there and take the tough decision—without quite knowing where it might lead. We are all in uncharted waters on this issue, and it is very difficult. But at the end of the day people expect you to display leadership. You are not here to be a shallow reflection of public opinion or to do your best to keep the faction together, or to find a lowest common denominator or simply put it off until such time as, you hope, the whole issue goes away. You are here to display leadership.

In the context of what is happening in our northern waters at the present time, I would have thought that the Labor Party would fully recognise the importance of this bill being passed as quickly as possible. Referring it off to a legislation committee gives you an opportunity to exhaustively analyse it for a couple of weeks, to go through it as much as you like, to get legal and other advice. Why on earth do you need to refer it beyond that to 16 October? It is simply so that you can avoid taking the hard decision. There is no other way to interpret your actions. That is why I think it is so disappointing that Mr Beazley is once again putting political compromise ahead of the national interest.

We simply cannot stand by and allow gridlock to occur. We cannot provide ongoing strong messages to unauthorised arrivals—and those who are contemplating coming here to take advantage of our generosity—that we basically cannot make up our minds, that we are torn, because we are not. You know and we know what needs to be done. That is why I think you are inviting very serious retribution. You know that your actions cannot withstand the scrutiny of proper public assessment because they will be seen for what they are: political attempts to divert from having to face this decision. You are simply trying to avoid it as much as possible while being seen to do the right thing.

The opposition’s failure to support these measures will certainly make it much more difficult to deal decisively with the entry of unlawful arrivals. It will provide all the wrong signals. It will provide incentives all the while that Australia does have in place a determination process that accords refugee status to undeserving applicants, to applicants who destroy documentation, to applicants who refuse to swear on oath to their respective deity, to applicants who are determined to abuse the system and take it all the way to the higher courts of this country. The flood will continue.

Labor do not disagree with any of that, as I understand it. They know the system is being abused and rorted. They know that very considerable sums of public money are being spent on these claims being endlessly pursued. They know that people in detention camps are not for a moment prepared to accept the verdict of the umpire. Some of the detainees have been refused on multiple occasions, yet they are determined to stay here because they think that the decision makers will crack. That is what they are banking on. They are banking on people like the Labor Party making the situation all too difficult for decisive action to be taken and for the proper signals to be sent. Whilst that continues, we will have this current crisis, and it will be an ongoing crisis. It is one that I think has to be handled very carefully and compassionately.
We are certainly doing all we can in the current circumstance of the Tampa to ensure that humanitarian, medical and other assistance is available. You have to temper that compassion with the need to ensure the integrity of your system. Unless we do that—unless we block the loopholes, unless we tighten up what is clearly a legal system that is out of control—we simply invite all of those unwanted abuses to continue.

So it is a matter of great disappointment to the government that the Labor Party seems to have capitulated, once again, to a few people inside the tent—no doubt from Senator Carr’s faction—who think there may even be political advantage in this but who generally do not want to stand up to be counted. That is how the Labor Party will be judged, and I think that is what this debate is all about. We will be vigorously opposing attempts to refer this matter off to a point where no sensible resolution of this matter can be achieved, and we will continue to expose the Labor Party for its weakness and the pusillanimous conduct of its leader.

Senator BARTLETT (Queensland) (11.57 a.m.)—There was at least one point Senator Alston made during his contribution that I would definitely agree with wholeheartedly—although there is possibly not too much more that I would agree with—that is: we are not here to be a shallow reflection of public opinion; we are here to display leadership. On issues as crucial as this one, I think it is important to stand up and be counted and show leadership rather than simply try to surf along the short-term wave of—using the minister’s own words—a shallow reflection of public opinion.

The minister spent most of his time debating the legislation and its so-called virtues. I could respond to that, but the motion before the Senate is about whether we should refer the legislation off to a committee so that we can discuss, assess and provide opportunity for input from other people into the legislation’s so-called virtues and any flaws that it may have. I would have to say that after witnessing the government’s astonishing and disgraceful effort last night, trying to railroad through one of the most draconian and far-reaching pieces of legislation that we have seen in this place with no consultation with absolutely anybody—not even in this place let alone in the Australian community—it makes the Democrats, and I imagine others in the community, much more apprehensive about the virtues, and the potential flaws, that may be contained in this legislation.

Despite the minister’s statement that this issue has been the subject of extensive and ongoing debate over many months—obviously the issue in the broader sense of asylum seekers and refugees has been part of community debate in a range of areas for much longer than that—the specifics of this legislation have not been the subject of community debate. The legislation itself was introduced into the House of Representatives only two days ago. That is the first time it has seen the light of day. The first signal that it was even likely to happen was a press release from the minister probably about two or three weeks before that, which outlined what his intentions were. Certainly even those intentions caused a lot of apprehension amongst those in the community and in the Democrats, but I think even more concerning is the need to examine how they will actually be implemented in a legislative sense.

If you look at the justification the government used for introducing its disgraceful bill last night—the legislation is almost certainly unconstitutional, undoubtedly breaches the refugees convention and many others, and the government is trying to exempt itself from other domestic laws all under the pretext of ensuring that it could get just one ship out of Australian waters—one can only wonder what may be contained in this particular legislation, what amount of unbelievable overkill may be contained within its pages. It is appropriate to extensively examine such a matter.

We are at a crucial, very significant and pivotal stage in the future direction of the debate around these issues, not just within Australia but potentially internationally. This legislation has international significance. Obviously it has domestic significance as well and the Democrats give great weight to that, not just because of its linkage to international law, the refugee convention and the
civil and political rights convention and other measures of international law which until recently Australia has proudly upheld and promoted but in terms of the general direction of international approaches to what is a global problem. As the house of review, the Senate has a heavy responsibility. Last night we saw the immense, almost priceless value of having a house of review in this parliament which is not dominated by the executive, a second chamber which is able to show leadership and not simply cave before an alleged wave of short-term public opinion, to assess legislation and recognise its draconian content, its dangerous precedent and its incredible attempts to increase the power of the government of the day over and above the power of the courts or the general community.

If this debate were presented in the context of the government trying to make a giant power grab and basically taking away the rights of the rest of the community, the response from the public would be very different. Once the parliament gives support to such a move, we are failing in our duty and putting ourselves in a position where the community can be very concerned about national sovereignty. The words ‘protecting our national sovereignty’ have been thrown around with great puffed chests in recent days. The core of our national sovereignty is our political, civil and legal rights as citizens of this country and as members of the global community. We need to ensure the protection of those rights. That is why the Democrats are moving to amend this motion, to send the legislation to a references committee. This is not an unprecedented step. Indeed, there is another bill on another area before the same references committee at the moment. Certainly, bills have been sent to references committees in the past when it has been felt they are broad in scope and have flow-on consequences. This bill has flow-on consequences for diplomatic and international law relations and international human rights which are much broader than what might be seen as a narrow amendment to the Migration Act. In that context, it is appropriate to send it to a committee which will take a broader view.

Legislation committees perform a valuable job but are often referred to as the ‘tick and flick’ committees, where you flick the bill off, give it a quick once-over on a Friday afternoon and flick it back to the Senate the next week. That is appropriate for certain bills, but when they are of the magnitude and significance of this legislation, particularly in the context of what happened last night and over preceding days, where we clearly have a government sending out every signal that they are quite willing to breach any number of domestic laws, international laws and basic standards of human rights and humanitarian decency, it is no wonder that there is great apprehension among legislators in this place about the need to step back from the short-term political storm and examine it in more detail and, hopefully, in a cooler way without some of the political rhetoric that has bounced backwards and forwards about it. It is not just us as legislators who are apprehensive but those in the community who have the expertise in this area, who have legal expertise and who have experience with the people affected.

Let us not forget that the bills we pass in this place—certainly bills like these—are not just amendments to laws to deal with political issues; they are amendments which impact on individual human beings. This situation involves some of the most vulnerable human beings within our country’s borders, and internationally. In such a context we have a duty and a responsibility to examine these issues properly, to show leadership and to let the political stones and arrows bounce off and fly over our heads while we provide the opportunity for input from those in the domestic community and internationally about what the consequences and ramifications may be; not just how the law will operate if this bill were passed but flow-on diplomatic and international consequences. For a government that talks so much about the need to engage internationally, we have done a hell of a lot of damage to our international reputation in the last few days. The Democrats certainly do not want to be part of increasing the damage in terms of how we are seen in the eyes of the world and how we engage with the rest of the world. That has flow-on consequences as well, not just in
humanitarian treatment of refugees and displaced people but in economic areas, trade and every aspect of international communication that you can think of.

The bill is wide ranging and crucial. I seek to send it to a references committee so that there can be proper examination. To contrast it with what happened last night, in the space of a couple of hours we were able to get legal opinion from a few people with expertise in the Law of the Sea and related conventions, and domestic and constitutional law. They were able to point to any number of concerns about that bill, in some cases it was to point categorically to major flaws and in others to at least raise significant questions. The purpose of a committee hearing is to examine those questions. It is not just assertion versus assertion; we examine the questions in more detail and we get to cross-examine departmental officials from the immigration department or from Foreign Affairs or the Attorney-General’s Department—those in the community with expertise in the law in this field, those with the expertise in humanitarian principles and those on all sides of the debate who have concerns about how we best address the issue of asylum seekers and displaced people, which is a global problem, not just an Australian problem.

I will not respond in the broader context of the debate to what the minister went on about: the farce that Australia is a soft touch and all these myths that the government insists on promoting. They can be dealt with another day. This motion is to refer the bill to a committee, not to debate the bill itself. Suffice to say that the suggestion that Australia is a soft touch is farcical in the extreme. It is completely contradicted by the facts about how other civilised and developed countries address the issue of asylum seekers and the numbers of people that they deal with. Some of them have to deal with numbers greatly in excess of those Australia has to cope with.

There is no truth in the statement that we are somehow a soft touch. The last few years, with our mandatory detention regime and other aspects, have shown that there is no doubt that that is not the case. It is simply an indication of the government’s political game playing. Their performance last night, with that extraordinary piece of legislation, and indeed their performance over the last few days, in which they have dug Australia into an appalling hole with no apparent escape route and left hundreds of asylum seekers in a desperate situation, gives the Democrats and many others great reason to be concerned about the government’s motives and the government’s agenda with this legislation and with any other matter that touches on refugees. That makes us far more determined to give absolute scrutiny to this legislation. If yesterday’s episode had not happened, we might have been a little bit more willing to believe that there was some genuineness in the government’s desire to seek a balanced outcome in some of these issues. But, after yesterday’s episode, I do not think we have any hope or expectation of a balanced approach from the government on this issue, so it is crucial that the legislation that is put forward is given proper scrutiny. Hence, we should not only send it to a references committee but give sufficient time to all those in the community, including the international community, to provide input into the detail of this legislation and the many related issues that it touches on. I now move the amendments that I have circulated in the chamber:

Omit “Legislation Committee”, substitute “References Committee”.

Omit “18 September 2001”, substitute “16 October 2001”.

These amendments are to send the bill to a references committee and to extend the reporting date until 16 October. I believe that the amendments are appropriate in both the political circumstances of the moment and the legislative circumstances surrounding this bill.

It is an important issue. If the Democrats specifically wanted to ensure that this bill never saw the light of day then we would try and put it off until November or December, which we could do, and obviously the election would intervene. But we are willing to allow it to be brought back into this place in the same sitting in which it was introduced and less than two months after it was first introduced. That is still a very quick turn-
around for a significant piece of legislation, particularly one with potentially major ramifications, whether legal, political, diplomatic, humanitarian or economic.

Any number of consequences may flow from this bill. The Democrats are certainly keen to ensure that we play our role as legislators and show leadership in the face of short-term political firestorms in scrutinising this properly and not just bowing down in the face of immediate pressure to rush this through to address a problem. I think even the way that the so-called problem is described leaves a lot to be desired, and the facts surrounding it are much disputed as well. There are a lot of differing opinions that need to be put forward about the so-called problem that we are addressing: the nature of it, whether it is as major as has been suggested and of course the best way of dealing with it. You do not deal with questions of that magnitude by rushing something through without proper scrutiny, particularly in the context of the political debate that is happening at the moment.

So I have moved the amendments as circulated in the chamber. I do believe it is an important issue, and I will certainly urge all those in the community with an interest in this issue to contribute to the examination of this legislation. It requires proper input from those with expertise in the many areas that are touched on by this bill, and that can be done only through the proper process of a genuine, extensive committee inquiry rather than a rushed, tick and flick type examination. That is why the Democrats have moved these amendments, and I commend them to the chamber.

Senator McKIERNAN (Western Australia) (12.13 p.m.)—The opposition will be supporting the amendments moved by Senator Bartlett to refer the provisions of the Migration Legislation Amendment Bill (No. 6) 2001 to a Senate references committee and to extend the date for the committee to report back to the chamber. There is a very simple reason why we are supporting these amendments—and it is important legislation—and that is that the legislation only saw the light of day on Tuesday of this week. The legislation, which was foreshadowed by the minister on 13 August, just 2½ weeks ago, has not yet been debated in the House of Representatives. It has not even reached this chamber. I know many people in our community have commented as a result of the minister’s media release announcing that the legislation would be forthcoming, but not all of them have made informed comment. They have not been able to make informed comment, because they did not know what the bill contained.

Let me give you an example of what is not informed comment. It is the editorial from the West Australian newspaper of 15 August headed ‘New refugee definition useful’. I will quote a small part of it:

A criticism that has been levelled at the Government is that it wants to change legislation because it thinks the courts have been too liberal in interpreting the convention, that it doesn’t like the umpire’s decision.

The courts interpret and apply laws. The Parliament makes laws on behalf of the people. If the Parliament accepts that some laws are inadequate or do not serve the public interest properly, then it can change or add to them and its members will be answerable to the electorate for their actions. This is a continuing process and has nothing to do with any so-called umpire.

For the benefit of the editorial writers of the West Australian, the courts do not rule on refugee matters in this country. Our laws do not allow that. It is an administrative decision and we in this parliament have defended that administrative decision. The courts certainly are involved in the decisions, but it is for the courts to rule on points of law as to whether or not the tribunals—the Administrative Appeals Tribunal as well as the Refugee Review Tribunal—erred in law in making a determination on whether or not a person is a refugee. The courts do not rule, although they have tried to—and Senator Alston would probably be aware that some judges of the Federal Court have endeavoured in times past to determine whether or not an individual is a refugee. There was an appeal to the Full Federal Court, and I think there has even been a High Court decision on the matter.

If an editorial of a major newspaper can make a fundamental error like that, how many others in our community can make
incorrect definitions of what the bill contains when they have not seen the bill? I must confess, because of all the other matters that have been happening during the course of this week, that I myself have not had the time yet to cast my eyes over the bill and see whether or not the bill reflects what is contained in the minister’s media release of 13 August this year. The minister detailed that there would be some 13 points of issue contained in the bill. I cannot say at this time whether or not the opposition parties would be supportive of these points. I certainly have not looked at the bill and I do not think we have been involved in the discussion on this.

I know for a fact that on this occasion I have not been offered a briefing on the contents of this bill. I have been offered briefings in the past on other legislative matters coming before the chamber and, when I have been able to, I have accepted those briefings in order to be better informed in preparation for debates in the parliament. But on this occasion I was not offered a briefing at all, and I am unsure as to whether or not our spokesperson on immigration matters has been offered a briefing and, if so, whether or not they were able to avail themselves of the briefing.

Irrespective of what Minister Alston says, we are not speaking in opposition to this. Our record and our credentials over 5½ years in opposition in this place have proven that we have supported almost all of the government’s legislation. We have not supported everything. We have participated in the development of legislation and, through the course of our participation, have improved the legislation. Mr Acting Deputy President Bartlett, I can do no better than refer you to debates in the chamber yesterday—just 24 hours ago—when, through our intervention in a bill dealing with detainees and the control of matters within Australia’s detention centres, our amendments—amendments that we participated in the development of—helped, aided and improved the legislation that is going to govern this very important issue.

There are matters contained in the minister’s press statement which, when you read them at face value, obviously a responsible opposition would be supportive of. The minister’s statement reads:

“It is unacceptable that people who are able to pay a people smuggler and make their way through several countries where they may avail themselves of protection, are getting a more favourable outcome than people languishing in the most appalling circumstances in refugee camps around the world,” Mr Ruddock said.

A simple search of the Hansard will find me having said similar words on a number of occasions in this place. The more recent example of that was on Tuesday of this week during the debate on an emergency item. I had good news for my constituents who were able to get Kurdish Iraqi relatives into the country—they thought their relatives were dead, but a wife and five children are coming into Australia now their tickets are issued. These people had been waiting for years and years and did not have the money to pay the people smugglers to jump in front of a queue. I think on that occasion I also spoke about the fact that there are queues in the refugee determination area.

Another matter that the opposition would be supportive of at face value, quoting the minister’s press statement, is this:

“Australia has a strong commitment to its international obligations under the Refugees Convention framework,” the Minister said, “but it is critical that we continue to support this important work on all levels—by targeting fraud and misuse of Australia’s domestic refugee protection arrangements as well as making vigorous efforts to help address refugee problems at their source, and I will be making further announcements in relation to these matters in due course.”

We would be supportive of that, and we are eager to hear how the minister is addressing those problems at source. During the current controversial matter that we are involved in with the Tampa and the 400-odd people who are on that ship in Australian territorial waters off Christmas Island—if it is still in Australian territorial waters—we find the Prime Minister has not yet made contact with the President of Indonesia to try to resolve these matters.

Senator Calvert—How do you know?

Senator McKIERNAN—If you know, tell us. If contact has been made, tell us.
What I would really like to know, though, Senator Calvert, is why has contact not been made? I am only a simple backbencher in this place, but I have played a little bit of a role in helping on these matters—the agreement between Australia and the People’s Republic of China, dealing with the unlawful arrival in this country of people from China. I played a little bit of a role in the development of that memorandum of understanding—a tiny bit of a role—but it is there. We had a problem with persons of Chinese nationality coming into Australia, but we do not have that problem any more because we addressed it at source—exactly what Minister Ruddock is saying in this press statement. I have not had the opportunity, as I said earlier, to look at the bill and see what is contained in the bill to address the problem at source. We need to do this. The chamber does not have the time to do this, so we need a committee of the parliament to do it, to talk with officials from the Department of Immigration and Multicultural Affairs and see what provisions are contained in this bill to attack the problem at source. That is something that the committee will look forward to doing.

There are others in the community who will want to have an input into the contents of this bill—what the bill means and how the legislation will operate. I refer to the churches in Australia, many of whom have been very vocal on this issue and none of whom, I would suggest, would claim me to be their representative in this place in putting forward their views. Nonetheless, when they do put a view forward to a committee that I am on, they will know that they will be at least listened to and that they will be listened to with a degree of decency and dignity. There are others. The law societies of Australia have got very strong views on these issues and want to be heard. The Refugee Council of Australia, the peak refugee body of Australia, will want to, I know—and I have not spoken to them on this particular matter—put a view forward to the parliament on the provisions of the bill and the principles contained in the bill. They will be able to do that when they have had a chance to see the bill.

If we do what the government has suggested—that is, refer this matter to the Legal and Constitutional Legislation Committee and report back on 17 September—in that time the Refugee Council of Australia will have to get a copy of the bill; read and digest the bill; put it through their internal processes, with all the organisations that make up the Refugee Council of Australia; try to put forward a unified opinion on suggestions for amendments, for change, for opposition, for improvement; express their opinion on the bill; and then develop a submission. And all that would have to be done in time for the committee to get together to meet and to hear them in public and then give the committee an opportunity to, among other things, listen to views, take account of the views of bodies such as the Refugee Council of Australia and then present a report to the parliament on Monday, 17 September.

We have to do all that in the absence of the chair of the committee, Senator Marise Payne—a very good chair of the committee, a very decent human being, a very decent individual—on behalf of the parliament, has a very important role to play in East Timor with the elections that are soon to take place. Senator Payne will not be able to address this matter until some time next week, and then you have to put a timetable on it.

Senator Alston—When does she get back?

Senator McKIERNAN—I am not sure, Minister.

Senator Alston—I can tell you—Saturday.

Senator McKIERNAN—Saturday.

Senator Carr—Tell her next week.

Senator Alston—She’s coming Saturday.

Senator McKIERNAN—I am not sure on that. I know that, in order to facilitate another inquiry the committee is involved in, we did look at possibly having hearings in Darwin this coming weekend and Senator Payne was not able to do that, but I cannot speak on behalf of Senator Payne and I do not want to misrepresent her in any way either because we work together.
Another key person on the committee is the deputy chair of the committee, me. Next Tuesday I have to leave this country to go to Ouagadougou in Burkina Faso to represent Australia at the Interparliamentary Union conference. I have a keen interest in this and I want to be part of it. If the government wanted us to be part of it, they would have approached us, at least since Tuesday or probably even since 13 August, and said, ‘We have something we really want to address and we want to make it the best possible legislation that we can,’ and I would have cancelled the trip to Ouagadougou and all the arguments that are going to go on there. But, no—no approaches have been made. Why haven’t the approaches been made? I guess you will find the reason in the minister’s speech in moving this forward.

The minister did not talk about the merits of the legislation, of what could be gained by a Senate committee inquiring into the bill—no. The minister played politics. The minister played wedge politics. Why did he do that? The government have been in office for 5½ years and at the end of 5½ years we find that the situation of dealing with refugees in this country is absolutely out of control. I am not only instancing what is happening off Christmas Island at the moment. One can go to any of the detention centres, in particular the larger ones—Curtin and Derby in Western Australia—and see the problems. You can go to Woomera, the largest of them, where the detention centre is on amber alert because of the high feelings and the potential for disturbances in the detention centres. You can go to Villawood where they recently put up a very high security fence which was breached by 23 individuals not so long ago. After that, some individuals—also 23 and it was probably the same minibus—tunnelled their way out through the drainage system. If that was not bad enough, they were then walking out the front door. The system is in crisis. Why is it in crisis? Because the government have taken their eye off the ball on this issue. They have taken their eye off the ball and there are statistics to prove it.

Since unlawful boat arrivals started in 1989 with the Pender Bay off Broome in Western Australia in November 1989, some 13,000 persons have arrived by that method off the coast of Australia—1,000 of them just last week. 10,000 of those people have arrived in the last five years during the life of this present government—10,000 of them. Why, if there is a problem with our refugee determination system, are you bringing in this legislation just weeks and months before an election? Why did you need legislation yesterday on detainees? Why did you need legislation a couple of weeks ago on the matter of people escaping from legal detention custody? Why has a bill been sitting on the Notice Paper since December 1998 dealing with judicial review and not progressed any further? Because you have let the situation get out of control.

We are willing to sit down with you and work to get the best resolution possible for Australia from a humanitarian and compassionate point of view. We want to put laws in place that are good laws, that take into account the human rights of those people who are in need, lawfully, of protection from this country. We are still willing, despite the happenings of the past few days and the wedge politics that have been played. We are still willing to do it and we will do it. We want to do it properly and we want to consult widely in doing it. With the passage of this amendment, we want to refer this bill to the committee and give the community of Australia ample opportunity to come to the committee and have their views tested in front of the committee. I know that the government side on the committee will be well represented. I mentioned Senator Payne earlier, but Senator Coonan is also a member—another very decent human being who will look at laws with compassion and with humanity—and you can be assured that the job will be well done.

The community of Australia need time to look at this legislation. They need time to formulate views on the legislation, and the committee itself—a committee of the parliament—needs an opportunity to give weight to those views and to develop a report which the parliament can look at, which the minister can look at and which his department can look at. If it is improving the laws that are being put in place in this country, that will be to the benefit of not only the
parliament but also good governance in this country and the community of Australia. I endorse the amendments moved by Senator Bartlett.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.32 p.m.)—I will speak very briefly. I was waiting patiently for Senator McKiernan to explain why it is that Labor takes this extraordinary position. I acknowledge his longstanding interest in immigration and refugee issues. He asked why we need the legislation, but just after that he told us that the situation is absolutely out of control. That is why you need the legislation and that is why you need it urgently and that is why you could have facilitated its passage at a time when we could start to deal with the problem.

You say that this is important legislation and was only introduced on Tuesday. You know that these issues have been festering for months. You know there have been a whole series of Federal Court decisions that have shown that the courts have a completely different view of the world. I do not understand your point about the West Australian editorial. You seem to think that the judges do not have a role in determining refugee status. Of course they do. Judges constantly redefine and interpret definitions in such a way that you can hardly recognise what you thought was the original intention. Senator Cooney earned a living out of it. The most recent example is where the courts can accord refugee status to someone who cannot find job satisfaction in their country of origin or someone who claims that, because a family member was killed by a crime gang, they are afraid of going back home. The courts are out of control on this issue.

You have not advanced any substantive reason why these matters cannot be dealt with over the next fortnight. I find it extraordinary to hear you say that the churches, the Refugee Council and the Law Council all need time to get hold of the legislation. If they did not all have this bill by Tuesday night or early Wednesday morning I would be staggered. That is what they are in the business of doing. They would be ready to go for a committee hearing any time next week.

I must say in passing that I am disappointed. My understanding was, from information given to me, that the Australian Democrats had indicated, until today, a preparedness to have this matter disposed of in the next sitting fortnight. Of course that is perfectly doable. The Democrats themselves knew it. They have now chosen, for some obscure tactical reason, to effectively ensure that legislation will not get through the parliament this year. Labor of course is playing the same game. It is extraordinary that Senator McKiernan cannot say whether Labor supports this. It does not advance any objections. It is just the usual sort of disingenuous nonsense about needing more time to trawl over the detail. That is exactly what you could do in the next fortnight. That is exactly what the interested organisations are used to doing.

Senator McKiernan—Ouagadougou!

Senator ALSTON—I know it does not suit your convenience, but my advice to you is that I would not play the Ouagadougou card. I doubt very much that you will get a great deal of sympathy out there in the community for the proposition that somehow it is inconvenient to you because instead of going to Timbuktu you have got to go to Ouagadougou. The reality is that there are plenty of other people ready, willing and able to dispose of this matter as expeditiously as possible. All that Senator McKiernan has really done is reveal the Labor strategy, which is to ensure that nothing happens. The lowest common denominator is the weak leadership that is so characteristic of Mr Beazley, and it is a very unfortunate day for Australia.

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

The Senate divided. [12.40 p.m.]

(The President—Senator the Hon. Margaret Reid)

<table>
<thead>
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<th>Ayes</th>
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<td>Noes</td>
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AYES

Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.  Bolkus, N.
Brown, B.J.  Buckland, G.
Campbell, G.  Carr, K.J.
Cherry, J.C.  Collins, J.M.A.
Conroy, S.M.  Crossin, P.M.
Cooney, B.C.  Denman, K.J.
Crowley, R.A.  Gibbs, B.
Lees, M.H.  Hogg, J.J.
Lundy, K.A.  Ludwig, J.W.
McKiernan, J.P.  Mackay, S.M.
Murphy, S.M.  McCuaige, J.E.
Schacht, C.C.  Sherry, N.J.
Stott Despoja, N.  West, S.M.

NOES

Abetz, E.  Alston, R.K.R.
Boswell, R.L.D.  Brandis, G.H.
Calvert, P.H.  Chapman, H.G.P.
Crane, A.W.  Eggleston, A.
Ellison, C.M.  Ferris, J.M.
Gibson, B.F.  Heffernan, W.
Herron, J.J.  Kemp, C.R.
Knowles, S.C.  Lightfoot, P.R.
Macdonald, J.A.L.  Mason, B.J.
McGauran, J.J.J.  Newman, J.M.
Reid, M.E.  Tambling, G.E.
Tchen, T.  Tierney, J.W.
Troeth, J.M.  Watson, J.O.W.

PAIRS

Bourne, V.W.  Macdonald, I.
Evans, C.V.  Minchin, N.H.
Faulkner, J.P.  Payne, M.A.
Hutchins, S.P.  Campbell, I.G.
Ridgeway, A.D.  Vanstone, A.E.

* denotes teller

Question so resolved in the affirmative.

Original question, as amended, resolved in the affirmative.

WOOL INTERNATIONAL AMENDMENT BILL 2001

Second Reading

Debate resumed from 29 August, on motion by Senator Boswell:

Senator FORSHAW (New South Wales) (12.45 p.m.)—I rise to indicate that the opposition will support passage of the Wool International Amendment Bill 2001. The bill expedites the final stage of the long task which has been going on over some 10 years or more now of selling down the wool stockpile. The original position was that this process was to be completed by the end of this financial year—that is, by the end of June 2002—at which time the wool growers, the shareholders of WoolStock Australia Ltd, would be paid out their final payments. As I am sure honourable senators are aware, the stockpile has been sold in recent weeks. This legislation will expedite that final winding-up and bring forward the payment of the final cash distribution to the wool grower shareholders.

We support that process, but we cannot help but note in passing that the government here has obviously an ulterior motive, and that is to expedite this process so that wool growers would be receiving their final payments probably just before the election is held. No doubt the government will seek to cash in—excuse the pun—on that coincidence of events. Nevertheless, we support the legislation because it will mean that the growers will be paid. Indeed, we will be taking the opportunity during the election campaign to highlight the many other deficiencies this government has demonstrated in this process of bringing about the sale of the stockpile.

Senator SANDY MACDONALD (New South Wales) (12.47 p.m.)—I wish to support the Wool International Amendment Bill 2001 obviously, because it is of great importance to Australian wool growers. Time is short, and I do not have a speech to incorporate. There are a couple of points I would like to make. One of them is about the role Senator Crane has played in this whole debate. I was expecting to follow him. He is not speaking because of the time constraints, but he has played such a constructive role in the finalisation of the wool industry woes and has done so since before 1990 when he entered the Senate. Senator Ferris is here as well, and I know she is going to incorporate her speech. All of us who have been involved in this debate over the last few years are surprised that the finalisation of this has come at a time of non-controversial legislation, that
after all the pain that the wool industry has been through over the last 10 years we now pass this final liquidation of wool stock, which is owned by Australian wool growers now, in a non-controversial way.

The industry that we are talking about is so very important for Australia. Wool is still our second largest rural export. The towns and communities that depend on wool are spread right across the Western Division, the pastoral divisions of Western Australia, South Australia, New South Wales and Queensland. They have seen great distress over the last 10 years. It is the first time in 30 years that we have a free market. The psychological impact of that is extremely strong, the commercial aspect of it is extremely strong and, in a bipartisan sense, the political aspect of it is extremely strong. For those three reasons—apart from all the other personal reasons, including the 70,000 wool growers out there, who are good people and who require a free market for their product to be sold—this is good legislation. It is good to see their money returned. I will make some further comments on this in the adjournment debate when we come back.

Senator FERRIS (South Australia) (12.50 p.m.)—Because of the constraints of time I seek leave to incorporate my remarks in Hansard.

Leave granted.

The speech read as follows—

The bill before us today coincides with one of the most significant achievements in the history of our wool industry—the sale of the last bale of stockpile wool three weeks ago.

At its height the wool stockpile was so huge that if every bale was placed next to each other it would have stretched from Brisbane to Perth. It has therefore been a remarkable achievement by WoolStock Australia to have sold over a million bales of wool over the past two years, with minimal impact on the wool market.

I would like to take this opportunity to thank Mr Don McGauchie and other members of the WoolStock board for their efforts in ensuring the removal of the stockpile.

The bill before us today enables WoolStock to wind up early and make its final cash distribution to shareholders. This is a company liquidation we can all be happy with and the sooner it occurs the quicker shareholders will be able to receive their share of WoolStock’s funds. To date $200 million has been distributed to WoolStock’s 96,000 shareholders with a further $300 million available now that the stockpile has finally gone.

The Australian wool industry is historically one of our most important industries, contributing around 7% of the gross value of our agricultural production and $3 billion in export income in 1999-2000.

In South Australia, wool is our eighth largest export worth $234 million to the State.

As we are all aware, for the past 10 years the Australian wool industry has struggled under the economic weight of the stockpile. The Wool Reserve Price Scheme was established in 1970 with the aim of setting a base price for wool in Australia.

When the Australian Wool Commission merged with the Australian Wool Board in 1973, prices for wool were set at a sustainable level. However increases in the floor price eventually put the price well above sustainable levels, and the market became overbrowned with thousands of bales of wool.

The Reserve Price Scheme eventually collapsed when the stockpile peaked at 4.7 million bales in 1991, with an associated debt of $2.8 billion. Wool International was established in 1993 to dispose of the wool stockpile and repay the Commonwealth Government-guaranteed debt accumulated under the Reserve Price Scheme.

Legislation was passed by the Coalition Government in 1997 to transfer surplus equity from the stockpile to woolgrowers who paid the debt management component of the wool-tax between July 1 1993 and June 30 1996.

In 1998 the Government announced that Wool International would be privatised to give ownership and control of the wool stockpile back to the growers. WoolStock Australia was registered as a trading organisation on July 1 1999. The stockpile comprised 1,005,000 bales with a net debt of $196.2 million at the time.

Wool prices are currently among the highest recorded in a decade with cash income for specialist woolgrowers in 1999-00 42% higher then the average income over the period 1996-97 to 1998-99.

For the first time in more than 30 years, wool will be traded freely without the stigma of a large stockpile hanging over the industry.

The future for Australia’s wool industry is looking much more optimistic, with a costly lesson
learned about wool marketing. So, it is vital that this bill be passed as quickly as possible so that shareholders can receive their payments and not be liable for the additional expense of keeping WoolStock running any longer than it should.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.50 p.m.)—I thank the honourable senators for their contributions to the second reading debate on the Wool International Amendment Bill 2001, particularly the senator on my side who agreed to incorporate in Hansard her comments. This does expedite the final stage in the decade-long task of selling down the wool stockpile. In response to Senator Forshaw, I am sure that Senator Forshaw would not begrudge the final payment to wool shareholders, who have been through a decade of management of this issue and who at least now have the gratification of seeing it finalised. I thank Mr Donald McGauchie and the members of the WoolStock board for their important role in selling down the stockpile. There have already been two payments made, with a third distribution, as you rightly remark, expected in coming months. When the final distribution is made after the remaining wool is sold and the necessary procedures are taken to determine the surplus equity in WoolStock, those growers will reap further benefits. I commend the bill to the Senate.

Question resolved in the affirmative.

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

FAMILY LAW LEGISLATION AMENDMENT (SUPERANNUATION) (CONSEQUENTIAL PROVISIONS) BILL 2001
Second Reading
Consideration resumed from 29 August, on motion by Senator Heffernan:
That this bill be now read a second time.
Question resolved in the affirmative.

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

AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001
Second Reading
Debate resumed from 27 August, on motion by Senator Ian Campbell:
That this bill be now read a second time.

Senator FORSHAW (New South Wales) (12.54 p.m.)—The opposition will support the passage of the Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Bill 2001. This bill does what its title sets out—that is, amends various offence provisions contained in legislation within the portfolio area of Agriculture, Fisheries and Forestry. In that respect, it brings those provisions in each of those pieces of legislation into harmony with chapter 2 of the Criminal Code Act 1995. Chapter 2 of the Criminal Code provides a set of general principles relating to criminal responsibility and a standard approach to the formulation of Commonwealth criminal offences. The legislation before the chamber today brings all of that other legislation within the AFFA portfolio area into harmony with the Criminal Code.

I do not wish to go into the specific impacts of this bill in detail. They are set out of course in the second reading speech, and my colleague in the other place the shadow minister, Mr Gavan O’Connor, also spoke in some detail on those areas. I draw the attention of honourable senators to his speech in that regard. But I cannot let the occasion pass without noting the contrast between the way in which this bill is being dealt with and the way in which certain legislation that came before the parliament last night was dealt with. The reason this bill—which is of a serious nature, relating to standardising criminal offences and criminal responsibility—is non-controversial is that the opposition has had the time to examine the legislation in proper detail and then in turn be able to debate it, if necessary, properly in this chamber. That of course is a notable contrast to the way in which the government has acted in the last 24 hours. I only wish that maybe the government would think about its approach
and return to the normal sorts of courtesies that are applied to the opposition and other members of the parliament when dealing with very important legislation. With those remarks, I indicate that the opposition is prepared to support this bill.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.57 p.m.)—I will let those remarks of Senator Forshaw pass, but I would have thought that six hours of debate in the Senate last night on the bill to which he was referring would have allowed every senator who wished to express an opinion on that to actually do so. However, with regard to the Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Bill 2001, these changes will provide certainty, clarity and consistency as to how the offences in this portfolio’s legislation operate. They will also make the prosecution of offences more efficient. I commend the bill to the Senate.

Question resolved in the affirmative.

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

HEALTH AND AGED CARE LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001
Second Reading
Debate resumed from 23 August, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.59 p.m.)—The Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001 is an application of the Criminal Code to another portfolio, and I do not propose to make any other remarks but those.

Question resolved in the affirmative.

Bill read a second time, and passed through its remaining stages without amendment or debate.
dum was circulated in the chamber on 28 August 2001.

Question resolved in the affirmative.

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

**RECONCILIATION AND ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001**

*Second Reading*

Consideration resumed from 23 August, on motion by Senator Abetz:

That this bill be now read a second time.

Question resolved in the affirmative.

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

**BUSINESS**

**Consideration of Legislation**

Motion (by Senator Troeth) agreed to:

That government business orders of the day Nos 14 and 15 be taken separately for their remaining stages:

No. 14 Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 2) 2001

No. 15 Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 3) 2001

Ordered that consideration of Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 1) 2001 be postponed till the next day of sitting.

**TREASURY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL (No. 3) 2001**

*Second Reading*

Consideration resumed from 29 August, on motion by Senator Heffernan:

That this bill be now read a second time.

Question resolved in the affirmative.

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

**CUSTOMS TARIFF AMENDMENT BILL (No. 5) 2001**

*Second Reading*

Consideration resumed from 27 August, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Question resolved in the affirmative.

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

**INTERNATIONAL MARITIME CONVENTIONS LEGISLATION AMENDMENT BILL 2001**

*In Committee*

Consideration resumed from 23 August. The bill.

Senator ROBERT RAY (Victoria) (1.09 p.m.)—I will not delay the committee for long. The International Maritime Conventions Legislation Amendment Bill 2001, as we know, deals with international maritime conventions. That sparked a little interest in me because, as I was reading through the list today, I was also having a perusal of report No. 384 of the Joint Committee of Public Accounts and Audit. In particular, I would like to draw the Senate’s attention to pages 88 to 92 because they have a lot of relevance to what we have been discussing recently—last night and elsewhere. There is some overlapping responsibility, but I do not claim total overlapping responsibility, from what is said in this report and what is contained in the legislation. On page 88 there appears the heading ‘United Nations Convention on the Law of the Sea’. The report goes on to describe the United Nations Convention Relating to the Status of Refugees. There is another section covering boat people arriving in the north and north-west of Australia, one on the problems of Australia, et cetera, and then the solution to the problems. I raise this because paragraph 6.24 of the report states:

The Committee concludes that ‘pushing boat people back to sea’ is not a viable option. Australia cannot ignore its international responsibilities. Instead Australia must work within the conventions and contribute to solving the problem at its source.
There is a lot of other valuable material in this Public Accounts and Audit Committee report. You all know how tardy I am: I have only got around to reading it today. Apparently it came out two to three weeks ago. I thought: ‘These are fairly wise words here. These are words that are consistent with exactly what this government was doing until 6.50 last night.’ I cannot find anything in this wisdom in the report that the government was not doing up to that point. But then we were suddenly confronted with legislation that went through the House of Representatives on party lines and was defeated in this place.

I thought I would have a look at who signed off on this report. I note that there is a dissenting report, but the dissenting report does not go to this section of the report. A couple of Labor members that dissented somewhere along the line did not choose to dissent on this, so the remainder of the section—pages 88 to 92—is unanimous. Mr Bob Charles, the member for La Trobe, signed off on the report. Yet I notice that last night he is recorded in the other place as having voted for the Border Protection Bill 2001. How could that be? What happened in the two or three weeks? I thought I would see who else was on the committee. There was Senator Helen Coonan. I recall her interjecting on me and saying some nasty things last night. What happened in the three weeks? What did they put in the water up here that suddenly caused a 180 degree turn-around?

Senator Brian Gibson was on the committee. I distinctly saw him voting on this issue 180 degrees differently. Of course, I have to acknowledge that Senator Crowley, Senator Hogg and Senator Andrew Murray voted on the issue and, guess what, they voted consistently with the views that they had put into this report. Then we have Uncle Arthur—Senator John Watson. I distinctly recall him voting last night for the draconian bill—in committee we are obviously talking to the long title of the bill—and against the views that he had put in this report, which I again recommend; that is, pages 88 to 92.

Mr Kevin Andrews was a member of the committee and he concurred with what was in the report. What happened in the car ride from Bulleen to Tullamarine that made him change his mind? Maybe Mr Andrews picked up Mr Petro Georgiou in Barkers Road and took him on to Tullamarine. Perhaps they discussed the issue and changed their minds. There was Peter Lindsay. It was a long flight down from Herbert. Did he change his mind on the way down? I am only asking what happened on the road to Damascus. They put these views down and then suddenly they all changed their minds. The Hon. Alex Somlyay signed off on this unanimous section of the report. There was Mr Stuart St Clair. I did not even know he could write, but nevertheless he signed off on it.

The CHAIRMAN—Senator Ray, I would ask you not to reflect upon anybody in either this place or the other place.

Senator ROBERT RAY—Certainly I will resist trying to reflect on anyone in any place.

Senator Sherry—How many was that?

Senator ROBERT RAY—How many from the coalition? We have got Mr Bob Charles—you can keep count with me.

Senator Mackay—One.

Senator ROBERT RAY—that is one. Senator Helen Coonan—that is two. Senator Brian Gibson is three. Senator John Watson would be four. Mr Kevin Andrews would be five. Mr Petro Georgiou would be six. Mr Peter Lindsay, seven. Mr Alex Somlyay, eight. Mr St Clair, nine. Is it just a coincidence—great minds thinking alike? What happened between putting this report down and that horrible piece of legislation last night? I really wonder what happened. I call on them—and I do not expect the parliamentary secretary at the table to respond on their behalf because her name is not here—to explain themselves. Did they vote against their conscience last night? Didn’t they read this report when they signed it off, or did they think they would just get into a bit of low grade, sleazy gutter politics and go along with what their leader had determined? Most of them had not even read the legislation. Most of them had not even seen a copy of it. We will not go over all that old ground.
It is interesting, as we consider the international maritime conventions legislation, that this apt report from one of the finest committees of the parliament unanimously put forward some sensible views saying that we had to keep our international obligations. Remember that we believe, even up until this very moment, that this government has kept to its international obligations in regard to the treatment of those on board the *Tampa*.

We do not dispute that. But what should be followed is the formula set down in this report and not a bit of cheap electoral opportunism.

**Senator GREIG (Western Australia)**

(1.17 p.m.)—by leave—I move Democrat amendments (1) to (10):

(1) Schedule 3, item 15, page 33 (lines 16 to 22), omit paragraph 10(1)(c), substitute:

(c) such a discharge cannot occur without the commission of an offence against subsection 9(1) or (1B) or of an offence against a law of a State or Territory;

(2) Schedule 3, item 15, page 33 (line 30) to page 34 (line 6), omit paragraph 10(3)(b), substitute:

(b) such a discharge cannot occur without the commission of an offence against subsection 9(1) or (1B) or of an offence against a law of a State or Territory;

(3) Schedule 3, item 24, page 36 (lines 6 and 7), omit “, if he or she is of the opinion that it is reasonable to do so,”.

(4) Schedule 3, item 24, page 36 (line 12), at the end of subsection (1), add “if the officer has reason to believe that retention of the oil or oily mixture would create a risk of discharge from the ship into the sea”.

(5) Schedule 3, item 71, page 43 (lines 24 and 25) omit “, if he or she is of the opinion that it is reasonable to do so,”.

(6) Schedule 3, item 71, page 43 (line 30), at the end of subsection (1), add “if the officer has reason to believe that retention of the liquid substance or mixture would create a risk of discharge from the ship into the sea”.

(7) Schedule 3, item 105, page 51 (lines 11 and 12), omit “, if he or she is of the opinion that it is reasonable to do so,”.

(8) Schedule 3, item 105, page 51 (line 16), at the end of subsection (1), add “if the officer has reason to believe that retention of the sewage would create a risk of discharge from the ship into the sea”.

(9) Schedule 3, item 126, page 58 (lines 28 and 29), omit “, if he or she is of the opinion that it is reasonable to do so.”.

(10) Schedule 3, item 126, page 58 (line 33), at the end of subsection 26FE(1), add “if the officer has reason to believe that retention of the garbage would create a risk of disposal from the ship into the sea”.

Senators may recall that we Democrats had some slight concerns with this legislation last week, and there was goodwill across parties to allow us to explore some suitable amendments which I have distributed here today. They relate essentially to the prevention of pollution from ships. Firstly, several sections are being amended so that the level of discretion given to an inspector to require the discharge of substances from a ship to a prescribed facility is constrained. The Democrat amendments provide that the discretion of the officer must be based on a reasonable belief that the discharge of a substance to a prescribed facility is necessary in order to avoid a discharge at sea. In doing this, we Democrats ensure that the environmental purpose behind this provision is more clearly stated.

Secondly, the Democrats are amending section 10 in order to avoid any misunderstanding of this provision. As written, section 10 could have been read as permitting the discharge of oil residues into the sea where the discharge is being made to an onshore reception facility. It could also have been read to permit discharge of oil residues between vessels at sea. We believe this Democrat amendment will remove any doubts that either of these discharges is permitted. Again, we are aiming to ensure that the intent of environmental protection is clear and unambiguous. The amendments have been circulated. I understand there have been informal discussions and cooperation from the other parties. I thank senators for their goodwill.

**Senator O’BRIEN (Tasmania)**

(1.19 p.m.)—The opposition supports the 10 technical amendments moved by Senator Greig on behalf of the Australian Democrats. In
doing so we note the following. Amendments (1) and (2) act upon advice provided by the Parliamentary Library. That advice foreshadowed a possible problem with the interpretation of the proposed subsection 10(2). These amendments deal with an issue raised by end note 54 of the Parliamentary Library Bills Digest No. 147 2000-01. In short, there is a possibility that pollution of the sea in the course of a discharge of oil residues to a reception facility may be a valid defence for a polluter. Labor and, I understand, the government concede that there is a risk with the suggested interpretation and that a clarification of the offence would put this beyond doubt. After a careful re-read, we consider that the change of words in the new subsections 10(1) and 10(3) from the existing requirement to retain oil residues to a prohibition on their discharge into the sea makes the exception for discharge to a reception facility unnecessary. The first two amendments clarify the interpretation to ensure that no loophole can undermine the intent of the bill.

In relation to amendments (3) through to (10), these amendments are in response to the issues raised by the Democrats about the wide powers of a prescribed officer on a ship which needs to discharge oil, sewage or garbage. While there are probably other circumstances in which this power needs to be applied, the main situation seems to be where, following an inspection, the ship’s necessity to discharge oil, sewage or garbage on board already in the available storage space for these things—and taking into account the length of the voyage to its next port of call—would be determined. The Democrat amendments change the various provisions dealing with oil and oily substances, liquid substances, sewage and garbage to limit the prescribed officer’s discretion in these circumstances. The opposition can appreciate that these changes will assist to clarify this issue for the purposes of interpreting the legislation, and that for that reason the opposition will be supporting amendments (1) through to (10) as moved by Senator Greig on behalf of the Democrats.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.22 p.m.)—I wish to place on record that the government has agreed to these amendments. Amendments agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

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

BUSINESS

Consideration of Legislation

Motion (by Senator Troeth) proposed:

That government business order of the day No. 1 (Innovation and Education Legislation Amendment Bill (No. 2) 2001) be called on immediately.

Senator CARR (Victoria) (1.23 p.m.)—The opposition is prepared to agree with this proposition but in doing so we think it is important to state a few things publicly. The management of this legislative program is nothing short of a joke. The Innovation and Education Legislation Amendment Bill (No. 2) 2001 is an extremely important piece of legislation, which the opposition is supporting. There is a second reading amendment that could have been dealt with quite quickly. The second reading debate had gone through quite a number of speeches last night. I understand that the Democrats are concerned about aspects of the bill but, nonetheless, this matter could have been dealt with on the basis of the advice that was tendered by the opposition to the government prior to the commencement of non-controversial legislation. If it were not for the grandstanding of Senator Alston, this situation would not have been necessary. He had the opportunity to deal with this matter prior to the movement to non-controversial legislation and failed to do so. As a senior member of the government, he should have had some understanding of the significance of this particular legislation.

Equally, the actions of the Leader of the Government in the Senate, Senator Hill, in unilaterally changing the position this morning on the question of certain documents that Senator Kerry O’Brien under-
stood were to have been accepted as being tabled, cost this chamber 1½ hours of its business time this morning. What this cumulatively points to is the fact that there is no management of the government’s program currently at work—certainly we have not seen any evidence of it. You would expect a bit better in what may well be the last sitting day of this parliament. It is quite clear that the government is seriously contemplating the possibility of an election. From the comments that have been made around this chamber, behind hands, that is what the government is saying. That is why this bill has to be dealt with now. You would have thought that, in that context, the government would have shown a little more interest in ensuring that important pieces of legislation were dealt with in a timely and effective manner. But it is quite apparent that there is no discipline there. There is no concern for these issues.

It is a bit ironic, surely, that it is the opposition that has to draw the government’s attention to the ways and means by which it can actually secure legislation of this importance—yet, of course, the advice of the opposition is treated contemptuously by senior members of the government, who clearly are more interested in the presentation of their personal agendas than in the resolution of quite important matters such as this innovation bill, which is quite significant for the higher education sector in this country. With those few remarks, I support the government’s motion.

Question resolved in the affirmative.

INNOVATION AND EDUCATION LEGISLATION AMENDMENT BILL (No. 2) 2001
Second Reading
Consideration resumed from 29 August, on motion by Senator Vanstone:
That this bill be now read a second time.
upon which Senator Carr had moved by way of an amendment:
At the end of the motion, add:
“but the Senate condemns the Government for damaging Australian universities through massive funding cuts, and reducing opportunities for Australian undergraduate and postgraduate students, in particular by:
(a) cutting Commonwealth funding for universities by $3 billion since 1996, thereby reducing student places by 81,500;
(b) overseeing a reduction of 3,278 enrolments of Australian university students in 2000;
(c) cutting the number of research training places by 3,336; and
(d) cutting the higher education contribution scheme postgraduate coursework places by 60 per cent since 1996”

Amendment agreed to.
Original question, as amended, resolved in the affirmative.

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

Sitting suspended from 1.28 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Small Business
Senator MURPHY (2.00 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. Is the Assistant Treasurer aware of figures from the Insolvency and Trustees Service Australia that show that in the three months from April to June this year business bankruptcies increased by 117 per cent on the same period last year? Is he aware of comments by a personal insolvency expert, Mr Paul Leroy of Hall Chadwick Chartered Accountants, that this surge in bankruptcies was a result of GST liabilities catching up with small businesses that were forced by circumstances to delay earlier payments? Does the Assistant Treasurer agree with Mr Leroy that, “These figures are a reflection of the suffering of small business owners and sole traders, the mums and dads and families”?.

Senator KEMP—I thank Senator Murphy for his question, because it does allow me to put a number of important facts on the record. The first clear and important fact I would put on the record is that it is surprising that, after all this time, when we are probably in the bell lap as we move towards an election, the Labor Party still stands up and at-
tacks the GST. Essentially, one would have thought it surprising because the Labor Party has adopted the GST as part of its policy.

Senator Cook—It has not.

Senator KEMP—Senator Cook is a lone voice in the wilderness. I do not think anyone else in your party believes that, Senator Cook. Certainly the shadow Treasurer, Mr Simon Crean, does not appear to accept Senator Cook’s view of this. Senator Cook has, I regret to say, a little bit of form in the past in misleading the Senate on various key issues.

Senator Cook—No, no, no.

Senator KEMP—Yes, yes, yes, I am afraid, Senator Cook. So let me just make that point. If there are people listening to this, I think they should be aware that what we are seeing is an exercise in hypocrisy by the Labor Party. If they did not like the GST and did not think it was good for Australia, what do you think the Labor Party would do? The Labor Party would say that the GST would be abolished. Of course, that is absolutely not what they are saying.

Senator Sherry—Roll-back

Senator KEMP—Senator Sherry says ‘roll-back’. Well, I make the offer for the 23rd time: if Senator Cook wants to pass me a note saying we will have a debate in this chamber on roll-back, I will be the first person here. The challenge goes out again, for the 23rd time: if the Labor Party wants to debate roll-back, I will be the first in the chamber and we will have a good debate on that, but whatever happens—

The PRESIDENT—Senator Kemp, I remind you of the question.

Senator KEMP—The question concerned the GST and I am drawing some important conclusions. There have been various figures released on bankruptcies.

Senator Cook—Madam President, I rise on a point of order. I draw your attention to the remark just made by the minister. He is drawing certain conclusions, he says. The question is about bankruptcies caused by the GST, and the standing orders make it quite clear that, in answering a question, the person answering the question shall not debate it. That is what the standing orders say. I put it to you, Madam President, that the minister is in fact debating the question. The only way that he could not debate it is by actually answering the question on GST bankruptcies. By canvassing this wide field of arguments, he is debating it. As a consequence, he is in breach of standing orders and, as a consequence, he should be sat down.

The PRESIDENT—It was a long preamble, but I have drawn the minister’s attention to the question and advised him to continue answering the question.

Senator KEMP—Thank you, Madam President. In fact, I think the Hansard will show that I was now dealing with the specifics of the question. There are some figures I have here which I would like to share with Senator Murphy and the Senate. The figures I have are that business related personal bankruptcies in 2000-01 are 12 per cent lower than for the 1998-99 financial year. This comparison shows a single year comparison. You can draw many conclusions from a single year comparison but, if I was going to extend that, I would say that, if the GST was to blame for the increase in personal bankruptcies, you would expect the 2000-01 figures to be higher than for any recent year. The truth is—and this is the advice that I have received, Senator Murphy—that the 2000-01 figures are significantly lower than those registered two years ago. This shows a very different picture to the picture that Senator Murphy tried to paint before this chamber. What we are seeing, I think, from the Labor Party—well, perhaps as my time is on the wing, if Senator Murphy would be kind enough to ask me a supplementary question, I have some further information I would like to share with him.

Senator Robert Ray—It’s not worth it.

Senator MURPHY—Madam President, I will ask a supplementary question. As Senator Ray pointed out, it is probably not worth it, but the Assistant Treasurer wasted a fair degree of his response time with a load of waffle. I ask the Assistant Treasurer, given that he did not address the question: how can small business have any faith in the Howard-Costello government when, on 18 May 2000, Mr Costello said, and senators should pay
attention to this, ‘I don’t think anybody will
go to the wall as a consequence of the GST’; when, at the Senate estimates hearings in
June, officials of Mr Costello’s department blamed the rise in bankruptcies on small
business itself and not the GST; and when the Liberal Party has been rorting its own
GST by creaming off input credits when no GST was paid?

Senator KEMP—That sounds to me like
a Senator Peter Cook special question: ut-
terly confused, wrong in most places and a
pathetic attempt to make a political point.
Labor senators stand up and attempt to make
political points, and they get a little upset
when I make a response which may have an
overtone of politics to it. But, let me tell you,
small business people are petrified of the
Labor Party. One hundred per cent of you are
trade union bosses. They are petrified of you
people, and the last thing they want is to
have a Labor Party in government, 100 per
cent composed as it is of trade union bosses.
You cannot get a job in this parliament in the
Labor Party if you are not an active member
and functionary of the trade union move-
ment. You know that, we know that and
small business knows that.

Refugees: Assistance

Senator COONAN (2.07 p.m.)—My
question is to the Leader of the Government
in the Senate, Senator Hill. Will the minister
inform the Senate of Australia’s efforts to
assist genuine refugees? How does Austral-
ia’s record compare with other nations on
this issue? Is the minister aware of any alter-
native approaches to this difficult issue?

Senator HILL—I thank Senator Coonan
for her question and for her ongoing interest
in this complex matter. This question allows
me to put on the record Australia’s proud
achievements in showing compassion to
those people who have been forced to flee
from their home countries, and that commit-
ment is ongoing. It is disappointing to see
that some senators would seek to undermine
the record for short-term political gain.

Opposition senators interjecting—

The PRESIDENT—Order! There are
three senators on my left who are shouting
and behaving in a disorderly fashion.

Senator HILL—For the record, on a per
capita basis, Australia is the second most
generous nation in the world when it comes
to the resettlement of refugees. We are only
marginally behind Canada in that regard. In
fact, it is worth remembering that most other
developed nations have no resettlement pro-
gram at all; instead, they simply take people
who have had the opportunity and resources
to reach their borders. All senators would be
aware, however, of the problem that Austra-
ilia currently faces with illegal arrivals of
shipments of people seeking asylum. Even
the Leader of the Opposition acknowledged
the extent of the problem when he pointed
out that there were only 2,000 such arrivals
in the first half of the decade but around
11,000 arrivals since. Australia has again
dealt with these arrivals compassionately and
we have set up an orderly process to assess
their claims for refugee status. We have pro-
vided food, shelter and medical and educa-
tion services for these people while their
claims are assessed. But there is a genuine
concern within the community that those
who arrive illegally are displacing persons
currently waiting for resettlement in refugee
camps around the world, so we have also
made efforts to deter the people-smuggling
trade. The opposition spokesman, Mr
Sciaccia, acknowledged the problem earlier
this week when he said:

At the moment, the people movers, as you call
them—the people smugglers—think that Austra-
ilia is, in fact, a fairly soft touch. They think that
as long as they can get there, that we are going to
allow them all in.

That is a perception that we as a government
have been trying to address. We have been
trying to send a message to the people smug-
glers that Australia shows genuine concern
to genuine refugees, but we will not be a soft
touch for the people smugglers to continue
their profit from the misery of others.

Up until last night, we were led to believe
that we had the support of the Labor Party in
these efforts. The issue of the Tampa, which
entered our territorial waters against Austra-
ilia’s wishes and under duress from the peo-
ple that it had rescued, is sensitive and com-
plex. Australia has provided an assurance
that food and medical supplies will be made
available to the ship; but, like every other nation in the world, we demand the right to protect our sovereignty. We believe that the community expects us to put in place measures to protect Australia’s borders, and that in fact is a primary duty of any government. That is the key issue here. The Prime Minister has shown leadership on the issue and it is regrettable that, when it came to the crunch, Mr Beazley went missing in action.

**Goods and Services Tax: Small Business**

Senator LUNDY (2.12 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. What comfort can the minister offer to a small business woman, running her own real estate agency here in Canberra, who has had immense difficulties complying with the burdensome administration required under the GST law? It is so burdensome in fact that she has been late in submitting her June BAS and now faces a $180 penalty. Can the minister seriously expect small business people, such as this Canberra real estate agent, to simply accept such penalties when the Liberal Party, who imposed these burdens on Australian small business, do not themselves comply with the GST law?

Senator KEMP—What comfort can I give to a person in the circumstances that Senator Lundy mentioned? Let me make a number of comments which I think would give her some comfort, and then let me deal with some of the specifics of the question. This government has delivered a high growth economy for small business. Australia is arguably one of the fastest growing economies in the world—a very important plus for all people in business: small, medium and large. That is reflected in the falling level of unemployment compared with when Labor was in government.

The second element of comfort that I can give to small business is that the interest rates that people in small business are paying are far lower than the rates that were being paid under the previous government. Under the previous government, many people in small business were paying over 20 per cent, at one stage, as a result of the high interest rate policy of the Labor government. That is the second point that I would make to give some comfort to this person.

The third point I would make is that we have done many things to assist small business. One of the big issues for small business—as Senator Lundy, a former trade union boss, would know—is the issue of unfair dismissals. The Labor Party, over a very long period of time, has fought us on this issue. That is the third element of comfort.

For the fourth element of comfort, I would refer to the first answer I gave in question time today. It is probably not well known by many people in business that you cannot get preselection for the Labor Party if you do not have a trade union background. If you are a rank and file member of the Labor Party, you have no chance of coming into the Senate; what you have to do is become a trade union boss. When you look at the other side of the chamber, it is clear that to suggest that a Senate composed of former trade union bosses would show much sympathy for small business would be stretching the credulity of small business.

In relation to the specific issue, if someone in business has a difficulty in filing their BAS, the first thing they should do is contact the tax office. The tax office has field officers available who can provide advice to the person to check that they are able to keep their records. That is one of the direct comforts that we can offer. The second direct comfort we can offer is that, where there is an unavoidable delay, the individual can contact the tax officer. In some cases, it is possible for the commissioner to make a concession on penalties and interest. The third direct comfort I can give is that, as a result of the changes we made earlier this year—there are various options for people to fill in their BASs. Those options were negotiated with the profession; my understanding is that they have proven to be particularly successful for many people in small business.

I conclude by saying that there are many areas of comfort that I can convey to the person who was referred to by Senator Lundy. I say this sincerely: if the person is having some problems, we are more than happy to see what we can do to assist. If you have that person’s name and if you are standing up
sincerely trying to help this person, we will see what we can do to assist. (Time expired)

Senator LUNDY—Madam President, I ask a supplementary question. Isn’t this a gross example of double standards from the Liberal Party? I ask the minister: will small business people such as this real estate agent be able to invoke the ‘Macfarlane defence’ in response to these late lodgment penalties? Will small business people be able to argue, as Mr Macfarlane has done, that non-compliance with the GST legislation is not illegal, it is just ‘outside the parameters of the law’?

Senator KEMP—My advice to Senator Lundy is to get Senator Faulkner to ask his own grubby questions—I would not take those questions. You can say no to silly questions when Senator Faulkner asks you, you know; it is possible, Senator Lundy. But, seeing that you decided to be very political and not helpful in your supplementary question, let me respond in kind. The biggest rort that we have seen in the business community is in the real estate area—and thank you for referring to real estate. It is, of course, Centenary House. With Centenary House, the Labor Party is ripping an additional $36 million off the taxpayer. Oh, you shake your head! Thirty-six million dollars were ripped off the taxpayer. A contract was signed by the Labor government with the Labor Party, and what was the result? The taxpayer pays out an additional $36 million. So, Senator Lundy, if you really are worried, stand up and have a debate about Centenary House and spare us your hypocrisy. (Time expired)

The PRESIDENT—Order! Senator Kemp, you should withdraw that allegation.

Senator KEMP—I withdraw.

Immigration: Policy

Senator SANDY MACDONALD (2.19 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Minister, will you advise the Senate of government measures to protect Australia’s borders from illegal immigration?

Senator ELLISON—I thank Senator Sandy Macdonald for what is a very important question, and I acknowledge his interest in this matter. Australia has a proud and lengthy record in the way it has welcomed refugees to this country; I think Senator Hill eloquently spoke to that yesterday. But the situation in relation to the passengers of the MV Tampa who were picked up on Sunday is a different situation indeed. That, of course, does not lessen our commitment to provide appropriate humanitarian assistance to those people. Our commitment to provide that assistance was evident yesterday, when we provided medical treatment and supplies to those passengers, and today, when there were further supplies. The Minister for Immigration and Multicultural Affairs has outlined what we are providing the people on board the Tampa.

The legal position of the passengers on board the Tampa and their attempted illegal entry into Australia involves a very different situation, as I have said. The bill defeated by the Labor Party last night represented a renewed effort by the Howard government to enhance the powers available to Immigration and Customs officials to protect Australia’s borders from people seeking to enter Australia illegally, and I refer specifically to the people on board the MV Tampa.

Senator Bolkus—Twenty-six questions last night; he never answered one of them.

The PRESIDENT—Senator Bolkus, cease shouting.

Senator ELLISON—The bill sought simply to confirm the Australian government’s sovereign right to remove the boat—and the people on the vessel—that has entered Australia’s territorial waters illegally. While the government believe that we have acted at all times lawfully and in accordance with our international obligations in relation to the Tampa and its human cargo, the legislation defeated by Labor and the Democrats last night was designed to strengthen that legal position. This approach came from an abundance of caution which we as a responsible government had to adopt. Labor’s refusal to support these measures is a clear demonstration that the only party prepared to stand up in the national interest to protect Australia’s borders from illegal activity is the Liberal-National coalition.
Much has been made about our efforts in relation to upstream disturbance and our relationship with Indonesia. Can I say at the outset that in the period February 2000 to June 2001, due to the efforts of the Australian Federal Police, Immigration and Foreign Affairs and, particularly, cooperation from the Indonesian authorities, we have prevented a potential 3,700 illegal entrants coming to Australia. That has been very good work that we have done overseas in attempting to avoid this problem reaching Australia, and I want to place on record our appreciation to the Indonesian authorities.

We have an opposition that is carping and grasping at straws and which blames our relationship with Indonesia for these illegal entrants. What they have to look at are the facts, because the facts demonstrate successes in relation to upstream disturbance. We have set up a people smuggling task force made up of the Australian Federal Police and Immigration officials.

Senator Bolkus—You’ve got no idea what to do with this lot.

The PRESIDENT—Order! Senator Bolkus, you’ve been interjecting persistently during this answer and that was disorderly behaviour. There is an appropriate time for you to speak and debate the matter if you wish, and it is not now.

Senator ELLISON—We have tasked and resourced the Australian Federal Police to work with Indonesian authorities in relation to upstream disturbance in relation to people smuggling. And, in relation to people smuggling, I can say that we have introduced tough new penalties: up to 20 years imprisonment and fines of up to $220,000 for people smugglers. More than 302 people have been convicted under these new laws, with sentences of seven years imprisonment having been handed down. We are backing up our efforts with strong penalties, and you have seen those sentences in the courts. There are also a number of measures outlined by my colleague the Minister for Immigration and Multicultural Affairs, Mr Ruddock, in the House of Representatives yesterday. I want to put on record the appreciation of the government for his efforts in what has been a very difficult situation. In relation to our efforts overseas, Minister Ruddock—(Time expired)

Senator SANDY MACDONALD—Madam President, I have a supplementary question. Minister, you refer to the alternatives put forward yesterday by your colleague in the House of Representatives. Would you like to expand on those?

Senator ELLISON—Senator Macdonald also asked about other alternatives—of course he did. And at a press conference today the Leader of the Opposition, Mr Beazley, showed his total ignorance of how the law works, because he said, ‘If we had our way we would have a coastguard which would provide an opportunity to explain, for example, to the masters of those boats that they are bringing people illegally to this country.’ That is what we do now. For the last 54 suspected illegal entrants on vessels, that is the warning we have given them, and they have still carried on coming. The Leader of the Opposition does not know what the current law is when he says, ‘If we had a coastguard this is what we would do: we’d give them a warning.’ We have been giving them a warning and they have kept on coming. The Leader of the Opposition wants to get his facts right before he starts talking about any great new ideas of addressing this problem which we face today.

Goods and Services Tax: Surveys

Senator HOGG (2.25 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Can the minister confirm that leading accounting firm PricewaterhouseCoopers has identified the GST as the key culprit in a retail sector collapse in confidence? How does the government respond to PricewaterhouseCoopers’ latest annual retail meter survey which shows retail industry confidence dropped to a four-year low in the year to April, with only 12 per cent of retailers describing the environment as positive, versus 49 per cent in the previous year?

Senator KEMP—I would have to say that a variety of surveys has come out. The most recent one I refer you to is the Yellow Pages survey—

Senator Bolkus interjecting—
Senator KEMP—I am saying that a variety of surveys has come out. The one which is often referred to in this chamber is the Yellow Pages survey, which clearly showed growing confidence in the business community. I think the Yellow Pages survey went on to say that this is one of the reasons why they expect Australia to be on a strong growth path in the years ahead. So, Senator, there is a variety of surveys. But I have to point out to you that most of the surveys are pointing to growing business confidence and growing consumer confidence. Some of the surveys are showing a lack of confidence in relation to the Labor Party’s stand on a number of key issues, including roll-back. That is not surprising because there is one thing that small business do not want and that is roll-back. Roll-back equals complexity.

Senator Cook—No, it doesn’t—simplification.

Senator KEMP—Senator Cook says that it does not. I have to say that that is going to give a huge amount of confidence to small business! Senator Cook’s third most famous quote was that the final Labor Party budget was in surplus when in fact it was in a $10 billion deficit. So, Senator, I point out to you that there is a variety of surveys. But I think that, in fairness, the balance of surveys done in recent months show growing confidence in business, growing confidence with consumers and a lack of confidence in the Labor Party. I have to say that, with the Labor Party’s performance in recent weeks, I suspect that some surveys on the public opinion polls might show Labor Party support continuing to decline in the community. There is one thing you have got to have—

Senator Conroy—We are feeling pretty cocky today, aren’t we, Rod?

Senator KEMP—Senator Conroy, I do not criticise you, because you are the head of perhaps the smallest faction in the Labor Party—the truth in policy faction—and you have informed the wider community that the Labor Party is either going to cut services or raise taxes. I think you have done an important community service, so I do not stand up here, Madam President, and attack Senator Conroy, although he does seem to be going a bit red in the face and shouting out a little bit. So, Senator, if you look at surveys I think you will find that most surveys support the position I put to you. If you look at the performance of this economy compared with most other comparative economies, you will see that Australia is in the very top league—in fact, the envy of most countries. This is a very well managed economy, and the statistics show that. The attempt by the Labor Party to talk down the economy has also been noted by the public and, I might say, by some members on the frontbench of the Labor Party, who have gone on record as attacking the shadow Treasurer, Mr Crean, for whining about the economy all the time.

Senator Crowley—What about the question, Senator?

Senator KEMP—I am not saying that it was you, Rosemary. I am saying that it was someone on the frontbench.

The PRESIDENT—Senator Kemp, you are out of order in several respects. You are speaking directly across the chamber, which is disorderly; and, if you are referring to a senator, she should be referred to correctly.

(Time expired)

Senator HOGG—Madam President, I ask a supplementary question. My question, which the minister failed to address, was directly related to PricewaterhouseCoopers latest annual retail meter survey. I thought he would have been familiar with that survey. He referred also to the Yellow Pages survey, which does show that, in the three months to July, small business support for the GST and the Howard government had dwindled. Can the minister therefore address the issue that I raised in my question? Also, what effect will the Howard government’s double standards have on the confidence of Australian small business when this government is happy to make them unpaid tax collectors for a tax that the Liberal Party itself wriggles out of paying?

Senator KEMP—What we are seeing here is another grubby political attack from the Labor Party—the Labor Party of Centenary House fame, the Labor Party of the McKell Foundation fame, the Labor Party of the Markson Sparks campaign. You mentioned the Yellow Pages survey, Senator, and
I can indicate to you that, overall, the index of the Yellow Pages survey you mentioned notes that confidence and perceptions of the state of the economy improved markedly during the previous quarter. The impression attempted to be created by Senator Hogg, who holds himself out to be a future President of this chamber, was perhaps not providing the full picture of what that survey showed. It showed that business confidence was improving, which is very good for the economy. (Time expired)

Refugees: Norwegian Ship

Senator BARTLETT (2.32 p.m.)—My question is to the Minister representing the Prime Minister. Has the government received representations from any of the heads of Australia’s main Christian churches in relation to its treatment of the asylum seekers on the MV Tampa? Is it the case that leaders from the Catholic, Anglican, Uniting and Baptist churches have called on the government and the opposition to allow the asylum seekers on board the Tampa to be relieved from their current trauma and to disembark in Australia? Why is the government ignoring the calls from our Christian church leaders to take a constructive, humane and compassionate approach to the asylum seekers on board the Tampa and not to use brinkmanship to develop and implement public policy?

Senator HILL—I think we have to remember that these people paid the smugglers to transport them illegally into Australia.

Honourable senators interjecting—

The PRESIDENT—Order! There is too much noise in the chamber. I need to hear the answer and Senator Bartlett is entitled to hear it as well.

Senator Schacht—Did you say prayers in the Senate, Hilly?

The PRESIDENT—Senator Schacht, cease interrupting the debate.

Senator Bartlett—How do you know? I can’t find out anything about it.

Senator HILL—If Senator Bartlett does not know what is happening in relation to people smuggling into Australia, he must be the only Australian who does not know.

There is evidence of an increasing flow of illegal entries into Australia by people who are basically buying passage from people smugglers. This is an illegal activity. It is an illegal conspiracy to breach the laws of Australia on the basis that they believe—as I said in answer to the first question—that, if they get into Australia, they will be given asylum and ultimately released into the Australian community. What this government has said is that Australia has the right, and in fact the responsibility, to protect its borders. It has the right to protect its borders against illegal entry.

The MV Tampa was a more extreme instance—I acknowledge that—where people who were picked up by a Norwegian vessel exercised duress upon the captain of that vessel, forcing him to transport them to Australia. In those circumstances, Australia had a particular right to say that our border is the line and we are not going to permit the ship to cross that border. When the ship crossed the border illegally, Australia did show compassion to those on board. We have provided them with medical assistance, we have provided them with food and we intend to continue to do so. We do that because, contrary to what Senator Bartlett said, we are a compassionate, humane country.

Opposition senators interjecting—

Senator HILL—Apparently it is now the position of the Labor Party that all illegal entrants to Australia should be released on Australian shores. Is that now the policy?

Senator Bolkus—What a joke!

Senator HILL—Then why are you saying it is a joke? It is time the Labor Party came clean on this issue. We are getting very confusing messages.

Honourable senators interjecting—

The PRESIDENT—Senator Hill, just resume your seat. The Senate will come to order! Senators on both sides will cease shouting across the chamber. All senators know the standing orders and know the standard of behaviour that is expected.

Senator Abetz interjecting—

Senator Jacinta Collins interjecting—
The President—Senator Abetz and Senator Collins, stop shouting at each other.

Senator Hill—The Australian government will seek to protect Australia’s borders. We will seek to resist the entry of illegals. That is the position—

Senator Jacinta Collins—What about the asylum seekers?

Senator Hill—Illegal entries? We will seek to protect—

The President—Order! Senator Hill has been asked a question by Senator Bartlett and he should not have questions being shouted at him from opposition senators. There is an appropriate time for you to ask questions, and this is Senator Bartlett’s question.

Senator Hill—As I was saying earlier, we have a program whereby about 12,000 a year enter Australia on humanitarian grounds. This is an orderly program which has been in place for a long time. Most of these are on a resettlement basis—that is, we are assisting those that are in the camps that cannot afford to buy passage into Australia; those who are the most desperate of all. That has been the basis of the Australian humanitarian program, which used to be supported by both sides in this chamber. But the more that gain illegal entry into Australia, the fewer that will come in through resettlement, the fewer that will be able to be accepted from the camps, the fewer of those who are most desperate. This government, if you talk about humanitarian concerns, has a concern for those who are most desperate in the camps and we want them to have a fair go as well. So we will protect our borders. Where there is an illegal entry, we will treat those with compassion. (Time expired)

Senator Bartlett—Madam President, I ask a supplementary question. I ask again why the minister and the government are ignoring the calls from the leaders of all of our main Christian churches in Australia on this issue. Is the minister saying that there are no genuine refugees on board the Tampa? If so, how have they established that this is the case? If not, why are the government doing whatever it takes to ensure that any claims for refugee status are not able to be tested? Is the minister saying that Australia has the right to turn refugees away at its borders?

Senator Hill—If the honourable senator is saying that the government should treat even illegal entrants with compassion and humanity, that is the position of the government. That is why they have received medical treatment. That is why we have provided them with food and sustenance. We believe in treating people humanely. But we also believe that we have a responsibility to protect Australia’s borders. We have a very generous refugee program, as I said earlier: the second most generous in the world. We are proud of it. For years and years Australia has been accepting its fair share of this international responsibility. We will continue to do so. We will continue to support those in the camps. We will continue to provide a resettlement opportunity for them. When illegals enter Australia we will continue to treat them with compassion and humanity. But we will also seek to protect the Australian border, because that is what we believe is our responsibility.

Goods and Services Tax: Amendments

Senator Forshaw (2.40 p.m.)—My question is directed to Senator Kemp, the Assistant Treasurer. Can the Assistant Treasurer confirm that the tax office issued 84,287 private rulings on the GST in the year 2000 alone? Can the minister also confirm that the government has made over 2,000 amendments to its new tax system? Is it true, as PricewaterhouseCoopers’ indirect tax partner, Kevin O’Rourke, told a survey launch function on Tuesday, that there are a further 1,000 GST amendments needed to make the legislation workable? Does the government still maintain that the GST is a ‘simplified new tax system’?

Senator Kemp—Let me work backwards. The GST is a tax system vastly superior to the one we had. In fact, we have a world-class tax system.

Senator Cook—What about the compliance burden?

Senator Kemp—Madam President, it is a bit difficult to answer the question if you are subjected to constant abuse from the likes
of Senator Cook. I do not normally call on the chair for protection, as you know, Madam President, but if I am going to respond to Senator Forshaw we do need a little bit of silence in the chamber. Have we produced a better tax system? The answer to that is yes, we certainly have. The government’s aim was to give Australia a world-class tax system, a highly competitive system, and that is why we brought in tax reform.

Senator Carr—What about your 1,000 amendments? You’ve got another 1,000 in the drawer. Is that right?

The President—Senator Carr, shrieking in that fashion is disorderly. You are not entitled to be asking a question at this time. There is an appropriate time for you to do so.

Senator Kemp—Let me also say that the greatest confirmation of this comes from the fact that our major political opponents, the Labor Party, are proposing to keep this tax system.

Senator Cook—No we aren’t.

Senator Kemp—Yes, you are. Some of the supporters of the Labor Party may be a little bit surprised to hear this, but let me put it this way: if you genuinely did not like this tax system, if you felt that this tax was not producing the results that were good for the economy, good for business and good for families, what you would do is change the system; the fact is that the Labor Party have decided to keep this system.

Senator Cook—You have started the process of roll-back; we will continue it.

Senator Kemp—Senator Cook calls out ‘roll-back’. I make the offer again—24 times I have now offered—I am very happy to stay back in the chamber and debate roll-back, but no-one in the Labor Party wants to debate roll-back. Let me turn to the next part of the question about proposed amendments. I am aware that there is a proposal to make very substantial amendments to the tax laws. It is called roll-back.

I do not know how many amendments would be needed to implement roll-back, but let me throw a figure up in the air and we can have a debate. I suspect there may be 6,000 amendments needed to bring in roll-back, and that would be a minor roll-back. I thank you for the question, Senator Forshaw. You ask me about proposed amendments, but we know that the Labor Party are proposing to make amendments and that the number of Labor Party amendments may well be in the order of 6,000—it may be more. If it is only a little roll-back, that may be about 6,000; if it is the sort of roll-back that Senator Cook has been talking about—

Senator Faulkner—How many amendments have you made?

Senator Kemp—Madam President, I think it would be a very good thing if Senator Faulkner kept quiet. He has got a few big problems on his plate at the moment.

Senator Faulkner—How many amendments have you made?

The President—Order! Senator Faulkner, you know you are out of order.

Senator Kemp—If Senator Faulkner wants to make a speech, we will all come in and listen to Senator Faulkner on the adjournment tonight. (Time expired)

Senator Forshaw—Madam President, I ask a supplementary question. I acknowledge that the minister thanked me for asking the question; I wish I could thank him for answering the question. Minister, you ignored the question with regard to private rulings and you ignored the question with regard to the 2,000 tax amendments that your government has made. I would ask you to take those questions on notice, but I would also ask you to comment on this. Is Mr O’Rourke correct when he claims:

There are large slabs of it which simply do not work and that is why lots of amendments have been drafted. But they’re sitting there because no government at present is going to put those amendments through the parliament and say that the GST does not work pre-election.

Minister, is Mr O’Rourke right or is the government right in claiming that it has got the GST absolutely perfect and that there is no way that it can be made either fairer or more simple?

Senator Kemp—Mr O’Rourke is wrong. In case you missed that, Senator Forshaw, Mr O’Rourke is wrong. I may do him an in-
justice and, if I do, he would excuse me, but Mr O’Rourke is a regular out there in the media claiming that there are thousands of amendments. I am not sure that he speaks for his firm, but Mr O’Rourke is a real regular out there. Because he makes so many regular forecasts of numbers of amendments, Mr O’Rourke would be the ideal person to say how many amendments it would take to bring in roll-back. Mr O’Rourke is apparently the expert on this but, as far as the government is concerned, let me make it clear that Mr O’Rourke is wrong.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left should cease shouting.

Senator KEMP—But if Mr O’Rourke would like to turn his— I will not say ‘expertise’ because he seems to get things wrong quite often—abilities to forecasting how many amendments it would take to bring in roll-back— (Time expired)

Sydney (Kingsford-Smith) Airport: Sale

Senator STOTT DESPOJA (2.47 p.m.)—My question is addressed to the Minister representing the Minister for Finance and Administration. Can the minister recall the Department of Finance and Administration saying to the Audit Office in April that it was ‘not charged with the role of protecting the overall interest of the Commonwealth’ when it comes to the disposal of Commonwealth assets? Can the minister assure the Australian people that these views expressed by the department will not be used as the guiding principle for the selection of a buyer for the Sydney airport? Can the minister also assure the Australian people that all potential bidders for Sydney airport have been advised that all future price regulation will continue to be directed towards providing benefits to consumers?

Senator ABETZ—I thank Senator Stott Despoja for her question. At the end of the day it is the government that makes policy, not the department. If the government determines a particular course, then it is for the government to bear the consequences of that. It is not for the department to try to second-guess. We live in a democracy where the government is elected, not the Public Service. We are the ones that are accountable to the people. In relation to Sydney airport, all of our sales are based on assessing the need for government to be involved. We then decide whether it is appropriate for us to have that asset in relation to Sydney airport. The decision has been taken that it would be in our interests to get out of that asset. That means some of that $80 billion accrued during the previous Labor government can be paid off. And, of course, that means there is more money left for social purposes rather than for paying huge interest bills.

Senator Stott Despoja comes in here—or she used to anyway—talking about intergenerational responsibility in relation to the environment. I happen to agree with her. I also happen to agree with her in relation to intergenerational responsibility when it comes to money matters. There is nothing socially just about this generation of parliamentarians taking the Australian people along a path which allows them to live beyond their means and leave a legacy of debt for the next generation to pay off. There is no morality in that; there is no social justice in that. What we as a government are doing is bringing some intergenerational responsibility into the fiscal area of government.

We know from the Democrats that, because they will never have the responsibility of balancing a budget, they like to oppose property sales, they want extra expenditure and they oppose tax increases. They have it every which way because they know that they will never be brought to account to actually balance a budget. I must say that is where some of us on this side do regret the change of leadership in the Australian Democrats, because there was some fiscal responsibility and some credibility about the approach of the Democrats in the past. But, with the sort of question we are getting from Senator Stott Despoja now, we see that the Democrats are moving into an area where they will say anything, promise anything and do anything for a few extra votes. But, in relation to our property sales, we have a policy of liquidating assets to pay off that outrageous debt which has cost the Austra-
lian people a terrible amount of money each
year. As a result—

Senator Stott Despoja interjecting—

Senator ABETZ—Madam President, Senator Stott Despoja is so precious whenever anybody interjects against her. She has been interjecting non-stop, and the precious princess ought to be brought to order.

Senator STOTT DESPOJA—Madam President, I ask a supplementary question. Can I take it from the minister’s comments in relation to the role of the department that the government repudiates the views put forward by the Department of Finance and Administration? Secondly, can the minister confirm for this chamber that consumer interests—that is, consumer benefit as a result of price regulation at the airport—will be the key concerns taken into account in relation to the tenders for Sydney airport and that the bidders will be advised that they are pivotal and key concerns? Will the minister also advise the chamber that, when taking into account this process, he will assure the citizens of Sydney that the fair distribution of noise will continue to be a key concern when decisions are made about flight paths?

Senator ABETZ—I have got a minute to answer all those questions! Allow me to try to answer the noise issue, because there is a lot emanating from that section of the Senate! Assertions that the sale of Sydney airport is likely to bring more noise are clearly incorrect. The facts are that, as part of the Sydney airport sale process, the government is committed to ensuring the existing operational arrangements at Sydney airport remain in place. There will be no changes to the existing operating arrangements of Sydney airport following privatisation. Senator Stott Despoja would know that the curfew and the maximum hourly movement cap are enshrined in legislation—nothing will change—but once again we run this scare campaign, deliberately, and you would be aware of the legislation that has passed through this house. The government has confirmed that the jet curfew and the 80 movement per hour cap will not be changed. Similarly, the long-term operating plan will continue to operate. (Time expired)

Aged Care: Templestowe Private Nursing Home

Senator CHRIS EVANS (2.54 p.m.)—My question is directed to Senator Vanstone in her capacity representing the Minister for Aged Care. Does the minister recall on Tuesday referring, in answer to a question I asked her, to an incident at the Templestowe Private Nursing Home? Can the minister confirm that this incident was in fact the removal of all fire alarms from the building by a business that had not been paid for their installation? Is the minister aware that those fire alarms are only being put back in today on the direction of the provider and that, in the intervening period, the nursing home clearly breached all fire safety standards at considerable risk to residents and staff? Can the minister explain why the government knowingly left the residents and staff at risk and why immediate action was not taken to ensure their safety?

Senator VANSTONE—Senator, I have some information here, and I will give you that, and if Mrs Bishop has any more that she wishes to add I am sure she will pass that to your office. You are right, Senator, I do not know if it was the incident I was referring to the other day—I did not have details—but there have in any event been concerns raised over fire safety at the home, as the necessary fire safety equipment was recently removed. The department instructed the approved provider to restore the fire safety equipment and has advised Mrs Bishop that the restoration work will be completed today, 30 August. The department has arranged to have the restitution work professionally assessed on an ongoing basis. The settlement of the sale of the home has been delayed pending the completion of that work. The first residents are relocating to Cabrini Hospital today. The department and the agency are continuing to monitor the situation at the home. I do not have further information on that particular matter, Senator. If there is any more that comes to hand, I will have it sent to your office.

Senator CHRIS EVANS—Madam President, I ask a supplementary question. I thank the minister for her answer, but it begs the question why, while the home has been un-
der government supervision, all fire safety systems were allowed to be removed and the residents left in the home. You have told us on previous occasions that it is under government supervision and constant monitoring. I would also like you to answer the questions which I asked you on Tuesday—and I have not yet heard any answer—which were: was the government not warned of serious risks to residents in this facility 12 months ago? Were those concerns not reiterated in a report from February this year which showed serious breaches in care standards followed by a report in July which again identified serious risks to residents? Minister, what does the government’s monitoring system mean if you constantly collect reports, allow fire safety systems to be removed and yet say it is under your supervision? What guarantees are there for the safety of the residents, if action is not taken to protect the residents after you receive these reports?

Senator VANSTONE—Senator Evans, I have got an answer for you to the question you asked the other day. I will be incorporating that into Hansard at the end of question time. If there are any further matters in your supplementary question that Mrs Bishop can comment on, I will get those comments and send them to your office. But to say that the home is under supervision does not mean that there is someone there 24 hours a day watching what every workman does.

Christmas Island: Government Support

Senator EGGLESTON (2.57 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. Will the minister inform the Senate of the government’s ongoing support for the community of Christmas Island and is the minister aware of any alternative policies regarding this territory?

Senator IAN MACDONALD—I thank Senator Eggleston for that and I acknowledge that he is a senator who has spent a great deal of his time in the remote north-west areas of our nation. In the current worldwide focus on Christmas Island, it is easy to overlook the part played by the 1,500-odd Australians for whom Christmas Island is home. Christmas Island is part of Australia and it is a very remote community in Australia. That remoteness provides particular problems in relation to supply, transport and, indeed, protection.

The government provides considerable support for Christmas Island as part of the Indian Ocean territories in recognition of that remoteness. The budget for the Indian Ocean territories is some $50 million per year as recurrent funding, plus $20 million per year in capital funding. We provide an air service there which we subsidise to the extent of $4½ million a year. We support the major industry on the island, the mine, and also the proposed space launch facility.

The difficulties of Christmas Island’s remoteness are no more apparent than at this difficult time imposed by the flow of illegal immigrants to Australia. When uninvited vessels impinge upon Christmas Island the community acts with great credit, notwithstanding their strongly vocalised concern about how each arrival tests the scarce local resources of food and shelter on the island. It is therefore appropriate that I take this opportunity to thank Christmas Islanders for their patience and for their cooperation as we as a nation do our best to cope with the product of people smuggling activities.

The complex issue of the MV Tampa has imposed even further restrictions. Christmas Island has had to bear a great deal of the further inconvenience of the closure of the harbour, the influx of members of the ADF who are there to do a difficult job—all necessary in the broader national interest of maintaining the integrity of our borders and territorial waters and the sovereignty of our nation. The difficulties being faced by Christmas Island are a graphic demonstration of why this government is taking a firm stand to protect our borders and our territorial waters.

I am asked if I know of alternative policies. Yesterday at this time Mr Beazley said that the last thing the nation needed when faced with complex problems was a carping opposition. By evening time that had changed. I certainly do hope that a carping opposition is now not the only alternative policy for this very difficult situation. Every
time an illegal vessel lands at Christmas Island, community resources get stretched and we hear Labor MPs, senators and their trade union bosses screaming about the inability of that community to cope. Yet we gave Labor the opportunity to help that remote community by establishing strong protections for our national borders in a bipartisan fashion, and Labor declined that opportunity.

Senator Allison—Madam President, I take a point of order. On numerous occasions today government members in questions and answers have reflected on a vote of the Senate not 12 hours ago. I ask you to rule those questions out of order.

The PRESIDENT—Any reflection on a vote is out of order and I shall certainly listen carefully for any such reflection.

Senator IAN MACDONALD—It is a matter of fact that the Labor Party—and the Democrats, now it is brought to my attention—declined the opportunity to help the people of Christmas Island. Communities like Christmas Island and others across the north of our nation have every reason to question Labor’s commitment to their protection and to maintaining the integrity of Australia’s borders. I can only hope that Labor reconsiders its current stand against the interests of our protecting our borders. (Time expired)

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Aged Care: Templestowe Private Nursing Home

Aged Care: Subcontractors

Senator VANSTONE (South Australia—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (3.04 a.m.)—Senator Evans asked me a question on 28 August about Templestowe Private Nursing Home, and Senator McKiernan about the Western Health Care contracting of staff issue. I seek leave to incorporate the answers in Hansard.

Leave granted.

The answers read as follows—

Templestowe Private Nursing Home

Senator CHRIS EVANS—My question is directed to Senator Vanstone, representing the Minister for Aged Care. Can the Minister confirm that the Government’s aged care standards agency found serious risk to residents in the Templestowe Private Nursing Home in a report dated 16 November last year. Can the Minister also confirm that in the five months after the Director of Nursing resigned in October 2000 there was no director of nursing employed at this nursing home. Given the subsequent events at this nursing home, can the Minister explain how Templestowe Private Nursing Home was granted accreditation on 12 December 2000 just 26 days after the serious risks were reported and while there was no Director of Nursing employed at the facility.

Senator CHRIS EVANS—Madam President, I ask a supplementary question. I thank the Minister for her answer. I want to focus her in on the question, which was on early incidents, because Minister Bishop has constantly talked about being notified on 23 July. The point of my question is to ask: was the Minister notified about the report in November last year which found serious risk to residents and which predates any public comments she has made about it, and also was the Minister aware that there was no Director of Nursing for five months at the home while it was allegedly under the supervision of the Department?

I am particularly keen to understand why it was granted accreditation when it had clearly failed care standards only some weeks before. Minister, I appreciate you taking it on notice, but I would like you to—if you could—get an answer as to why the Minister has not referred to the November report last year which identified serious risk, and why the home was granted accreditation when clearly it had failed to meet care standards.

Senator VANSTONE—The Minister for Aged Care has provided the following answer to the honourable senator’s question in accordance with information supplied to her:

No. There was no report by the Aged Care Standards and Accreditation Agency dated 16 November 2000 that found serious risk. The Agency in a Support Contact Record dated 16 October 2000 identified potential serious risk in medication management. The Department met with the approved provider who agreed to appoint clinical nurse consultants.

Subsequent to the resignation of the Director of Nursing on 30 October 2000 the approved provider engaged two clinical nurse consultants. The
consultants were employed at the home between November 2000 and February 2001. These nurses met the description of key personnel under the Aged Care Act.

The Agency found in an accreditation site audit of 9 November 2000 that there had been improvement in compliance with accreditation standards and the service was accredited for a period of 12 months.

**Supplementary Question:**
There was no November 16 2000 Report. See answer provided to main question.

Western Health Care—Contracting of Staff

Senator McKIERNAN—My question is directed to Senator Vanstone, representing the Minister for Aged Care. Is the Minister aware that a nursing provider in Western Australia, Western Health Care, is attempting to turn all its nursing and care staff into subcontractors? Is this allowed under the Aged Care Act? And doesn’t it raise significant implications for the continuity of care for residents when there are no permanent staff in these nursing homes? How can staff monitor the conditions of residents over time and note the changes in behaviour if they are constantly being changed. How can staff feel any security in their employment and commitment to the facility if they can have their employment terminated without notice?

Senator VANSTONE—The Minister for Aged Care has provided the following answer to the Honourable Senator’s question, in accordance with information supplied to her:

In May 2001, the management of Western Health Care (WHC) undertook discussions with staff about a range of issues including improvement of continuity of care, conditions of service and how they might improve the level of pay to staff. During these discussions it was agreed that the major impediment to increases in wage levels were the limitations of the awards in relation to the number of shifts and hours some staff were permitted to work.

The management of WHC offered a number of solutions, including an Enterprise Bargaining Agreement (EBA), Australian Workplace Agreements and individual contracts. A majority of the staff are not union members and consequently indicated reluctance to negotiate an EBA through a Union.

Staff requested the management of WHC to investigate contracting options for those staff that were interested.

In July 2001, a voluntary contracting option for interested staff was offered. Approximately 40 of the 260 staff who could take up the voluntary option did so. This resulted in a conversion of leave and other entitlements into a higher hourly rate and an increase in that staff member’s take home pay.

The Chief Executive Officer of WHC has given an unconditional guarantee that any staff member who takes up a contract may, after a trial period, transfer back to their previous award entitlements. Staffing taking up the option have generally been non-nursing staff and have indicated to the management of WHC that they are generally satisfied with the arrangements.

There is no discrimination between staff employed under award conditions or under the contract arrangements.

All new employees are given the same option for employment—either under the award or through a contract.

Management at WHC have advised that since the introduction of this employment option, WHC has been able to improve continuity of care for its residents through the increased availability of staff who are familiar with its residents, work patterns and methods of care. Predictable staffing arrangements have decreased the reliability on agency staff and, consequently, improvement in the quality of care.

WHC have advised that there is no financial gain to them in undertaking contracting arrangements as management has supported the staff objectives for increased continuity, better conditions and improved rates of pay.

In late July 2001, the Liquor, Hospitality and Miscellaneous Workers Union (LHMWU) issued a notice of dispute citing concerns at the casualisation of the workforce.

Management of Western Health Care met with union representatives on 24 August 2001, and offered to cease offering any new contracts for one month while the possibility of an EBA was investigated.

The unions refused this offer.

WHC have engaged consultants to develop and explain individual contracts to staff. An emphasis has been placed on explaining to staff their options and choices in relation to employment conditions.

Employment arrangements are the responsibility of the approved provider as the employer. The Commonwealth does not employ staff of aged care homes.
Under the Aged Care legislation the provider must have the appropriate staff and systems in place to ensure quality of care and continuity of care. Quality systems are assessed through the accreditation process.

Under Labor’s Care Aggregated Module funding arrangements nursing home providers were unable to pay staff above award wages and claim this as a legitimate care cost for funding purposes. Care staff costs funded by the Commonwealth were limited to the relevant award wage.

This meant that providers were structurally inhibited from entering into salary packaging arrangements or providing higher wages to attract or retain key staff.

Refugees: Norwegian Ship

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.04 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Justice and Customs (Senator Ellison) to a question without notice asked by Senator Macdonald today relating to illegal immigrants and protection of Australian territorial waters.

Australians are absolutely dissatisfied with the way the Howard government is handling this question of the MV Tampa. What a mess, summed up today in the editorial of the Australian newspaper headed ‘PM’s refugee bungling defies reason and decency’. That is a change from the Australian, and a welcome one. Labor wants the government to get on with finding a solution and get these people to where they should have been long before now—a safe haven in Indonesia. Both Mr Howard and Mr Downer have said that Australia’s current laws are adequate to deal with this issue. That is what they have said. What we say is that, if that is the case, they should get on with the job.

Last night’s 40-minute wonder from the government, which was called the Border Protection Bill 2001, was not the solution to the problem we face. We did not come to that conclusion lightly. We did not come to that conclusion through political opportunism. We came to it through a perspective of the national interest. The politically opportunistic approach to this bill may well have been simply to sign on the dotted line—perhaps we have taken a more difficult road; time will tell—but we took the proper and principled position and opposed the bill. Caucus this morning unanimously committed Labor to finding a humane and legal solution to the situation of the people on board the MV Tampa. It condemned the government for introducing unnecessary and draconian legislation, legislation that the Prime Minister himself has conceded is not necessary.

We do not support a bill that purports to override all other laws without qualification, including international maritime laws and Australian criminal and civil laws, that creates unnecessary and unreviewable absolute discretion for Australian officials in removing vessels from Australian territorial waters, irrespective of the seaworthiness of such vessels or the health and safety of those on board, that provides no guidance as to when and how and why a decision to remove a vessel is made, that provides no rational basis for the assessment of what ‘reasonable means’ and ‘reasonable force’ are in the removal of a vessel, and that is so broad that it would potentially allow the exclusion of Australian citizens on Australian vessels without any avenue of parliamentary, administrative or judicial challenge or review.

We are prepared to negotiate with the government on a comprehensive solution, which must be based on a safe destination being found for the vessel and the people on board to sail to. It has to be based on provisioning of the vessel and on attending to the genuine medical needs and security for the master and the crew if that is requested. We will cooperate. We will support legislation necessary to give effect to such a comprehensive solution.

There will be no solution to this problem without Indonesia. I understand that Mr Howard, who has waited six days to talk to President Megawati, is trying to contact her this afternoon. That is good. I am glad he will pick up the phone, if that is the case. But Mr Ruddock, Mr Howard and Mr Downer have had days to get their act together on this matter. They have whole departments to help them. They have a professional foreign service to help them. Of course, if legislation is needed to address this problem specifically, talk to us, consult with us, work with us. We will cooperate. We will support legislation that meets the sorts of criteria that I
have outlined and that actually does assist in solving this serious problem. *(Time expired)*

Senator HILL *(South Australia—Minister for the Environment and Heritage)* (3.09 p.m.)—What I would say of Labor is: far too little and far too late. Who is Senator Faulkner trying to kid? He has just had an hour when the Senate has been broadcast, when there has been a chance for those outside this building to hear the Labor Party perspective on issues.

Senator Robert Ray—To hear you ir-relevantly slag off!

Senator HILL—He asked no questions on broadcast. As soon as the broadcast is off, there is this feeble attempt to try to regain some ground. One could only suspect that it is more about the need for a little reinforcement from within the Labor Party for the benefit of the Labor Party than for any other purpose. The Labor Party have no interest in working with the Australian government to address this issue. They had that opportunity last night. The Labor Party last night had the opportunity to demonstrate that they were prepared to support the government in difficult circumstances. We said last night that we believed every action that we had taken was within Australian law and that every action we might intend to take is within Australian law. But we also said that there is some doubt about some aspects, and we were advised to put the matter beyond all doubt—a sensible, reasonable step to take, one would have thought. And one would have thought from a sensible, reasonable opposition that in these circumstances they would support the government. But instead they did not.

They wanted to produce a different political product. They wanted to send the message to the Australian people that they were offering an alternative. I have to say to Senator Ray that at the moment I am particularly confused as to the terms of that alternative. Senator Ray, for example, speaks strongly in favour of the need for a fair go for those in the refugee camps. Others in the Labor Party, by all their body language today, were indicating that they believe that every illegal entrant to Australia is entitled to be on Australian territory. So that is a confusing message coming out of Labor in relation to this matter—and all too late.

After having dismissed out of hand last night the government’s request for legislative assistance not only to deal with the *Tampa* but to deal with other occurrences of a similar nature—they will not be the same but of a similar nature—that may occur over the next six months, Senator Faulkner comes in this afternoon and says, ‘Really what Labor wants to do is to work constructively with the Australian government. You, the government, find a solution and then come to the Australian Labor Party and, provided Labor thinks it is a reasonable solution, we will then support you.’ Unfortunately, as some on the other side would know, government is not that easy. You have to be prepared for difficult decisions that lie ahead, and we do not know what the prospectivity of this matter is. The circumstances are changing day by day. There were reports this morning of up to 5,000 persons to be moved—

Opposition senators interjecting—

Senator HILL—Heads are shaking on the other side. Even Mr Beazley acknowledges the escalation in the number of people buying places and being moved by people smugglers. It is a problem that the Australian government has got to respond to. This Australian government, the Howard government, believes that Australia’s territorial borders are sacrosanct. No-one has got a right to cross those borders illegally. That is the position we have taken. When this ship was coerced to move towards Australia—I understand it was already in the process of returning to the Indonesian port—and entered Australian territorial waters, we had a right to protect our sovereignty. And, for a while, it looked as if the Labor Party were prepared to support us in doing so, but when it got a bit complicated and the government said that it needed legislative support for the future and for uncertainties in the future the Labor Party said, ‘No, we have gone far enough.’ The parliament might be up, but the Labor Party will not give the government the legislative power it needs to deal with the uncertain circumstances of the future. When the parliament is up, the Labor Party says, ‘Produce your solution and then we will have a
think about it.’ It simply will not work that way. The Labor Party is disappointed on this. (Time expired)

Senator CARR (Victoria) (3.14 p.m.)—Today was quite revealing. The government once again sought to peddle its gross distortions. It once again sought to misrepresent the Australian Labor Party and once again sought to confuse its interests with the national interests. I should remind Senator Hill of the position that was put last night and was put by all the Labor speakers last night. In essence, what we said was that, if you aspire to political office in this country and aspire to be in government, you have to forgo certain political opportunities. There are certain responsibilities that go with the quest for national office, and such things as the question of the protection of the interests of the state become responsibilities for us all. That is the interest of the Commonwealth, if you like. There are issues in regard to national defence, national security. There are questions about border protection and the integrity of this country that are matters we all hold to be very important. Those matters are generally treated in a bipartisan way. The real problem arises when you take leave of your senses in this regard and seek to abuse that bipartisanship. That is what we saw with the government’s attempt to introduce this legislation last night, with the circumstances under which it sought to introduce it and, of course, the nature of that legislation.

What we saw last night was a government that sought to introduce a new policy parameter which fundamentally turns its back on this country’s domestic law and on international law and this country’s obligations under those laws. What we saw was essentially a government that had abandoned any context of reason, any context of our moral or humanitarian obligations. Not least, it failed to establish what the realistic context was in which it was supposed to be operating. We had no assessment of the legal failings it currently faced, just a blunt attempt to secure legal protection for what it clearly believes to be its illegal actions to this point. But there was no description of what those particular measures were or where the law currently fails. Last night, the Howard government showed that it had allowed its own party political interests to subsume, to overtake, any consideration of the national interests.

We saw a whole lot of theatre yesterday. We saw the orchestration by this government, on the open sea, of an attempt to cynically manipulate the plight of nearly 500 people. That is what is most unfortunate about this whole affair. We saw an attempt to confuse, to portray this crisis to the public as one of national security. Quite clearly, it is a crisis of this government’s making. It is a human crisis that is a result of this government’s bungling.

Senator Hill—It is a crisis of this government’s making? Explain that.

The DEPUTY PRESIDENT—Order, Senator Hill.

Senator CARR—I just ask you to read the Australian editorial this morning: ‘PM’s refugee bungle defies reason and decency’. You have got a government that would have us indiscriminately turn away leaking, sinking, dangerously overcrowded and otherwise unsuitable vessels. This government would have us accept the position where we turn our back on our legal obligations in terms of genuine refugees. No-one on this side is saying that we should have an open slather approach to people who front up to our borders. We are saying that we ought to treat genuine refugees in a proper and humane way, consistent with our obligations under law.

What the editorial in the Australian—a paper that has so often supported this government—has clearly indicated today is that this government has put deterrence first and decency last. What we see is 460 people, including children, floating in limbo—in overcrowded, unsuitable and dangerous conditions. That is not going to deter the people smugglers. What you are trying to do, effectively, is to use these circumstances, the bottomless pit of misery that is afloat on those oceans, as a political device in the run-up to an election. What you are seeking to do in this shabby legislation you presented to this parliament last night—
The DEPUTY PRESIDENT—Address the chair please, Senator Carr.

Senator CARR—For the most base political motives, you were seeking to use that to advance your political interests as the Liberal Party.

The DEPUTY PRESIDENT—Please address the chair.

Senator CARR—Senator Ellison spelt it out today. He said it was only the Liberal Party that could represent the national interest in this place. He made it perfectly clear what the agenda was. This is a shabby device to pursue a political agenda. What you are seeking to do is to have us complicit in this, by abusing the extraordinary support the Labor Party has given—(Time expired)

Senator BOSWELL (Queensland)—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (3.19 p.m.)—I think we ought to go back to the beginning of this Tampa incident and see how it evolved. Last night I said that the Tampa answered a distress signal and picked up, in Indonesian waters, a boatload of 438 people who had embarked from Indonesia. The response should have been to go back to that port. Under duress, the captain of the ship was induced to go into Australian waters. So what are we to do? Abandon our foreign borders, our territory? What the government did was an act of caution, because what I believe could happen is that some of these illegal immigrants, once they get into Australian territorial waters, could have someone claim on their behalf that they are genuine refugees. By that means they could then mount a campaign that would cost the Australian government a huge amount of money.

We brought in a bill that, until 9 o’clock yesterday morning, had genuine bipartisan support, but when the going got a bit tough to protect Australian borders, to protect the sovereignty of Australia, the Labor Party did not have the ticker to go ahead with it.

Senator Robert Ray—Why didn’t you ring us?

Senator BOSWELL—Senator Ray, we were advised at quarter to six and you were advised about a quarter of an hour after that. There was no wedge politics in this issue, because the government expected you to support the bill.

The DEPUTY PRESIDENT—Address the chair please, Senator Boswell

Senator BOSWELL—The Prime Minister did not say, ‘This is a beautiful tactic. We will divide the Labor Party.’ The Prime Minister believed that you would support this bill because you had supported all the other things that the government had done. But when the going got tough, you could not hack the pace.

There are 500 people on their way to Australia—they are on the seas at the moment—and there are another 5,000 who are awaiting transport to Australia. There are 22 million refugees in the world who are seeking placement. Australia takes its role seriously. It is the second highest supporter of refugees in the world and, for our population, we are the highest. What are we expected to do? Are we expected to let the 5,000 people waiting for transport come in? I tell you now—and I have seen it out in the electorates—that the people are fearful of their sovereignty. They are concerned about it and they are worried about it. They want a government to take a responsible attitude that says we have the right to protect our territories and the right to protect our borders.

When that ship was turned around under duress, it was a try-on. If we let every try-on come into Australia, we will have not only the 500 who are on the water now but also the 5,000 who are waiting to do deals with illegal people runners and get onto these illegal boats. Where do we stop this? We are genuinely concerned about refugees. We take 12,000 a year. Some people from Albania, who have made representations to me, have been seeking political asylum in this country for two or three years. They are in refugee camps in the Balkans. They have friends in Australia who want to bring them out and who will give them jobs in the Albanian community—but the queuejumpers keep pushing these people back.
Senator Robert Ray—What are you going to do with the 500? You’ve got to have an exit strategy!

Senator BOSWELL—You are dealing with, Senator Ray, illegal people. These are people who are jumping queues, and you are encouraging them to do it.

Senator Robert Ray—No, we’re not! What are you doing to do about it?

Senator BOSWELL—The Australian people are depending on the Australian government to protect their territory, to protect their sovereignty and to say that we will play our role in replacing refugees, but that we cannot take the lot. (Time expired)

Senator ROBERT RAY (Victoria) (3.24 p.m.)—On two occasions this afternoon—at question time, and just now—coalition speakers have had opportunities to name one legal weakness—

Senator Boswell—I did!

Senator ROBERT RAY—No, you did not—in the existing regime that requires remedy. But all we get is the repeated phrase: ‘This is an abundance of caution.’ What section of Australian law is insufficient or what section of Australian law has been broken by this government? Why won’t a spokesperson for this government come clean and tell us that? Then at least we could concentrate on remedying that area. But, no, all we get is an accusation that the Labor Party has jabbed it at the last moment. That is their accusation. Consider the circumstances. Bipartisanship is a very good principle. It means that we agree on a generalised approach to an issue; it does not necessarily mean that we agree on every minute detail. But it has other aspects to it. It allows an opposition to cede to a government some trust so that they will not be constantly nagging at them. But there is also a responsibility the other way: for some consultation, for some discussion and for some negotiation over these issues.

The Prime Minister made a statement in the House of Representatives yesterday at 2 p.m., and was fully backed by the Leader of the Opposition, Mr Beazley—even though he had only been given seven minutes notice of what the topic would be. Then, within hours, the opposition was ambushed with legislation. There was no consultation. Rather, we were informed of it; and we were only really informed of it to try to get our, at least, initial compliance in allowing those measures to be debated in both houses—which we generously agreed to. When we finally got hold of the bill we found that it was a piece of crypto-fascist legislation, with the most draconian laws ever presented to a federal parliament. I can only believe that it was a deliberately contrived policy to push us to a point where we had to say no. Bipartisanship was deliberately and malignantly destroyed by the Prime Minister of this country.

Have a look at clause 10. Madam Deputy President, does Senator Hill believe in a clause that abrogates every other law of the land? I ask Senator Hill whether he believes in a bill that, at clause 4, empowers hundreds of thousands of people to use violence and never be found accountable? Does he believe in that or is the entire bill—other than one clause—a subterfuge? Is the real problem clause 9(1)? Is that the thing that is covered? If that is the case, come out and honestly tell us that that is the problem so we can address it as a problem. Do not put in all this other draconian material just to cover up the one clause in which there may be a legal weakness—but you are not willing to come.

Bipartisanship is a two-way street, and it has not existed here. The only message from the Prime Minister was that he might consider a sunset clause. Why not send the foreign affairs spokesperson and the immigration spokesperson to sit around a table and discuss appropriate legislation? No, that does not suit the political purposes of this Prime Minister. That does not meet the wedge politics agenda in which you just drive and drive on immigration issues until no-one else can.

Have you noticed how the Liberals have said, ‘Labor and the Democrats opposed this last night’? They do not mention Senator Brown or Senator Harradine because that would widen the net of people who could not stomach this legislation. So what we have had today is another disgraceful example of the government trying to shift the blame for this problem onto the Labor Party, by the introduction of legislation so extreme that
every element of the Labor Party—and a whole range of other people in the Senate—had to dump it out and throw it away. If Senator Hill has problems with the legal areas, he should nominate what those problems are so that we can address them in a collective way—but do not talk about an abundance of caution. (Time expired)

Senator CRANE (Western Australia)
(3.29 p.m.)—I rise to make a contribution in this debate. The other contributions from the Labor Party today made it clear that they did not listen to or have not read Senator Ellison’s summing up last night on the Border Protection Bill 2001. The last contribution, from Senator Robert Ray, made that absolutely crystal clear. Senator Ellison went through a whole range of issues in terms of the legal side of things. I suggest that they go away and read that, because it covered a whole range of areas raised in this debate today.

The most remarkable thing about this debate was the fact that in a whingeing exercise last night we saw speaker after speaker from the Labor Party walking away from where they were at lunchtime yesterday. Today when we came back in here and Senator Faulkner got to his feet and started speaking, I thought that the Labor Party was prepared to cooperate and work through some of these issues. He said that quite clearly in his contribution. Then we moved to Senator Carr and Senator Ray, and it was quite obvious when we got to their contributions that they had gone back to their whingeing whine of last night. That was so obvious and, if they care to go away and read their contributions, they will observe that themselves. If Senator Faulkner is so keen to make a contribution, it is not too late for him to walk down that aisle just out there and make an appointment to see the Prime Minister. It is not too late for him to do that; he can do that if he so wishes.

But so often in this debate the opposition has missed the issues. I do not know how many of the opposition have been to north-west Australia, but I certainly know that Senator McKiernan has. I have been to the north-west coast of Western Australia and observed what is going on. I am sure that on this particular issue—and most of the community recognises this—Australia had to make a stand, because this particular ship should have ended up back in Indonesia. We had to make a stand for a whole range of reasons. The stand was in large part necessary simply to protect the position of the illegal immigrants already here. We have this incredible problem. Senator Boswell has mentioned some figures of those on the high seas. If we do not stand our ground at this time on this issue, there will be an avalanche of illegal immigrants coming here on illegal boats with illegal operators. You cannot find any thing straight about the operation going on here.

One of the issues raised here that Senator Ellison made absolutely clear last night is that one of the principal reasons this legislation was necessary was that it ensured that we were not going to end up filling the courts of this land for the next five, 10, 15 or 20 years. Surely the people on the other side of the chamber, the Labor Party of Australia, the Greens, the Democrats and Senator Harradine, can recognise that factor. They should have a look at that.

Senator Robert Ray—Nominate one.

Senator CRANE—I just did nominate one. On this occasion we must stay on course as a nation in dealing with this. This will affect this country a long way into the future. It will particularly affect my state of Western Australia, which has in the past borne the brunt of these illegal international activities which have been going on now for a number of years. We must have the right to direct ships that are in our waters illegally—and the people on those ships—back onto the high seas. That is an absolute. That does not take anything away from the effort we have made on humanitarian grounds. Even as we speak, those people on that MV *Tampa* are being given significant humanitarian support. They are being provided with medical care, food and a whole range of things. They need to recognise, as everybody who goes out onto the high seas does, that it is a high risk game. My grandfather circumnavigated the world eight times in sailing boats, and he explained to me what a high risk business it is to go out on the seas. Ships do break up and ships do sink. These people must take that into ac-
count in terms of what happens. *(Time expired)*

**The DEPUTY PRESIDENT**—Order! The time for the debate has expired.

Question resolved in the affirmative.

**COMMONWEALTH-SOUTH AUSTRALIA ARRANGEMENT: ROCK LOBSTER FISHERY**

Return to Order

**Senator IAN MACDONALD** *(Queensland—Minister for Regional Services, Territories and Local Government)* *(3.34 p.m.)*—by leave—With reference to the return to order of 9 August 2001 that there be laid on the table copies of an arrangement in relation to the rock lobster fishery between the Commonwealth of Australia and South Australia and a further arrangement between the Commonwealth of Australia and South Australia in relation to the rock lobster fishery, notified in the *Commonwealth of Australia Gazette* No. S406 of 21 December 1988, both of which were expressed to have been made under the Commonwealth Fisheries Act 1952 and the South Australia Fisheries Act 1982, copies of those documents are tabled.

**JAPANESE FISHING BOATS: SOUTHERN BLUEFISH TUNA**

Return to Order

**Senator IAN MACDONALD** *(Queensland—Minister for Regional Services, Territories and Local Government)* *(3.35 p.m.)*—by leave—With reference to Senator Greig’s return to order motion of 9 August 2001 for the release of all documentation relating to the southern bluefin dispute, the Minister for Foreign Affairs, Mr Downer, has considered it carefully. In reaching his decision, Mr Downer has consulted his department and sought legal advice. Mr Downer has accepted legal advice that he is not able to comply with Senator Greig’s request, on the grounds that it would not be in the public interest to do so. The government’s firm belief is that disclosure of such documents, most of which are of a highly classified nature, could reasonably be expected to cause damage to the international relations of the Commonwealth.

Two years ago, Australia was in dispute with Japan over Japan’s then experimental fishing program. At the advice of the arbitral tribunal, we entered negotiations with Japan to resolve the dispute. In keeping with international practice, those negotiations were confidential to the parties. This confidentiality is critical to maintaining trust between the parties and enabled proposals to be made in the course of the negotiations without prejudice to respective legal positions. Without that confidentiality, a satisfactory resolution of the dispute would have been difficult to achieve. The absence of that confidentiality would have had a negative impact on Australia’s capacity to work effectively with Japan in the Commission on the Conservation of Southern Bluefin Tuna. Legal professional privilege has also been used by the government for the purposes of exempting documents relating specifically to legal proceedings. The government believes that the release of such documents would also have an adverse effect generally on Australia’s relationships with Japan.

**COMMITTEES**

**Finance and Public Administration Legislation Committee**

Report

**Senator LIGHTFOOT** *(Western Australia)* *(3.38 p.m.)*—On behalf of the Chair of the Finance and Public Administration Legislation Committee, I present a report of the committee on its examination of annual reports.

Ordered that the report be printed.

**Superannuation and Financial Services Committee**

Report

**Senator LIGHTFOOT** *(Western Australia)* *(3.38 p.m.)*—On behalf of the Chair of the Select Committee on Superannuation and Financial Services, I present a report of the Select Committee on Superannuation and Financial Services entitled *Prudential supervision and consumer protection for superannuation, banking and financial services—Second report—Some case studies.*

Ordered that the report be printed.
Senator LIGHTFOOT—I seek leave to move a motion in relation to the report.

Leave granted.

Senator LIGHTFOOT—I move:

That the Senate take note of the report.

I seek leave to incorporate the tabling statement in Hansard.

Leave granted.

The statement read as follows—

This report covers five case studies which the Committee examined in detail in conjunction with its main inquiry into prudential supervision of Australia’s financial sector. It complements the Committee’s first report which was tabled on 20 August 2001.

The case studies the Committee examined concern three superannuation funds in Queensland (namely funds for those working in the hairdressing, hospitality and legal services industries); Commercial Nominees of Australia; and solicitors’ mortgage schemes in Tasmania. The last two case studies alone account for potential losses to investors of over $45 million.

Unfortunately they illustrate the poor management of superannuation funds by some trustees as well as some shortcomings in Australia’s prudential supervision of small to medium sized superannuation funds. They also illustrate the need for higher standards of performance by some financial advisers, valuers and auditors, as well as by the Law Society of Tasmania.

The Committee found that the three Queensland case studies demonstrated that:

• inappropriate investments by former trustees of the funds resulted in over 36,000 members suffering significant losses in terms of negative or very poor returns;
• fees and charges frequently accounted for a disproportionate amount of the administration expenses;
• there did not appear to be bona fide employee representation in the funds’ administration, either because equal representation was not required under the SIS Act or because employee representatives may not have been effective; and
• the State industrial environment was not conducive to the efficient and effective conduct of the funds.

Although not a direct Commonwealth responsibility, the Committee has recommended that the Queensland State Government, in conjunction with APRA, review all superannuation provisions in State industrial awards and agreements, with a view to ensuring consistency with national standards, and that other State Governments conduct similar reviews.

In the case of Commercial Nominees of Australia, the members of nearly 500 small APRA funds appear to have lost about $25 million which was held in an Enhanced Cash Management Trust. CNA’s management of the funds held in the ECMT appears to have been somewhat imprudent. Instead of investing their money in respectable investment houses, the money was channelled into propping up tomato farms and mushroom farms that were already in financial trouble. Such inappropriate investments, which were not always at arm’s length, were a major cause of the collapse of the company. Compounding the problem was that CNA knew that the ECMT was in trouble and did not advise the regulator.

Fund members had placed their savings into the fund, thinking that, because CNA was an APRA approved trustee, the fund was regulated by the Government with all of the safeguards that that conveys. Unfortunately, as the Committee discovered, the ECMT was an excluded offer trust, and as such it was not regulated by either APRA or ASIC.

The Committee considers it absolutely imperative that all monies invested for the purpose of providing a retirement income stream must be protected. The Committee has therefore recommended that the SIS Act be tightened to ensure that trustees notify the regulator of any significant adverse event which might impact on any superannuation product under a trustee’s management, even if the event is not directly related to an APRA regulated fund.

Complementing this, the Committee has also recommended that the Managed Investments Act be amended to ensure that all funds that invest monies for superannuation and retirement purposes come within the regulatory framework supervised by APRA. This would broaden the supervisory responsibility of APRA and widen the scope for closer and more harmonious collaboration between APRA and ASIC.

Throughout the inquiry the Committee heard countless stories of financial hardship that many people have suffered and continue to suffer due to collapse of the Enhanced Cash Management Trust and subsequently Commercial Nominees of Australia. The Committee has therefore also recommended that the Minister for Financial Services and Regulation give urgent consideration to an application that has been made on behalf of the investors to compensate them for their losses.
The people who entrusted the CNA trustees with their hard earned savings did the right thing. They heeded the call by the Government to provide for their own retirement and thus helped to reduce government spending on age pensions. They trusted the system that was established by the Government. But the system let them down. Given that superannuation is a compulsory aspect of Australia’s three pillar retirement incomes system, it is incumbent upon the Government to provide redress when its approved prudential regulatory framework has let down investors.

The Committee also found that APRA did not act in a sufficiently timely manner when the problems of ECMT and CNA were first drawn to its attention and that an apparent lack of coordination between the regulators, APRA and ASIC, may have exacerbated the extent of the losses suffered.

It also appears that audits may not have been conducted frequently enough to provide assurance to the trustees about the financial viability of the company. Had the audit reports been prepared on time, and had the auditors interpreted the numbers more broadly, the financial difficulties of some of CNA’s funds might have been detected earlier and the losses curtailed.

As a consequence of this inquiry, the Committee last week held a Roundtable that examined auditing standards for superannuation funds. Participants included representatives from the regulators and peak professional bodies. The Committee expect to report its findings in the near future.

The Tasmanian solicitors mortgage schemes had much in common with the superannuation funds I have just described. The schemes attracted many local investors. A significant number were elderly and had placed their retirement benefit in the mortgage schemes in the expectation of generating a steady retirement income.

The investors all thought that they were investing in safe, responsibly managed funds, which were regulated by the Law Society of Tasmania, under a State legislative framework, which was oversighted, albeit indirectly, by the Commonwealth regulator ASIC. Sadly, as we now know, this was not the case.

The Committee discovered that about 300 investors appeared to have lost around $20 million. The Committee’s inquiry revealed the factors which led to this lamentable situation. Although other factors, such as the declining property market were involved, weaknesses in the regulatory framework, inadequate regulation by the Law Society, poor valuation practices and poor practices on the part of some financial advisers, contributed to the collapse of some schemes.

Although it is a State matter, the Committee has recommended that the Tasmanian Government review its legislative framework to improve the regulation of legal practitioners and improve access to compensation mechanisms for consumers affected by the irresponsible activities of some solicitors and the inadequate regulation of mortgage schemes by the Law Society. The Committee has also recommended that the Law Society adopt a more strategic, open and less rigidly insular approach to its responsibilities.

I am pleased to report that there have been some positive outcomes since the commencement of the Committee’s inquiry. One of the most significant is the rescue plan, negotiated by ASIC, being implemented by Garrisons financial advisers. Under the plan, Garrisons have undertaken to repay the capital and interest to clients who have lost money through their referrals.

Centrelink has also clarified that investors who have lost money through failed schemes can apply for social security assistance where pensions have been affected.

The Committee also understands that the majority of investors may recover their funds over time, as a result of further initiatives on the part of the Tasmanian Government, but this is by no means certain.

The Committee noted that many of the problems associated with the regulation of solicitors’ mortgage schemes may be alleviated in October this year when the regime proposed under the Managed Investments Act comes into force.

The difficulties with the solicitors’ mortgage schemes in Tasmania are a microcosm of what has happened throughout the rest of the country. There have also been similar problems of significance in Queensland, Western Australia and to a lesser extent in New South Wales, Victoria and South Australia. It is clear to the Committee, that had the regulators attended more vigilantly to their supervisory role in the last few years, much, if not all of the losses and difficulties with solicitors’ mortgage schemes could have been avoided, or at least minimised.

In conclusion, superannuation is an integral part of the Government’s three pillar retirement incomes policy. Indeed it is compulsory to participate. It is therefore vital that the Government take steps to provide immediate financial relief to those affected by the losses, and to give urgent consideration to the legislative changes the Committee has recommended to strengthen Australia’s prudential regulatory framework and
minimise the risk of similar events happening in the future. Only then can we lay claim to having a world’s best practice in the provision and regulation of our superannuation savings. This becomes even more imperative as Australia’s superannuation pool of money continues to grow.

The Committee is grateful to the many individuals and organisations which took the time to write to the Committee to express their views and give evidence at the public hearings. Their cooperation and willingness to provide information to assist the Committee’s inquiry was much appreciated.

On behalf of the Committee I would also like to record my appreciation to the Secretariat for their work during the inquiry and in assisting us to produce this report. In particular I would like to thank the Secretary, Sue Morton and the team of research officers, especially the Principal Research Officers, Louise Gell and Tracey Noble, Senior Research Officers Anne O’Connell and Anne Willenborg, and the Executive Assistant, Jade Ricza.

I commend the report to the Senate.

Senator SHERRY (Tasmania) (3.39 p.m.)—This is a very important report and it is a unanimous report. It contains five case studies, carried out in depth, of four superannuation funds—three in Queensland—and solicitors mortgage funds in Tasmania. Firstly, to the three superannuation funds in Queensland—the hairdressers fund and the Law Employees Superannuation Fund. A total of approximately 36,000 members have been badly burnt by these three superannuation funds. The evidence of massive failure is illustrated by the returns to members. In the case of EPAS, for the motel industry in 1997-98, there was a return of minus 43 per cent. The hairdressers fund in 1993-94 returned minus 0.8 per cent, and in 1994-95 it was minus 34.4 per cent. The Law Employees Superannuation Fund in 1998-99 returned 0.7 per cent, and in 1999-2000 it returned one per cent. These massive losses are against a backdrop of double figure returns of 10 per cent-plus for most funds in Australia over a similar time period.

What were the causes of these shocking returns? Firstly, causes included extravagantly high administration and consultancy fees and charges for the size of the funds. For EPAS, there were over $1 million in charges in the years 1997-98; for the Law Employees Superannuation Fund, there were $1.1 million in charges in the years 1999-2000; for the hairdressers fund, we were unable to obtain details. Secondly, there was a shocking pattern of irresponsible and possibly illegal investment practices, including loans not being based on an independent valuation, not being based on a reasonable debt equity ratio, being without adequate security, having little or no investment strategy, related party dealing, lack of disclosure, lack of diversified portfolios, loans not being made at arms length, and imprudent and speculative trustee investments. Some specific examples of this include: a child-care centre loan of $2.5 million, when the centre was subsequently sold for $1.6 million, resulting in a massive loss; a $1.3 million bad investment in which the dominant trustee of the lending superannuation fund was a shareholder in the purchased investment; mortgage loan schemes that lost $821,000 over two years; the defaulting of a loan to buy Clairview Island for $1 million; property units in which a trustee resided, with rents collected irregularly; insurances not paid; and so on.

Why did this occur, particularly in Queensland? Let me remind the Senate that 36,000 members of superannuation funds have had shocking losses in Queensland. Firstly, the sorry saga started in the late 1980s when the then National Party state government threatened legislation if state based funds were not included as options in Queensland awards. Funds were registered in a state award if created by the cut-off date set by the Industrial Relations Commission. Some of these superannuation funds that were created were indeed artful. They were effectively tools of the individuals, who established them with token employer and employee trustees, either too ignorant of their responsibilities or too weak to resist manipulation by those individuals who had set up the funds. We should note that there were no union nominated trustees in any of the funds. These funds were then promoted by ignorant employer organisations. The white shoe brigade still walks in some Queensland superannuation funds. Secondly, the auditors failed in their duty. Thirdly, the regulators—APRA and ASIC—failed to check these funds in time to
avoid calamity. Alarmingly, there are probably more of these types of arrangements in Queensland.

Our recommendation to APRA and the Queensland state government, through the Department of Industrial Relations, the Industrial Relations Commission and the Industrial Court, is to conduct a review of all superannuation provisions in state awards and agreements, with a view to assuring their consistency with national standards. It should identify fees, charges and commissions, the bona fides of trustees and the balance of investments. All these need to be factually identified. Nonconforming funds and those with excessive fees and charges need to be shut down. Likewise, the same should occur for all state jurisdictions. These crook funds need to be identified through rigorous and effective review, a proper investigation and tough regulation. Thirty-six thousand Queenslanders have sustained massive losses.

The second case concerned a solicitors mortgage fund in my home state of Tasmania. These funds have been operated by solicitors across Australia for over a century. The funds in the schemes are usually administered by a solicitor who arranges loans of up to 65 per cent of the value of the property. In Tasmania at May 2001 at least four law firms, out of 17 operating funds, have encountered difficulties with poor results. Up to 300 investors have been hurt and up to $20 million has been involved. Nationally, there have been significant difficulties in most states, with ASIC identifying over $370 million in default. Overwhelmingly, the victims are elderly retirees whose income streams have ceased and repayment of principal or interest has been cut or halted. Garrisons, a financial and retirement specialist, played a key and disastrous role in pushing $19 million into 13 funds. Of the six funds that received most of the money from Garrisons, three experienced significant problems; another two have been mentioned in complaints. Garrisons did not bother to check what was happening with the money.

The Law Society was responsible for regulating the legal firms. The committee has found that the society was dilatory in its response to the problems and in its willingness to take positive action to address them. In particular, the Tasmanian Law Society failed to regulate mortgage schemes adequately according to its undertaking to ASIC. It took a narrow and inward looking view of its responsibilities. It was unable to deal with complaints and problems efficiently and promptly. It gave the appearance of protecting recalcitrant lawyers in dealing with complaints about solicitors mortgage schemes and failed to adopt modern management practices in its oversight of its members’ firms.

The Tasmanian state government has acted to some degree by retrospectively legislating to widen the definition of default and to ensure freedom of information access, but more needs to be done. Garrisons have undertaken that their 70 customers will be compensated with a return of capital and six per cent interest. Critically, amongst a number of recommendations, the committee recommends that the Tasmanian government improve access to compensation for all victims of failed solicitors mortgage schemes by amending the Legal Profession Act to guarantee that, when compensation is payable, that compensation will include 100 per cent of the capital invested, with interest at the rate applying to initial judgments in the Supreme Court and that it will continue to ensure that solicitors guarantee funds are maintained at a level which is sufficient to meet anticipated needs. This might include legislating to require solicitors to contribute in advance to the fund to ensure an appropriate level of liquidity.

Solicitors guarantee funds fortunately exist in Tasmania but they have their drawbacks; hence, the committee’s tough recommendations in this area. Fundamentally, the regulator—in this case, the Law Society of Tasmania—has failed in its duty to ensure an equity of outcome for all those currently awaiting compensation. The compensation mechanism must be upgraded to put beyond any doubt the fact that the investors will get their money back with interest.

One other point I want to comment on is the legal firm of Piggot Wood and Baker. It is a legal firm in Tasmania that has experi-
enced a significant level of failures. It is not under administration. I ask why the firm is not under administration, unlike other firms that have had these problems. If a firm of this size with significant problems has difficulties in repaying its investors, then surely it too should be under administration. To make matters worse, I understand that one of the former partners of the firm is continuing to participate as a consultant in the run-out of the loans for Piggot Wood and Baker. He is one of those, presumably, who was involved in investment choices which proved so disastrous. In terms of transparency, Piggot Wood and Baker should be under administration. It is a very sorry saga.

The committee report is unanimous. It is a tough report. It has startling disclosures about massive losses in superannuation funds in Queensland and provides a positive answer to the problems experienced in Tasmanian solicitors mortgage funds. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Public Accounts and Audit Committee
Report

Leave granted.

Senator LIGHTFOOT—I move:

That the Senate take note of the report.

I seek leave to incorporate the tabling statement in Hansard.

Leave granted.

The statement read as follows—

Madam President, the Committee held a public hearing on Friday, 2 March 2001 to discuss these ANAO Reports with the relevant Commonwealth agencies. I will briefly discuss issues in each of the selected reports in turn.

Audit Report No. 8 examined the Amphibious Transport Ship Project. The Committee in its review focused on the commissioning of HMAS Manoora and HMAS Kanimbla which had been purchased from the US Navy in August 1994 for $61 million. On their delivery, Defence found problems with both ships, despite having engaged an inspection team to examine both carefully. On the basis of this experience, Defence acknowledged the need to have clearly established its functional requirements before proceeding with an acquisition, and to undertake a careful costing process for repair of older vessels.

Extensive maintenance work and numerous capability upgrades were performed on Manoora and Kanimbla, costing about $395.1 million and taking up to 44 months. A decision to further increase the capability of the ships is planned for 2004-2005 at an expected cost between $50-$100 million. This will increase the total project cost to $445 million.

The Committee heard the difficulties inherent in trying to assess the relative advantages and disadvantages of building a new ship as opposed to acquiring the two older vessels. Defence claimed that having two ships enhanced Defence’s capabilities because it is able to operate in two different locations at the same time. This has allowed Defence to increase its flexibility of operations.

In the second report selected, Audit Report No. 9, the Committee examined the strategies developed by the Office of Government Information Technology (OGIT) and the Department of Finance for outsourcing of Commonwealth IT services. The Whole of Government IT Infrastructure Consolidation and Outsourcing Initiative was directed at achieving long-term improvements in the structuring and outsourcing of IT services across agencies. It was designed to facilitate greater integration in the delivery of programs and to realise significant cost savings.

Aggregate savings to the Commonwealth from the IT Outsourcing Initiative were confirmed in the audit report, in the Humphry Report and again at the public hearing by the ANAO.

The Committee noted the different approach to the accounting standards by ANAO and OASITO. The Committee believes that correct treatment of accounting standards is fundamental to transparent reporting and budget honesty. Agencies should adopt consistent accounting standards which also are consistent with the proper management of risk to the Commonwealth.
Audit Report No. 10, AQIS Cost-Recovery Systems was an audit initiated at the request of this Committee. The audit sought to assess the efficiency and effectiveness of the management of AQIS’s cost-recovery systems and to provide assurance to the Parliament that the AQIS cost-recoverable programs were identifying and recovering the full costs of services provided, without cross-subsidisation.

Cost recovery is a central part of AQIS’s business. AQIS has been involved in cost recovery for over two decades and has been recovering 100 per cent of costs for the last 10 years. The Committee notes AQIS’s claim that it was still in a continuum—from no cost recovery to full cost recovery—and that considerable effort had been put in over the years. However, it appears to the Committee that AQIS is taking a long time to reach an appropriate level of sophistication in its cost measurement processes.

AQIS told the Committee that it has developed low cost arrangements to return to clients any funds recovered in excess of requirements. However, it is clear that Revenue Rebate balances have often been retained for a considerable time rather than being paid out promptly.

In particular, the Committee notes that clients using the animal quarantine stations, mainly dog and cat importers, have paid fees well in excess of costs for a number of years.

The Committee considers that AQIS needs to improve its risk management strategies and its fee setting policies so as to reduce over-recoveries, and has recommended accordingly.

The Committee has also recommended that AQIS align fees charged to particular clients with the costs associated with servicing those clients where it is cost-effective to do so. Where this is not feasible, the reasons should be made transparent to relevant stakeholders and kept under review.

Finally, the Committee looked at non-meat EXDOC. EXDOC is the AQIS Electronic Export Documentation System. It is designed to replace a number of manual transactions with electronic processing for documents and certificates.

The Committee notes the ANAO comments that the costs of the non-meat EXDOC project appear to considerably outweigh the benefits.

The Committee has recommended that AQIS conduct a thorough cost-benefit analysis of the non-meat EXDOC system project.

I now turn to the final ANAO report the Committee reviewed in this quarter-Audit Report No. 11 which examined Defence’s military and administrative information systems. These combine to form the Defence Information Environment (DIE).

DIE is aware that its data needs to be developed and shared in a coherent and integrated manner with all organisational areas with legitimate needs for the data. It has appointed a Chief Knowledge Officer to bring the knowledge environment under adequate managerial control.

Effective use of information is vital to Australia’s defence capacity. Defence’s main problem is the inability of specific functional areas to transmit information from one area to another.

This inability to communicate electronically became most obvious during the East Timor deployment. Defence told the Committee that the consequences of not being able to track the information were ‘inefficiency, more than anything else’. Defence said:

The magnitude of the problems was that many of those sorts of things could not be tracked electronically in the way they would be tracked in barracks electronically.

ANAO found that existing processes are not sufficiently robust to allow the Chief Knowledge Officer to scrutinise all relevant projects and, where appropriate, to challenge a perceived lack of coherency between projects and the DIE. Institutional, organisational and procedural difficulties in Defence remain and these need to be overcome if Defence is to achieve total integration and smooth communication.

In order to achieve its goal, Defence has to change its existing culture so that a holistic approach can be achieved. Management of knowledge system projects in Defence is a complex and demanding task. Integrated training is essential if this change is to be implemented successfully.

The Committee is of the view that Defence’s ability to develop an effective Information environment centres on Defence’s ability to recruit, develop and retain skilled individuals needed in all parts of the Defence information environment. The Committee urges Defence to finalise its specific project architectural checklists as soon as possible so that these can be disseminated across all sectors and the Services, and become part of the negotiation requirements in any new project.

Finally, the Committee cautions that improved coherency between information systems and projects should not be an end in itself. The main outcome should be the enhanced ability of front-line personnel, under central military command, to apply military force with precision and in a timely manner under a wide range of possible circumstances.
May I conclude, Madam President, by thanking on behalf of the Committee the witnesses who contributed their time and expertise to the Committee’s review process.

I am also indebted to my colleagues on the Committee who have dedicated their time and effort to reviewing these Auditor-General’s reports. As well, I would like to thank the members of the secretariat who were involved in the inquiries—Dr Margot Kerley, Ms Maureen Chan, Mr Stephen Boyd, Ms Jennifer Hughson and Ms Maria Pappas.

Madam President, I commend the Report to the House.

Question resolved in the affirmative.

Membership

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

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

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

Community Affairs References Committee—
Substitute member: Senator McGauran to replace Senator Tchen for the committee’s inquiry into nursing on 21 September 2001

Legal and Constitutional Legislation Committee—
Participating member: Senator Conroy

Legal and Constitutional References Committee—
Substitute member: Senator Bartlett to replace Senator Greig for the consideration of the provisions of the Migration Legislation Amendment Bill (No. 6) 2001

Rural and Regional Affairs and Transport Legislation Committee—

ROYAL COMMISSIONS AND OTHER LEGISLATION AMENDMENT BILL 2001

First Reading

Bill received from the House of Representatives.

Motion (by Senator Ian Macdonald) 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 MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (3.52 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—

The object of this bill is to promote the smooth and efficient operation of Commonwealth Royal Commissions by improving their capacity to provide information to, and obtain information from, other agencies.

The Prime Minister recently announced two Royal Commissions.

The Royal Commission into the failure of the HIH Insurance Group will inquire into the reasons for and circumstances surrounding the failure of HIH. The failure of HIH is believed to be one of the largest corporate collapses in Australia’s history. The Government has committed $640 million to assist former HIH policyholders who are suffering hardship, and will be introducing legislative amendments to strengthen prudential arrangements for the insurance industry. The Australian Securities and Investments Commission is also investigating whether criminal or civil proceedings should be brought against any person as a result of the failure. The terms of reference for the Royal Commission require it to cooperate with ASIC’s investigation.

The Royal Commission into the building and construction industry will inquire into possible unlawful or otherwise inappropriate practices and conduct in the building and construction industry. The Employment Advocate recently reported significant corrupt conduct and widespread coercive and collusive practices in this industry. Only a Royal Commission can provide the full and open public inquiry necessary to tackle this culture of intimidation.

These are issues of national importance, and the Government is committed to ensuring that both Royal Commissions are able to conduct their inquiries in a timely and effective manner.

This bill will contribute to this goal in three ways.
Firstly, it will amend section 6P of the Royal Commissions Act 1902 to give Royal Commissions the power to report information about possible contraventions of the law to the responsible authorities. As currently drafted, the Act may only give Royal Commissions the power to report information regarding possible criminal offences. There are many contraventions of the law, including taxation and corporations laws, which give rise to civil and administrative penalties instead. These contraventions can have a serious impact on the community, and the Government believes that Royal Commissions should be able to report information about them to the responsible authorities. In particular, the Royal Commission into the failure of the HIH Insurance Group should be able to provide this type of information to ASIC to assist it with its investigation. The bill will give Royal Commissions this power.

Secondly, the bill will amend section 127 of the Australian Securities and Investments Commission Act 2001 to allow ASIC to provide confidential and protected information to Royal Commissions voluntarily. The Act already allows ASIC to provide information to various agencies, including State and Territory Royal Commissions. However, it does not allow ASIC to provide information to Commonwealth Royal Commissions. The Government is concerned that this will hinder the Royal Commission into the failure of HIH in particular, and the bill will remedy this problem.

Thirdly, the bill will amend section 27 of the Financial Transaction Reports Act 1988 to give Royal Commissions whose terms of reference involve an inquiry into unlawful conduct access to financial transaction reports information reported to Australian Transaction Reports and Analysis Centre (AUSTRAC). The amendment will allow those Commissions to follow the money trail associated with unlawful activities in a similar way to police investigation of unlawful activity. Bodies such as the Royal Commission into the New South Wales Police Service are already able to access this information, and the Government believes that certain Commonwealth Royal Commissions should be able to access it too. Access by these Commissions will be regulated by a Memorandum of Understanding between the Director of AUSTRAC and the relevant Royal Commissioner.

Finally, the bill will also make a further amendment to section 6P of the Royal Commissions Act to ensure that Royal Commissions are able to provide information to the Attorney-General of the Australian Capital Territory, along with other Attorneys-General around Australia. This amendment will take account of the fact that the ACT is now a self-governing territory.

The Government expects that each of these amendments will improve the capacity of Royal Commissions to discharge the important roles assigned to them, both now and in the future.

Ordered that further consideration of this bill be adjourned to the first day of the 2002 autumn sittings, in accordance with standing order 111.

**WORKPLACE RELATIONS (REGISTERED ORGANISATIONS) BILL 2001**

**WORKPLACE RELATIONS (REGISTERED ORGANISATIONS) (CONSEQUENTIAL PROVISIONS) BILL 2001**

**First Reading**

Bills received from the House of Representatives.

Motion (by Senator Ian Macdonald) agreed to:
That these bills may proceed without formalities, may be taken together and be now read a first time.

Bills read a first time.

**Second Reading**

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (3.53 p.m.)—I table the revised explanatory memoranda relating to the bills and move:
That these bills be now read a second time.

Bills read a first time.

**Second Reading**

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (3.53 p.m.)—I table the revised explanatory memoranda relating to the bills and move:
That these bills be now read a second time.

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

Leave granted.

*The speeches read as follows—*

WORKPLACE RELATIONS (REGISTERED ORGANISATIONS) BILL 2001

Trade unions and employer organisations are able to seek registration under the Workplace Relations Act 1996. The statute confers substantial rights, privileges and responsibilities on bodies that are granted registration.

I am conscious that there is substantial political and public debate about the structure of the workplace relations system, and the specific rights it confers on organisations. Notwithstanding this, it is noteworthy that the system of workplace relations advocated by both Coalition and Labor gov-
enments includes a continuing important, albeit different, role for registered organisations. It is also noteworthy that Labor and Coalition reforms to the system during the past decade have primarily focused on the framework of the system, the role of institutions, awards and agreements and the nature of dispute resolution. Little attention has been given to the technical rules which govern the registration and internal administration of registered organisations.

These rules, currently contained in Parts 9 and 10 of the Workplace Relations Act, constitute a significant proportion of that Act. The regulation of the internal affairs of organisations was not substantially amended by either the Coalition’s 1996 reforms, nor by Labor’s 1993 amending Act. Indeed, one needs to go back to the recommendations of the Hancock committee in 1984/85 and the subsequent 1988 Hawke government legislation to identify any significant amendments to these statutory provisions. Indeed, some of the current regulatory provisions have remained unaltered for decades.

It is axiomatic that over this time, the workplace and the workplace relations system have both undergone significant change. Yet the regulatory provisions associated with registered organisations have not been modernised to reflect new requirements of the system, nor contemporary circumstances of employers and employees who may join or be eligible to join unions and employer associations. This bill will, in part, remedy that deficiency.

The bill proposes to achieve two broad policy objectives. First, it would transpose into a separate piece of legislation those provisions of the Workplace Relations Act 1996 which concern the registration and internal administration of registered organisations. Second, it would make minor and technical, but nonetheless important, amendments to these provisions in a manner that modernises them for the first time in years – particularly in relation to financial accountability, disclosure and democratic control.

In introducing this bill I recognise and reaffirm the government’s continued support for the registration and operation of industrial organisations, be they organisations of employers or employees. I also recognise that substantial differences exist in the political and industrial arena about the role of registered organisations within the institutional framework and in the workplace. This bill does not seek to impact on that broader debate. It is presented to this parliament on the basis that whatever view one might have about the role of trade unions and employer organisations in the system, the existing regulation surrounding the registration, reporting and accountability of these organisations should be modernised to reflect contemporary standards of governance.

If the proposed amendments are assessed on their merits, the bill should be positively received by registered organisations. In recent decades membership of registered industrial organisations, as well as other established community and service organisations, has declined. At the same time, the community has become more informed, better educated and more demanding of its organisations and the services they provide. Sensible measures, such as those proposed in this bill to enhance financial accountability and democratic control, are capable of increasing the confidence employers, employees, members and prospective members have in the administration of these organisations, and in decisions they make about the benefits that membership may offer.

This bill has been developed over a considerable period, and in a genuine endeavour by the government to consult on its provisions and minimise areas of difference, whilst making meaningful improvements to the regulatory regime. The Coalition’s 1996 and 1998 workplace relations policies identified the need to improve the statutory provisions governing registered industrial organisations. Over that time we have provided the opportunity for extensive consultation with trade unions and employer organisations, accountants, employers and employees.

The amendments proposed by this bill have their genesis in the government’s response to the independent report we commissioned in 1998 from Blake Dawson Waldron on financial reporting and governance arrangements of registered organisations. Other changes implement the government’s response to the 1997 recommendations of the Joint Standing Committee on Electoral Matters about industrial elections. In October 1999, the former Employment, Workplace Relations and Small Business Minister Peter Reith issued a public discussion paper outlining policy proposals for legislative change. An exposure draft bill was publicly released in December 1999. Submissions on the discussion paper and on the exposure draft bill were then assessed and discussed with interested parties over the past 12 months.

The government has made extensive revisions to the bill in response to submissions made by trade unions, employer organisations, accounting professionals and other parties. The practical experience reflected in many of these submissions has been invaluable in developing legislation that will be effective in its operation.
More recently consultation has occurred through the formal processes of the Committee on Industrial Legislation, a tri partite committee of the National Labour Consultative Council. Indeed, introduction of this bill has been delayed until now to enable these consultative processes to be fully exhausted, and differences of view on policy or drafting minimised. In making these refinements, the government has excised from the bill the more contentious policy issues that arose during this process – such as changes to the criteria for the registration of enterprise unions, disclosure and accountability of political donations made by industrial organisations, and part funding by organisations of the cost of their industrial elections conducted by the Australian Electoral Commission (which are currently totally publicly funded). If those matters are to proceed by way of legislative amendment, that will occur through separate single issue legislation.

The transfer of the bulk of the existing regulatory provisions of parts 9 and 10 of the Act into a separate Registered Organisations Bill will make the Workplace Relations Act a more useable and relevant document across the workforce. The reality is that less than one quarter of employees or employers are members of trade unions and employer associations. If we are serious in making the statutory framework simpler and more accessible to actual employers and employees – whether they are members of associations or not – then one small practical measure is to reduce the size of the Act by separating the significant proportion of the Act that regulates the internal conduct of associations into a separate bill. This way, the Workplace Relations Act can become a little more useable as a reference document, with a greater proportion of its provisions relevant across the workforce. And by removing these provisions into a separate Act, we are substantially reducing the sheer amount of legislation confronting employers and employees when they use the Act – a small positive in enabling employers and employees to access information about their rights and obligations.

I now turn to the major provisions of the bill. The bill will enhance the democratic governance of registered organisations and modernise provisions regulating financial disclosure and reporting. While the basic financial reporting obligations of registered organisations remain, the provisions now have a stronger focus on disclosure to members, are consistent with modern accounting and auditing practices and enhance transparency and accountability in a manner broadly consistent with the Corporations Law.

The bill establishes statutory fiduciary duties for officers and employees of organisations, modelled on duties applicable to company directors under the Corporations Law. These provisions will provide members of organisations with increased protection against financial mismanagement. This protection is appropriate, given that officials of registered organisations are entrusted with substantial funds on behalf of their members. The bill would make significant changes to the enforcement arrangements for financial accounting, auditing and reporting obligations. Under the Workplace Relations Act, breach of most financial requirements is a criminal offence. The bill would replace many of these offences with civil penalty provisions, and allow the Industrial Registrar to apply to the Federal Court for penalties. However, serious misconduct would remain subject to criminal penalties, and would continue to be dealt with by the Director of Public Prosecutions.

The bill makes a number of other minor but important changes, including the requirement for non discriminatory rules of organisations, scope for the creation of model rules for the conduct of elections, the obligation to review membership lists to ascertain and remove long term unfinancial members, the rights of members to accurate information about resignation from membership, the conduct of elections and disamalgamation ballots, the rights of organisations to represent their members upon disamalgamation, expanding the grounds for cancellation of registration, the adoption of Australian Accounting Standards, improved access by members to financial records, and the disclosure to members of monies paid to employers where automatic membership payroll deductions are made.

The workforce is increasingly independent, educated and looking for solutions that meet their needs. It is important that industrial organisations become more competitive, more open and more accountable in their internal activities. This is especially so given the extensive rights and privileges the workplace relations system confers on them. This bill will take some small steps to enable registered organisations to better seize the opportunities that exist to focus themselves as relevant, modern, service-oriented bodies, in touch with their members and modern principles of governance.

WORKPLACE RELATIONS (REGISTERED ORGANISATIONS) (CONSEQUENTIAL PROVISIONS) BILL 2001

The Workplace Relations (Registered Organisations) Bill 2001 was introduced into this parlia-
ment on 4th April 2001. The purpose of that bill is to update and upgrade the existing provisions of the Workplace Relations Act 1996 concerning the regulation and internal administration of registered industrial organisations, and to enact those provisions in a separate statutory instrument. If passed, that bill would improve both financial accountability and democratic control within registered industrial organisations, whilst retaining the important role such bodies have in the formal workplace relations system.

The amendments advanced in the principal amending bill are technical though nonetheless important measures concerning record-keeping, financial reporting, disclosure to members, duties of officers and employees, the conduct and integrity of industrial elections, disamalgamation, cancellation of registration and compliance and enforcement.

They are sensible measures which, when judged objectively, should be seen as enhancing the confidence that current and prospective members have in the administration of registered industrial organisations.

The Workplace Relations (Registered Organisations) (Consequential Provisions) Bill 2001 is a necessary adjunct to the primary bill. It contains transitional and savings provisions designed to ensure a smooth transition from the current regulation of registered organisations under the Workplace Relations Act to the proposed Registered Organisations Act.

The scheme of the Consequential Provisions Bill is that orders, injunctions, declarations, decisions, determinations, exemptions or permissions that are operating before the commencement of the proposed Registered Organisations Act will continue in force as if they had been made under the corresponding provisions of the new Act. An organisation that was registered under the Workplace Relations Act would be taken to be registered under the proposed new Act. Applications for registration under the current Act not completed before the commencement of the Registered Organisations Act would continue to be dealt with under the current Act. Existing rules of organisations would be preserved, and continue in force as if they had been certified under the new Act. Organisations would have six months from the commencement of the new Act to update their rules (if necessary) to bring them into conformity with legislative requirements, with the Industrial Registrar able to grant extensions of time in appropriate cases. Organisations would have up to 12 months from the commencement of the new Act to remove from their register of members persons who had been unfinancial for more than 24 months. In general, amended financial and reporting obligations would apply from the first full financial year after the commencement of the new Act or the gazettal of new reporting requirements. Civil penalties and offences created by the new Act would apply to conduct from commencement of the new Act. The Consequential Provisions Bill also provides that the Federal Court would have jurisdiction to hear and determine issues that may arise in the application of the new Act to particular transitional matters.

This bill is a necessary technical measure that complements the objectives of the Registered Organisations Bill. In conjunction with that bill, it will provide the legal framework around which registered industrial organisations can update and upgrade administrative and reporting practices in order to become more accountable, more competitive and better equipped to deal with the demands of their membership and the workplace relations system.

Debate (on motion by Senator O'Brien) adjourned.

GOODS AND SERVICES TAX: SMALL BUSINESS

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.54 p.m.)—I move:

That the Senate notes with concern the adverse effects, particularly on small business, of the Government's botched implementation of its goods and services tax policies.

The goods and services tax is now notorious throughout the length and breadth of Australia as a botched tax, a tax that has imposed greater hardship on small business and a tax that has imposed hardship on the general community. It is a tax that this government is responsible for and which this government has overseen. I want to concentrate my remarks in this debate on this motion about small business, but it is, I think, salutary to begin by reminding the chamber of the promises made by the government when it introduced the GST so that we can consider in our minds whether the promises solemnly made by the Prime Minister, the Treasurer and other leaders on the government side have in fact been met. We are coming, as it seems, into an election cycle. Soon Australian voters will be asked to vote. The credibility of politicians and promises they make in that context is important. We want to re-
visit the credibility of this government to remind ourselves what they said, to see whether that is what they did and to make an assessment as to what they did and the adverse impact that that has had on small business and on the rest of the community in Australia.

Promise No. 1: everyone is a winner with the GST. On radio 4CA on 5 August 1998, Mr Howard said:

I don’t believe that anybody ... will be worse off except tax cheats.

I want to come back to the theme of tax cheats, because that has a bit to do with the Queensland Liberal Party and their botched effort to cheat the tax office out of their GST requirements. On 6 April last year Mr Howard said:

... Australian families will be better off.

That is in the Hansard of that date. And on 29 May last year, in answer to a question on notice, the Treasurer of Australia, Mr Peter Costello, said:

All Australians ... will be better off under The New Tax System.

That was the promise. What is the reality? The reality is that we now have a tax act that is thicker than three telephone books together. We now have a tax act that weighs 7.1 kilograms. We now have a tax act that is under imminent threat of being amended by the government—its own legislation—with upwards of a thousand new amendments. We now have advice, as canvassed in question time today, from private tax consultants eminent in the private sector as advisers to business that the government is sitting on an untold number of other amendments to the GST which it is not prepared to reveal before the election bench, will be visited on the unhappy sector of small business afterwards as further amendments to this botched tax. If there is any example of how to mess up a tax act, then look at what the government has done with the GST.

But as to the statement ‘Everyone’s a winner with the GST and no-one is worse off’, what do the electors of Australia think? The polls, the best guide in these circumstances, have shown us what Australians feel. The AC Nielsen poll reported in the Age on 14 February this year that only 10 per cent of respondents to the poll believed they were better off under the GST. On 31 May this year the Newspoll reported in the Australian of that date that 10 per cent believed they were better off. The remaining 90 per cent did not think so. The Quadrant poll reported in the Herald Sun on 18 June this year that only nine per cent believed they were better off. The promise? Everyone’s a winner; no-one will be worse off. The reality is that only nine per cent of people have achieved that mythical status. The rest of us are victims of the GST.

One of the examples of being a victim of the GST, again an issue canvassed in question time today, was that of a Canberra business woman who had to pay a fine for late lodging of her BAS. She of course is characterised as someone who needs to be penalised—possibly, in the vernacular of tax debate, as a tax cheat. Later in my remarks, I want to compare her treatment at the hands of the tax office with that of the Minister for Small Business, Mr Macfarlane, who in his defence after the GST rorting of the Queensland branch in the Groom Federal Electorate Council of the Liberal Party said that he had simply acted ‘outside the parameters of the tax law’. For ordinary people, you are a tax cheat if you break the law; for this minister of the Crown, representing this coalition Liberal-National Party government, he was merely acting outside the parameters of the tax law. If that is not sanitised, cover-up language, I have never heard it.

The first promise, I remind the Senate, is everyone’s a winner under the GST, and all of us can privately answer truthfully that that is not so. Promise No. 2: no small business will go under because of the GST. On Radio 6WF in Perth on 18 May that undertaking was given by the Treasurer, Mr Costello. He said:

I don’t think anybody will go to the wall as a consequence of GST ... I don’t think that there will be businesses that will flounder because of the GST.

That was the promise. What is the reality? The reality is that small businesses have hit the wall and, unfortunately, in massive num-
Bankruptcies in Australia increased by 25 per cent in the March quarter this year. The source for that is a publication dated 4 April 2001 by Insolvency and Trustee Service Australia. That was the quarter in which the impacts of the GST were being most heavily felt by Australian business. The promise: small business won’t go under. The reality: bankruptcies skyrocketing around Australia.

Promise No. 3: small business red tape will be slashed by the GST. This is a promise made by Mr Howard on several occasions and to journalists on talkback radio, his favourite milieu. The reality, as I have said, is that the legislation is now thicker than three telephone books and weighs 7.1 kilograms—that is to say, we are swimming in red tape and the huge number of amendments to the law means that we cannot be certain, once we master the complexity, that that complexity will remain constant and not change in the future. Already the government has amended the GST legislation more than 1,800 times, with further amendments in the pipeline. Small business have complained everywhere about the red tape burden and the burden of compliance where they have been turned into unpaid tax collectors on behalf of the Australian Taxation Office.

Promise No. 4: the GST will create more jobs. Mr Costello made that promise in the publication *A New Tax System* on 23 August 1995. For those with a penchant for accurate references, turn to page 155 of that publication and you will see it in black and white. That was the promise. The reality is that there are fewer jobs. Since the introduction of the GST the rate of job growth has more than halved and the unemployment rate has risen. So much for that promise.

Promise No. 5: the GST will shut down the black economy. We could pause at this point and wait for the hollow laugh from Australian business. The *Business Review Weekly*, the premier business journal, just a few months ago reported on a booming black economy in Australia and laid out how this tax is avoided, the manner in which it is done and the extent to which it is done. Let me return to the black economy a little later, because that relates to the tax scam of the Queensland Liberal Party in the Groom Federal Electorate Council. That was a venture into black economy tax avoidance.

Of course the reality is—and we warned the government about this before the last election—that if you look at the OECD table on the size of the black economy in comparable economies with Australia around the world, that is, developed economies, then prior to the GST the size of the black economy in Australia was in the lower quartile, the fourth quartile, of that whole table. Every economy ahead of Australia on the OECD list had a GST. So much for the GST overcoming the black economy. ‘The black economy is going ballistic,’ said Peter McDonald of the Taxpayers Association of Australia in the *Herald Sun* of 18 June this year. Michael Dirkis, the Director of the Taxation Institute of Australia, said in the *Sydney Morning Herald* on 7 June 2001:

‘... an inevitable and known consequence—

I underline ‘known consequence’—of adopting a GST is a dramatic increase in the cash economy, perhaps in the order of many billions of dollars.

So much for promise No. 5 that the GST will shut down the black economy. Try promise No. 6: the GST will not be a tax on a tax. Again let me pause for the hollow laugh. Everyone in Australia who buys petrol knows that the GST is a tax on a tax. There is an impost on petrol which is a tax and, on top of that, at the retail bowser we pay the GST.

*Senator Boswell interjecting—*

**Senator COOK**—I note that the Leader of the National Party in this place now interjects. He should be the last person to do so, because country Australia has been hit harder by a tax on a tax than any other part of the nation. If you buy petrol in country Australia and the rate at the bowser in the capital city is 80c but in your country town is $1, because of the extra price of transporting
that fuel to your country centre, then you pay a GST on $1 but in the city you pay it on 80c. Country residents of Australia, as a consequence of the GST, pay more tax than do urban residents. The National Party, which have now gone stunningly quiet, ought to do so, because they are the architects of delivering that higher tax burden to their own constituency. So much for a tax on a tax.

Promise No. 7: everyone aged over 60 will get a $1,000 savings bonus. That promise was made by Mr Howard on several occasions. I will not read out all of the references. But the reality is that many over-60s miss out. Forty per cent of Australians aged over 60 got nothing and 10 per cent of Australians aged over 60 got less than $50. There is a Liberal party promise for you! Let us go back and remind ourselves what it was: all over-60s will get $1,000. That is the promise. What is the reality? Forty per cent of Australians aged over 60 got nothing and 10 per cent of Australians aged over 60 got $50. That is the performance on that promise.

Promise No. 8: pensioners get a four per cent pension rise as GST compensation—a promise made by the Treasurer, Mr Costello, on 23 August 1998 and in a doorstop last year by the Prime Minister. The pensions were clawed back. That was the reality. In March 2001 the government clawed back two per cent of the four per cent rise. The Department of Family and Community Services said:

The indexation adjustments to pensions ... will have the additional issue of clawback. Two per cent of the existing rate will be deducted from the normal CPI adjustment.

Remember the promise, check the reality, see the failure of the government to deliver. Promise No.9: health and education will be GST free. We know that was a regular promise, and it indeed figured in government GST advertising. Remember the Unchain My Heart jingle. The reality: GST hits health and education. Education costs such as school uniforms, school shoes, public transport, books and school bags all face the GST. Health items such as skin creams, denture repairs, sanitary products, vitamins and minerals all face the GST. Remember the promise, check the reality, believe this government? No way! Promise No. 10: the GST will be good for the Australian dollar. The Australian dollar is trading at around 52c to the US dollar now.

Senator McGauran—Good for exports.

Senator COOK—It is good for exports, that is true, because the depressed nature of the Australian dollar means we have a comparative price advantage in foreign markets. But is this government going to say that it is the architect that has engineered a reduction in the Australian dollar? Remember the promise: it was that it would lift, not depress, the Australian dollar. What has happened? It has depressed it. Remember the promise, check the reality, believe the government? No way!

Promise No. 11: nothing will cost 10 per cent more because of the GST. That was the promise. Peter Costello said it many times. On Radio 3LO on 14 August 1998: 'Nothing will go up by the full 10 per cent,' says the Treasurer of Australia. Of course, prices went up by more than 10 per cent on many occasions and have been reported in various examples. The Quadrant opinion poll in the Herald Sun on 18 June 2001 showed that 68 per cent of people believed that most goods and services prices have increased by more than 10 per cent. Finally, promise No. 12: petrol prices will not increase because of the GST. That was the promise. The GST, of course, drives petrol prices higher.

I have demonstrated that in an election context you should listen to what the government say but watch what they do. On the GST they promised the world and they delivered pain to the Australian electorate, pain particularly visited on the small business sector and on those on medium to small incomes. What the Liberal Party says taxpayers should do is one thing but what the Liberal Party does in paying its tax is another. The scam conducted by the Groom Federal Electorate Council of the Queensland division of the Liberal Party in which the Minister for Small Business, Mr Macfarlane, is deeply enmeshed is the point of hypocrisy that I now draw this chamber's attention to.

In that scam the objective was to avoid by a contrived arrangement the payment of the
GST or in fact to claim back GST when that obligation had not occurred. What did Mr Macfarlane, the minister that had to shepherd the GST past the small business community in Australia—he was small business minister—say when he was asked to explain this? He said that he had found a difficulty in understanding how this very tax is to be applied by small business. That was the Macfarlane defence: it was too complex. If it is too complex for the minister with the task of implementing the GST, how complex is it for small business operators that have to manage the complexity of 7.1 kilograms of new amendments, a stack three telephone books high, to the tax act because of the GST? That is the complexity that he has foisted on small business.

Mr Macfarlane had five different excuses, and I want to conclude by reminding the chamber of what they were, because they do demonstrate the hypocrisy of the government on this matter. Remember that before he was caught there was no excuse, there was a hope that maybe this could all go by and they would make the capital gain and would not have to pay back the money obtained through their fraudulent abuse of the tax system. But when caught this is what he said. First, last Thursday he said that he knew nothing of anything untoward in the Groom FEC. The meetings were held in his own house, and he was there, but he says that he knew nothing untoward about them. Then that night he said that he had been first made aware of the scam by the Treasurer’s office, by the office of Peter Costello, in March—a contradiction of his first statement. Later the same night on the 7.30 Report he said that the issue had been discussed at the 19 December meeting of the FEC at his home—a further contradiction. Fourthly, the next night, Friday night, he issued a further statement that revealed that he had been told of the scam in a telephone call by Margaret Watts, the treasurer of the Liberal Party branch in the Groom FEC, on 18 December—another contradiction. And then, just to make matters worse, on Monday he told parliament that Neville Stewart had told him that the scam had been discussed some time in December. (Time expired)

**Senator GIBSON** (Tasmania) (4.14 p.m.)—I rise on behalf of my coalition partners and the government to oppose Senator Cook’s motion. Fancy Senator Cook of all people putting forward a motion in the Senate classically opposing tax reform! He has had the advantage of being a senior minister as part of a previous government and is well aware of the requirement of good policy and good direction for Australia, particularly for small businesses in Australia. There are about one million small businesses in Australia. They are the heart and backbone of the Australian economy. All of us in Australia depend on their vitality for success in the running of the economy. You would have to say: just look at the results that have come from the way this government has run the economy.

I think it is sad that we are continually being subjected to criticism from the opposition about not having good policy. I remind senators opposite and people listening to the Senate, particularly any small business listeners, that in their 13 years in government the ALP actually did make some good policy decisions. On our side we acknowledge that. How did that come about? I want to contrast what happened when they were in government and had the coalition’s support with what has happened since then, where they have virtually opposed just about everything of good policy that has come through. I remind everyone that during their term they did bring in four substantive reforms for the economy which had a big impact on the small business community and everyone in the economy. They were the reduction in tariffs, the freeing up of the Australian dollar, the freeing up of the finance markets and the introduction of national competition policy. How and why did each of those major reforms go through this parliament, particularly through the Senate? Because my colleagues in the coalition—it was before my time—supported the Labor Party in those reforms. The Australian economy, the Australian people and Australian small business have been the beneficiaries of those reforms. Small business people should remember the coalition supported those reforms by the Hawke government in particular which had a very positive impact on the Australian econ-
omy. It was because we in the coalition supported those policies. Now the tables are turned and we are in government, what does the opposition do? There are very few items, nothing substantive, that they have supported us on. On tax reform, they opposed us all the way, except for part of the business tax reforms.

It really is hypocritical on the opposition’s part to come in here today and say to the Senate and the Australian people that the government are to be blamed and that small business is in dire straits because the government have pursued tax reform. Why did we pursue tax reform? Because tax reform was the right thing to do for the Australian economy, the right thing to do for Australian business and the right thing to do for our children and for the future. They know that, but they are just not game to own up to it. Why? Because they are driven by the obsession of getting power. They are not driven by an obsession, as we are, of doing the right thing by the Australian community for the long term.

Tax reform goes back over many years. I remind the Senate that the first major reports on the need for tax reform in the Australian economy were done back in the early seventies. As a result of those reports, several governments have tried to introduce major tax reform into Australia. Prime Minister Hawke tried to bring in tax reform, but of course he was shot down by the union movement. John Hewson tried to bring in major tax reform with Fightback. Why were these major endeavours, going back over a long time, undertaken? Because there was general recognition by professionals in the business—those people involved with tax, those involved in economic policy and those involved in trying to do what is right for Australian business, the Australian economy and Australian consumers—that tax reform was required.

What was wrong? What was wrong was that we had an inefficient, unfair and complicated indirect tax system: the wholesale sales tax system. The fundamental thing about it was that it applied only to goods. In all Western economies, in all growing economies, the proportion of goods in the economy has been shrinking over time. Over recent times, it has shrunk to about 15 per cent or so of the economy. Services have been growing and growing and currently account for about 80 per cent of the consumer economy, but they were not being taxed at all. Not only that but the wholesale sales tax was complicated, it had six different levels, it was unfair and it was being rorted quite extensively. If you go and talk to people in small business who were involved in the application of the wholesale sales tax, they will all tell you that it was a very unfair tax and that it was being badly rorted all over the place. An additional factor that was wrong was that it was a definite discouragement for our exporters, and we wanted to encourage Australian exports. And what is the result? We have seen great growth in Australian exports.

Another key plank in the tax package the Howard government brought in that I would remind the Senate and listeners of was the need to fix income tax scales. I remind you that back then people on average earnings, which at the time were about $38,000 per annum, faced marginal tax rates of 43c in the dollar. It was just ridiculous that someone on about $40,000 a year lost nearly half of each dollar of marginal income that they earned in tax. That had to be fixed. We had a horrific excise tax on fuel, making businesses in the country more expensive to run—the farms and all the small businesses in regional Australia were more expensive to run. We had a high company tax of 36 per cent, which was just not competitive relative to the rest of the world. Most importantly, we have also brought forward reform of the capital gains tax. The capital gains tax is the critical tax with regard to investment in Australia. I acknowledge in the Senate that that is the one item that the opposition supported this government on in passing legislation through the parliament. Capital gains tax reform is going to have a big impact in the long term on investment policy and investment action in Australia.

In bringing forward tax reform and in order to get it through the Senate, compromises had to be made, because the Democrats were insisting on food being excluded from the GST. This has made it a more inefficient and messy tax than it otherwise would have been.
What we were doing with the GST and the other tax reforms was basically aligning Australian policy with global best practice. We have been endeavouring to do what was good for Australia and what was good for everyone in small business, and what happens? During all this period, we have taken nothing but criticism from the Labor opposition, who have criticised and fought it all the way.

What have been the results? The clear evidence from the introduction of a GST in New Zealand has been that small business operates much more efficiently today than it did in the past. This is acknowledged by all the major business groups in New Zealand. Why is it more efficient? Because the regular reporting of GST forces all businesses to keep proper accounts. The proportion of small businesses who had not been keeping proper accounts were forced to do so, giving them a better understanding of what is actually happening within their businesses and allowing them to make better decisions to help in their survival. That is what has been happening. There is evidence that the same trend has been happening in Australia. A lot of the one million or so small and medium-sized businesses in Australia are acknowledging that they are better off with the GST regime, because they are forced to do regular assessments of their own accounts, either on a cash basis under the simplified tax system for very small businesses under $1 million turnover or on an accrual basis for larger businesses. But either way, they have a much better understanding of how their businesses are actually working.

The Senate has to recognise that, under a free enterprise system, there always have been and always will be people who go into businesses who will inevitably fail. This government wants to help and has been trying to help businesses succeed by providing support, but we are never going to stop everyone from failing. Tax reform has not been a significant contributor in this. Certainly, some businesses have had difficulty learning how to cope with having a computer or keeping proper records, but for small businesses only simple records are required. Lots of businesses have been telling me that, now that they have actually bought a computer and have been forced to learn accounting systems and to keep proper records, they are delighted that they actually do so—they really are. That has been a good thing for businesses in the Australian economy, which flows back to consumers.

Small businesses also need reminding about interest rates. Because we have been a government of reform—we have introduced major taxation reform, we have been fiscally responsible, we have lived within our means and have run budget surpluses for the five years that we have been in government, substantially reducing the debt that was left for us by the previous government—interest rates have come down. That is the big test of economic success. For those businesses who have had to borrow, say, $100,000 to run their businesses, it is only six years ago that the interest rates they were forced to pay were in the order of 13 or 14 per cent. Today, rates four or five per cent lower than that are readily available for businesses—or for home owners, for that matter. A five per cent differential on a borrowing of $100,000 is $5,000 per annum or about $400 per month in your pocket. This means lower costs and more successful businesses. It really has made a big difference. Tied in with that is our success in containing inflation. Sure, there has been a spike in the last year with regard to introduction of the GST, but underlying inflation for the economy has certainly been within the two to three per cent Reserve Bank range.

Senator Cook wants to turn back the clock. The opposition wants to introduce roll-back. They want to introduce further complication to the GST system. I suggest to senators opposite that they should go out and talk to businesses about this idea of roll-back, about changing the system. What are they going to roll back? They have not announced what they are going to roll back, but they are saying roll-back is certainly on the agenda. On the other hand they are also saying that they accept the GST, that we have to have a GST. Bob McMullan, who used to be a senator here and is now a member in the other chamber, was honest enough to admit the benefits for the Australian economy
when he said in January last year that the GST should be good for exports. That is absolutely true. The estimate was that export costs were going to be reduced by $3 ½ billion. The wholesale sales tax came off and, because of the credits from GST, exporters are much more efficient today. Hence the news this week that our balance on external account, our trade surplus, is at a record in the month of July, at over $1,000 million, a record it has not been at for quite some time.

The Labor Party is keeping the GST. Not only that; they have also said they are going to roll back certain parts of it. We are still waiting to hear which parts they are going to roll back. I am certain that everyone in business in Australia will be waiting to hear what further complications they would like to bring to Australia. I just hope they are honest enough to come clean with some details for everyone in small business so they can face up to whether they really want further complications in tax. For business in Australia, it has been a major change to bring in this tax. It has been a major tax.

We in the government congratulate everyone in business, particularly those in small business, who have had to face up to this change. They are facing up to this change, and doing it well, because that is what is required for business for Australia for the future. That is what is required for consumers in Australia and also what is required for their children. It is the right thing to do. The executive director of the Australian Chamber of Commerce and Industry, Mr Mark Paterson, was quoted recently as saying further roll-back would only increase complexity. Of course it would. It would increase complexity for everyone in business. They do not want any further change. They want the present system to be locked in, to be bedded down, to be put into place.

I might add that roll-back means higher interest rates. The economic firm Econtech has estimated that for each $4 billion of roll-back on GST, interest rates would go up by one per cent and the current account would go back up. The average family or the average businessperson with a mortgage of about $100,000 would be slugged an extra $80 a month. That is Labor Party policy. That is what they believe in. They believe in increasing interest rates and putting additional burdens on small business. Roll back the GST; roll up interest rates—that is what they believe in. It is a pity that the opposition do not see their way clear to come clean and say with honesty to everyone in the Australian community, including small business, that tax reform was required in Australia, that tax reform, including the GST, has been good for everyone in Australia. That is what is required. Here they are offering roll-back and the possibility of higher interest rates to small business in Australia.

Senator SCHACHT (South Australia) (4.34 p.m.)—I rise to speak to the motion moved by my colleague Senator Cook:

That the Senate notes with concern the adverse effects, particularly on small business, of the government’s botched implementation of its goods and services tax policies.

It is with pleasure that I support my colleague’s motion but, like him, it is more in sorrow about what has happened to the Australian economy and particularly to small business as a result of the introduction of the GST. Today in question time a number of questions were put to the Assistant Treasurer about the impact on small business of the GST and the administration that is now required. Naturally we got answers, if you could call them that, from the Assistant Treasurer Senator Kemp that were big W for waffle, obfuscation, and completely avoiding answering directly any of the particular points raised in the questions.

One of the questions from my colleagues was about the figures from Trustee Service Australia which showed that in the three months to June this year business bankruptcies increased by 117 per cent on the same period last year. A personal insolvency expert, Mr Paul Leroy of Hall Chadwick Chartered Accountants, said that this surge in bankruptcies was a result of GST liabilities catching up with small businesses that were forced by circumstances to delay earlier payments. This is in complete contrast to the remarks made by Mr Costello in May of last year when he said:

I don’t think anybody will go to the wall as a consequence of the GST.
Well, around 100 per cent—I am not going to say every one of them—was due to the GST. As a former minister for small business, I know there are any number of reasons for bankruptcies, but the big increase over the same period last year, which was the last quarter before the GST was introduced, is more than coincidence. We had comments made at estimates hearings in June by officials from Treasury, who blame the rise in bankruptcies on small businesses themselves. This is becoming a standard technique of this government and its officials. If there is a problem with the GST, a problem in the small business sector, you shoot small business.

The Treasury officials may, theoretically, be very well-trained academics—and I would think Senator Boswell would support me when I say that Treasury is full of academics, theoreticians but that not many, if any, of them have run a small business. I am sure people who have run a small business could give a very good lecture to the Treasury department and its officials about what it is like to run a small business on a day-to-day basis, where you have to rely on income coming in from sales to pay the bills and pay for salaries, if you are employing people, and pay the other overhead costs and the paperwork. As far as I am aware, none of these Treasury officials have ever had to face that.

There is more expertise about small business sitting in the Senate and the House of Representatives, on both sides of politics, than there is in the Australian Treasury or even the Australian Reserve Bank. At one stage in the mid-1990s the Reserve Bank decided, ‘Yes, we have to get closer to small business; we’ll organise a small business forum to meet quarterly.’ They invited half a dozen people who had experience and, after about a year, the Reserve Bank said, ‘Well, it’s not much good,’ and abolished it. I do not know yet whether there is a replacement. I do not know yet whether Mr Macfarlane has a process as Governor of the Reserve Bank to consult with small business. In the mid-1990s, Treasury opened a couple of offices in capital cities to be closer to the business community. I also understand—and I stand to be corrected—that some of these offices have subsequently been closed by Treasury as a cost-cutting measure. For Treasury officials, the idea that you would have to be in the Sydney office listening to and consulting with business would not be seen as the best way to advance your career within Treasury when all the action is down here advising the minister and accepting direction from the Treasurer. So I am not surprised that, at a Senate estimates hearing in June of this year, Treasury officials blamed small business.

Now we have the ultimate insult. It is bad enough that in May of last year Mr Costello said, ‘I don’t think anybody will go broke in small business because of the GST.’ We know that is wrong. It is bad enough that Treasury officials, in June estimates this year, after nearly 12 months of experience, blamed small businesses themselves for bankruptcies. But now we have the most grievous insult to the small business community: the rort and the scam conducted by the Liberal Party in Queensland over GST claims.

Ever since I have been in this chamber—either as an opposition member or as minister for small business—the Liberal Party has always claimed the high moral ground and that they represent small business. I have not seen too many individual members of the Liberal Party in this chamber stand up for and argue the issues of small business. I have to give credit here to Senator Boswell from the National Party: he is the glorious exception.

Senator Chapman interjecting—

Senator SCHACHT—Senator Chapman, where you stand, being a member of the H.R. Nicholls Society and a few other things, is quite out of the realm of the day-to-day reality of small business. Senator Boswell has consistently raised small business issues, whether we have been in government or whether this present government has been in place. He supported small business in the Telstra CoT case, which was basically about how a group of small businesses had been done over by the thuggery of certain bureaucrats within Telstra. Senator Boswell has to take a fair amount of credit for raising that issue and insisting, against his own minister, that the issue had to be dealt with at esti-
mates. I have always been surprised that John Howard and Tim Fischer, and now John Anderson, have not had the wit in the last 5½ years to make Senator Boswell the Minister for Small Business. Small businesses would then have had someone who would lay on a punch for them.

Not this present Minister for Small Business, Mr Macfarlane, who is the third of a sorry list of failed small business ministers. Remember Mr Prosser! He got appointed. He got sacked in the end after about 18 months because, it turned out, although he was Minister for Small Business and Consumer Affairs, he was also a landlord to small businesses in his own electorate. He found it difficult to go to meetings of the Small Business Forum or meetings of organisations dealing with retail tenancies when he had to declare his conflict of interest and leave the meeting as the minister. Three days later, even John Howard rang him up, tapped him on the shoulder and said, 'Mr Prosser, I think it’s time you went back to Bunbury, Albany or somewhere in south-west Western Australia and look after your shops, but we can’t have you as small business minister.’

Who was he replaced by? The telecard expert, Mr Reith. The government decided they would put small business in the industrial relations department and make all of the issues of small business about industrial relations. They were going to drive this and tell small business, ‘We’ll fix up industrial relations.’ The biggest issue, of course, was the dispute on the wharves. How much was small business helped by having the dogs and the bullyboys in balaclavas on the wharves? There was not one iota of help for small business. Since Mr Reith claimed credit for a victory and a negotiated outcome with Patrick Partners, have small businesses who are exporters or importers gotten a reduced cost across the wharf? Of course not. The costs have gone up. I did not see Mr Reith, when he was small business minister, trying to take that issue on, trying to reduce the cost to small business when he had a perfect opportunity to talk to Patrick Partners, whom he had backed in the most scandalous way throughout their attempt to break the MUA on the wharf.

Then we found at the end of last year that, over a period of years, his family had spent more on telecard expenditure than the profit made by a lot of small businesses in three years, and he wanted to avoid it. First of all, he offered $9,000 for what he could identify as phone calls made by his son. It got so hot that he had to pay the lot. Sadly, he had to borrow money to pay back the $50,000-odd to Australian taxpayers, following his own admission that he had made a mistake in giving his confidential telecard number and PIN number to his son—which was completely contrary to the rules.

Did he get sacked for that? No. He was crippled in that industrial relations and small business portfolio when small business was saying, ‘How can the minister get away with rorting the Australian taxpayers of $50,000? He tries to hide it and then expects us to pay the full cost of the GST and all the extra administration. If we make a small mistake of a few hundred dollars, we get penalties and fines.’ It got too hot for that minister there so what did they do? They shifted him to Defence. What a triumph that has been for Defence! Then of course, when he gets the market research from the Liberal Party that he is going to lose his seat of Flinders, he announces he is going. He, like all bullyboys, surrenders first. Bullyboys cannot take the heat. They can dish it out, they can bully and intimidate people but, when the cycle turns and they are getting a bit of heat, they are the first people to run away. He ran away. He was not game to face the people, his electors in his electorate of Flinders, so he disappeared.

He was replaced as small business minister by Mr Macfarlane. Mr Macfarlane came out of the grain council of Queensland. It was considered quite a coup for the Liberal Party to get him to run for the seat of Groom, which the National Party itself had some hopes of being able to win back once Mr Taylor had retired. Mr Macfarlane was seen as a great coup for the Liberal Party—here was someone at the centre of agricultural politics who was being endorsed by the Liberal Party for that seat rather than by the National Party. Within a short period of being in
this place he has been promoted rapidly to become small business minister.

I have asked questions at Senate estimates about the activities of the small business office in the minister’s department, and it is not doing anything. It ought to be abolished. Most of the energy and effort needed to deal with small business is over in the tax office or in Treasury. When you ask questions of the officials from the Office of Small Business, they cannot answer. ‘What are you doing to advise the government, your minister, about how the administration of the tax act affecting small business should be dealt with?’ ‘That’s not us,’ they say. ‘That’s the taxation office. We’re not there.’ ‘Do you send advice?’ ‘It is a policy issue in confidence. We can’t tell you.’ It is quite clear the Taxation Office and the Treasury ignore the Office of Small Business completely when dealing with small business matters.

Mr Macfarlane then comes into the situation and inherits the paperwork mess. Despite everyone on the other side saying there will be no change, they criticise the Liberal Party for suggesting that we are going to roll back certain aspects of the administration—that is, the paperwork. Then, lo and behold, earlier this year we see that what we said about the paperwork has been partly taken up by the government. Instead of having quarterly forms to fill in, there will be a yearly form. The forms will be simpler and there will be further amendments—all of which we promised to do last year. That is roll-back. The government have already started roll-back, and we congratulate you on taking the first steps on roll-back. Mr Macfarlane rolled through this process until last week when all hell broke loose when a member of the Queensland Liberal Party became so disgusted with the internal rort being organised by the Liberal Party in that state to escape paying GST. That person, who joined the Liberal Party in 1949—

Senator McGauran—It had something to do with preselection, I think.

Senator SCHACHT—I do not think he stood for preselection. You ought to check this. Senator McGauran. This man, Mr Watts, joined the Liberal Party in 1949, the halcyon year for Bob Menzies with the return of the Liberal Party into government and unbroken power with the National Party for 23 years. Apparently, according to press reports, he supported Mr Macfarlane’s preselection to the seat of Groom. But neither he nor his wife, who is the treasurer, could stomach the rort that was going on. Mr Watts became a whistleblower in the best traditions of whistleblowing. He resigned and said, ‘This paperwork has to become public to explain how this Liberal Party of which I have been a member for so long is rorting the laws of this land.’ And the Liberal Party small business minister is at the heart of it! It is clear from all the evidence that he knew way back in December what was going on. The treasurer, Mrs Watts, wrote a letter to the Treasurer, Mr Costello, who says to his office, ‘Chase it up with Mr Macfarlane. Find out what’s going on.’ He did not report it to the tax office to investigate whether there was a rort, like he said he would do if anyone was trying to get around the GST. He said, ‘Take it up with me and I will put it straight to the tax office.’ No, there was a little whisper to his office: ‘Go and talk to Mr Macfarlane and see what you can do to fix this up.’

Fortunately, there are a couple of people in the Queensland Liberal Party who have some ethics. I congratulate Mr Watts. It means that he is going to suffer a penalty in the Liberal Party. He will be called a traitor and everything else. But, in the proud tradition of whistleblowing, he blew the whistle on the scam, and that is what it is. We have yet to get to the bottom of who knew what and how it was done. We still do not know whether all the money has been paid. You cannot get an answer. I think Mr Macfarlane has now made five revisions—changed his story—since the matter was first raised in the parliament. As more of this unravels so unravels his position.

If the Westminster system of parliamentary responsibility meant anything to this Prime Minister, last Friday morning Mr Macfarlane would have been tapped on the shoulder and told, ‘In the best traditions of the Westminster system, you have been caught out misleading parliament, whether deliberately or not. You have to go.’ But not this Prime Minister. He will do anything for
political advantage. He has done more to rort the Westminster system than any previous Prime Minister—and that is saying a lot, but that is the case. He has, over the last three years when ministers have certainly transgressed—

Senator Boswell—Mr Acting Deputy President, I raise a point of order. I have listened to Senator Schacht—

Senator SCHACHT—You are agreeing with me, aren’t you Ron?

Senator Boswell—I certainly do not agree with you. I think you called the Prime Minister a ‘rorter’. I do not think that is parliamentary.

Senator SCHACHT—I said ‘rorting the system’.

Senator Boswell—I think the words were ‘rorting the system’.

The ACTING DEPUTY PRESIDENT (Senator Murphy)—Does the point of order relate to the use of an unparliamentary word or a reflection on another member?

Senator Boswell—I think it is a reflection on the Prime Minister. I do not think it is parliamentary, but on both cases Senator Schacht has been caught red-handed and should apologise and withdraw.

The ACTING DEPUTY PRESIDENT—Senator Schacht, it is possible that, if that word was used in respect of the Prime Minister, it is a reflection on a member in the other chamber. If that was the case, you should probably withdraw it.

Senator SCHACHT—According to your ruling, I withdraw, but the Westminster tradition would demand that Mr Ian Macfarlane be sacked or his resignation called for. But this Prime Minister did not have the courage to do it. Electoral consequences are more important for him than the traditions of the Westminster system.

Finally, we have today’s newspaper from Brisbane—I was in Brisbane yesterday and flew back on the plane today to be in parliament. There it is in the Courier Mail, the rip-roaring story, the next saga of the Liberal Party, where a Mr Santo Santoro, defeated member from the last state election, is being accused by other Liberals of being involved in running the scam. Then we have two other Liberals, Senator George Brandis and Senator Brett Mason, who apparently have been accused by the Prime Minister—according to the press report, and I want to see whether the Prime Minister puts out a statement to correct this suggestion—of being ‘treacherous’ because those two have gone off at a different angle and tried to convince the Democrats to stop the government’s own bill on changing the funding arrangements for public funding so that, instead of it all being paid centrally, some of the money goes to the states.

Why would Senator Brandis and Senator Mason be into that? The Queensland party branch is flat stony broke, heavily in debt and has no future. What those two senators want is the public funding money from a federal election to indirectly prop up the administration of this corrupt Liberal Party branch that has been involved in a GST scam. This is the shame of the Liberal Party, and that is clearly why Mr Watts and others have been the whistleblowers to expose the party which they thought once had ethics. The Liberal Party in Queensland is now nothing but a cesspool of corruption and scams.

Senator Boswell—Mr Acting Deputy President, I raise a point of order. Describing any political party as a ‘cesspool’ is unparliamentary. Senator Schacht is out of order.

The ACTING DEPUTY PRESIDENT—Senator Boswell, I do not believe that your point of order holds. It has been the practice in this place that, in respect of things other than individuals, words like that have generally been accepted. There has been some pretty cut-and-thrust debate in this place, and I will not uphold the point of order at this time.

Senator SCHACHT—I am surprised, Senator Boswell, that you are spending so much time defending the Liberal Party, your enemies, in Queensland. Nevertheless, the Liberal Party state branch has now been fingered and clearly identified, both internally and publicly, as being involved in a scam. It has been fingered by its own members for being involved in a scam. It is the shame of the Liberal Party. (Time expired)
What a pathetic waste of senators’ time has been the Labor Party approach to this notice of motion moved by Senator Cook for the Labor Party this afternoon. This motion purports to express concern about the alleged adverse effects, particularly on small business, of the government’s botched implementation of its goods and services tax policy. We have now heard two Labor senators speak this afternoon—Senator Cook and now Senator Schacht—and I have hardly heard a mention of the effect of GST on small business.

What! I’ve spent 15 to 20 minutes on it!

I have hardly heard a mention. Of course, we have to ask whether this is some sort of sick joke that the Labor Party is trying to perpetrate on this Senate. Of course it is, because there is no greater irony than the Labor Party trying to talk about its concerns with regard to small business. That is why we have heard nothing of these allegations about the GST and small business this afternoon. There was some passing reference to it on the part of Senator Cook. All we have heard from Senator Schacht is 20 minutes of diatribe and personal attack against three ministers in the present government—not a mention of small business and the GST. It has been a personal diatribe and attack against three Liberal-National Party government ministers. Of course, the reason for that is the Labor Party has no sympathy for small business, as explained by their leader, Kim Beazley, on 7 July 2000 on radio 6PR when he said:

We have never pretended to be a small business party. The Labor Party has never pretended that.

We know that only too well because of the experience of small business when the Labor Party was in government. Let us just remind Senator Schacht, who did not talk about small business at all but simply directed a diatribe of personal attack against three Liberal ministers, what small business suffered under 13 years of Labor government through its incompetence in economic management. Small business paid interest rates of 22 per cent and many of them went bankrupt. It absolutely crippled many small businesses during that period and, of course, especially during the so-called ‘recession we had to have’.

Of course, it is the Labor Party, now in opposition—deservedly in opposition and deserving to stay in opposition—that has consistently blocked changes in this chamber to the unfair dismissal laws which are costing Australians jobs, particularly with regard to small business, and placing undue pressure on the capacity of small business to employ new staff. That is what you would expect from a party that is run by the trade unions. It still remains the party of the trade union bosses.

What is Labor’s latest policy for small business? It is roll-backwards, but they do not know what roll-backwards is. Senator Schacht claimed that roll-backwards involved reducing the paperwork for small business with regard to GST. That was his one reference to GST and small business in his 20-minute diatribe. Yet his colleague in the other place Mr McMullan describes roll-backwards as ‘GST tax cuts’, which I assume means taking the GST off certain items. That would be an absolute nightmare for small business because, to the extent that small business has had any difficulties with the implementation of the GST, it is as a result of the amendments, which were forced on the government by the Democrats to ensure the package came into place, which made certain items free of GST. That has been the main administrative burden that small business has had to bear—compliance with those items that have GST on them and those items that do not.

Yet the Labor Party, according to Mr McMullan, wants to extend that and remove the GST from other items and increase the compliance nightmare for small business. There is absolutely no doubt that roll-backwards would, as everyone knows, mean further complexity, more paperwork and increased compliance costs for small business. Indeed, that point is reinforced by none other than the Executive Director of the Australian Chamber of Commerce and Industry, Mr Mark Paterson, who said that ‘further roll-back would only increase complexity’.

The Labor Party has no sympathy for small business
Roll-backwards also means higher interest rates. I referred a few moments ago to the 22 per cent interest rates that destroyed so many small businesses when Labor was previously in government. Economist Chris Murphy from Econtech estimates that each $4 billion of roll-back would hike up interest rates by one per cent and would send the current account skyrocketing. So the average family with a mortgage would be slapped an extra $80 a month in their home repayments and small business would be slapped enormously through that increase in interest rates. If you roll back GST, inevitably you are going to roll up interest rates.

So what does the Labor Party offer small business? It offers crippled interest rates, it offers stifling workplace relations laws and it involves unions busting down their doors in an administrative nightmare—something which no small business wants to have to suffer. Certainly no small business can afford to have the Labor Party back in office.

There is a lot of confusion in the Labor Party about what roll-backwards actually means. Senator Schacht a few moments ago claimed that it meant rolling back the paperwork and reducing the administrative burden. The government has already achieved that. Mr McMullan defines it as GST tax cuts. What does the leader, Mr Beazley, say that roll-backwards is? Two years ago he said that ‘anything you can conceivably think of’ is implicated in the term ‘roll-back’. That was two years ago. Four months ago he was on talkback radio in Cairns and a caller rang up and said:

G’day, Kim. How are you going?
Kim Beazley responded:

Good mate, good.
Caller: That’s the idea. Kim, could you tell us how you are going to roll back this GST and help primary producers?

What a gift of a question. What an opportunity for the Leader of the Opposition to spell out exactly to this farmer what roll-back means for primary producers. But what does the Leader of the Opposition say in his answer to this question? I quote:

What would be a very good idea is, if you think there is some way that we could assist you, would be for you to send in some suggestions to us.

Just four months ago, as I said, the Leader of the Opposition still had absolutely no idea what his party meant by roll-back. We know very well that when it comes to tax you cannot trust the Labor Party. Need I remind the chamber about the l-a-w law tax cuts before the 1993 election. Those tax cuts, supposedly, were written in black letter law, but they certainly did not last very long. They were abandoned straight after the election. Not only were the income tax cuts abandoned but also wholesale taxes were increased, fuel excise was increased by 5c a litre, and company tax was increased to 36 per cent. It is interesting to see what the attitude of the now Leader of the Opposition, Mr Beazley, is to this shameful episode. In an exchange in parliament in September 1993, when he was finance minister, just six months after that election, he defended all of those tax rises and abandonment of the l-a-w law tax cuts in these terms. He said:

Mr Howard repeated this furphy that the Liberals go on with—that the Australian public was lied to during the election campaign by virtue of the fact that—
and this is laughable—
small adjustments have been made to petrol taxes and sales taxes.

What he said was that the ‘small adjustments’ were 5c a litre on fuel excise, a two per cent rise in wholesale sales tax and a significant rise in company tax. The now Leader of the Opposition, then finance minister, went on:

They were not conned. When the government of the day gets up and says that it will sustain the current level of taxation, and the taxation that is predicted in the out years is actually falling, the public clearly knows that at any point of time a government is going to adjust taxation levels irrespective of anything that is said during election campaigns. ...

The fact that the Coalition was never able to exploit that politically is not the fault of this government—
that is, the then Labor government—
... that Dr Hewson did not then go out and thump the table and demand to know how the govern-
ment of the day was going to keep to that particular mark. He did not ask what taxes the government was going to raise or what tax cuts it was not going to put through. The fact that those opposite did not, day in, day out—like any halfway decent opposition—the now government—go through those propositions with us is not our fault.

What duplicity from the now Leader of the Opposition. The first point that needs to be understood is that Mr Beazley thinks he is entitled to hide his tax plans and if he is not caught out by the opposing political party that is just bad luck for the public. He is now trying to repeat that subterfuge, as he did a few weeks ago when he was interviewer by Laurie Oakes on Channel Nine. He refused to answer Mr Oakes’s questions about taxation policy because he said it was undignified. He said, ‘It is undignified for an alternative Prime Minister to go through tax by tax under scrutiny like that.’ Yet back in 1993 he said it was the fault of the opposition because they had not thought to go through what the then government’s plans were for tax—tax by tax, item by item. Let me tell Mr Beazley that we will certainly be going through every item of the Labor Party’s proposals on tax and demanding that they tell the Australian people what their plans are if, God forbid, they should ever come back into government.

The second point Mr Beazley made in his 1993 speech to the parliament was that, irrespective of what is said in election campaigns, if revenues in the out years are falling—that is, the years ahead as projected in the future budget papers—a government is entitled to increase taxes. That is exactly the situation we have at present, as the budget papers currently show that tax revenues are expected to fall over the next few years. In Mr Beazley’s terms that means he can say anything, mislead the public in any way, about the tax policies of the Labor Party. But, on the basis of the current situation, he is then entitled—if perchance Labor wins the election and comes into government—to completely abandon that and to adopt a completely different tax policy. That is not the approach this government adopts. This government spells out, as we did before the last election, exactly what our tax policies are. When we received a mandate from the people, we sought to implement that to the extent that we were able, subject to the frustrations of the opposition and the Democrats in this place.

There is absolutely no doubt that the tax reform that this government has initiated has created an environment in which Australia is a much more competitive country. The benefit of that is being shown in the current state of our economy. The strength of our economic growth leads the developed world. The direct consequence of that is that we have more people in jobs than ever before and have substantially reduced the levels of unemployment that we inherited from the previous Labor government. A major factor in that achievement has been the cut in personal and corporate tax rates which has benefited both individuals and businesses and has been a major factor in maintaining demand in the economy.

In gross terms, there has been $12 billion in income tax cuts—the largest in Australia’s history. Company tax has been reduced from 36 per cent to 30 per cent. The abolition of the financial institutions duty represents a saving of a billion dollars a year to taxpay- ers. There is also the abolition of the wholesale sales tax, which unfairly taxed the goods component of our economy but left the services component of our economy, in an unfair way, free of any indirect tax. This put an enormous burden on significant industries like the car industry, which is so important to my state of South Australia. We now have a much more equitable tax system in terms of the balance between income taxes and indirect taxes, and the indirect tax structure itself is a much fairer system, being a goods and services tax rather than a hidden wholesale sales tax.

The implementation of the GST is a major change, a dramatic change, to our tax system after more than 60 years of the previous system being in place. The government recognises the enormity of that change and has attempted to make the change as simple as possible for business. Of course, it would have been a lot simpler if the opposition and
the Democrats had got on board and supported the government in implementing the tax reforms as we had originally proposed, as we so often did as a responsible opposition in those years from 1983 to 1996 when very occasionally the then Labor government put up good proposals such as opening up the Australian economy and deregulating our financial system. The then opposition supported those proposals. We did not adopt an approach of blanket opposition just for the sake of opposition.

If the then government came up with good policies and changes that were needed, we supported them wholeheartedly. That is not the approach of this opposition. They embark on an approach of opposition for the sake of opposition. Anything this government puts up, they oppose—it has got to be bad. They cannot distinguish between things that are beneficial and that they would do themselves if they were in government, and those things which, for ideological reasons or whatever, they might be bound to oppose. That distinguishes the nature of this Labor opposition from the Liberal and National parties during our previous period in opposition.

As I said, we have tried to make the new system as simple as possible, especially for small business. Following further consultations, the government has dramatically simplified the business activity statement and has introduced easier options in relation to lodgement of the business activity statement and payment of the goods and services tax. Indeed, under one of those options, small businesses do not need to do any more quarterly reporting. They can simply pay the GST on the basis of their GST liability for last December. They can continue to pay that amount each quarter and do an annual report and reconciliation of the GST that is due from them on an annual basis. That is a much simpler system. In contrast to that, the Labor Party is in complete disarray with regard to tax policies. All it can talk about is roll-back—a roll-back it cannot define and cannot explain to the Australian people in terms of implementation.

It is interesting to note that in January last year Bob McMullan was honest enough to admit the benefits for the Australian economy of the new tax system introduced by the government, when he said that GST should be good for exports. Of course, it has been very good for exports. When the government developed the new tax system, it was a policy priority to make Australian exports more competitive on international markets. The wholesale sales tax structure had reduced their competitiveness because it was a built-in tax which exports from other countries did not have to contend with. One of the major goals of the new tax system was to get rid of hidden taxes such as the wholesale sales tax, and that was successfully achieved.

The benefits of that are now showing through in a dramatic way. For the month of June, we had a trade surplus of $537 million, and a surplus of $0.7 billion for the financial year 2000-01—the first trade surplus in three years. That simply reflects, apart from the overall good management of the economy by the present government, the benefits of the new tax system in terms of getting those embedded taxes and embedded costs out of those industries and businesses which rely on export markets.

The government’s policy is clear and it is beneficial. In contrast to that, we have this confused Labor Party, which does not have the capacity to detail any policies. One wonders whether it has the capacity to actually develop policies, let alone articulate them. This was demonstrated beautifully in the very public argument between Mark Latham and Kevin Rudd, two Labor members of the House of Representatives. Getting back to this confusion which the Labor Party has about roll-back, or ‘roll-backwardness’, Mark Latham suggested that roll-back should be about making certain geographical areas exempt from the GST. His colleague Kevin Rudd soon jumped on that and described it as lunacy. He said:

Latham has written much that is innovative in each of these areas. His most recent tax proposal, however, is just plain loopy.

Of course, Mr Latham had to come back, and he said:

As expected, Rudd has no suggestions of his own to assist the poor. As ever, rhetoric is easy in politics. Change is hard.
That is a truism. Change is hard, and it is this government that has had the courage to bite the bullet and make those necessary changes to our tax structure to develop a system that is much more efficient and that offers us much better economic outcomes, which are being delivered. (Time expired)

Senator SHERRY (Tasmania) (5.16 p.m.)—The debate concerns the impact of the GST in respect to small business in Australia. There are a couple of points I want to respond to from Senator Chapman’s contribution, prior to getting into the substance of the impact on small business. One of the claims by Senator Chapman and the government is that the GST was necessary to modernise the economy, to take it into the new century, the new millennium, to strengthen the economy. However, prior to the introduction of the GST on 1 July last year, Australia had enjoyed very solid economic growth, not just during those years of Liberal government, from 1996 to the middle of 1998, but in the last three years of the Labor government. In fact, the current economic growth in Australia, annualised, is less than the economic growth that took place prior to the introduction of a GST. So how do we have evidence that the introduction of the GST has led to higher economic growth since 1 July last year? It has not happened. Senator Chapman and his colleagues claim we needed the GST to boost economic growth, when we have not had economic growth greater than the period from 1993 through until the introduction of the GST on 1 July last year. Senator Chapman makes the allegation that the Labor Party opposes everything. During the luncheon break we dealt with 14 bills on a range of important issues, and the Labor Party supported them all.

Senator Calvert—I thought it was 10.

Senator SHERRY—It might have been 10, but 10 is more than zero. I lost count at one stage because I was hopping back and forth out of the chair.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—I think it was less than 14, though.

Senator SHERRY—It was certainly more than zero. Senator Chapman alleges the Labor Party never supports anything put up by the government. That is wrong. It might surprise people to know—it certainly surprises the public when they raise issues about what we do in the Senate—that 90 per cent of legislation that is considered in this place—

Senator Ludwig—It was 12 in all.

Senator SHERRY—Right. It was 12 bills that went through, just in the luncheon break, and the Labor Party supported them. Ninety per cent of legislation that comes through the Senate is either totally supported or amended in relatively minor ways. But the Labor Party opposed the GST. We made it very clear, front and centre, that we would not support a GST, for a number of reasons. We believed it was inequitable. It redistributed the economic wealth away from low and middle income earners towards the wealthier in our community and that is basically unfair. That is the impact of a significantly greater indirect tax system.

In the context of this debate, it is bad for small business. Fundamentally, the GST is a massive new tax that small businesses have to collect. Up until 1 July last year, we had a wholesale sales tax. I am well known as a defender of the wholesale sales tax. The reason I defend the wholesale sales tax is that it only needed collection by about 60,000 businesses. It was very simple to collect the tax. One of the advantages was that you could collect it progressively as well. You could have different rates and collect it quite simply. But, with the introduction of a GST, we had some two million small businesses in Australia who became tax collectors. Overnight, those two million small businesses had to collect the tax for the government. It is not a simple job for small businesses to collect the GST. It is not just a matter of adding 10 per cent to the price they charge and passing the tax on to the tax office. They have to claim their input tax credits—the 10 per cent GST—on their input costs, and they have to fill out a complex return—the business activity statement—and forward the money to the tax office.

As from 1 July last year two million businesses had to collect a tax that they had never had to collect before. This meant that...
almost two million businesses had additional paperwork and additional administration. They had to devote additional time towards the collection and the administration of the GST, and they had never had to do this before. It is okay for big business. Big businesses have accounts departments, computerised tax collection systems and computerised accounting systems, but the overwhelming majority of small businesses do not have computer systems to carry out their administration. They have to do it through the hard work of the individual business operator or their accountant. If they get their accountant to do it, they have to pay for it. Many small businesses have had to pay their accountants thousands of dollars a year to handle the book work.

There were some extraordinary comments from the Assistant Treasurer, Senator Kemp, the Treasurer, Mr Costello, and others in the government to the effect that this is some sort of rigorous, reinvigorating approach to small business, that small businesses should be pleased that they have to collect a new tax because it encourages efficiency and shakes out the inefficient small businesses. This is an extraordinary claim for representatives of the government to make: you need a tax to make small business more efficient. But that is one of the claims they make.

It is not just the issue of the paperwork and the time that is required by small business operators to collect the tax. There is also an issue of cash flow. Again, for big business it is easy. If big business collects hundreds of thousands or millions of dollars of GST, they can put it on the short-term money market and effectively earn an income from the GST. But, realistically, the vast majority of small businesses that collect the GST cannot go out and put it on the short-term money market and earn some income to help offset the costs. For big business, a GST is an absolute boon. It is easy for them to collect, they can put the money on the short-term money market and they can actually make a profit. But small businesses cannot do that, and they have not been able to do that.

You have had the hurt of the administration, the additional time and effort and the additional hours of work each week for small business, and you have had the cash flow problems—the cash flow squeeze—that have occurred as a result of the GST. These are fundamental problems that have hurt small business, and this is being reflected in recent bankruptcy statistics and in recent small business surveys that have looked at the level of confidence with respect to the implementation and the fallout of the GST. An article in the Financial Review on Wednesday, 29 August 2001 said:

... a survey of retailers showed confidence in the sector—
this refers to the retail sector, a major small business area—
had been dragged down by the GST and its impact on consumer sentiment, interest rate movements, the weak dollar and petrol price rises.

The GST has clearly had an impact on our economy and particularly on small business. I emphasise again that the argument is that the GST is good for the economy. If that is the case, why hasn’t the economy performed better since the introduction of the GST, as compared to the economic growth in the five or six years prior to the introduction of the GST? I would advance the argument that GST makes little difference to the performance of an economy. If we look at the long-term economic performance of countries that have introduced a GST and have had it for, in some cases, decades, there is no clear evidence that a GST, which is supposedly a more efficient tax system, has enhanced their performance. There is no evidence. It is just a mantra. It is a claim made and repeated over and over again by the current government.

On top of that, the government has been engaged in a massive advertising campaign. We have never seen the likes of this advertising campaign. It is a propaganda campaign. If the GST were so great, why would the government need to spend $200 million telling Australians that. The current government is the largest advertiser; it is now out-ranking Coca-Cola and McDonald’s. Why is there the need to spend an enormous amount of public money on a propaganda campaign? The campaign has not just been with respect to the GST and so-called tax reform, although those have been the major areas;
there have also recently been all sorts of other campaigns advancing government propaganda. Why is there the need for such a massive propaganda campaign?

Earlier, I outlined briefly the way in which the GST operates. That is, the business charges 10 per cent on the particular product or service, and it has to reclaim the GST on its input tax credits. This is a really important issue, because it is central to the problems the Minister for Small Business, Mr Macfarlane, has found himself in. We know that, in his electorate council in Queensland, there were claims for GST input tax credits made without the GST having been paid. This was discussed at Mr Macfarlane’s electorate council, and Mr Macfarlane was present at these meetings. Bearing in mind that Mr Macfarlane is the Minister for Small Business, if any small business in this country had taken that sort of approach then they would have been very quickly pulled into line by the tax office and fined, because they clearly would not have been carrying out their GST obligations. It would have been a clear breach of their GST obligations.

It is interesting that Mr Macfarlane claims that it was all a misunderstanding. Initially, he denied knowledge but then the minutes were produced and it became clear that he was at the meetings when this was discussed. Therefore, he was very clearly pinned. He was there. It was a bit hard for him to distance himself when he was at the meetings—and they also took place at his house, I understand. Mr Macfarlane puts it down to a misunderstanding; he claims it was all a misunderstanding. If small business were to so fundamentally misunderstand the way in which the GST is collected and paid then they would be in very deep trouble. But for Mr Macfarlane, as the Minister for Small Business, it is even worse: he has put out eight or nine press releases in the last nine or 10 months which clearly indicate he has an understanding of the GST. You would expect a minister of the Crown, particularly the Minister for Small Business, to understand the GST impact on small business, to know the way in which it was to be collected. But he puts the problems that he has found himself in the centre of down to a misunderstanding. How could a minister, who has major responsibilities with respect to the GST and small business, misunderstand when he is so centrally involved?

But as well as that, Mr Macfarlane claimed credit for the government back-down—the roll-back, if you like—of the business activity statement. The business activity statement is the administrative process for collecting the GST, and it has been an absolutely nightmarish mess for small business. We know of the loud complaints advanced by small business. When the back-down or roll-back by Mr Howard in respect of the business activity statements occurred, Mr Macfarlane put out a press release. His press release detailed the important changes being made for small business—the so-called ‘simplification’—and he took some of the credit for those changes. How can the claim by Mr Macfarlane that he did not know what was happening and that it was misunderstood have any credibility when he was central to the redesign of the GST and the way it applied to small business? Mr Macfarlane is a Liberal minister in a Liberal government which, together with the Australian Democrats, forced the GST on this country. He is Minister for Small Business and he claims he misunderstood the GST collection system. In these circumstances, how can he expect small business people—and they are the ones who have to go through all the collection difficulties and cash flow problems associated with a GST—to have confidence in him?

I am perfectly happy to talk about the issue of roll-back. When the GST came in on 1 July last year, the Treasurer, Mr Costello, said there would be no more changes. ‘We are not going to make any more changes to the GST,’ he said. What has happened since 1 July last year? We have had 1,800 amendments to the GST. The various bills for the implementation of the GST and the regulations now stack up to about a metre high. The tax acts have increased by thousands and thousands of pages. Where is the reduction in red tape promised by the Prime Minister? Where is the reduction in tax law? Where is the simplification? The tax acts have got bigger and bigger, the paperwork has got
greater, the bureaucracy has got bigger, and the burden on business, particularly small business, has got greater. We have not had simplification of the tax system.

But since 1 July last year we have seen a number of roll-backs or backflips by this government. We have had a number of obvious ones, such as beer. The Prime Minister gave a commitment during the election campaign that beer prices would not go up by more than 2.9 per cent, I think, or three per cent. They subsequently went up by close to eight per cent. He claimed later that the promise was only in respect of packaged beer, but during the campaign the word ‘packaged’ somehow slipped out of his promise. So beer is an example of roll-back. We have had significant backdowns by the government on the way the business activity statement operates and is designed in terms of collecting tax. Those have also been massive backdowns. For goodness sake, we have had backdowns related to the GST charged on swimming lessons. We were here on the last night of sitting at 6 o’clock in the morning last year debating how the GST should apply to swimming lessons of all things. The latest roll-back or backflip has been on caravan parks. This government criticises our theme of a roll-back of the GST in areas which will we announce in the lead-up to the election, but it has been engaged in one roll-back after another since 1 July last year. In the majority of cases, those roll-backs have involved very significant changes to the way in which the GST applies in this country.

The fundamental claim by the Liberal-National Party that we would have a more efficient tax system does not stand up to the available evidence. We do not have a more efficient tax system. There are new and greater burdens on Australia’s two million small business operators. There are greater cash flow problems for businesses, particularly small businesses. We have not seen improved economic growth since the introduction of a GST. Senator Chapman referred to the balance of payments and the current account. The claim is made that you take the GST off exports. The removal of the GST on exports is the equivalent of a reduction of one cent in the Australian dollar. Exports are doing well and imports are down because of the Australian dollar’s current low value. Australian exports are much more competitive because of that. Australian goods and services are cheaper to buy, relative to most other currencies in the world. The reverse is true too: it is more expensive for us to import goods and services from most areas of the world, given our very low dollar, and so we do not import as much. However, if you followed the logic of that argument, presumably you would just keep dropping the value of the dollar. It is the decrease in the value of the Australian dollar and not the GST that has led to an increase in our exports and a decline in our imports. (Time expired)

Senator KNOWLES (Western Australia) (5.36 p.m.)—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**LEAVE OF ABSENCE**

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

That leave of absence be granted to Senator Harradine for the period 17 September 2001 to 24 September 2001, on account of parliamentary business overseas.

**GOODS AND SERVICES TAX: SMALL BUSINESS**

Debate resumed.

Senator KNOWLES (Western Australia) (5.37 p.m.)—Today we are debating the effects of a new tax system on small business. Having listened to much of the debate from members of the opposition, one would suspect that they are in another century and particularly in another country. We have just heard Senator Sherry, for example, say that we do not have improved economic growth since the introduction of the new tax system. I do not know what planet Senator Sherry has been on but he clearly has not been on this one and, more particularly, he has not been in Australia since the introduction of the new tax system. Anyone in the world knows that Australia’s economy is one of the fastest growing economies of the world and now is one of the most stable economies in the world. That is despite the carping opposition, which every day is trying to destabilise Australia’s economy, trying to destabi-
lise Australia’s reputation and trying to talk this country down at every single opportunity. What is worse, this comes after its appalling 13 years in government.

It needs to be recalled that the Labor Party have committed themselves to keeping the GST as a component of the new tax system. The only person that I have heard as religiously and as regularly as clockwork say ‘We have not’ is Senator Cook—every day at question time. But Senator Cook is actually like a person alone on an island. Everyone else puts their heads down the moment he says, ‘We have not.’ It is amazing, because no-one else believes him.

Senator Calvert—I wouldn’t like to be alone on an island with him.

Senator KNOWLES—That makes two of us, Senator. It is interesting, because the Labor Party, as I say, have committed themselves to roll-back, but we do not know what roll-back constitutes. I have kept a little running list—and I do not, by any means, suggest that my list of their shopping list for roll-back is complete. They have said, from time to time, that the following things should not be taxed: children’s solar swimsuits, local community shows, sanitary products, trucks, cars, petrol, local government—mind you, local government is not taxed, by and large—charities, deposits, insurance, clothing, shoes, beer, levies, libraries, swimming pools, sportsgrounds, fuel, hats, printing and books, and that there should be a reduction in registration levels. That is just part of the little running list that I keep of all the things that they have said should not be taxed. It will be interesting to see what they actually come up with when they talk about—when and if they ever talk about—what they are actually going to roll back.

We have to remember that the new tax system was brought about with the agreement on revenue going to the states. The states signed off on the new tax system. They would get guaranteed revenue. We also need to remember, of course, that the states get every cent of revenue from the goods and services tax. So it automatically means that, if the income from the goods and services tax is rolled back, somehow the states have to be compensated for the amount that is no longer collected. How would the states be compensated for the amount that is no longer collected? There are a few choices: one would be to increase the rate of the GST; another would be to increase personal income tax or to increase a whole range of other taxes. We know that Mr Beazley has said that increasing income taxes is a live option. We know that Senator Conroy’s burst of honesty a few months ago blew the whistle on that as well. But there are few other options. The sad reality about all of that is that the Labor Party are cock-a-hoop about taking control of most of the states and territories, but that means that they have lined up all their ducks. The only way that they can increase the rate of the goods and services tax is by getting the approval of the states and territories and the Commonwealth government.

When we introduced the new tax system, we thought that was a fair enough safeguard, that the likelihood of all singing the same song and being in unison to increase the rate of the goods and services tax was fairly remote. Maybe that is not such a remote proposition as we thought it would be. The Labor Party realise that too. They realise that they can get their mates in the states to agree to a rate increase. So what they take off some things, they will probably increase the rate to—what, 15 per cent, 17½ per cent? Who knows? The other thing is that they want to roll it back in certain areas of small business. Small business is having conniptions about that proposition. No-one denies that huge sections of the business community have had difficulties in adjusting to a new tax system. That is not necessarily surprising. They had a tax system that had been in place since the thirties. It has suddenly gone and a whole new system put in its place, yet the Labor Party want to now change it again. How absurd. Why would any government want to do that to such a vital sector? That is all the more reason why there should not be a change of government whenever the next election is held.

The Labor Party are in total disarray about tax. As I said, the Australian economy is a strong economy. It is standing up to a slowdown in other countries. We have booming
exports and more people in jobs. And yet the Labor Party come in here and say that we do not have any evidence that the new tax system has helped the economy. Mr McMullan from the Labor Party was honest enough to admit the benefits of the tax system for the Australian economy when in January last year he said:

Well, the GST... should be good for exports.

He was right: it has been. As it happens, the GST has been exceptionally good for exports. The government decided that the best way to make our exports more competitive was to get rid of the hidden taxes that were making Australian exports so expensive and uncompetitive—taxes that Labor continued to secretly increase, budget after budget. As a result, there was a $537 million trade surplus for the month of June and a trade surplus of $0.7 billion for the year 2000-01—the first trade surplus in three years—and yet the Labor Party still carps, still criticises, still knocks, everything to do with this country and with its economy.

The people of Australia are confronted with confusion from Labor as they draw closer to an election. The Labor Party is in complete and utter disarray. Let me give you an example of that disarray and that confusion. There has been a very public argument between Mr Latham and Mr Rudd from the Labor Party. Mr Latham suggested that roll-back should be about making certain geographical areas GST exempt. What does that mean? I do not know. Does that mean that Civic would be exempt but Woden would be taxed? Does that mean that Victoria would be taxed and South Australia would be exempt? Who knows. We are talking about a proposal from one member of the Labor Party to make some geographical areas GST exempt. His colleague Mr Rudd described Mr Latham’s comments as lunacy, when he said:

Latham has written much that is innovative in each of these areas. His most recent tax proposal, however, is just plain loopy.

But, of course, Mr Latham is never one to let something go. He responded by saying:

As expected, Rudd has no suggestions of his own to assist the poor. As ever, rhetoric is easy in politics; change is hard.

From that comment, we might assume that Mr Latham’s GST exempt geographical areas are the places where he thinks poor people live. Heaven only knows how he is going to make that decision. Is he going to go down the street and say, ‘You’re a poor person; you’re not. You’re a poor person; you’re not. You’re exempt; you’re not’? What an absurd proposition.

Then, of course, the Labor Party talk about exemptions. The Labor Party suggest that roll-back means making the tax system fair on small business. Fair? How can it be fair? So far, the few proposals that they have talked about will create up to 5,000 new amendments to the legislation—only 5,000; that will take only a couple of days to deal with, given the way that the Labor Party deal with legislation! They talk about exempting books but ignore the fact that amendments would be required to deal with the treatment of books, magazines, booklets, pornography, stationery, newsletters, books on CD ROM, online books, academic journals, diaries, cookbooks, year books, books on tape, newspapers—and the list goes on. Mind you, an equally loopy comment on that score has been made by Senator Stott Despoja, who of course has no business experience at all and does not for one moment understand how tax impacts on business. She too says, for some reason, ‘The most important thing that we can do is take the GST off books.’ I am sure that all the people out there would think that is the most important thing in the world: to take the goods and services tax off books!

Of course, these amendments would have to be accompanied by measures that deal with the treatment of the entities involved with those products. So it is cheap to say, ‘We’ll take the goods and services tax off books and magazines and all those sorts of things.’ What happens to publishers, book stores, newsagents, paper manufacturers, ink suppliers, photographic studios, stationers, tourist shops, online book shops, universities and schools—and the list goes on and on? They have not thought about that. It will be interesting if and when we are told about that proposition—if and when Mr Beazley ever comes clean on it.
Income tax is another problem. As I mentioned earlier, one of the things that has to give is this: the Labor Party have to find an alternative source of income to keep the agreements with the states, to provide that agreed amount to the states. That money has to come from somewhere. Is it going to come from income tax? I wish I was as sure of winning lotto next Saturday night as I am sure that that is going to be one of the sources of their revenue increases. Mr Beazley realises that to deliver what he is "globally" promising—I say "globally" because we do not know the details—means that somehow he will have to get that extra revenue. He is also being forced to guarantee that the states will not lose any of their GST revenue if Labor win office. The two ring an alarm bell.

During an interview on a Melbourne radio station last month, Mr Beazley said that he does not think that Australians are paying too much tax and that the tax mix can be changed. That is interesting: the tax mix can be changed. Then, as I mentioned before, we had Senator Conroy, with his little spurt of honesty, saying, 'We're going to have to make some hard choices between whether we are going to cut programs or increase some taxes in this area.' That is a very good question, because we have all these little uncosted promises floating around—like the 'noodle nation'. What a joke! The Australian public are served up with a diagram that looks like a bowl of spaghetti and meatballs; it is meant to be this 'noodle nation' thing. Heaven only knows what it is. But anyone who looks at the diagram of spaghetti and meatballs would just simply go blind. Therefore, after those frank comments from Mr Beazley and Senator Conroy, one can only say that the cat is out of the bag. But they really do have to come clean and tell the Australian people where they will be increasing taxes. Mr Beazley was asked by Laurie Oakes which taxes he would increase.

And I interrupt there to ask whether it is undignified to sit down in front of someone like Laurie Oakes. I do not know; I do not understand that. He went on:

... and I won't be involved in that.

What a scramble! All Laurie Oakes asked was which taxes would Mr Beazley increase. And the answer was:

Laurie, Laurie, the point I'm making here is that it's silly for an Opposition leader, or anyone else, to sit down in front of somebody like yourself, and it's also undignified, and I won't be involved in that.

Fair dinkum! This is the man who wants to be the next Prime Minister. This is the man who cannot even get the story straight about his own daughter having the need for an operation. He had to go and expand the situation quite untruthfully. So here we have the Australian people being asked to take this man's word on anything. But one must ask the question about filling this other shortfall and about where the Labor Party would focus its attention.

After increasing income tax, there are a two or three other areas that would be prime targets for the Labor Party: company tax rate, petrol excise and private health insurance. Remember, the Labor Party hate private health insurance and, while they have given a commitment not to do away with the private health incentive, they also gave a commitment, prior to the 1993 election, that there would be tax cuts. They went out the window. So why would anyone take their word on that? Why would they take their word that there will not be an increase in petrol excise? After all, they were the ones who introduced it. And, as I say, Labor is the party that introduced petrol indexation in 1983 and kept it for 13 years. But they were not content with only indexing fuel excise—a measure that increased excise by a mere 550 per cent between 1983 and 1996—they also increased their take on petrol five times as separate budgetary measures; that is, Labor increased petrol excise over and above indexation five separate times. One budget increase in 1993, the year of the so-called l-a-w law tax cuts, netted the Labor Party $5.2 billion, and not one Labor Party senator or member voted against it. But it was the coalition that abol-
ished the indexation of petrol excise, it was the coalition that delivered $12 billion of income tax cuts, and it is only the coalition government that can continue to ease the burden on ordinary taxpayers.

The reality is that the Labor Party increased all these taxes in the past, and it is inevitable that if they were elected they would increase them in the future. They have done it in the past. They have committed themselves to the fact that they will have to roll back and therefore cut tax revenue to the states. It has to be supplemented somewhere, and there is a range of taxes that they have increased in the past and they will do so in the future.

Senator MURPHY (Tasmania) (5.57 p.m.)—In this debate we are looking at what is seriously the botched implementation of the GST. There have been all sorts of claims and one of those claims is that everyone is a winner. The Prime Minister, on radio in 1998, said:

I don’t believe that anybody ... will be worse off except tax cheats.

I am sure there are a few Liberal FECs who would agree with that.


Senator MURPHY—Yes, on compliance. Of course, we then had the other claim that no small business would go under as a result of the GST. Peter Costello, the Treasurer, said:

I don’t think anybody will go to the wall as a consequence of the GST .... I don’t think that there will be business that will flounder because of the GST.

There are any number of polls that would suggest that that is simply not true. Then, of course, the comment was made that small business red tape would be slashed by the introduction of the GST. And the Prime Minister said that a coalition government would slash the burden of paperwork and regulations on small business with their aim being 50 per cent reduction in their first term of office. I do not know where they lost that little promise and claim. He also said that the number of pages in the tax act would be reduced by the introduction of the GST.

The fact of the matter is that the new GST tax act is adding up to around 8 1/2 thousand pages, compared with 3,000 pages of the tax act when this government was elected. It now weighs somewhere in the order of 7.1 kilograms, and it has had almost 2,000 amendments made to it. It was said that the GST will create more jobs and that a combination of high growth and improved work incentives will deliver more jobs and lower unemployment. The total of full-time jobs lost since the introduction of the GST stands at 160,000. July 2001 saw the largest ever full-time jobs collapse since the start of the ABS series of records. There were 79,200 full-time jobs lost. I want to talk about the complexity for small business. I would like to draw your attention to the cash flow problems faced by community pharmacies.

The ACTING DEPUTY PRESIDENT (Senator McKiernan)—Order! The time allotted for the consideration of general business has expired.

PARLIAMENTARY ZONE
Approval of Works
Motion (by Senator Troeth, at the request of Senator Heffernan)—by leave—agreed to:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the design and siting of the exhaust flues, a change of tree species, changes to the walkway design and staircourt, and the external lighting design of Commonwealth Place.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator McKiernan)—Order! It being 6 p.m., the Senate will proceed to the consideration of government documents.

Consideration

The following orders of the day relating to government documents were considered:

National Health and Medical Research Council—Grants for 2001. Motion of Senator West to take note of document agreed to.

General business order of the day No. 2 relating to government documents was called on but no motion was moved.
INTELLIGENCE SERVICES BILL 2001
INTELLIGENCE SERVICES
(CONSEQUENTIAL PROVISIONS)
BILL 2001

CYBERCRIME BILL 2001

Report of Intelligence Services Committee

Debate resumed from 27 August, on motion by Senator Sandy Macdonald

That the Senate take note of the report.

Senator ROBERT RAY (Victoria) (6.01 p.m.)—I spoke to this report of the Joint Select Committee on the Intelligence Services earlier in the week. I want to restrict my comments tonight to one aspect of this report. When I spoke previously, I mentioned the controversial aspect of the report that provides immunities to both officers and agents of ASIS in certain offences committed within Australia. This is a very controversial area, obviously, when you are offering immunities to people. When the Intelligence Services Bill 2001 was originally drawn up, this section was fairly tightly drawn. Nevertheless, the select committee still had some minor concerns. As I have previously said, it was a pleasure to cooperate with ASIS, ASIO and the Inspector-General in discussing and teasing out these issues. ASIS was able to come back with a very clever formulation that assuaged the concerns of everyone on the committee. We had proper process. We had a select committee of eight coalition members, six Labor members and one Democrat member. Through a bipartisan and cooperative approach, we were able to establish and define the areas of immunity.

You can imagine my disgust when I looked at a bill that was presented to this parliament last night that had an immense section of immunities in it, ill defined and the most widespread ever to be put into legislation in this country—not discussed between political parties and not teased out as to where the boundaries lay. For instance, clause 7(1) of the Border Protection Bill 2001 states:

Proceedings, whether civil or criminal, may not be instituted or continued against an officer who takes action under section 5 or 6, or a person who assists in taking action under section 5 or 6, if the officer or person acts in good faith.

I do not know where you are permitted to break the law ‘in good faith’. If you look at the definition of ‘officer’ in the proposed ASIS bill—I am comparing the proposed ASIS bill with the Border Protection Bill 2001—the proposed ASIS bill defines ‘agent’ and ‘officer’. In the Border Protection Bill, an officer can be:

(a) the Secretary, or any employee, of the Department—
that could be any one of 80,000, right down to the most junior cook—

(b) a person who is an officer for the purposes of the Customs Act 1901—
that could be several thousand—

(c) a member of the Australian Federal Police or of the police force of a State or internal Territory—
that could be another 20,000—

(d) a member of the police force of an external Territory—
very small I admit—

e) a member of the Australian Defence Force.

I included those with the Department of Defence—60,000 and 16,000. This is an officer—not a person but an officer. So you have this immense number of people who are able to use force, in good faith, who are all exempted from civil and criminal proceedings. Why would we do that when, in another context, we narrowly define it, we pour over the semantics of it, we agonise over it and we get it right? Why would we suddenly produce a bill carte blanche like this other than for the reason it was not given the proper scrutiny that it should have been given? There were no negotiations—we know that—there were no discussions and there was no chance for a committee to look at it. In the case of the Labor Party, we could not even get the Labor Party caucus together to look at it, given the timing. It is my understanding—and I will stand corrected—that the coalition party room did not have the explanatory memorandum available to them.
when they approved this particular piece of legislation.

So it really is A Tale of Two Cities. It is a tale that says that, when a government maturely considers legislation, it will draft it precisely, the checks and balances will all be accorded and when it goes to a committee it will be further refined and developed in a cooperative and bipartisan atmosphere. This is the way things should work. Politics is, for the most part, an adversarial system, but we do demark certain areas where we would like to see bipartisanship develop for the good of the country. More often than not these tend to be in the foreign affairs, defence, immigration and multicultural areas.

I thought in terms of bipartisanship we were in pretty good shape, until 6.40 last night. Even then, it could have been saved by a bit more tolerance, some pause, some delay and some consideration of that legislation, bearing in mind what other committees had done in different circumstances—and I refer to the ASIS report that is before us at the moment. We could have developed a set of protocols that was acceptable. After all, we are told that already all of these powers exist, that this is only—an abundance of caution', one of those wonderfully politically correct terms that only a President Nixon or a Prime Minister Howard could have come forward with. No, I am being unfair to Prime Minister Howard. That would not have been his phraseology; it would have been from someone in the Attorney-General’s Department. I will not go so far as to say that John Howard would have invented such a term.

I always remember that when Lebanon was invaded in 1982 the operation was termed ‘Peace for Galilee’. The government is developing this sort of terminology: ‘an abundance of caution’. I do not take much comfort from a government that will use and abuse us in one process and then seek our cooperation, which is freely and generously given by a diverse group of people, to develop the appropriate solution, when in almost the same circumstances we get this wildly authoritarian view that hundreds of thousands of people—and I am not exaggerating, when you look at the definitions of ‘officer’ and ‘person’—will be able to break the law provided that they do so in good faith. The government do not say who establishes whether it is in good faith.

There is this blanket exemption, this equivalent of a 16th century papal indulgence, offered in the legislation yesterday. Yet in the ASIS legislation that presents itself here—and which will pass this chamber, I hope, expeditiously—you will find a carefully crafted set of indemnities, ones that are relevant and necessary if we are to properly support the security agencies of this country. In these circumstances we know that we have to cede some of our tendencies towards civil liberties and counterbalance them with the national interest.

But when you are doing a stitch up, all of that apparently goes out the window—no checks and balances; no thought given to a carefully crafted piece of legislation; just taking a sledgehammer to a peanut. I almost feel that I have been used by serving on the committee that produced this report, when in similar circumstances where bipartisanship is supposed to exist all we get is the absolutely authoritarian overkill that we saw in the legislation that was rejected last night.

Senator COONEY (Victoria) (6.10 p.m.)—I was listening to what Senator Ray had to say about this report and how he related it to the legislation that came in last night, and I must confess that when he was asking questions about what the legislation before us last night was all about it did occur to me that it would be appropriate to say some things about it in the context of how matters were dealt with in respect of the ASIS matter. Mr Acting Deputy President, ASIS and ASIO are, as you know, intelligence gathering organisations with a tradition of keeping things secret in the intelligence area, giving them certain abilities that they would not otherwise have. One can understand why that would happen in that area.

There seems to be absolutely no reason why the sorts of provisions that operate in, say, the legislation that controls the Federal Police, the NCA or any of the policing authorities and Customs should not have been in the Border Protection Bill 2001 that
was before us last night. That bill, which has now been defeated, talked about border protection, the sort of thing that you look at not in terms of what ASIS or ASIO does but in terms of what the Federal Police and perhaps the NCA and Customs do. The Border Protection Bill was a very slender piece of work indeed. Contrast that with the Australian Federal Police Act, the Customs Act and the National Crime Authority Act.

Why should we suddenly have legislation brought in that deals with a process that has been dealt with in the other legislation that I have been talking about but abandons all of the traditional safeguards that we have in this area? We have safeguards to prevent the exercise of arbitrary power. I have not seen any legislation that allows the exercise of arbitrary power in the way that the Border Protection Bill did. I am confident about this: I throw out a challenge to anybody to come in here and produce legislation of this kind—in other words, dealing with the protection of our border—that is as arbitrary in its cover as this is.


Senator COONEY—Thanks. That is probably correct. In a civilised society such as we are supposed to be, in a society where we believe in the rule of law, in a society where we say there should be balances, in a society where we say we have the division of power between the judiciary, the executive and the legislature and in a society where we say that the press should have cover, where would you get legislation such as this? And where would you get legislation such as this produced at such short notice? Where would you get legislation that would allow a very junior member of the Army, a very junior member of the Federal Police or a very junior member of the Customs Service to be dressed up with the sort of power that is allowed for in this legislation? It says that an officer, perhaps a young lady who has been in the Army for six months—I hope that that would not happen, but if you look at the terms of the legislation it allows it—may in her absolute discretion direct the master or other person in charge of a ship—a man of great seniority, it could be; a man who has all the ability that we would want from somebody who commands a ship—to do what she says and, if he does not, look out! As long as that ship is within the territorial waters of Australia, that can occur. Of course, as has been pointed out already, it does not need to be a foreign ship; it could be a local ship—it could be a fishing ship.

I do not want to go on about this because the matters that I have been talking about have been discussed again and again. For the life of me I cannot see why you would want such legislation coming before this parliament when much more traditional legislation could well have achieved the purpose for which it was written. I think it is a tragedy—and I use that word advisedly—that we should have legislation such as this coming in and setting a precedent for others to use. I think it is a matter for pride on the part of the Senate that this chamber stopped this sort of legislation going through. In a certain sense I am not here talking in a party political way, but I am talking in a political way. I am talking of the balances that must be exercised by this chamber. I am talking about that sense of what is right and wrong that should permeate any legislative chamber, particularly this one. I am talking about the duty of the Senate to see that this sort of power, the power that indeed the Star Chamber would have been proud to possess—

Senator McGauran—Oh!

Senator COONEY—He says, ‘Oh!’ Senator McGauran, I invite you to get up and show how this power is in any way limited in the ways that have been built up over the centuries in that fine tradition that English law has left us—and not only English law but also English tradition and English parliamentary history. This is a contradiction of that grand tradition. This is not the sort of bill, I suggest to you, Senator McGauran, that somebody like Sir Winston Churchill would have been proud to bring forward. It is not the sort of thing that he, who had a great appreciation of what the parliamentary process is all about, would have agreed to. I think this bill is perhaps an aberration—let us hope it was an aberration, something brought on in the crisis of the moment—a bill introduced in the context of a tension that hopefully has
now ceased. If this sort of legislation is to come back, I hope it will come back in what has now become the traditional way—that is, in the way that legislation dealing with the Federal Police, the National Crime Authority or the Customs Service would be presented. The Migration Act gives lots of power to the immigration department and people within it, but nevertheless the legislation has within it many protections. I wanted to take the opportunity of going on record about this because I do think this was a very bad piece of legislation for the reasons I have already given.

Question resolved in the affirmative.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator McKiernan)—Order! The consideration of committee reports has now concluded and I propose the question:

That the Senate do now adjourn.

Australian Defence Force Parliamentary Exchange Program: HMAS Canberra

Senator FERRIS (South Australia) (6.21 p.m.)—Earlier this month I had the privilege of being able to join the crew of HMAS Canberra during Operation Kakadu in Australia’s northern waters. HMAS Canberra was commissioned in 1982 and is one of six guided missile frigates currently serving in our Navy. Around 186 officers and sailors work on the ship, and it carries antiship, anti-submarine and surface-to-air missiles, some of which have a range of over 100 kilometres. The ship also has the capacity to carry two Seahawk helicopters, one of which I travelled in during a medivac to Darwin.

I was fortunate enough to be one of the members and senators invited to join our defence forces, and two of my colleagues in the chamber here tonight, Senator Jacinta Collins and my colleague Senator Julian McGauran, have also taken part in this most interesting and valuable program.

On board HMAS Canberra, I was particularly impressed with the young women crew members. They represent a small percentage of the 2,000 women who currently serve in the Navy today. But, while they make up only 17.5 per cent of all sailors, women now comprise 23 per cent of the Navy’s officer class. The number of female officers in the Navy is now growing rapidly, with nearly half of the Australian Defence Force Academy’s intake of Navy officer cadets being female. But a particular challenge for all sections of the defence forces is to find ways to enable young women to remain involved in the defence forces during their early years of motherhood. I know this issue is a high priority with the Chief of the Defence Force, Admiral Chris Barrie, and I am confident that ways will be found to enable these women to combine work and family commitments. They are talented and very highly trained women.

I am particularly proud that our government continues to make such a significant contribution towards strengthening the role of our defence forces and supporting those who so courageously serve our country. In our last budget, we increased government spending on defence for 2001-02 by $500 million. Next year it will increase by $1 billion and by the end of the decade defence spending in cash terms will stand at $16 billion per year in today’s dollars.

Defence clearly plays a significant role in our community. If measured in terms of annual revenue, the Department of Defence is the third largest organisation in the country, with revenues of $20.2 billion. Only the big Australian, BHP, and Coles Myer have greater revenues. If measured in terms of net assets, the defence department is the largest organisation in the country, with assets of $41 billion. Furthermore, including those in the reserves, Defence is our second largest Australian employer with over 88,000 people. Our Defence white paper is receiving great support among our service men and women. It provides for a $500 million boost this financial year and $1 billion boost next year.

HMAS Canberra, which I was fortunate enough to be assigned to, was undertaking Operation Kakadu along with HMAS Brisbane and HMAS Adelaide. We also had the good fortune to have a group of sea trainers on board, which gave me the opportunity to see a number of emergency procedures being undertaken. It meant that I was able to see what happens when a man goes overboard—
when a sailor is lost at sea—either in the
daytime or at night. I was particularly im-
pressed with this procedure. I could not be-
lieve that the sailors were able to see this
person in the water, particularly during the
day, although it was much easier at night
when the person had reflective tape on. I
hasten to say that ‘Oscar’ was not a human
being but simply a mannequin taking part in
the trials. I also had the opportunity to wit-
ness procedures for a fire on board and also
witness how fuel is transferred at sea, when
HMAS Westralia came alongside. It is a very
precise and quite technical operation to move
diesel fuel from one ship to another, and it
was done, I might say, without spilling a
drop.

As Senator McGauran has said in public-
ity for his week at boot camp in Queensland,
there are a number of opportunities to take
part in operations which we are often not
accustomed to.

Senator Conroy—I can just see you in
boot camp!

Senator Ferris—It is a long time since
I have slept in a second storey bunk in a very
small cabin, particularly when the access to
the second storey bunk does not include a
ladder.

Senator Conroy—that is too much in-
formation.

Senator Ferris—I was very admiring
of the two young women who share one of
these very small cabins: the loss of personal
space and the need for tidiness and for eve-
rything to be secured when the ship is at sea
really impressed me. Not only did I experi-
ence some quite unusual circumstances get-
ing into the second storey bunk but sharing
bathroom facilities was also something of a
new experience for me, particularly when, at
6 o’clock in the morning, I went into what
we call a bathroom and what they call in the
Navy the ‘Heads’ and met two very large
young officers coming out of the showers
wearing a very small amount of towelling.

Senator Conroy—that is far too much
information.

Senator Ferris—This is not something
that I am accustomed to in my normal life.
The two young officers handled it a great
deal better than I did, in the sense that they
are of course much more accustomed to
sharing the facilities with the female officers
on a daily basis. It was something that I was
less accustomed to, but it was handled with
great dignity and aplomb. Senator Conroy, if
you had been there, you would have been
very proud of all concerned.

The women who serve in the Navy de-
serve great admiration. Quite apart from the
work that they do—it is a very long and hard
job with split shifts and night watch shifts—
they also wear what Senator Collins and I
have described as ‘utilitarian’ clothing: that
is, a very basic set of overalls and, most im-
portantly, a very heavy pair of steel capped
boots, not something that I am accustomed to
wearing, let alone running in up and down
stairways in emergency situations. I am very
admiring of the women who are able to
competently and confidently wear this uni-
form far better than I was able to do.

I must say I found the opportunity to serve
at sea for, unfortunately, only a couple of
days a really interesting and very different
experience. I was fortunate enough to be at
sea in the northern waters of Australia which
were at the time very calm so there was no
question of needing to worry about motion
sickness and so on. It gave me a very inter-
esting opportunity to experience a life which
is very different from the life that we lead
here in this place. I think it is something
which all members and senators who have
the opportunity should undertake if they can.
I would also like to mention the visit that
Senator Collins and I were able to undertake
to NORCOM, the Northern Command base
in Darwin, and the patrol boats that are based
in Darwin, which are playing a very valuable
role in protecting and guarding our coastline.
In conclusion, I thank the Navy for the op-
portunity to work with them, as much as I
was able to, for a few days just a couple of
weeks ago. I particularly thank Commander
Roger Boyce, the captain of HMAS Can-
berra, for his patience and generosity with
his time and also Lieutenant Sam Jackman,
who was our Navy contact. Senator Collins
and I were very grateful for the opportunity
to be briefed as well as we were on the pro-
tocols that we would expect to find on the
ship. *(Time expired)*

**Australian Defence Force Parliamentary Exchange Program: HMAS Adelaide**

**Senator JACINTA COLLINS (Victoria)**

(6.31 p.m.)—I, too, would like to reflect tonight on my experience as part of the Australian Defence Force Parliamentary Exchange Program. I thank Senator Ferris for her contribution this evening. She has assisted me in not needing to cover some of the detail which I think is very important in relation to this program and the experience we had within the Navy. I was given the privilege of spending three days on HMAS *Adelaide*. I would like to give a special commendation to the people who looked after me on that ship: Commander Norm Banks, Lieutenant Commander Stephanie Moles—who after watching me climbing up and down a number of stairs decided that she would relinquish her bottom bunk to me, which I very much appreciated—and, as Senator Ferris has already said, Lieutenant Sam Jackman.

I want to spend a little bit of time this evening talking about the experience and what I learnt from this exercise. These reflections are perhaps timely with the debate occurring at the moment in relation to the asylum seekers on the *Tampa*, because the Navy plays a significant role, a role which many of us may not appreciate, with respect to dealing with asylum seekers. In the area that we were in, in the sea off Darwin, we were also not far from Ashmore Reef, so we had the opportunity of discussing with a number of sailors and officers within the Navy how they reflected on their role in dealing with asylum seekers. In the area that we were in, in the sea off Darwin, we were also not far from Ashmore Reef, so we had the opportunity of discussing with a number of sailors and officers within the Navy how they reflected on their role in dealing with asylum seekers. I think it is important to note here tonight that, at least from my own perspective, I found nothing but compassion. I found within the Navy a significant level of compassion for the people that they were dealing with, the people who were seeking asylum. I also found a concern. The concern that was raised with me by some members of the Navy was that in one sense they felt like their concern and compassion was being set up against what seemed to be a hardening position within the bureaucracy. One quip, which I will reflect on but will not attribute, was that they almost felt like the bleeding hearts from the human rights commission in terms of the position that they were reflecting on behalf of the Navy. I think that is a significant reflection for us: the people who are dealing with implementing our policy in this area, the people who see the faces, who take the people on board ships, feel the need to express compassion to these people and feel a little bit strange or ‘out there’ in comparing their thoughts and feelings with those of the bureaucrats dealing with policy in Canberra. Perhaps as the days go on, as the asylum seekers remain on board ship, this might be an experience that extends to the Australian public. I certainly hope so.

There are two other issues that I think are worth noting in relation to the experience and areas that we learnt something about—life at sea and life in the Navy. Senator Ferris has already touched on the issue of gender relations. That was one area where, from my perspective, I thought the Navy deserved some level of commendation as well. The Navy has had some significant problems over the last decade in dealing with gender issues. But, from the perspective of someone who has worked in this area for perhaps twice that time in general workplaces, in my experience on this ship the worst example in three days of non-politically correct gender type comments was one senior seaman referring to another as a ‘girl’. That was the worst example. If I were to compare that to general workplace behaviour, I would have to say that these days it seems the Navy is significantly ahead of the general Australian community, although there are still some significant problems that the Navy acknowledges and that I think the Australian Defence Force acknowledges as well. For instance, the separation rate of women in the Navy is around twice that for the men. There are a number of problems for both women and men in relation to their at sea role within the Navy and these are issues that the Navy is struggling with in relation to recruitment and retention issues.

Some of the problems that women face in remaining in the Navy reflect some much broader issues such as the ability to get
postings not at sea, and some of them will perhaps be addressed in the broader recruitment and retention concerns. The cultural component of what it is like for a woman out at sea appears to have improved significantly, and the Navy should be commended there. There is only one remaining element where I think they need to make serious change, and Senator Ferris partly addressed that when she was talking about overalls. From my perspective, wearing overalls as a woman in confined spaces at sea is the equivalent of being forced to wear stiletto heels in an office, permanently. It affects your mobility, it affects the time it takes to do certain activities, particularly in the bathroom, and I really do think that the Navy should seriously consider adjusting their uniform to reflect the number of women who are now within the Navy. They can still take into account certain safety features without needing to confine the ability of women to move around.

The recruitment and retention issues are not only being addressed from within the Navy or within the Defence Force. We have the Nunn review, which I think is going to be reporting fairly soon, and a Senate inquiry into recruitment and retention within the Defence Force, chaired by Senator Hogg. One area that was of particular interest to many of the seamen on HMAS Adelaide was the remuneration that they get with respect to their time at sea. I am very pleased to be able to note that, since my time on HMAS Adelaide, the Defence Force Remuneration Tribunal has handed down a decision which has significantly increased the at sea allowance. I understand that the very successful case presented by the Navy team was headed by Captain Marcus Peake. The nature of that case was obviously very convincing to the tribunal, but it also serves as a good summary of some of the issues presently faced within the Navy, and I thought it would be useful to the Senate to cover just briefly some of those.

The tribunal report refers to these as being the sorts of issues affecting recruitment and retention, or as being ‘work value development’, since 1995 in the Navy. There is a higher degree of minimum manning. What is meant there is that manning levels are struck at a bare minimum which often means workers are working multiduties or extra hour type arrangements. There is also an overall increase in the number of minimum manned platforms resulting in a greater propensity for irregularity of posting to minimum manned vessels. In other words, you are more likely to be more frequently placed on a ship which operates on that minimum manning level. There is an increase in the intensity of operations. There have been workplace shortages resulting in significant increases in workload for remaining crews, particularly those posted to minimum manned vessels. And there has been an increase in societal expectations leading to a relative increase in the disabilities experienced at sea. Part of the evidence also is a personnel shortfall for the Navy of 17 per cent and there are 644 vacancy billets. The shortfall of experienced personnel conducting advanced training is at 34 per cent. This demonstrates a significant level of stress within the Navy. Personnel is probably about the most important issue facing Australia’s Navy today. That was obvious from our experience. I look forward to reading some of the reports that I have just cited and hope that the serious attention placed on these issues will achieve outcomes not only for the workforce generally but also for women’s participation in that area as well.

Elections: Voting Patterns

Senator TCHEN (Victoria) (6.41 p.m.)—It is my apprehension that adjournment speeches usually run their course, independent of one another. Usually they are like, in a case of mixed cliches, ‘ships that pass in the night—never the twain shall meet’. Tonight, I would like to break with this to follow a theme in Senator Schacht’s adjournment speech on Monday night. The main theme of his speech was to congratulate Ms Clare Martin on her election to government in the Northern Territory. I have no objection to good fortune—however undeserved—being celebrated and I do wish Chief Minister Clare Martin well in her challenging task over the next three years, but there is no need to overdo it, I suppose, since Senator Schacht has already done it.
It is the secondary theme that Senator Schacht developed in his speech that I am more interested in—that is, he thought the reason the Country Liberal Party of the Northern Territory lost office was arrogance developed over the 27 years of its government. I know very little of Northern Territory politics, so I cannot agree or disagree with Senator Schacht on whether arrogance was involved, but one would expect that, given politics is an uncertain profession, a change of government would be inevitable after 27 years. However, Senator Schacht went on to draw a lesson from the voting pattern across the nation over the last few years. He said that during 2001 there had been a significant number of elections in this country—the state elections in Western Australia and Queensland, two by-elections for seats in the federal parliament and now the Northern Territory election. In each case, Senator Schacht said that the common feature had been the steady and consistent drop of conservative first preference votes, and he again attributed that to arrogance on the part of the conservative parties.

To Senator Schacht's credit, he did not dance a jig when he was speaking on this—probably because he was conscious that he was not on very firm ground. Having heard Senator Schacht, I actually did some research on the election results, and there is something here that we should consider a worrying trend for all major parties. Of the elections that Senator Schacht mentioned, it is not just the conservative parties who lost first preference votes. Senator Schacht did not notice that the votes the conservative parties are supposed to have lost did not go to the Labor Party. In most cases, the Labor Party also lost first preference votes.

In the 1996 federal election, the independent and small party votes—and I also include the informal votes, because informal votes are also a form of protest vote—accounted for 16.5 per cent of the votes cast. In the 1998 federal election, this percentage went up to 23 per cent. In the Ryan by-election it was 21 per cent, in the Aston by-election it was 28 per cent, in the Western Australian state election earlier this year it was 28 per cent and in the Queensland election it was 24 per cent.

Senator Conroy—They hate you.

Senator TCHEN—Senator Conroy said they hate us. They do not hate just us, they hate all of us, because you did not pick up the votes either. This says something about politics which should concern the representative parties in Australian politics. I would like to quote for the Senate a letter I received from one of my constituents, which should be illuminating, even for Senator Conroy. She said:

Most of all, I am saddened when I watch parliament in session on the ABC or listen to almost any politician being interviewed. How will our country ever reach its potential when our leadership is so preoccupied in petty arguments and one-upmanship? How are we, as citizens, to take inspiration from a group of people who are more concerned with vote-winning than with real democratic leadership?

Unfortunately, the sadness that we face here is that on our side of politics we do realise the importance of listening to people and doing the right thing by them. It does not look as though the Labor Party has learned its lesson or intends to learn its lesson. Having commented on the supposed arrogance of the conservative parties, Senator Schacht went on—putting aside his own display of arrogance, not understanding that the Labor Party is also losing votes, even when it is in opposition and is supposed to be picking up votes—to talk again in the way that the Labor Party has got into over the last five years, simply denigrating what the government has done without offering any sort of alternative and without recognising good work done in the national interest.

Senator Schacht said that ordinary Australians are fed up with having their services cut and their living standards reduced by the policies of this present government. In reality, over the last five years, the coalition government has actually secured the strongest economy in a generation. We are now seeing more Australian jobs, families are living with the lowest interest rates in 30 years, workers are experiencing real increases in their wages, record levels of health care funding are being provided and our
young people now have more opportunities to pursue an education or undertake practical career training that will lead to real jobs. That is the reality.

Senator Schacht also complained that all the coalition government is promising, all the Prime Minister has promised, is more tax cuts when there is an increasing surplus. Senator Schacht took great exception to that. What is wrong with that? We believe, and practice has shown, that the best people to make use of extra funds to develop the national economy are the private individuals, not government. By extracting money from the taxpayer, the government actually reduces the efficiency of the national economy, because it is the individuals who are best able to provide the sort of incentive to develop the economy.

Speaking of arrogance brings to mind another adjournment speech given on Monday night, which illustrated the absurd arrogance of Labor Party senators. This was a speech given by Senator Buckland. Senator Buckland has only been in this place since fairly recent times, so he is perhaps not so conscious of the importance of behaving properly and not abusing the privilege given to him in this chamber. Senator Buckland used his entire speech to denigrate a woman called Ms Vicki Thompson.

Senator Buckland claims that Ms Thompson is a staffer of the South Australian Premier, Mr Olsen. Somehow or other, Senator Buckland received a fax of a job application from Ms Thompson. Senator Buckland says he does not know how it got to him. We might believe in fairies down the bottom of the garden. However, Senator Buckland says he does not know how he got it. Using that as an excuse, he attacked Ms Thompson, accusing her of not doing her job, of being disloyal. This is a total abuse of the privilege granted to senators in this chamber. The degree of discourtesy demonstrated by Senator Buckland exactly illustrates the type of arrogance which is turning Australians away from the respect they should have and the confidence they should have in their politicians. (Time expired)

International Corporate Governance Network: Tokyo Conference

Senator CONROY (Victoria) (6.51 p.m.)—I rise to speak briefly on my recent study trip to Tokyo. I was lucky enough to go to Tokyo and speak at a conference organised by the International Corporate Governance Network. The conference gathered people from all around the world who are concerned with the issues of corporate governance. The funds represented amounted to $US10 trillion, which demonstrates the clout of the people in the room. Some of the organisations that attended included CalPERS, the Californian public sector retirement fund, Hermes, representing British Telecom, and TIAA-CREF, representing New York State’s teachers.

The conference’s main focuses were on developing nations, Japan, the Asian region and world developments in corporate governance. I was lucky enough to be there to talk about current developments in the Australian Stock Exchange and the challenges being faced by the Australian Stock Exchange. They have demutualised in the last couple of years, and we have seen them continue to expand into other areas of what you would probably call non-traditional exchange work. They have even established themselves as a share registry. There have been some challenges for the Australian Stock Exchange, and this was the topic of my address to the conference. Those challenges have meant that the Australian Stock Exchange has, significantly, introduced practices to try to reduce the potential for conflict of interest—but there are many who would argue that that is very difficult as the ASX continues to expand into market services.

The Australian Stock Exchange also faces the challenge of maintaining company listings in Australia, and what the opportunities for that are. The ASX has recently had discussions with the New Zealand Stock Exchange about an alliance with it. Unfortunately, for a variety of reasons, it has not been able to form a merged entity or an alliance with the New Zealand Stock Exchange. The opportunity for the New Zealand Stock Exchange to join with a larger institution,
with greater depth in liquidity, has unfortunately been missed. I hope there is an opportunity to revisit that. But of more interest is the ASX’s negotiations with the Singapore Exchange, particularly about whether it should try to form an alliance, an equity swap, merger style, and about the implications for Australian investors. Those were some of the issues that I talked about.

The big challenge and the interesting thing we learned about at this conference in Tokyo was how divergent the corporate governance practices were around the world. The head of the Japanese Federation of Employers’ Association—and Senator McGauran may be interested in this—stood before an investment audience that controlled $US10 trillion and said, ‘In Japan, companies are not run to maximise shareholder value.’ They teach, in their schools—and he quoted from a schoolbook—that companies that are run purely to maximise shareholder return, they believe, will not have enough research and development and that this will lead to unemployment. So you had one of the most powerful representatives of Japanese business establishment thumbing their nose at $US10 trillion. This was quite a fascinating situation, especially given the troubles that the Japanese economy is facing.

I was lucky enough to get a number of briefings from the government, the Tokyo Stock Exchange and a number of independent broking houses and firms. Overwhelmingly, there was a sense of anticipation that the new Prime Minister in Japan would cause the Japanese economy to face up to its current difficulties. But the attitudes being displayed by some of the old-timers in the Japanese business establishment were very disturbing, because they represented a sense of, ‘We don’t need to change, we don’t need to do anything different, and everything will be fine.’ For those who follow the Japanese economy, it is probably sliding into its fourth recession in 10 years and, as one of our two biggest trading partners, it is of significant concern to Australia. I found that the governance principles that are reasonably well established in Australia and established in other parts of the world are non-existent in Japan.

You have situations where many companies have cross-ownerships among themselves—very similar to the Melbourne Club in the eighties, where they all looked after themselves—a bit like your old friends in the eighties, Senator McGauran.

The DEPUTY PRESIDENT—Address the chair please, Senator Conroy.

Senator CONROY—Thank you for drawing that to my attention, Madam Deputy President. Let me give an example. I was lucky enough to be staying with a friend who is a senior employee of Coca-Cola in Japan. We were chatting about the different challenges that he was facing, having recently moved there, and about some of the extraordinary experiences that he is gaining and enjoying. I asked about financial services and life insurance. He said, ‘It is really quite simple, Stephen. In Japan, this is how it works. Let us say you are AMP or AXA and you want to sell life insurance to the workers at a Japanese company.’

Senator Jacinta Collins—You have to buy shares!

Senator CONROY—It is even better than that, Senator Collins. The insurance company with the largest number of shares in the company gets to have, say, Monday. The insurance company with the second largest number of shares in the company gets Tuesday. The company with the third largest number of shares gets Wednesday, and so on until you get to the company with the seventh largest number of shares, which obviously gets the last day. I said, ‘What happens if you are the insurance company that is the eighth largest shareholder?’ The answer was quite simple: ‘You buy more shares, you gain a day and someone gets punted off the end.’

So, as you can see, some of the practices in Japan are a little unusual by corporate governance standards. Some even argued that holding a conference on corporate governance in Japan was an oxymoron, but it was worth while because many people came forward. The Japanese banking system has been going through crisis after crisis. Essentially, it has consolidated into four large institutions. The biggest concerns in the Japanese economy continue to be the banking
sector and the question of bad debts and debts that need to be provisioned for. At the moment, the government is giving all the right messages to the international investing community, and we are seeing banks being prepared to tell some of the truth about the level of bad debt.

We have been lucky in Australia. We revitalised the financial system and the banking system in the early eighties and nineties, and we have kept the international pressure on our financial institutions. Others have referred to the banking system and the financial system as the heart pumping the blood into the rest of the system. In Japan, fundamental reform is needed in their banking system. They have to face up to the level of bad debt and they have to find a way to unwind their cross shareholdings. There is a requirement now and divestiture is taking place, and so there is some hope that one of the critical issues in the Japanese economy is being faced up to. The concept of independent directors really is unusual in Japan. They are facing some proposed changes to their Corporations Law equivalent, and they are talking about making it mandatory under this system to have independent directors and an audit committee.

The DEPUTY PRESIDENT—Order! The time for the debate has expired.

Senate adjourned at 7.02 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:


Telecommunications (Consumer Protection and Service Standards) Act—Special Digital Data Service Provider Declaration Revocation 2001 (No. 2).

Return to Order

The following document was tabled pursuant to the order of the Senate of 25 March 1999:

Australian Competition and Consumer Commission—Report to the Australian Senate on anti-competitive and other practices by health funds and providers in relation to private health insurance for the periods 1 July to 31 December 2000 and 1 January to 30 June 2001.

Indexed Lists of Files

The following document was tabled pursuant to the order of the Senate of 30 May 1996 as amended 3 December 1998:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2001—Statements of compliance:

Department of Family and Community Services.

Department of Education, Training and Youth Affairs.

Industry, Science and Resources portfolio.

Unproclaimed Legislation

The following document was tabled pursuant to standing order 139(2):

Unproclaimed legislation—Document providing details of all provisions of Acts which come into effect on proclamation and which have not yet been proclaimed, including statements of reasons for their non-proclamation and information relating to the timetable for their operation, as at 31 July 2001.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Department of Agriculture, Fisheries and Forestry: Programs and Grants to the Gwydir Electorate**

(Question No. 3225 Amended Answer)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 18 December 2000:

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

2. What was the level of funding provided through these programs and/or grants for the 1996-97, 1997-98, 1998-99 and 1999-2000 financial years.

3. What level of funding was appropriated for the above programs and/or grants for the 2000-01 financial year

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

In response to parts (1) and (2) of this question I would refer the honourable senator to the answer provided to an earlier question asked by Senator Mackay (Senate Question No 3060).

2. For the 2000-01 financial year the level of funding appropriated for programs and/or grants administered by the department which provide assistance to people living in the federal electorate of Gwydir is as follows:

<table>
<thead>
<tr>
<th>Program/Grant</th>
<th>Appropriation for Gwydir 2000-01</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Heritage Trust One Stop Shop programs</td>
<td></td>
</tr>
<tr>
<td>administered by AFFA (Murray-Darling 2001,</td>
<td>$915,850</td>
</tr>
<tr>
<td>National Landcare Program, National Rivercare</td>
<td></td>
</tr>
<tr>
<td>Program)</td>
<td></td>
</tr>
<tr>
<td>Farm Forestry Program – under the Natural Heritage</td>
<td>Up to $75,000 for each of the</td>
</tr>
<tr>
<td>Trust</td>
<td>Northern Tablelands Farm</td>
</tr>
<tr>
<td></td>
<td>Forestry Project and the Central</td>
</tr>
<tr>
<td></td>
<td>Tablelands Regional</td>
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<tr>
<td></td>
<td>Plantation Committee</td>
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<tr>
<td>Financial Counselling Services – under the Rural</td>
<td>$349,687 for financial counsellors</td>
</tr>
<tr>
<td>Communities Program</td>
<td>based in Gunnedah, Coonamble,</td>
</tr>
<tr>
<td></td>
<td>Gilgandra, Moree, Narrabri, Walgett,</td>
</tr>
<tr>
<td></td>
<td>Coonabarabran and Mudgee</td>
</tr>
<tr>
<td>Rural GST Start-up Assistance Program</td>
<td>Although this program is administered by AFFA funding is provided from the GST Start-Up Office and not from AFFA appropriations. In 2000-01 a total of 15 seminars have been conducted in Gwydir at a total cost of $75,389.</td>
</tr>
</tbody>
</table>

Other programs are administered on a state/national basis and are available to people living in the electorate of Gwydir.

<table>
<thead>
<tr>
<th>Program/Grant</th>
<th>State Appropriation 2000-01</th>
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<tbody>
<tr>
<td>The Government’s decision on 5 December 2000 to</td>
<td>$8.287 million</td>
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<tr>
<td>provide assistance to flood affected farmers in</td>
<td>$1.3 million</td>
</tr>
<tr>
<td>northern and central NSW and southern Qld will</td>
<td>[available to landholders in the western division of NSW. This incorporates a small part of the Gwydir electorate (west from Lightning Ridge and Walgett)].</td>
</tr>
<tr>
<td>result in assistance to people living in the</td>
<td></td>
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<tr>
<td>federal electorate of Gwydir during the 2000/2001</td>
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<tr>
<td>financial year. Estimates have not been prepared</td>
<td></td>
</tr>
<tr>
<td>on an electorate basis, and actual expenditure</td>
<td></td>
</tr>
<tr>
<td>will not be known for some time.</td>
<td></td>
</tr>
<tr>
<td>FarmBis Program</td>
<td>$3.047 million</td>
</tr>
<tr>
<td>West 2000 Rural Partnership Program</td>
<td>$47.338 million</td>
</tr>
</tbody>
</table>

Program/Grant                                      | National Appropriation 2000-01 |
|---------------------------------------------------|-----------------------------|
Senator Faulkner asked the Minister for the Environment and Heritage, upon notice, on 13 March 2001:

(1) How many Australian Public Service (APS) officers whose salary is being paid, either in whole or part, by the department or any portfolio agency, are currently employed in any capacity in Parliament House (excluding all persons employed under the Members of Parliament (Staff) Act).

(2) For each of those persons currently employed in Parliament, and without naming those persons, please provide: (a) the capacity in which they are acting; (b) the senator’s or member’s office in which they are employed, or the functional area if they are employed in a parliamentary department; (c) the APS salary level paid to that person; and (d) the period of employment.

(3) Please provide the same details for any such persons not currently employed but who have been so employed at any time during the past year.

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

(1) Three

(2)—

Employee No 1
(a) Departmental Liaison Officer
(b) The Office of the Hon Sharman Stone
(c) Executive Level 1
(d) 21 February 2000 to 1 October 2001

Employee No 2
(a) Departmental Liaison Officer
(b) The Office of the Hon Robert Hill
(c) Executive Level 1
(d) 26 June 2000 to 16 April 2001

Employee No 3
(a) Departmental Liaison Officer
(b) The Office of the Hon Robert Hill
(c) Executive Level 1
(d) 14 February 2000 to 1 October 2001

(3)—

Employee No 1
(a) Departmental Liaison Officer
(b) The Office of the Hon Robert Hill
(c) Executive Level 1
(d) 10 January 2000 to 20 August 2000

Employee No 2
(a) Departmental Liaison Officer
(b) The Office of the Hon Robert Hill
(c) Executive Level 1
(d) 5 February 2001 to 16 March 2001

Employee No 3
(a) Acting Media Adviser
(b) The Office of the Hon Robert Hill
(c) Public Affairs Officer Grade 3
(d) 20 July 2000 to 4 September 2000

Employee No 3
(a) Public Affairs Officer
(b) The Office of Senator the Hon Robert Hill
(c) Public Affairs Officer Grade 3
(d) 4 September 2000 to 7 February 2001.

Community Services Portfolio: Missing Computers
(Question No. 3737)

Senator Faulkner asked the Minister for Family and Community Services, upon notice, on 25 July 2001:

(1) Have there been any desktop computers or any other item of computer hardware, other than laptop computers, lost or stolen from the possession of any officer of the department and/or agencies within the portfolio during the 2000-01 financial year; if so: (a) what and how many have been lost; (b) what and how many have been stolen; (c) what is the total value of these items; (d) what is the normal replacement value per item; and (e) have these items been recovered or replaced.

(2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action commenced; and (d) in how many cases has this action been concluded and with what result.

(3) How many of these lost or stolen items had departmental documents, content or information other than operating software on their hard disc drives, floppy disc, CD Rom or any other storage device.

(4) (a) How many of the documents etc. in (3) were classified for security or any other purpose; and (b) if any, what was the security classification involved.

(5) (a) How many of the documents etc. in (3) have been recovered; and (b) how many documents etc. in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the items in (1) or in relation to the documents etc. in (3) or (4).

Senator Vanstone—The answer to the honourable senator’s question for my portfolio including the Department, Centrelink, CRS Australia, Child Support Agency and Social Security Appeals Tribunal is as follows:

(1) Yes;
   (a) None;
   (b) Five – desktop computers;
   (c) $4,396;
   (d) $1,900; and
   (e) No.

(2) Yes;
   (a) Four;
   (b) Three;
   (c) None; and
Senator Faulkner asked the Minister for Family and Community Services, upon notice, on 25 July 2001:

(1) Have there been any laptop computers lost or stolen from the possession of any officer of the department and/or agencies within the portfolio during the 2000-01 financial year; if so: (a) how many have been lost; (b) how many have been stolen; (c) what is the total value of these computers; (d) what is the average replacement value per computer; and (e) have these computers been recovered or replaced.

(2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action commenced; and (d) in how many cases has this action been concluded and with what result.

(3) How many of these lost or stolen computers had departmental documents, content or information other than operating software on their hard disc drives, floppy disc, CD Rom or any other storage device.

(4) (a) How many of the documents etc. in (3) were classified for security or any other purpose; and (b) if any, what was the security classification involved.

(5) (a) How many of the documents etc. in (3) have been recovered; and (b) how many documents etc. in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the computers in (1) or in relation to the documents etc. in (3) or (4).

Senator Vanstone—The answer to the honourable senator’s question for my portfolio including the Department, Centrelink, CRS Australia, Child Support Agency and Social Security Appeals Tribunal is as follows:

(1) Yes;
   (a) Eight;
   (b) Seventeen;
   (c) $48,287;
   (d) $4,003; and
   (e) Ten.

(2) Yes;
   (a) Nineteen matters reported to the police;
   (b) Two;
   (c) None; and
   (d) See 2(c).

(3) Five.

(4) (a) None; and
   (b) N/A – see 4(a).

(5) (a) None; and
   (b) N/A – see 4(a).
(6) No disciplinary action, but one officer given a warning.

**Disability Support Pensions**  
(Question No. 3779)

_Senator Allison_ asked the Minister for Family and Community Services, upon notice, on 25 July 2001:

1. Has Centrelink cut disability support pensions for disabled students who receive university scholarships intended for educational purposes only; if so, what is the rationale for such decisions.
2. (a) How many students have been affected by this decision; and (b) how much has been cut.
3. Does this mean that students from welfare backgrounds are effectively not entitled to scholarship assistance for fees, equipment, books, etc. without drastic reductions in their welfare benefits.

_Senator Vanstone_—The answer to the honourable senator’s question is as follows:

1. Students and people with disabilities are treated no differently from any other person applying for income support. The income test counts gross income from all sources (including scholarships) unless specifically exempt. The income and assets tests ensure payments are targeted to those most in need, to keep the social security system affordable for taxpayers. The policy has not changed under this Government. In fact, this Government relaxed the income test for pensioners as part of the Tax Reform changes.

2. (a) Centrelink recording systems do not enable this question to be answered.  
   (b) Centrelink recording systems do not enable this question to be answered.

3. People on income support payments are always better off receiving additional income.
   - The income test spreads the value of the scholarship over 12 months.
   - A single pensioner can receive up to $112 a fortnight before their pension is reduced.
   - Each dollar over this income free area is only reduced by 40 cents.
   - A single pensioner can still receive up to $1,131.50 a fortnight ($29,419 a year) and still get a part pension.
   - Reimbursements of costs such as for books, fees, photocopying and printing are not income for social security purposes.
   - Pensioners are also eligible for additional assistance
     - Pensioner Education Supplement of $62.40 a fortnight is paid at the full rate to a student with a disability, as long as they are doing no less than 25% of a full time study load
     - Education Entry Payment of $208 once a year
     - Mobility Allowance to assist disability support pensioners with transport.

**Torres Strait Baseline Study: Report**  
(Question No. 3787)

_Senator Bourne_ asked the Minister for the Environment and Heritage, upon notice, on 1 August 2001:

With reference to the answer to Question on Notice no. 3605:

1. With reference to the main study referred to in (1), what did the main study require that there be done.
2. If action was required, what was the action taken.
3. With reference to the follow up of monitoring of six tasks referred to in (1), what is the relationship between the main study and this monitoring; Specifically, how much of the main study requirements are fulfilled by these six tasks.
4. With reference to the answer to (3), can the Minister provide details of which studies he is referring to that indicate heavy metals; and (b) can the results of these studies be provided.
5. With reference to the human health impact referred to in the last paragraph of part three, what studies are being done to monitor the effects of the high levels of trace metals on fish and other animals and the environment in general, aside from the impact on human health.

_Senator Hill_—The answer to the honourable senator’s question is as follows:
The following actions were recommended, as a consequence of the Main Study:

(a) Undertake a long-term monitoring program for trace metal levels in the sediments and selected indicator organisms of the Torres Strait marine environment.

(b) Survey consumption rates of seafoods (especially turtle and dugong) and other foods by Torres Strait communities at different locations, and over an extended period of time.

(c) Undertake a community education program at all island communities throughout the Torres Strait and coastal Papua New Guinea, to explain the results of this Study and the potential health implications.

(d) Convey the results of this Study, and the potential health implication of the seafood study, to north Queensland coastal Aboriginal communities.

(e) Analyse the remaining dugong and turtle samples, to reduce the variability in the estimates of levels of metals in these food items, as a means of improving public health advice and planning.

(f) Analyse whole, cooked hepatopancreas from crayfish as it is known that this is now more regularly eaten in the Torres Strait.

(g) Undertake additional statistical analysis of the data on the trace metal content of sediments to incorporate the revised arsenic results, and also the effect of grain size variation on the spatial and temporal patterns of trace metals in sediments.

I refer the Senator to the answer to question (1) of Question on Notice No. 3605 which outlines six specific tasks identified as necessary action. These tasks have been funded by the Commonwealth Government. As well, an education program was carried out following the Baseline study which has changed local consumption patterns of dugong and possibly turtle liver.

The six tasks referred to in (1) of Question on Notice No. 3605 were developed to action the recommendations made in the Main Study. The majority of recommendations, specifically associated with sampling and monitoring, are being addressed by these six tasks, including an investigation of the implications of these results for the marine environment in the Torres Strait and its traditional inhabitants.

(a) The Main Study referred to in question (3) and the further six tasks all deal with heavy metals.

(b) The results of the six tasks will be made available to the Torres Strait Regional Authority (TSRA) by the end of August 2001 and a copy can be made available to the Senator.

The study incorporating the six tasks is looking at trace metal levels in mangrove cockle, dugong, turtle, rock lobster, sediments and the implications of these results for the marine environment in the Torres Strait and its traditional inhabitants. Fish are not being addressed as a part of this study.
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